

STATE OF NORTH CAROLINA

SESSION LAWS AND RESOLUTIONS

PASSED BY THE

2001 GENERAL ASSEMBLY

AT ITS

REGULAR SESSION 2001

BEGINNING ON

**WEDNESDAY, THE TWENTY-FOURTH DAY OF
JANUARY, A.D. 2001**

HELD IN THE CITY OF RALEIGH

**ISSUED BY
SECRETARY OF STATE ELAINE F. MARSHALL**

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TABLE OF CONTENTS

Presiding Officers of the 1997 General Assembly	v
Executive Branch	v
Officers and Members of the Senate	vi
Officers and Members of the House	vii
Legislative Services Commission.....	ix
Legislative Services Staff Directors	ix
Constitution of North Carolina	xi
Regular Session 2001 Session Laws	1
Regular Session 2001 Resolutions	3149
Conference Report on the Continuation, Expansion and Capital Budgets.....	3205
Certification.....	3369
Executive Orders	3371
Regular Session 2001 Numerical Index	3433
Regular Session 2001 Session Laws Index	3439
Regular Session 2001 Resolution Index.....	3687

STATE OF NORTH CAROLINA

PRESIDING OFFICERS OF THE 2001 GENERAL ASSEMBLY

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JAMES B. BLACK Speaker of the House Mecklenburg

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election and comprising the Council of State)

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BEVERLEY PERDUE Lieutenant Governor Craven
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RALPH CAMPBELL, JR. Auditor Wake
RICHARD H. MOORE Treasurer Vance
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CHERIE K. BERRY (R) Commissioner of Labor Catawba
JAMES E. LONG Commissioner of Insurance Alamance

The political affiliation of each legislator and member of the Council of State listed on this and the following pages is Democratic unless designated Republican by the abbreviation (R).

G.S. 147-16.1 authorizes publication of Executive Orders of the Governor in the Session Laws of North Carolina. Executive Orders from Governor Easley are carried in the appendix to this volume.

2001 GENERAL ASSEMBLY

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<i>Name</i>	<i>Position</i>	<i>Address</i>
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FRANK W. BALLANCE, JR.	Deputy President Pro Tempore	Warrenton, Warren County
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LERROY CLARK, JR.	Reading Clerk	Wendell, Wake County
CECIL GOINS	Sergeant-at-Arms	Raleigh, Wake County

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12	VIRGINIA FOXX (R)	Watauga	Banner Elk
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13	JEANNE HOPKINS LUCAS	Durham	Durham
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20	LINDA GARROU	Forsyth	Winston-Salem
21	HUGH WEBSTER (R)	Caswell	Yanceyville
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23	CAL CUNNINGHAM	Davidson	Lexington
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27	KENNETH R. MOORE (R)	Caldwell	Lenoir
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28	CHARLES CARTER	Buncombe	Asheville
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30	DAVID F. WEINSTEIN	Robeson	Lumberton
31	WILLIAM N. MARTIN	Guilford	Greensboro
32	KAY R. HAGAN	Guilford	Greensboro
33	CHARLIE SMITH DANNELLY	Mecklenburg	Charlotte
34	T. LAFONTINE ODOM, SR.	Mecklenburg	Charlotte
35	ROBERT A. RUCHO (R)	Mecklenburg	Matthews
36	JOHN H. CARRINGTON (R)	Wake	Raleigh
37	WALTER DALTON	Rutherford	Rutherfordton
38	STAN BINGHAM (R)	Davidson	Denton
39	JAMES FORRESTER (R)	Gaston	Stanley
40	DANIEL G. CLODFELTER	Mecklenburg	Charlotte
41	LARRY SHAW	Cumberland	Fayetteville
42	ROBERT C. CARPENTER (R)	Macon	Franklin

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<i>Name</i>	<i>Position</i>	<i>Address</i>
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DENISE G. WEEKS	Principal Clerk	Willow Springs, Wake County
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7	JOHN D. HALL	Halifax.....	Scotland Neck
8	EDITH D. WARREN	Pitt.....	Farmville
9	MARIAN N. MCLAWHORN	Pitt.....	Grifton
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23	HENRY M. MICHAUX, JR.	Durham.....	Durham
23	PAUL MILLER	Durham.....	Durham
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27	JOHN M. BLUST (R)	Guilford	Greensboro
28	FLOSSIE BOYD-MCINTYRE	Guilford	Jamestown
29	JOANNE W. BOWIE (R).....	Guilford	Greensboro
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31	RICHARD T. MORGAN (R).....	Moore	Eagle Springs
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34	FERN SHUBERT (R)	Union.....	Marshville
35	LORENE T. COATES	Rowan	Salisbury
36	JAMES B. BLACK	Mecklenburg.....	Matthews
37	L. HUGH HOLLIMAN	Davidson	Lexington
38	HAROLD J. BRUBAKER (R).....	Randolph	Asheboro
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40	WILLIAM S. HIATT (R).....	Surry.....	Mount Airy
40	W. EUGENE WILSON (R).....	Watauga.....	Boone
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41	R. TRACY WALKER (R).....	Wilkes	Wilkesboro
42	W. FRANKLIN MITCHELL (R).....	Iredell	Olin

43	MITCHELL S. SETZER (R)	Catawba	Catawba
44	DANIEL W. BAREFOOT	Lincoln	Lincolnton
45	MARK HILTON (R)	Catawba	Conover
45	JOE L. KISER (R)	Lincoln	Vale
46	CHARLES F. BUCHANAN (R)	Mitchell	Green Mountain
46	GREGORY J. THOMPSON (R)	Mitchell	Spruce Pine
47	WALTER G. CHURCH, SR.	Burke	Cherryville
48	DEBBIE A. CLARY (R)	Cleveland	Cherryville
48	ANDREW DEDMON	Cleveland	Earl
48	JOHN WEATHERLY (R)	Cleveland	Kings Mountain
49	MITCH GILLESPIE (R)	McDowell	Marion
50	LARRY T. JUSTUS (R)	Henderson	Hendersonville
51	*LANIER M. CANSLER (R)	Buncombe	Asheville
51	MARTIN L. NESBITT, JR.	Buncombe	Asheville
51	WILMA M. SHERRILL (R)	Buncombe	Asheville
52	MARGARET "MARGE" CARPENTER (R)	Haywood	Waynesville
52	R. PHILLIP HAIRE	Jackson	Sylva
53	ROGER WEST (R)	Cherokee	Marble
54	DREW P. SAUNDERS	Mecklenburg	Huntersville
55	W. EDWIN MCMAHAN (R)	Mecklenburg	Charlotte
56	MARTHA B. ALEXANDER	Mecklenburg	Charlotte
57	CONSTANCE K. WILSON (R)	Mecklenburg	Charlotte
58	RUTH M. EASTERLING	Mecklenburg	Charlotte
59	W. PETE CUNNINGHAM	Mecklenburg	Charlotte
60	BEVERLY M. EARLE	Mecklenburg	Charlotte
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62	DAVID M. MINER (R)	Wake	Cary
63	JENNIFER WEISS	Wake	Cary
64	ROBERT J. HENSLEY, JR.	Wake	Raleigh
65	RICK EDDINS (R)	Wake	Raleigh
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67	WARREN C. OLDHAM	Forsyth	Winston-Salem
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71	JOE P. TOLSON	Edgecombe	Pinetops
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74	JULIA CRAVEN HOWARD (R)	Davie	Mocksville
75	ALEX WARNER	Cumberland	Hope Mills
76	MICHAEL HARRINGTON (R)	Gaston	Gastonia
77	CAROLYN B. RUSSELL (R)	Wayne	Goldsboro
78	STANLEY H. FOX	Granville	Oxford
79	WILLIAM L. WAINWRIGHT	Craven	Havelock
80	W. ROBERT GRADY (R)	Onslow	Jacksonville
81	JEFF BARNHART (R)	Cabarrus	Concord
82	BOBBY H. BARBEE, SR. (R)	Stanly	Locust
83	W. EUGENE MCCOMBS (R)	Rowan	Faith
84	MICHAEL P. DECKER (R)	Forsyth	Walkertown
85	RONNIE N. SUTTON	Robeson	Pembroke
86	WILLIAM T. CULPEPPER, III	Chowan	Edenton
87	DONALD A. BONNER	Robeson	Rowland
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89	MAGGIE M. JEFFUS	Guilford	Greensboro
90	LINDA P. JOHNSON (R)	Cabarrus	Kannapolis
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92	J. RUSSELL CAPPS (R)	Wake	Raleigh
93	JOHN M. RAYFIELD (R)	Gaston	Belmont
94	JERRY C. DOCKHAM (R)	Davidson	Denton
95	N. LEO DAUGHTRY (R)	Johnston	Smithfield
96	EDD NYE	Bladen	Elizabethtown
97	LARRY M. BELL	Sampson	Clinton
98	THOMAS E. WRIGHT	New Hanover	Wilmington

* Resigned on April 8, 2001. Mark F. Crawford was appointed on April 11, 2001.

** Resigned on December 29, 2001.

LEGISLATIVE SERVICES COMMISSION

SENATE PRESIDENT PRO TEMPORE MARC BASNIGHT, *COCHAIR*

HOUSE SPEAKER JAMES B. BLACK, *COCHAIR*

SEN. JOHN H. CARRINGTON
SEN. WALTER DALTON
SEN. VIRGINIA FOXX
SEN. R.L. "BOB" MARTIN
SEN. BRAD MILLER
SEN. ERIC REEVES
SEN. LARRY SHAW

REP. GORDON P. ALLEN
REP. WILLIAM T. CULPEPPER, III
REP. FLOSSIE BOYD-MCINTYRE
REP. STANLEY H. FOX
REP. LYONS GRAY
REP. WILMA M. SHERRILL
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GERRY F. COHENDirector of the Bill Drafting Division
JAMES D. JOHNSONDirector of the Fiscal Research Division
DENNIS W. MCCARTYDirector of the Information Systems Division
TONY C. GOLDMAN.....Director of the Administrative Division
TERRENCE D. SULLIVANDirector of the Research Division

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and government of the United States and those of the people of this State to the rest of the American people may be defined and affirmed, we do declare that:

Section 1. The equality and rights of persons.

We hold it to be self-evident that all persons are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

Sec. 2. Sovereignty of the people.

All political power is vested in and derived from the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

Sec. 3. Internal government of the State.

The people of this State have the inherent, sole, and exclusive right of regulating the internal government and police thereof, and of altering or abolishing their Constitution and form of government whenever it may be necessary to their safety and happiness; but every such right shall be exercised in pursuance of law and consistently with the Constitution of the United States.

Sec. 4. Secession prohibited.

This State shall ever remain a member of the American Union; the people thereof are part of the American nation; there is no right on the part of this State to secede; and all attempts, from whatever source or upon whatever pretext, to dissolve this Union or to sever this Nation, shall be resisted with the whole power of the State.

Sec. 5. Allegiance to the United States.

Every citizen of this State owes paramount allegiance to the Constitution and government of the United States, and no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Sec. 6. Separation of powers.

The legislative, executive, and supreme judicial powers of the State government shall be forever separate and distinct from each other.

Sec. 7. Suspending laws.

All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised.

Sec. 8. Representation and taxation.

The people of this State shall not be taxed or made subject to the payment of any impost or duty without the consent of themselves or their representatives in the General Assembly, freely given.

Sec. 9. Frequent elections.

For redress of grievances and for amending and strengthening the laws, elections shall be often held.

Sec. 10. Free elections.

All elections shall be free.

Sec. 11. Property qualifications.

As political rights and privileges are not dependent upon or modified by property, no property qualification shall affect the right to vote or hold office.

Sec. 12. Right of assembly and petition.

The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

Sec. 13. Religious liberty.

All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

Sec. 14. Freedom of speech and press.

Freedom of speech and of the press are two of the great bulwarks of liberty and therefore shall never be restrained, but every person shall be held responsible for their abuse.

Sec. 15. Education.

The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Sec. 16. Ex post facto laws.

Retrospective laws, punishing acts committed before the existence of such laws and by them only declared criminal, are oppressive, unjust, and incompatible with liberty, and therefore no ex post facto law shall be enacted. No law taxing retrospectively sales, purchases, or other acts previously done shall be enacted.

Sec. 17. Slavery and involuntary servitude.

Slavery is forever prohibited. Involuntary servitude, except as a punishment for crime whereof the parties have been adjudged guilty, is forever prohibited.

Sec. 18. Court shall be open.

All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.

Sec. 19. Law of the land; equal protection of the laws.

No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Sec. 20. General warrants.

General warrants, whereby any officer or other person may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty and shall not be granted.

Sec. 21. Inquiry into restraints on liberty.

Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if

unlawful, and that remedy shall not be denied or delayed. The privilege of the writ of habeas corpus shall not be suspended.

Sec. 22. Modes of prosecution.

Except in misdemeanor cases initiated in the District Court Division, no person shall be put to answer any criminal charge but by indictment, presentment, or impeachment. But any person, when represented by counsel, may, under such regulations as the General Assembly shall prescribe, waive indictment in noncapital cases.

Sec. 23. Rights of accused.

In all criminal prosecutions, every person charged with crime has the right to be informed of the accusation and to confront the accusers and witnesses with other testimony, and to have counsel for defense, and not be compelled to give self-incriminating evidence, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Sec. 24. Right of jury trial in criminal cases.

No person shall be convicted of any crime but by the unanimous verdict of a jury in open court. The General Assembly may, however, provide for other means of trial for misdemeanors, with the right of appeal for trial de novo.

Sec. 25. Right of jury trial in civil cases.

In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and shall remain sacred and inviolable.

Sec. 26. Jury service.

No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

Sec. 27. Bail, fines, and punishments.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 28. Imprisonment for debt.

There shall be no imprisonment for debt in this State, except in cases of fraud.

Sec. 29. Treason against the State.

Treason against the State shall consist only of levying war against it or adhering to its enemies by giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two

witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

Sec. 30. Militia and the right to bear arms.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they shall not be maintained, and the military shall be kept under strict subordination to, and governed by, the civil power. Nothing herein shall justify the practice of carrying concealed weapons, or prevent the General Assembly from enacting penal statutes against that practice.

Sec. 31. Quartering of soldiers.

No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

Sec. 32. Exclusive emoluments.

No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

Sec. 33. Hereditary emoluments and honors.

No hereditary emoluments, privileges, or honors shall be granted or conferred in this State.

Sec. 34. Perpetuities and monopolies.

Perpetuities and monopolies are contrary to the genius of a free state and shall not be allowed.

Sec. 35. Recurrence to fundamental principles.

A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 36. Other rights of the people.

The enumeration of rights in this Article shall not be construed to impair or deny others retained by the people.

Sec. 37. Rights of victims of crime.

(1) Basic rights. Victims of crime, as prescribed by law, shall be entitled to the following basic rights:

- (a) The right as prescribed by law to be informed of and to be present at court proceedings of the accused.

CONSTITUTION OF NORTH CAROLINA

- (b) The right to be heard at sentencing of the accused in a manner prescribed by law, and at other times as prescribed by law or deemed appropriate by the court.
- (c) The right as prescribed by law to receive restitution.
- (d) The right as prescribed by law to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
- (e) The right as prescribed by law to receive information about the conviction or final disposition and sentence of the accused.
- (f) The right as prescribed by law to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.
- (g) The right as prescribed by law to present their views and concerns to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
- (h) The right as prescribed by law to confer with the prosecution.

(2) No money damages; other enforcement. Nothing in this section shall be construed as creating a claim for money damages against the State, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The General Assembly may provide for other remedies to ensure adequate enforcement of this section.

(3) No ground for relief in criminal case. The failure or inability of any person to provide a right or service provided under this section may not be used by a defendant in a criminal case, an inmate, or any other accused as a ground for relief in any trial, appeal, postconviction litigation, habeas corpus, civil action, or any similar criminal or civil proceeding. (1995, c. 438, s. 1.)

ARTICLE II LEGISLATIVE

Section 1. Legislative power.

The legislative power of the State shall be vested in the General Assembly, which shall consist of a Senate and a House of Representatives.

Sec. 2. Number of Senators.

The Senate shall be composed of 50 Senators, biennially chosen by ballot.

Sec. 3. Senate districts; apportionment of Senators.

The Senators shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the senate districts and the apportionment of Senators among those districts, subject to the following requirements:

(1) Each Senator shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Senator represents being determined for this purpose by dividing the population of the district that he represents by the number of Senators apportioned to that district;

(2) Each senate district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a senate district;

(4) When established, the senate districts and the apportionment of Senators shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 4. Number of Representatives.

The House of Representatives shall be composed of 120 Representatives, biennially chosen by ballot.

Sec. 5. Representative districts; apportionment of Representatives.

The Representatives shall be elected from districts. The General Assembly, at the first regular session convening after the return of every decennial census of population taken by order of Congress, shall revise the representative districts and the apportionment of Representatives among those districts, subject to the following requirements:

(1) Each Representative shall represent, as nearly as may be, an equal number of inhabitants, the number of inhabitants that each Representative represents being determined for this purpose by dividing the population of the district that he represents by the number of Representatives apportioned to that district;

(2) Each representative district shall at all times consist of contiguous territory;

(3) No county shall be divided in the formation of a representative district;

(4) When established, the representative districts and the apportionment of Representatives shall remain unaltered until the return of another decennial census of population taken by order of Congress.

Sec. 6. Qualifications for Senator.

Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Sec. 7. Qualifications for Representative.

Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election.

Sec. 8. Elections.

The election for members of the General Assembly shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law.

Sec. 9. Term of office.

The term of office of Senators and Representatives shall commence on the first day of January next after their election.

Sec. 10. Vacancies.

Every vacancy occurring in the membership of the General Assembly by reason of death, resignation, or other cause shall be filled in the manner prescribed by law.

Sec. 11. Sessions.

(1) Regular Sessions. The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(2) Extra sessions on legislative call. The President of the Senate and the Speaker of the House of Representatives shall convene the General Assembly in extra session by their joint proclamation upon receipt by the President of the Senate of written requests therefor signed by three-fifths of all the members of the Senate and upon receipt by the Speaker of the House of Representatives of written requests therefor signed by three-fifths of all the members of the House of Representatives.

Sec. 12. Oath of members.

Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Sec. 13. President of the Senate.

The Lieutenant Governor shall be President of the Senate and shall preside over the Senate, but shall have no vote unless the Senate is equally divided.

Sec. 14. Other officers of the Senate.

(1) President Pro Tempore - succession to presidency. The Senate shall elect from its membership a President Pro Tempore, who shall become President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve until the expiration of his term of office as Senator.

(2) President Pro Tempore - temporary succession. During the physical or mental incapacity of the President of the Senate to perform the duties of his office, or during the absence of the President of the Senate, the President Pro Tempore shall preside over the Senate.

(3) Other officers. The Senate shall elect its other officers.

Sec. 15. Officers of the House of Representatives.

The House of Representatives shall elect its Speaker and other officers.

Sec. 16. Compensation and allowances.

The members and officers of the General Assembly shall receive for their services the compensation and allowances prescribed by law. An increase in the compensation or allowances of members shall become effective at the beginning of the next regular session of the General Assembly following the session at which it was enacted.

Sec. 17. Journals.

Each house shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Sec. 18. Protests.

Any member of either house may dissent from and protest against any act or resolve which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.

Sec. 19. Record votes.

Upon motion made in either house and seconded by one fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journal.

Sec. 20. Powers of the General Assembly.

Each house shall be judge of the qualifications and elections of its own members, shall sit upon its own adjournment from day to day, and shall prepare bills to be enacted into laws. The two houses may jointly adjourn to any future day or other place. Either house may, of its own motion, adjourn for a period not in excess of three days.

Sec. 21. Style of the acts.

The style of the acts shall be: "The General Assembly of North Carolina enacts:".

Sec. 22. Action on bills.

(1) Bills subject to veto by Governor; override of veto. Except as provided by subsections (2) through (6) of this section, all bills shall be read three times in each house and shall be signed by the presiding officer of each house before being presented to the Governor. If the Governor approves, the Governor shall sign it and it shall become a law; but if not, the Governor shall return it with objections, together with a veto message stating the reasons for such objections, to that house in which it shall have originated, which shall enter the objections and veto message at large on its journal, and proceed to reconsider it. If after such reconsideration three-fifths of the members of that house present and voting shall agree to pass the bill, it shall be sent, together with the objections and veto message, to the other house, by which it shall likewise be reconsidered; and if approved by three-fifths of the members of that house present and voting, it shall become a law notwithstanding the objections of the Governor. In all such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively.

(2) Amendments to Constitution of North Carolina. Every bill proposing a new or revised Constitution or an amendment or amendments to this Constitution or calling a convention of the people of this State, and containing no other matter, shall be submitted to the qualified voters of this State after it shall have been read three times in each house and signed by the presiding officers of both houses.

(3) Amendments to Constitution of the United States. Every bill approving an amendment to the Constitution of the United States, or applying for a convention to propose amendments to the Constitution of the United States, and containing no other matter, shall be read three times in each house before it becomes law, and shall be signed by the presiding officers of both houses.

(4) Joint resolutions. Every joint resolution shall be read three times in each house before it becomes effective and shall be signed by the presiding officers of both houses.

CONSTITUTION OF NORTH CAROLINA

- (5) Other exceptions. Every bill:
- (a) In which the General Assembly makes an appointment or appointments to public office and which contains no other matter;
 - (b) Revising the senate districts and the apportionment of Senators among those districts and containing no other matter;
 - (c) Revising the representative districts and the apportionment of Representatives among those districts and containing no other matter; or
 - (d) Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of Representatives among those districts and containing no other matter,

shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses.

(6) Local bills. Every bill that applies in fewer than 15 counties shall be read three times in each house before it becomes law and shall be signed by the presiding officers of both houses. The exemption from veto by the Governor provided in this subsection does not apply if the bill, at the time it is signed by the presiding officers:

- (a) Would extend the application of a law signed by the presiding officers during that two year term of the General Assembly so that the law would apply in more than half the counties in the State, or
- (b) Would enact a law identical in effect to another law or laws signed by the presiding officers during that two year term of the General Assembly that the result of those laws taken together would be a law applying in more than half the counties in the State.

Notwithstanding any other language in this subsection, the exemption from veto provided by this subsection does not apply to any bill to enact a general law classified by population or other criteria, or to any bill that contains an appropriation from the State treasury.

(7) Time for action by Governor; reconvening of session. If any bill shall not be returned by the Governor within 10 days after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the General Assembly shall have adjourned:

- (a) For more than 30 days jointly as provided under Section 20 of Article II of this Constitution; or
- (b) Sine die

in which case it shall become a law unless, within 30 days after such adjournment, it is returned by the Governor with objections and veto

message to that house in which it shall have originated. When the General Assembly has adjourned sine die or for more than 30 days jointly as provided under Section 20 of Article II of this Constitution, the Governor shall reconvene that session as provided by Section 5(11) of Article III of this Constitution for reconsideration of the bill, and if the Governor does not reconvene the session, the bill shall become law on the fortieth day after such adjournment. Notwithstanding the previous sentence, if the Governor prior to reconvening the session receives written requests dated no earlier than 30 days after such adjournment, signed by a majority of the members of each house that a reconvened session to reconsider vetoed legislation is unnecessary, the Governor shall not reconvene the session for that purpose and any legislation vetoed in accordance with this section after adjournment shall not become law.

(8) Return of bills after adjournment. For purposes of return of bills not approved by the Governor, each house shall designate an officer to receive returned bills during its adjournment. (1995, c. 5, s. 1.)

Sec. 23. Revenue bills.

No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each house of the General Assembly and passed three several readings, which readings shall have been on three different days, and shall have been agreed to by each house respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Sec. 24. Limitations on local, private, and special legislation.

(1) Prohibited subjects. The General Assembly shall not enact any local, private, or special act or resolution:

- (a) Relating to health, sanitation, and the abatement of nuisances;
- (b) Changing the names of cities, towns, and townships;
- (c) Authorizing the laying out, opening, altering, maintaining, or discontinuing of highways, streets, or alleys;
- (d) Relating to ferries or bridges;
- (e) Relating to non-navigable streams;
- (f) Relating to cemeteries;
- (g) Relating to the pay of jurors;

CONSTITUTION OF NORTH CAROLINA

- (h) Erecting new townships, or changing township lines, or establishing or changing the lines of school districts;
- (i) Remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury;
- (j) Regulating labor, trade, mining, or manufacturing;
- (k) Extending the time for the levy or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability;
- (l) Giving effect to informal wills and deeds;
- (m) Granting a divorce or securing alimony in any individual case;
- (n) Altering the name of any person, or legitimating any person not born in lawful wedlock, or restoring to the rights of citizenship any person convicted of a felony.

(2) Repeals. Nor shall the General Assembly enact any such local, private, or special act by the partial repeal of a general law; but the General Assembly may at any time repeal local, private, or special laws enacted by it.

(3) Prohibited acts void. Any local, private, or special act or resolution enacted in violation of the provisions of this Section shall be void.

(4) General laws. The General Assembly may enact general laws regulating the matters set out in this Section.

ARTICLE III

EXECUTIVE

Section 1. Executive power.

The executive power of the State shall be vested in the Governor.

Sec. 2. Governor and Lieutenant Governor: election, term, and qualifications.

(1) Election and term. The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) Qualifications. No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be

eligible for election to more than two consecutive terms of the same office.

Sec. 3. Succession to office of Governor.

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

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

(3) Physical incapacity. The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) Mental incapacity. The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) Impeachment. Removal of the Governor from office for any other cause shall be by impeachment.

Sec. 4. Oath of office for Governor.

The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of governor.

Sec. 5. Duties of Governor.

(1) Residence. The Governor shall reside at the seat of government of this State.

(2) Information to General Assembly. The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) Budget. The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) Execution of laws. The Governor shall take care that the laws be faithfully executed.

(5) Commander in Chief. The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) Clemency. The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) Extra sessions. The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) Appointments. The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) Information. The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) Administrative reorganization. The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

(11) Reconvened sessions. The Governor shall, when required by Section 22 of Article II of this Constitution, reconvene a session of the General Assembly. At such reconvened session, the General Assembly may only consider such bills as were returned by the Governor to that reconvened session for reconsideration. Such reconvened session shall begin on a date set by the Governor, but no later than 40 days after the General Assembly adjourned:

- (a) For more than 30 days jointly as provided under Section 20 of Article II of this Constitution; or
- (b) Sine die. If the date of reconvening the session occurs after the expiration of the terms of office of the members of the General Assembly, then the members serving for the reconvened session shall be the members for the succeeding term. (1969, c. 932, s. 1; 1977, c. 690, s. 1; 1995, c. 5, s. 2.)

Sec. 6. Duties of the Lieutenant Governor.

The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

Sec. 7. Other elective officers.

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

(2) Duties. Their respective duties shall be prescribed by law.

(3) Vacancies. If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) Interim officers. Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) Acting officers. During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) Determination of incapacity. The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

(7) Special Qualifications for Attorney General. Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General.

Sec. 8. Council of State.

The Council of State shall consist of the officers whose offices are established by this Article.

Sec. 9. Compensation and allowances.

The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

Sec. 10. Seal of State.

There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants or commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

Sec. 11. Administrative departments.

Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

**ARTICLE IV
JUDICIAL**

Section 1. Judicial power.

The judicial power of the State shall, except as provided in Section 3 of this Article, be vested in a Court for the Trial of Impeachments and in a General Court of Justice. The General Assembly shall have no power to deprive the judicial department of any power or jurisdiction that rightfully pertains to it as a co-ordinate department of the government, nor shall it establish or authorize any courts other than as permitted by this Article.

Sec. 2. General Court of Justice.

The General Court of Justice shall constitute a unified judicial system for purposes of jurisdiction, operation, and administration, and shall consist of an Appellate Division, a Superior Court Division, and a District Court Division.

Sec. 3. Judicial powers of administrative agencies.

The General Assembly may vest in administrative agencies established pursuant to law such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which the agencies were created. Appeals from administrative agencies shall be to the General Court of Justice.

Sec. 4. Court for the Trial of Impeachments.

The House of Representatives solely shall have the power of impeaching. The Court for the Trial of Impeachments shall be the Senate. When the Governor or Lieutenant Governor is impeached, the Chief Justice shall preside over the Court. A majority of the members shall be necessary to a quorum, and no person shall be convicted without the concurrence of two-thirds of the Senators present. Judgment upon conviction shall not extend beyond removal from and disqualification to hold office in this State, but the party shall be liable to indictment and punishment according to law.

Sec. 5. Appellate division.

The Appellate Division of the General Court of Justice shall consist of the Supreme Court and the Court of Appeals.

Sec. 6. Supreme Court.

(1) Membership. The Supreme Court shall consist of a Chief Justice and six Associate Justices, but the General Assembly may increase the number of Associate Justices to not more than eight. In the event the Chief Justice is unable, on account of absence or temporary incapacity, to perform any of the duties placed upon him, the senior Associate Justice available may discharge those duties.

(2) Sessions of the Supreme Court. The sessions of the Supreme Court shall be held in the City of Raleigh unless otherwise provided by the General Assembly.

Sec. 7. Court of Appeals.

The structure, organization, and composition of the Court of Appeals shall be determined by the General Assembly. The Court shall have not less than five members, and may be authorized to sit in divisions, or other than en banc. Sessions of the Court shall be held at such times and places as the General Assembly may prescribe.

Sec. 8. Retirement of Justices and Judges.

The General Assembly shall provide by general law for the retirement of Justices and Judges of the General Court of Justice, and may provide for the temporary recall of any retired Justice or Judge to serve on the court or courts of the division from which he was retired.

The General Assembly shall also prescribe maximum age limits for service as a Justice or Judge.

Sec. 9. Superior Courts.

(1) Superior Court districts. The General Assembly shall, from time to time, divide the State into a convenient number of Superior Court judicial districts and shall provide for the election of one or more Superior Court Judges for each district. Each regular Superior Court Judge shall reside in the district for which he is elected. The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular judicial district.

(2) Open at all times; sessions for trial of cases. The Superior Courts shall be open at all times for the transaction of all business except the trial of issues of fact requiring a jury. Regular trial sessions of the Superior Court shall be held at times fixed pursuant to a calendar of courts promulgated by the Supreme Court. At least two sessions for the trial of jury cases shall be held annually in each county.

(3) Clerks. A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held.

Sec. 10. District Courts.

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint for a term of two years, from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law.

Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the office.

Sec. 11. Assignment of Judges.

The Chief Justice of the Supreme Court, acting in accordance with rules of the Supreme Court, shall make assignments of Judges of the Superior Court and may transfer District Judges from one district to another for temporary or specialized duty. The principle of rotating Superior Court Judges among the various districts of a division is a salutary one and shall be observed. For this purpose the General Assembly may divide the State into a number of judicial divisions. Subject to the general supervision of the Chief Justice of the Supreme Court, assignment of District Judges within each local court district shall be made by the Chief District Judge.

Sec. 12. Jurisdiction of the General Court of Justice.

(1) Supreme Court. The Supreme Court shall have jurisdiction to review upon appeal any decision of the courts below, upon any matter of law or legal inference. The jurisdiction of the Supreme Court over "issues of fact" and "questions of fact" shall be the same exercised by it prior to the adoption of this Article, and the Court may issue any remedial writs necessary to give it general supervision and control over the proceedings of the other courts. The Supreme Court also has jurisdiction to review, when authorized by law, direct appeals from a final order or decision of the North Carolina Utilities Commission.

(2) Court of Appeals. The Court of Appeals shall have such appellate jurisdiction as the General Assembly may prescribe.

(3) Superior Court. Except as otherwise provided by the General Assembly, the Superior Court shall have original general jurisdiction throughout the State. The Clerks of the Superior Court shall have such jurisdiction and powers as the General Assembly shall prescribe by general law uniformly applicable in every county of the State.

(4) District Courts; Magistrates. The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of the District Courts and Magistrates.

(5) Waiver. The General Assembly may by general law provide that the jurisdictional limits may be waived in civil cases.

(6) Appeals. The General Assembly shall by general law provide a proper system of appeals. Appeals from Magistrates shall be heard de novo, with the right of trial by jury as defined in this Constitution and the laws of this State.

Sec. 13. Forms of action; rules of procedure.

(1) Forms of action. There shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action, and in which there shall be a right to have issues of fact tried before a jury. Every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment thereof, shall be termed a criminal action.

(2) Rules of procedure. The Supreme Court shall have exclusive authority to make rules of procedure and practice for the Appellate Division. The General Assembly may make rules of procedure and practice for the Superior Court and District Court Divisions, and the General Assembly may delegate this authority to the Supreme Court. No rule of procedure or practice shall abridge substantive rights or abrogate or limit the right of trial by jury. If the General Assembly should delegate to the Supreme Court the rule-making power, the General Assembly may, nevertheless, alter, amend, or repeal any rule of procedure or practice adopted by the Supreme Court for the Superior Court or District Court Divisions.

Sec. 14. Waiver of jury trial.

In all issues of fact joined in any court, the parties in any civil case may waive the right to have the issues determined by a jury, in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Sec. 15. Administration.

The General Assembly shall provide for an administrative office of the courts to carry out the provisions of this Article.

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

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

Sec. 17. Removal of Judges, Magistrates and Clerks.

(1) Removal of Judges by the General Assembly. Any Justice or Judge of the General Court of Justice may be removed from office for

mental or physical incapacity by joint resolution of two-thirds of all the members of each house of the General Assembly. Any Justice or Judge against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least 20 days before the day on which either house of the General Assembly shall act thereon. Removal from office by the General Assembly for any other cause shall be by impeachment.

(2) Additional method of removal of Judges. The General Assembly shall prescribe a procedure, in addition to impeachment and address set forth in this Section, for the removal of a Justice or Judge of the General Court of Justice for mental or physical incapacity interfering with the performance of his duties which is, or is likely to become, permanent, and for the censure and removal of a Justice or Judge of the General Court of Justice for wilful misconduct in office, wilful and persistent failure to perform his duties, habitual intemperance, conviction of a crime involving moral turpitude, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

(3) Removal of Magistrates. The General Assembly shall provide by general law for the removal of Magistrates for misconduct or mental or physical incapacity.

(4) Removal of Clerks. Any Clerk of the Superior Court may be removed from office for misconduct or mental or physical incapacity by the senior regular resident Superior Court Judge serving the county. Any Clerk against whom proceedings are instituted shall receive written notice of the charges against him at least 10 days before the hearing upon the charges. Any Clerk so removed from office shall be entitled to an appeal as provided by law.

Sec. 18. District Attorney and Prosecutorial Districts.

(1) District Attorneys. The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly are elected. Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe.

(2) Prosecution in District Court Division. Criminal actions in the District Court Division shall be prosecuted in such manner as the

General Assembly may prescribe by general law uniformly applicable in every local court district of the State.

Sec. 19. Vacancies.

Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly that is held more than 60 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified.

Sec. 20. Revenues and expenses of the judicial department.

The General Assembly shall provide for the establishment of a schedule of court fees and costs which shall be uniform throughout the State within each division of the General Court of Justice. The operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds.

Sec. 21. Fees, salaries, and emoluments.

The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this Article, but the salaries of Judges shall not be diminished during their continuance in office. In no case shall the compensation of any Judge or Magistrate be dependent upon his decision or upon the collection of costs.

Sec. 22. Qualification of Justices and Judges.

Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Judge of District Court. This section shall not apply to persons elected to or serving in such capacities on or before January 1, 1981.

ARTICLE V
FINANCE

Section 1. No capitation tax to be levied.

No poll or capitation tax shall be levied by the General Assembly or by any county, city or town, or other taxing unit.

Sec. 2. State and local taxation.

(1) Power of taxation. The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away.

(2) Classification. Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a State-wide basis and shall not be delegated. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

(3) Exemptions. Property belonging to the State, counties, and municipal corporations shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, cultural, charitable, or religious purposes, and, to a value not exceeding \$300, any personal property. The General Assembly may exempt from taxation not exceeding \$1,000 in value of property held and used as the place of residence of the owner. Every exemption shall be on a State-wide basis and shall be made by general law uniformly applicable in every county, city and town, and other unit of local government. No taxing authority other than the General Assembly may grant exemptions, and the General Assembly shall not delegate the powers accorded to it by this subsection.

(4) Special tax areas. Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town.

(5) Purposes of property tax. The General Assembly shall not authorize any county, city or town, special district, or other unit of local government to levy taxes on property, except for purposes authorized by general law uniformly applicable throughout the State, unless the tax is approved by a majority of the qualified voters of the unit who vote thereon.

(6) Income tax. The rate of tax on incomes shall not in any case exceed ten percent, and there shall be allowed personal exemptions and deductions so that only net incomes are taxed.

(7) Contracts. The General Assembly may enact laws whereby the State, any county, city or town, and any other public corporation may contract with and appropriate money to any person, association, or corporation for the accomplishment of public purposes only.

Sec. 3. Limitations upon the increase of State debt.

(1) Authorized purposes; two-thirds limitation. The General Assembly shall have no power to contract debts secured by a pledge of the faith and credit of the State, unless approved by a majority of the qualified voters of the State who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections, or to repel invasions;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for any other lawful purpose, to the extent of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium.

(2) Gift or loan of credit regulated. The General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except a corporation in which the State has a controlling interest, unless the subject is submitted to a direct vote of the people of the State, and is approved by a majority of the qualified voters who vote thereon.

(3) Definitions. A debt is incurred within the meaning of this Section when the State borrows money. A pledge of the faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when the State exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(4) Certain debts barred. The General Assembly shall never assume or pay any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States. Neither shall the General Assembly assume or pay any debt or bond incurred or issued by authority of the Convention of 1868, the special session

of the General Assembly of 1868, or the General Assemblies of 1868-69 and 1869-70, unless the subject is submitted to the people of the State and is approved by a majority of all the qualified voters at a referendum held for that sole purpose.

(5) Outstanding debt. Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 4. Limitations upon the increase of local government debt.

(1) Regulation of borrowing and debt. The General Assembly shall enact general laws relating to the borrowing of money secured by a pledge of the faith and credit and the contracting of other debts by counties, cities and towns, special districts, and other units, authorities, and agencies of local government.

(2) Authorized purposes; two-thirds limitation. The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, except for the following purposes:

- (a) to fund or refund a valid existing debt;
- (b) to supply an unforeseen deficiency in the revenue;
- (c) to borrow in anticipation of the collection of taxes due and payable within the current fiscal year to an amount not exceeding 50 per cent of such taxes;
- (d) to suppress riots or insurrections;
- (e) to meet emergencies immediately threatening the public health or safety, as conclusively determined in writing by the Governor;
- (f) for purposes authorized by general laws uniformly applicable throughout the State, to the extent of two-thirds of the amount by which the unit's outstanding indebtedness shall have been reduced during the next preceding fiscal year.

(3) Gift or loan of credit regulated. No county, city or town, special district, or other unit of local government shall give or lend its credit in aid of any person, association, or corporation, except for public purposes as authorized by general law, and unless approved by a majority of the qualified voters of the unit who vote thereon.

(4) Certain debts barred. No county, city or town, or other unit of local government shall assume or pay any debt or the interest thereon contracted directly or indirectly in aid or support of rebellion or insurrection against the United States.

(5) Definitions. A debt is incurred within the meaning of this Section when a county, city or town, special district, or other unit, authority, or agency of local government borrows money. A pledge of faith and credit within the meaning of this Section is a pledge of the taxing power. A loan of credit within the meaning of this Section occurs when a county, city or town, special district, or other unit, authority, or agency of local government exchanges its obligations with or in any way guarantees the debts of an individual, association, or private corporation.

(6) Outstanding debt. Except as provided in subsection (4), nothing in this Section shall be construed to invalidate or impair the obligation of any bond, note, or other evidence of indebtedness outstanding or authorized for issue as of July 1, 1973.

Sec. 5. Acts levying taxes to state objects.

Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

Sec. 6. Inviolability of sinking funds and retirement funds.

(1) Sinking funds. The General Assembly shall not use or authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which the sinking fund has been created, except that these funds may be invested as authorized by law.

(2) Retirement funds. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize to be used any part of the funds of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System for any purpose other than retirement system benefits and purposes, administrative expenses, and refunds; except that retirement system funds may be invested as authorized by law, subject to the investment limitation that the funds of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall not be applied, diverted, loaned to, or used by the State, any State agency, State officer, public officer, or public employee.

Sec. 7. Drawing public money.

(1) State treasury. No money shall be drawn from the State treasury but in consequence of appropriations made by law, and an accurate account of the receipts and expenditures of State funds shall be published annually.

(2) Local treasury. No money shall be drawn from the treasury of any county, city or town, or other unit of local government except by authority of law.

Sec. 8. Health care facilities.

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State, counties, cities or towns, and other State and local governmental entities to issue revenue bonds to finance or refinance for any such governmental entity or any nonprofit private corporation, regardless of any church or religious relationship, the cost of acquiring, constructing, and financing health care facility projects to be operated to serve and benefit the public; provided, no cost incurred earlier than two years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from the revenues, gross or net, of any such projects and any other health care facilities of any such governmental entity or nonprofit private corporation pledged therefor; shall not be secured by a pledge of the full faith and credit, or deemed to create an indebtedness requiring voter approval of any governmental entity; and may be secured by an agreement which may provide for the conveyance of title of, with or without consideration, any such project or facilities to the governmental entity or nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto for nonprofit private corporations.

Sec. 9. Capital projects for industry.

Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to authorize counties to create authorities to issue revenue bonds to finance, but not to refinance, the cost of capital projects consisting of industrial, manufacturing and pollution control facilities for industry and pollution control facilities for public utilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 10. Joint ownership of generation and transmission facilities.

In addition to other powers conferred upon them by law, municipalities owning or operating facilities for the generation, transmission or distribution of electric power and energy and joint agencies formed by such municipalities for the purpose of owning or operating facilities for the generation and transmission of electric power and energy (each, respectively, "a unit of municipal government") may jointly or severally own, operate and maintain works, plants and facilities, within or without the State, for the generation and transmission of electric power and energy, or both, with any person, firm, association or corporation, public or private, engaged in the generation, transmission or distribution of electric power and energy for resale (each, respectively, "a co-owner") within this State or any state contiguous to this State, and may enter into and carry out agreements with respect to such jointly owned facilities. For the purpose of financing its share of the cost of any such jointly owned electric generation or transmission facilities, a unit of municipal government may issue its revenue bonds in the manner prescribed by the General Assembly, payable as to both principal and interest solely from and secured by a lien and charge on all or any part of the revenue derived, or to be derived, by such unit of municipal government from the ownership and operation of its electric facilities; provided, however, that no unit of municipal government shall be liable, either jointly or severally, for any acts, omissions or obligations of any co-owner, nor shall any money or property of any unit of municipal government be credited or otherwise applied to the account of any co-owner or be charged with any debt, lien or mortgage as a result of any debt or obligation of any co-owner.

Sec. 11. Capital projects for agriculture.

Notwithstanding any other provision of the Constitution the General Assembly may enact general laws to authorize the creation of an agency to issue revenue bonds to finance the cost of capital projects consisting of agricultural facilities, and to refund such bonds.

In no event shall such revenue bonds be secured by or payable from any public moneys whatsoever, but such revenue bonds shall be secured by and payable only from revenues or property derived from private parties. All such capital projects and all transactions therefor shall be subject to taxation to the extent such projects and transactions would be subject to taxation if no public body were involved therewith; provided, however, that the General Assembly may provide that the interest on such revenue bonds shall be exempt from income taxes within the State.

The power of eminent domain shall not be exercised to provide any property for any such capital project.

Sec. 12. Higher Education Facilities.

Notwithstanding any other provisions of this Constitution, the General Assembly may enact general laws to authorize the State or any State entity to issue revenue bonds to finance and refinance the cost of acquiring, constructing, and financing higher education facilities to be operated to serve and benefit the public for any nonprofit private corporation, regardless of any church or religious relationship provided no cost incurred earlier than five years prior to the effective date of this section shall be refinanced. Such bonds shall be payable from any revenues or assets of any such nonprofit private corporation pledged therefor, shall not be secured by a pledge of the full faith and credit of the State or such State entity or deemed to create an indebtedness requiring voter approval of the State or such entity, and, where the title to such facilities is vested in the State or any State entity, may be secured by an agreement which may provide for the conveyance of title to, with or without consideration, such facilities to the nonprofit private corporation. The power of eminent domain shall not be used pursuant hereto.

Sec. 13. Seaport and airport facilities.

(1) Notwithstanding any other provision of this Constitution, the General Assembly may enact general laws to grant to the State, counties, municipalities, and other State and local governmental entities all powers useful in connection with the development of new and existing seaports and airports, and to authorize such public bodies:

- (a) to acquire, construct, own, own jointly with public and private parties, lease as lessee, mortgage, sell, lease as lessor, or otherwise dispose of lands and facilities and improvements, including undivided interest therein;
- (b) to finance and refinance for public and private parties seaport and airport facilities and improvements which relate to, develop or further waterborne or airborne commerce and cargo and passenger traffic, including commercial, industrial, manufacturing, processing, mining, transportation, distribution, storage, marine, aviation and environmental facilities and improvements; and
- (c) to secure any such financing or refinancing by all or any portion of their revenues, income or assets or other available monies associated with any of their seaport or airport facilities and with the facilities and

improvements to be financed or refinanced, and by foreclosable liens on all or any part of their properties associated with any of their seaport or airport facilities and with the facilities and improvements to be financed or refinanced, but in no event to create a debt secured by a pledge of the faith and credit of the State or any other public body in the State.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Section 1. Who may vote.

Every person born in the United States and every person who has been naturalized, 18 years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided.

Sec. 2. Qualifications of voter.

(1) Residence period for State elections. Any person who has resided in the State of North Carolina for one year and in the precinct, ward, or other election district for 30 days next preceding an election, and possesses the other qualifications set out in this Article, shall be entitled to vote at any election held in this State. Removal from one precinct, ward, or other election district to another in this State shall not operate to deprive any person of the right to vote in the precinct, ward, or other election district from which that person has removed until 30 days after the removal.

(2) Residence period for presidential elections. The General Assembly may reduce the time of residence for persons voting in presidential elections. A person made eligible by reason of a reduction in time of residence shall possess the other qualifications set out in this Article, shall only be entitled to vote for President and Vice President of the United States or for electors for President and Vice President, and shall not thereby become eligible to hold office in this State.

(3) Disqualification of felon. No person adjudged guilty of a felony against this State or the United States, or adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, shall be permitted to vote unless that person shall be first restored to the rights of citizenship in the manner prescribed by law.

Sec. 3. Registration.

Every person offering to vote shall be at the time legally registered as a voter as herein prescribed and in the manner provided by law.

CONSTITUTION OF NORTH CAROLINA

The General Assembly shall enact general laws governing the registration of voters.

Sec. 4. Qualification for registration.

Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language.

Sec. 5. Elections by people and General Assembly.

All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

Sec. 6. Eligibility to elective office.

Every qualified voter in North Carolina who is 21 years of age, except as in this Constitution disqualified, shall be eligible for election by the people to office.

Sec. 7. Oath.

Before entering upon the duties of an office, a person elected or appointed to the office shall take and subscribe the following oath:

"I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____, so help me God."

Sec. 8. Disqualifications for office.

The following persons shall be disqualified for office:

First, any person who shall deny the being of Almighty God.

Second, with respect to any office that is filled by election by the people, any person who is not qualified to vote in an election for that office.

Third, any person who has been adjudged guilty of treason or any other felony against this State or the United States, or any person who has been adjudged guilty of a felony in another state that also would be a felony if it had been committed in this State, or any person who has been adjudged guilty of corruption or malpractice in any office, or any person who has been removed by impeachment from any office, and who has not been restored to the rights of citizenship in the manner prescribed by law.

Sec. 9. Dual office holding.

(1) Prohibitions. It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) Exceptions. The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

Sec. 10. Continuation in office.

In the absence of any contrary provision, all officers in this State, whether appointed or elected, shall hold their positions until other appointments are made or, if the offices are elective, until their successors are chosen and qualified.

**ARTICLE VII
LOCAL GOVERNMENT**

Section 1. General Assembly to provide for local government.

The General Assembly shall provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable.

The General Assembly shall not incorporate as a city or town, nor shall it authorize to be incorporated as a city or town, any territory lying within one mile of the corporate limits of any other city or town having a population of 5,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within three miles of the corporate limits of any other city or town having a population of 10,000 or more according to the most recent decennial census of population taken by order of Congress, or lying

CONSTITUTION OF NORTH CAROLINA

within four miles of the corporate limits of any other city or town having a population of 25,000 or more according to the most recent decennial census of population taken by order of Congress, or lying within five miles of the corporate limits of any other city or town having a population of 50,000 or more according to the most recent decennial census of population taken by order of Congress. Notwithstanding the foregoing limitations, the General Assembly may incorporate a city or town by an act adopted by vote of three-fifths of all the members of each house.

Sec. 2. Sheriffs.

In each county a Sheriff shall be elected by the qualified voters thereof at the same time and places as members of the General Assembly are elected and shall hold his office for a period of four years, subject to removal for cause as provided by law.

Sec. 3. Merged or consolidated counties.

Any unit of local government formed by the merger or consolidation of a county or counties and the cities and towns therein shall be deemed both a county and a city for the purposes of this Constitution, and may exercise any authority conferred by law on counties, or on cities and towns, or both, as the General Assembly may provide.

ARTICLE VIII CORPORATIONS

Section 1. Corporate charters.

No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering, organization, and powers of all corporations, and for the amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general acts may be altered from time to time or repealed. The General Assembly may at any time by special act repeal the charter of any corporation.

Sec. 2. Corporations defined.

The term "corporation" as used in this Section shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. All corporations shall have the right to

sue and shall be subject to be sued in all courts, in like cases as natural persons.

ARTICLE IX

EDUCATION

Section 1. Education encouraged.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged.

Sec. 2. Uniform system of schools.

(1) General and uniform system: term. The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

(2) Local responsibility. The General Assembly may assign to units of local government such responsibility for the financial support of the free public schools as it may deem appropriate. The governing boards of units of local government with financial responsibility for public education may use local revenues to add to or supplement any public school or post-secondary school program.

Sec. 3. School attendance.

The General Assembly shall provide that every child of appropriate age and of sufficient mental and physical ability shall attend the public schools, unless educated by other means.

Sec. 4. State Board of Education.

(1) Board. The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large. Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

Sec. 5. Powers and duties of Board.

The State Board of Education shall supervise and administer the free public school system and the educational funds provided for its support, except the funds mentioned in Section 7 of this Article, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

Sec. 6. State school fund.

The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by this State or the United States; all moneys, stocks, bonds, and other property belonging to the State for purposes of public education; the net proceeds of all sales of the swamp lands belonging to the State; and all other grants, gifts, and devises that have been or hereafter may be made to the State, and not otherwise appropriated by the State or by the terms of the grant, gift, or devise, shall be paid into the State Treasury and, together with so much of the revenue of the State as may be set apart for that purpose, shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools.

Sec. 7. County school fund.

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

Sec. 8. Higher education.

The General Assembly shall maintain a public system of higher education, comprising The University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. The General Assembly shall provide for the selection of trustees of The University of North Carolina and of the other institutions of higher education, in whom shall be vested all the privileges, rights, franchises, and endowments heretofore granted to or conferred upon the trustees of these institutions. The General Assembly may enact laws necessary and expedient for the maintenance and management of The University of North Carolina and the other public institutions of higher education.

Sec. 9. Benefits of public institutions of higher education.

The General Assembly shall provide that the benefits of The University of North Carolina and other public institutions of higher

education, as far as practicable, be extended to the people of the State free of expense.

Sec. 10. Escheats.

(1) Escheats prior to July 1, 1971. All property that prior to July 1, 1971, accrued to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be appropriated to the use of The University of North Carolina.

(2) Escheats after June 30, 1971. All property that, after June 30, 1971, shall accrue to the State from escheats, unclaimed dividends, or distributive shares of the estates of deceased persons shall be used to aid worthy and needy students who are residents of this State and are enrolled in public institutions of higher education in this State. The method, amount, and type of distribution shall be prescribed by law.

**ARTICLE X
HOMESTEADS AND EXEMPTIONS**

Section 1. Personal property exemptions.

The personal property of any resident of this State, to a value fixed by the General Assembly but not less than \$500, to be selected by the resident, is exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Sec. 2. Homestead exemptions.

(1) Exemption from sale; exceptions. Every homestead and the dwellings and buildings used therewith, to a value fixed by the General Assembly but not less than \$1,000, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city or town with the dwellings and buildings used thereon, and to the same value, owned and occupied by a resident of the State, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes, or for payment of obligations contracted for its purchase.

(2) Exemption for benefit of children. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of the owner's children, or any of them.

(3) Exemption for benefit of surviving spouse. If the owner of a homestead dies, leaving a surviving spouse but no minor children, the homestead shall be exempt from the debts of the owner, and the rents and profits thereof shall inure to the benefit of the surviving spouse until he or she remarries, unless the surviving spouse is the owner of a separate homestead.

(4) Conveyance of homestead. Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it

by deed, but no deed made by a married owner of a homestead shall be valid without the signature and acknowledgement of his or her spouse.

Sec. 3. Mechanics' and laborers' liens.

The General Assembly shall provide by proper legislation for giving to mechanics and laborers an adequate lien on the subject-matter of their labor. The provisions of Sections 1 and 2 of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming the exemption or a mechanic's lien for work done on the premises.

Sec. 4. Property of married women secured to them.

The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.

Sec. 5. Insurance.

A person may insure his or her own life for the sole use and benefit of his or her spouse or children or both, and upon his or her death the proceeds from the insurance shall be paid to or for the benefit of the spouse or children or both, or to a guardian, free from all claims of the representatives or creditors of the insured or his or her estate. Any insurance policy which insures the life of a person for the sole use and benefit of that person's spouse or children or both shall not be subject to the claims of creditors of the insured during his or her lifetime, whether or not the policy reserves to the insured during his or her lifetime any or all rights provided for by the policy and whether or not the policy proceeds are payable to the estate of the insured in the event the beneficiary or beneficiaries predecease the insured.

ARTICLE XI
PUNISHMENTS, CORRECTIONS, AND CHARITIES

Section 1. Punishments.

The following punishments only shall be known to the laws of this State: death, imprisonment, fines, suspension of a jail or prison term with or without conditions, restitution, community service, restraints on liberty, work programs, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State. (1995, c. 429, s. 2.)

Sec. 2. Death punishment.

The object of punishments being not only to satisfy justice, but also to reform the offender and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Sec. 3. Charitable and correctional institutions and agencies.

Such charitable, benevolent, penal, and correctional institutions and agencies as the needs of humanity and the public good may require shall be established and operated by the State under such organization and in such manner as the General Assembly may prescribe.

Sec. 4. Welfare policy; board of public welfare.

Beneficent provision for the poor, the unfortunate, and the orphan is one of the first duties of a civilized and a Christian state. Therefore the General Assembly shall provide for and define the duties of a board of public welfare.

ARTICLE XII
MILITARY FORCES

Section 1. Governor is Commander in Chief.

The Governor shall be Commander in Chief of the military forces of the State and may call out those forces to execute the law, suppress riots and insurrections, and repel invasion.

ARTICLE XIII
CONVENTIONS; CONSTITUTIONAL AMENDMENT AND
REVISION

Section 1. Convention of the People.

No Convention of the People of this State shall ever be called unless by the concurrence of two-thirds of all the members of each house of the General Assembly, and unless the proposition "Convention or No Convention" is first submitted to the qualified voters of the State at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast upon the proposition are in favor of a Convention, it shall assemble on the day prescribed by the General Assembly. The General Assembly shall, in the act submitting the convention proposition, propose limitations upon the authority of the Convention; and if a majority of the votes cast upon the proposition are in favor of a Convention, those limitations shall become binding upon the Convention. Delegates to the Convention shall be elected by the qualified voters at the time and in the manner prescribed in the act of submission. The Convention shall consist of a number of delegates equal to the membership of the House of Representatives of the General Assembly that submits the convention proposition and the delegates shall be apportioned as is the House of Representatives. A Convention shall adopt no ordinance not necessary to the purpose for which the Convention has been called.

Sec. 2. Power to revise or amend Constitution reserved to people.

The people of this State reserve the power to amend this Constitution and to adopt a new or revised Constitution. This power may be exercised by either of the methods set out hereinafter in this Article, but in no other way.

Sec. 3. Revision or amendment by Convention of the People.

A Convention of the People of this State may be called pursuant to Section 1 of this Article to propose a new or revised Constitution or to propose amendments to this Constitution. Every new or revised Constitution and every constitutional amendment adopted by a Convention shall be submitted to the qualified voters of the State at the time and in the manner prescribed by the Convention. If a majority of the votes cast thereon are in favor of ratification of the new or revised Constitution or the constitutional amendment or amendments, it or they shall become effective January first next after ratification by the qualified voters unless a different effective date is prescribed by the Convention.

Sec. 4. Revision or amendment by legislative initiation.

A proposal of a new or revised Constitution or an amendment or amendments to this Constitution may be initiated by the General Assembly, but only if three-fifths of all the members of each house shall adopt an act submitting the proposal to the qualified voters of the State for their ratification or rejection. The proposal shall be submitted at the time and in the manner prescribed by the General Assembly. If a majority of the votes cast thereon are in favor of the proposed new or revised Constitution or constitutional amendment or amendments, it or they shall become effective January first next after ratification by the voters unless a different effective date is prescribed in the act submitting the proposal or proposals to the qualified voters.

**ARTICLE XIV
MISCELLANEOUS**

Section 1. Seat of government.

The permanent seat of government of this State shall be at the City of Raleigh.

Sec. 2. State boundaries.

The limits and boundaries of the State shall be and remain as they now are.

Sec. 3. General laws defined.

Whenever the General Assembly is directed or authorized by this Constitution to enact general laws, or general laws uniformly applicable throughout the State, or general laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, no special or local act shall be enacted concerning the subject matter directed or authorized to be accomplished by general or uniformly applicable laws, and every amendment or repeal of any law relating to such subject matter shall also be general and uniform in its effect throughout the State. General laws may be enacted for classes defined by population or other criteria. General laws uniformly applicable throughout the State shall be made applicable without classification or exception in every unit of local government of like kind, such as every county, or every city and town, but need not be made applicable in every unit of local government in the State. General laws uniformly applicable in every county, city and town, and other unit of local government, or in every local court district, shall be made applicable without classification or exception in every unit of local government, or in every local court district, as the case may be. The General Assembly may at any time repeal any special, local, or private act.

Sec. 4. Continuity of laws; protection of office holders.

The laws of North Carolina not in conflict with this Constitution shall continue in force until lawfully altered. Except as otherwise specifically provided, the adoption of this Constitution shall not have the effect of vacating any office or term of office now filled or held by virtue of any election or appointment made under the prior Constitution of North Carolina and the laws of the State enacted pursuant thereto.

Sec. 5. (Effective until certification of approval of constitutional amendment) Conservation of natural resources.

It shall be the policy of this State to conserve and protect its lands and waters for the benefit of all its citizenry, and to this end it shall be a proper function of the State of North Carolina and its political subdivisions to acquire and preserve park, recreational, and scenic areas, to control and limit the pollution of our air and water, to control excessive noise, and in every other appropriate way to preserve as a part of the common heritage of this State its forests, wetlands, estuaries, beaches, historical sites, openlands, and places of beauty.

To accomplish the aforementioned public purposes, the State and its counties, cities and towns, and other units of local government may acquire by purchase or gift properties or interests in properties which shall, upon their special dedication to and acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly for those public purposes, constitute part of the "State Nature and Historic Preserve," and which shall not be used for other purposes except as authorized by law enacted by a vote of three-fifths of the members of each house of the General Assembly. The General Assembly shall prescribe by general law the conditions and procedures under which such properties or interests therein shall be dedicated for the aforementioned public purposes. (1971, c. 630, s. 1.)

**SESSION LAWS
OF THE
STATE OF NORTH CAROLINA**

REGULAR SESSION 2001

S.B. 29 SESSION LAW 2001-1

AN ACT TO AUTHORIZE THE DEPARTMENT OF
TRANSPORTATION TO PERMIT PRIVATE
ENCROACHMENT ON THE HIGHWAY RIGHT-OF-WAY OF
NC 132 IN NEW HANOVER COUNTY FOR CONSTRUCTION
OF A CORNING ACCESS BRIDGE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation may permit private encroachment on the highway right-of-way of NC 132 in New Hanover County for a bridge to provide access for pedestrians and light vehicular traffic from the Corning, Incorporated property on the north side of NC 132 to the Corning, Incorporated property located on the south side of NC 132. The Department shall approve the location, plans, and specifications for the access bridge. The encroachment shall not unreasonably interfere with or obstruct the public use of NC 132 and shall be subject to all other rules, regulations, and conditions of the Department of Transportation for encroachments.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of March, 2001.

Became law upon approval of the Governor at 1:36 p.m. on the 7th day of March, 2001.

H.B. 47

SESSION LAW 2001-2

AN ACT AUTHORIZING THE TOWN OF FAIRMONT TO CONVEY CERTAIN PROPERTY AT A PRIVATE SALE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Town of Fairmont may convey by private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest in the following described property, including any buildings situated on the property:

Twenty acres, more or less, located on the western side of White Pond Road and known as the Premium Wear Textile Facility less and except five acres, more or less, that are used by the Fairmont Civitan Club for youth baseball activity.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of March, 2001.

Became law on the date it was ratified.

H.B. 86

SESSION LAW 2001-3

AN ACT TO PROVIDE FOUR-YEAR TERMS FOR THE MAYOR OF RENNERT AND PROVIDE THAT THE MAYOR MAY ONLY VOTE TO BREAK TIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Rennert, being Chapter 300, Session Laws of 1977, as amended by Chapter 342 of the Session Laws of 1987 reads as rewritten:

"Section 3.2. Mayor and Mayor Pro Tempore. The Mayor shall be elected by the qualified voters of the Town and his term shall be for ~~two~~ four years. In case of a vacancy in the office of the Mayor, the remaining members shall elect his successor for the unexpired term. The duties of the Mayor shall be to preside at all meetings of the Town Board of Commissioners; to be the official head of the Town for the service of process, for ceremonial purposes, and shall be so recognized by the Governor of the State in connection with the military law; shall have power to administer oaths and take affidavits; shall sign all written contracts entered into by the Commission on behalf of the Town and all other contracts and instruments executed by the Town, which by law required the Mayor's signature. ~~The Mayor shall have the same power as other members of the Board of Commissioners to vote on any question, or upon the appointment of~~

officers, but he shall have no power to veto. may vote only when there are equal numbers of votes in the affirmative and in the negative. The Mayor shall exercise such powers and perform such duties as are or may be conferred upon him by the general laws of North Carolina, by this Charter, and by the Ordinances of the Town. At the January Board of Commissioners meeting each year, the Commission shall elect one of its members to be Mayor Pro Tempore, to preside in absence of or during the disability of the Mayor until a Mayor is elected by the Board of Commissioners pursuant to G.S. 160A-63 and this section."

SECTION 2. This act becomes effective beginning with the Mayor elected in the 2001 municipal election.

In the General Assembly read three times and ratified this the 19th day of March, 2001.

Became law on the date it was ratified.

H.B. 278 SESSION LAW 2001-4

AN ACT TO PROVIDE THAT THE TYRRELL COUNTY BOARD OF EDUCATION SHALL TAKE OFFICE IN JULY OF THE YEAR OF THEIR ELECTION.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 115C-37(d), those members of the Tyrrell County Board of Education elected in 2002 and in subsequent years shall qualify by taking the oath of office prescribed in Article VI, Section 7, of the Constitution at the first meeting of the Board of Education held in July following the election.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of March, 2001.

Became law on the date it was ratified.

S.B. 168 SESSION LAW 2001-5

AN ACT TO UPDATE THE PENALTIES AND ENFORCEMENT PROVISIONS IN THE HMO LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-67-165 reads as rewritten:
"§ 58-67-165. *Penalties and enforcement.*

(a) The Commissioner may, in addition to or in lieu of suspending or revoking a ~~certificate of authority~~ license under G.S. 58-67-140, proceed under G.S. 58-2-70, provided that the health

maintenance organization has a reasonable time within which to remedy the defect in its operations that gave rise to the procedure under G.S. 58-2-70.

(b) Any person who violates this ~~Article~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations shall be guilty of a Class 1 misdemeanor.

(c) (1) If the Commissioner shall for any reason have cause to believe that any violation of this ~~Article~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations has occurred or is threatened, the Commissioner may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation, and, in the event it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation.

(2) Proceedings under this subsection shall not be governed by any formal procedural requirements, and may be conducted in such manner as the Commissioner may deem appropriate under the circumstances.

(d) (1) The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this ~~Article~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations.

(2) Within 30 days after service of the ~~order of cease and desist,~~ cease and desist order, the respondent may request a hearing on the question of whether acts or practices have occurred that are in violation of this ~~Article have occurred.~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations. ~~Such~~ The hearing shall be conducted ~~pursuant to~~ under Article 3A of Chapter 150B of the General Statutes, and judicial review shall be available as provided by ~~the said Chapter 150B.~~ Article 4 of Chapter 150B of the General Statutes.

(e) In the case of any violation of the provisions of this ~~Article,~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued ~~pursuant to subsection (d), under subsection (d) of this section,~~ the Commissioner may institute a proceeding to obtain injunctive relief, or seeking other appropriate relief, in the Superior Court of Wake County."

SECTION 2. G.S. 58-67-170 reads as rewritten:

"§ 58-67-170. *Statutory construction and relationship to other laws.*

(a) Except as otherwise provided in this ~~Article, Chapter,~~ provisions of the insurance laws and ~~provisions of hospital or medical service corporation laws shall not be applicable~~ do not apply to any health maintenance organization ~~granted a certificate of authority licensed~~ under this Article. This ~~provision shall~~ subsection does not apply to an insurer or ~~hospital or medical service corporation licensed and regulated pursuant to under~~ the insurance laws or the ~~hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to under~~ this ~~Article.~~ Article or any other provision of this Chapter that expressly applies to health maintenance organizations.

(b) Solicitation of enrollees by a health maintenance organization ~~granted a certificate of authority, license,~~ or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization authorized under this Article shall not be deemed to be practicing medicine or dentistry and shall be exempt from the provisions of Chapter 90 of the General Statutes relating to the practice of medicine and dentistry; provided, however, that this exemption does not apply to individual providers under contract with or employed by the health maintenance organization."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of March, 2001.

Became law upon approval of the Governor at 11:00 a.m. on the 22nd day of March, 2001.

H.B. 175

SESSION LAW 2001-6

AN ACT EXTENDING THE CITY OF ROCKINGHAM'S
EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. In addition to any areas where the City of Rockingham exercises extraterritorial jurisdiction under Article 19 of Chapter 160A of the General Statutes, the City shall have extraterritorial jurisdiction under that Article in the following described area:

Commencing at a point in the centerline of State Road 1103 approximately 250 feet north of the US Highway 74 Bypass right-of-way where such point is also the present extent of the extraterritorial jurisdiction of the City of Rockingham and running southwest following the centerline of State Road 1103 to the intersection of State Road 1137. Thence running south following the centerline of State Road 1137 for approximately 1,000 feet to a point in the centerline of State Road 1137 located 1,364 feet north of the US Highway 1 right-of-way. Thence running west following property boundaries for a distance of 941 feet to the southwest corner of Lakewood Subdivision. Thence running southwest following the southeastern boundaries of Lakeshore Village Subdivision, Lakeshore Village Section 2 Subdivision, Country Side Section 2 Subdivision, and Country Side Subdivision for 4,077 feet to a point on the Plantation Drive right-of-way 129 feet north of State Road 1108. Thence running southwest following the eastern right-of-way boundary of Plantation Drive 159 feet to the centerline of State Road 1108. Thence running east following the centerline of State Road 1108 for approximately 8,020 feet to the centerline of State Road 1971. Thence running north following the centerline of State Road 1971 for approximately 3,850 feet to a point in the centerline of State Road 1971 that is also the extent of the extraterritorial jurisdiction for the City of Rockingham. Thence running northwest following the existing extraterritorial jurisdiction approximately 5,350 feet to the point of commencement.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of March, 2001.

Became law on the date it was ratified.

S.B. 138

SESSION LAW 2001-7

AN ACT TO MODIFY THE MEMBERSHIP OF THE MOUNT AIRY TOURISM DEVELOPMENT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 1997-410 reads as rewritten:

"Section 2. Mount Airy Tourism Development Authority. (a) Appointment and membership. When the board of commissioners

adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a Mount Airy Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The board of commissioners shall appoint ~~the following~~ eight members to the ~~Authority:~~Authority in the following five classes:

- (1) Two individuals who are owners or operators of taxable tourist accommodations in the city.
- (2) Two ~~residents of the city~~ individuals who have experience in the promotion of travel and tourism.
- (3) Two ~~residents of the city~~ individuals who are members of the Mount Airy Chamber of Commerce, selected by the Mount Airy Chamber of Commerce.
- (4) One member of the board of commissioners.
- (5) The city finance officer, who shall serve as an ex officio, nonvoting member.

Members of the Authority shall serve without ~~compensation and shall serve for a term of three years.~~compensation. Members in the first three classes shall serve staggered, three-year terms. Two of the initial appointments shall be for one-year terms and two for two-year terms, with the initial terms divided among the first three classes so that the two terms that expire each year are never from the same class. Members in the fourth and fifth classes shall serve one-year terms. Vacancies shall be filled in the same manner as the original appointment. Members appointed to fill vacancies shall serve for the remainder of the unexpired term. An individual may serve as a member in the first three classes for no more than two consecutive terms. The members shall elect a chair annually from among the ~~membership, who shall serve for three years.~~membership. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the Mount Airy area. In performing its duties, the Authority may contract with any person, firm, or agency to advise and assist it and may recommend to the board of commissioners that city staff be employed for this advice and assistance. Any city staff employed upon a recommendation of the Authority shall be hired and supervised by the Authority, which shall pay the salaries and expenses of this staff.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of March, 2001.

Became law on the date it was ratified.

S.B. 237

SESSION LAW 2001-8

AN ACT TO PROVIDE FOR THE STATEWIDE APPLICATION OF G.S. 24-9 WHICH PROHIBITS CERTAIN BUSINESS ENTITIES FROM ASSERTING THE DEFENSE OF USURY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1½ of Chapter 753 of the 1963 Session Laws, as amended by Chapter 755 of the 1967 Session Laws, is repealed.

SECTION 2. This act is effective when it becomes law and applies to transactions entered into on or after that date.

In the General Assembly read three times and ratified this the 28th day of March, 2001.

Became law on the date it was ratified.

H.B. 212

SESSION LAW 2001-9

AN ACT TO ALLOW CERTAIN MUNICIPALITIES IN NEW HANOVER COUNTY TO USE PROCEEDS FROM ON-STREET PARKING METERS IN THE SAME MANNER IN WHICH PROCEEDS FROM OFF-STREET PARKING FACILITIES ARE USED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 1998-86 reads as rewritten:

"Section 2. This act applies to the Town of Wrightsville ~~Beach~~ Beach, the Town of Carolina Beach, the Town of Kure Beach, and the City of Wilmington only."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of March, 2001.

Became law on the date it was ratified.

H.B. 597

SESSION LAW 2001-10

AN ACT AUTHORIZING THE CITY OF CHARLOTTE TO CONDUCT AN ADVISORY REFERENDUM ON CAPITAL INVESTMENTS IN SPORTS AND CULTURAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charlotte City Council may, by resolution, direct the Mecklenburg County Board of Elections to conduct an advisory referendum on whether the City should make capital investments in certain identified sports and cultural facilities. The form of the question to be presented on a ballot for such a referendum shall be:

"[] FOR [] AGAINST

The construction, expansion, and/or renovation of an uptown arena, the Mint Museum of Art, Discovery Place, the Afro-American Cultural Center, a minor league baseball stadium, Theatre Charlotte, and the Carolina Theatre, provided that adequate funding is available from, but not limited to, the existing hotel/motel occupancy tax, and proposed vehicle rental and seat taxes collected within the City of Charlotte, not including property taxes."

The referendum shall be conducted in accordance with Chapter 163 of the General Statutes.

SECTION 2. This act shall expire on December 31, 2001.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of April, 2001.

Became law on the date it was ratified.

H.B. 163

SESSION LAW 2001-11

AN ACT TO AUTHORIZE THE CITY OF HIGH POINT TO FUND FURNITURE MARKET IMPROVEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. (a) Authorization and Scope. The High Point City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Use of tax revenue. The City of High Point shall use the net proceeds of the occupancy tax only for furniture market promotion and visitor assistance.

The following definitions apply in this subsection:

- (1) Furniture market promotion and visitor assistance. – Activities and expenditures to promote the International Home Furnishings Market in the city and to assist visitors who attend it. The term may include advertising and other promotional activities, transportation and parking, housing facilitation, buyer registration, and administration of these activities.
- (2) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

SECTION 1.(d) Contracts. The city may contract with a nonprofit agency to carry out the authorized uses of the occupancy tax proceeds.

SECTION 2. City administrative provisions. – G.S. 160A-215 reads as rewritten:

"§ 160A-215. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term "city" means a municipality.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not

be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing city has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a

refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to the Cities of Goldsboro, Greensboro, High Point, Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk, Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

SECTION 3. Furniture showroom privilege license tax.

(a) Levy. The High Point City Council may, by ordinance, after not less than 10 days' public notice and a public hearing held pursuant thereto, levy a privilege license tax on every person engaged in the business of operating a wholesale home furnishings showroom. A tax levied under this section may become effective no earlier than July 1 following its levy. A person is engaged in the business of operating a wholesale home furnishings showroom if the person does either of the following during the tax year:

- (1) Uses or holds out for use as a wholesale home furnishings showroom, on a permanent or temporary basis, his or her own property.
- (2) Leases or otherwise provides his or her property to another for use as a wholesale home furnishings showroom on a permanent or temporary basis.

SECTION 3.(b) Administration. The provisions of G.S. 105-33(b) and (h) apply to a tax levied under this section. As used in those provisions, the term "fiscal year", means the city's fiscal year and the term "person" has the meaning provided in G.S. 105-228.90. The city shall adopt regulations to govern the reporting and administration of the tax. The High Point City Council may appoint a body to hear and decide appeals concerning the application and administration of the tax.

SECTION 3.(c) Tax base and rate. The tax authorized by this section is based on the floor surface area of every wholesale home furnishings showroom used or held out for use. In the case of an ongoing business, the tax is based on the floor surface area used or held out for using during the previous fiscal year of the city. In the case of a new business, the tax is based on the floor surface area used or held out for use during the tax year.

A tax levied under this section may not exceed fifteen cents (15¢) per square foot, subject to a minimum tax of two hundred fifty dollars (\$250.00) per location.

SECTION 3.(d) Lien and penalties. A tax levied under this section becomes a lien on the real property where the wholesale home furnishings showroom is located. The penalties provided in G.S. 105-236 apply to a tax levied under this section.

SECTION 3.(e) Use of tax revenue. The City of High Point shall use the net proceeds of a tax levied under this section only for furniture market promotion and visitor assistance.

SECTION 3.(f) Definitions. The following definitions apply in this section:

- (1) Floor surface area. – Gross interior wall space, which may include not only the showroom but also any ancillary areas such as aisles, hallways, stairwells, escalators, elevators, eating and drinking areas, restrooms, and common areas.
- (2) Furnishings merchandise. – Furniture of any kind, including both home and office furniture, furnishings accessories and decorative items of any kind. The term may include lamps, lighting fixtures, pictures, wall coverings, art objects, artificial plants or flowers, rugs, carpets, floor coverings, giftware, kitchenware, and pottery.
- (3) Furniture market promotion and visitor assistance. – Activities and expenditures to promote the International Home Furnishings Market in the city and to assist visitors who attend it. The term may include advertising and other promotional activities, transportation and parking, housing facilitation, buyer registration, and administration of these activities.
- (4) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (5) Wholesale home furnishings showroom. – Real property used or intended for use for the display of furnishings merchandise for the purpose of sale, or exhibition to solicit orders for sale, to resellers of furnishings.

SECTION 3.(g) Contracts. The city may contract with a nonprofit agency to carry out the authorized uses of the furniture showroom privilege license tax proceeds.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of April, 2001.

Became law on the date it was ratified.

AN ACT TO STRENGTHEN THE STATE VETERINARIAN'S AUTHORITY TO PREVENT AND CONTROL AN OUTBREAK OF FOOT AND MOUTH DISEASE AND ANY OTHER CONTAGIOUS ANIMAL DISEASE AND TO MAKE OTHER TECHNICAL AND CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

PART I. PROVISIONS TO STRENGTHEN THE AUTHORITY OF THE STATE VETERINARIAN.

SECTION 1. Part 9 of Article 34 of Chapter 106 of the General Statutes is amended by adding two new sections to read:

"§ 106-399.4. *Imminent threat of contagious animal disease; emergency measures and procedures.*

(a) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products, the State Veterinarian or an authorized representative may develop and implement any emergency measures and procedures that the State Veterinarian determines necessary to prevent and control the animal disease.

(b) Written notice of emergency procedures and measures implemented under this section, including an identification of the disease threat and a description of any potentially infected area and animal, shall be mailed or delivered to news media, farm organizations, agriculture agencies, and any other interested or affected parties as determined by the State Veterinarian. Such emergency procedures and measures may include, but are not limited to, restrictions on the transportation of any potentially infected animals, restrictions on the transportation of agriculture products and other commodities into and out of potentially infected areas, restrictions on access to potentially infected areas, quarantines under G.S. 106-401(a), emergency disinfectant and other control measures at all portals of entry into the State, including airports, ports, and other transportation corridors, and any other measures necessary to prevent and control the threat of disease infection.

(c) All State agencies and political subdivisions of the State shall cooperate with the implementation of the emergency procedures and measures developed under this section. All State agencies and political subdivisions of the State shall comply with the emergency procedures and measures developed under this section.

(d) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products, the State Veterinarian or an authorized representative may enter any property in the State to examine any animal that the State Veterinarian has reasonable grounds to believe is infected with or exposed to a contagious animal disease. The owner or operator of the premises on which the animal is located shall permit entry on the premises by the State Veterinarian or an authorized representative and shall cooperate with the State Veterinarian or an authorized representative. The provisions of G.S. 106-401(a) with respect to obtaining an emergency order do not apply to this subsection.

"§ 106-399.5. Warrantless inspections.

When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products, the State Veterinarian or an authorized representative may stop and inspect without a warrant any individual or any motor vehicle on a public or private road that is moving:

- (1) Into the State from any other country, to determine whether the individual or motor vehicle is carrying any animal or any article that is capable of introducing or spreading the animal disease.
- (2) In interstate commerce, upon probable cause to believe that the individual or motor vehicle is carrying any animal or any article that is capable of introducing or spreading the animal disease.
- (3) In intrastate commerce from any other portion of the State or from any premises or area quarantined under G.S. 106-401, upon probable cause to believe that the individual or motor vehicle is carrying any animal or any article that is capable of introducing or spreading the animal disease."

SECTION 2. G.S. 106-401 reads as rewritten:

"§ 106-401. State Veterinarian authorized to quarantine.

(a) The State Veterinarian or ~~his~~ authorized representative is authorized to go upon or may enter any property in the State, or to State or stop any motor vehicle on a public or private road to examine

any animal ~~which he~~ that the State Veterinarian has reasonable grounds to believe is affected with or exposed to a contagious animal disease. If ~~such the~~ person refuses to consent to ~~such the~~ entry and examination after the State Veterinarian or ~~his an~~ authorized representative ~~shall have~~ has notified, in writing, the owner or person in whose custody ~~such animal or animals are~~ the animal is found, of ~~his the~~ intention to enter ~~such the~~ property and conduct ~~such the~~ examination, the State Veterinarian or ~~his an~~ authorized representative may petition the district court in the county where ~~such animal or animals are~~ the animal is found for an emergency order authorizing ~~such the~~ entry and examination. The State Veterinarian or ~~his an~~ authorized representative may quarantine any animal affected with or exposed to a contagious disease, or injected with or otherwise exposed to any material capable of producing a contagious disease and shall give public notice of ~~such the~~ quarantine by posting or placarding with a suitable quarantine sign the entrance to any part of the premises on which ~~such the~~ animal is held. ~~Such The~~ the animal is ~~to~~ shall be maintained by the owner of the animal or person in charge as provided in G.S. 106-400 through 106-405 ~~the owner or operator of the premises in accordance with this Part~~ at the owner's or person's in charge expense. ~~expense of the owner of the animal or the owner or operator of the premises.~~ No animal under quarantine shall be removed from the place of quarantine ~~except upon a written permit from~~ unless permitted by the State Veterinarian or ~~his an~~ authorized representative. ~~Such representative in writing.~~ The quarantine shall remain in effect until cancelled by official written notice from the State Veterinarian or his an authorized representative and such representative, and the quarantine shall not be cancelled until any sick or diseased animal has been properly disposed of and the premises have been properly cleaned and disinfected.

(b) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products, the State Veterinarian or an authorized representative may quarantine areas within the State. As part of the quarantine under this subsection, the State Veterinarian or an authorized representative may enter any property in the State to examine any animal, to obtain blood and tissue samples for testing for the animal disease, and for any other reason directly related to preventing or controlling the animal disease, and may stop motor vehicles on a public or private road. The provisions of subsection (a) of this section with respect to obtaining an emergency order do not

apply to this subsection. Written notice of the quarantine, including a description of the area and the type of animal affected by the disease, shall be mailed or delivered to news media, farm organizations, agriculture agencies, and other entities reasonably calculated to give notice of the quarantine to affected animal owners, to the owners or operators of affected premises, and to the public. No animal subject to the quarantine shall be moved to any other premises unless permitted by the State Veterinarian or an authorized representative in writing."

SECTION 3. Part 9 of Article 34 of Chapter 106 of the General Statutes is amended by adding the following section:

"§ 106-402.1. *Movement of animals prohibited; destruction of animals to control animal disease authorized.*

(a) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products or that it is necessary to control a contagious animal disease, the State Veterinarian or an authorized representative may prohibit the movement of any animal to or from any premises used for shows, sales, markets, fairs, exhibitions, processing or rendering facilities, or other public or private assembly or may prohibit commingling of animals. Written notice of the prohibition under this subsection shall be mailed, delivered, or otherwise provided to the owner or operator of the premises by any means reasonably calculated to give notice. The owner or operator of the premises shall not permit any animal to enter or remain on the premises in violation of this section.

(b) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products or that it is necessary to control a contagious animal disease, the State Veterinarian may order the destruction of any animal and, after consulting with the State Health Director, the proper disposal of the animal. G.S. 106-403 does not apply to the disposal of animals under this subsection. The order shall be in writing and shall include the manner in which the destruction of the animal will be carried out. The order shall be delivered to the owner of the animal and the owner or operator of the premises on which the animal is located by certified mail or any other means reasonably calculated to give the owner of the animal and the owner

or operator of the premises notice. In the event the owner of the animal and the owner or operator of the premises cannot be notified, the State Veterinarian or an authorized representative may seize and destroy the animal. The owner or operator of the premises on which the animal is located shall permit entry on the premises by the State Veterinarian or an authorized representative and shall cooperate with the State Veterinarian or an authorized representative. The provisions of G.S. 106-401(a) with respect to obtaining an emergency order do not apply to this subsection.

(c) When determined by the State Veterinarian, in consultation with the Commissioner of Agriculture and with the approval of the Governor, that there is an imminent threat within the State of a contagious animal disease that has the potential for very serious and rapid spread, is of serious socioeconomic and public health consequence, or is of major importance in the international trade of animals and animal products or that it is necessary to control a contagious animal disease, the State Veterinarian may require the Executive Director of the Wildlife Resources Commission to develop a plan to address the movement of wildlife and the destruction of wildlife."

SECTION 4. G.S. 106-405 reads as rewritten:

"§ 106-405. ~~Violation made misdemeanor.~~ Prohibited acts; penalties.

(a) ~~Any~~ Except as provided in G.S. 106-404, any person ~~or persons~~ who ~~shall~~ knowingly and willfully ~~violate~~ violates any provision of ~~G.S. 106-400 to 106-403 shall be~~ this Part is guilty of a Class 2 misdemeanor.

(b) It is prohibited that any person knowingly and willfully:

- (1) Hide or conceal any animals that are subject to a quarantine under this Part.
- (2) Fail to report the occurrence of an animal disease for which a quarantine under this Part is in effect.

(c) Any person who has committed an act that is prohibited under subsection (b) of this section shall be subject to an administrative penalty not to exceed ten thousand dollars (\$10,000) per violation. Each act in violation of subsection (b) of this section is a separate violation."

PART II. OTHER TECHNICAL AND CONFORMING CHANGES.

SECTION 5. G.S. 106-400 reads as rewritten:

"§ 106-400. ~~Permit from State Veterinarian for sale, transportation, etc.,—Sale or transportation of animals affected with disease—disease prohibited.~~

No person ~~or persons~~ shall sell, trade, offer for sale or trade, or transport by ~~truck or other conveyance~~ motor vehicle on any public road or other public place within the State any animal ~~or animals~~

affected with a contagious ~~or infectious~~ animal disease, ~~except upon a written permit of unless permitted by~~ the State Veterinarian in writing and in accordance with the provisions of ~~said the~~ permit. The State Veterinarian, ~~or his authorized representative, is hereby empowered to State Veterinarian or an authorized representative may~~ examine any ~~livestock that are~~ animal that is being transported or moved, sold, traded, or offered for sale or trade on any ~~highway public road~~ or other public place within the State for the purpose of determining if ~~said animals are~~ the animal is affected with a contagious ~~or infectious~~ disease, ~~or are~~ animal disease or is being transported or offered for sale or trade in violation of G.S. 106-400 to 106-405. this Part. If the ~~animals are~~ animal is found to be diseased or ~~are is~~ being moved, sold, offered for sale or trade in violation of G.S. 106-400 to 106-405, ~~they~~ this Part, it shall be placed under quarantine ~~in accordance with the provisions of G.S. 106-400 to 106-405~~ under G.S. 106-401 in a place to be determined by the State Veterinarian or ~~his an~~ an authorized representative. Any animal ~~or animals~~ shipped or otherwise moved into this State in violation of federal laws or regulations shall be handled in accordance with the provisions of G.S. 106-400 to 106-405 this Part."

SECTION 6. G.S. 106-400.1 reads as rewritten:

"§ 106-400.1. *Swine disease testing.*

In order to control or prevent the spread of swine diseases, the Board of Agriculture may adopt rules authorizing the State Veterinarian or ~~his an~~ an authorized representative to enter, at reasonable times, the premises where swine are kept and to examine the swine and obtain blood or tissue samples for testing purposes. The State Veterinarian ~~shall also have the authority to may~~ quarantine swine ~~which that~~ have not been properly tested."

SECTION 7. G.S. 106-401.1 reads as rewritten:

"§ 106-401.1. *Inspection and quarantine of poultry.*

The State Veterinarian, ~~or his~~ Veterinarian or an authorized representative, is hereby authorized to ~~go upon or representative may~~ enter any property in the State, ~~or to State or~~ stop any motor ~~vehicle, to vehicle~~ to examine any poultry ~~which he~~ that the State Veterinarian has reason to believe ~~are is~~ affected with or exposed to a contagious animal disease. ~~He or his~~ The State Veterinarian or an authorized representative is ~~authorized to may~~ quarantine any poultry affected with or exposed to a contagious ~~disease, or~~ disease or injected with or otherwise exposed to any material capable of producing a contagious disease and ~~to give public notice of such the~~ quarantine by posting or placarding with a suitable quarantine sign the entrance to or any part of the premises on which ~~such the~~ poultry are is held. ~~Said The~~ poultry are to shall be maintained by the poultry owner or person in charge as provided for in G.S. 106-400 to 106-405 at the owner's

~~expense. the owner or operator of the premises in accordance with this Part at the expense of the poultry owner or the owner or operator of the premises. The quarantine provision hereof shall under this section does not apply to those diseases which that are endemic in the State and for which adequate preventive and control measures are not available. No poultry under quarantine shall be moved from the place of quarantine except upon a written permit from the State Veterinarian or his authorized representative. Said quarantine, unless permitted by the State Veterinarian or an authorized representative in writing. The quarantine shall remain in effect until cancelled by official written notice from the State Veterinarian or his an authorized representative and shall not be released or cancelled until the sick or dead poultry have been properly disposed of and the premises have been properly cleaned and disinfected."~~

SECTION 8. G.S. 106-402 reads as rewritten:

"§ 106-402. *Confinement and isolation of diseased animals required.*

Any ~~animal, animals~~ animal or poultry affected with or exposed to a contagious ~~or infectious~~ animal disease shall be confined by the owner ~~or person in charge of said animal, animals~~ of the animal or poultry or the owner or operator of the premises in such a manner, by penning or otherwise securing and actually isolating ~~same the animal~~ or poultry from the approach or contact with other animals or poultry not so affected; ~~they it~~ shall not have access to any ditch, canal, branch, creek, river, or other ~~waterecourse which~~ surface water that passes beyond the ~~premises of the owner or person in charge of said animals or poultry, affected premises,~~ or to any public road, or to the premises of any other person."

SECTION 9. G.S. 106-403 reads as rewritten:

"§ 106-403. *Disposition of dead domesticated animals.*

It ~~shall be~~ is the duty of the owner ~~or person in charge of any of his domesticated animals~~ of domesticated animals that die from any cause and the owner, lessee, or person ~~in charge of any land~~ owner or operator of the premises upon which any domesticated animals die, to bury the ~~same animals~~ animals to a depth of at least three feet beneath the surface of the ground within 24 hours after knowledge of the death of ~~said the~~ domesticated animals, or to otherwise dispose of the ~~same domesticated animals~~ domesticated animals in a manner approved by the State Veterinarian. It ~~shall be~~ is a violation of this ~~statute~~ section to bury any dead domesticated animal closer than 300 feet to any flowing stream or public body of water. It ~~shall be~~ is unlawful for any person to remove the carcasses of dead domesticated animals from ~~his the~~ the person's premises to the premises of any other person without the written permission of the person having charge of ~~such the other~~ premises and without burying ~~said the~~ carcasses as ~~above provided~~ provided under this section. The governing body of each municipality shall

designate some appropriate person whose duty it shall be to provide for the removal and disposal, according to the provisions of this section, of any dead domesticated animals located within the limits of the municipality when the owner ~~or owners of said animals~~ of the animals cannot be determined. The board of commissioners of each county shall designate some appropriate person whose duty it shall be to provide for the removal and ~~disposal, according to the provisions of disposal under~~ disposal under this section, of any dead domesticated animals located within the limits of the county, but without the limits of any municipality, when the owner ~~or owners of said of the~~ of the animals cannot be determined. All costs incurred by a municipality or county in the removal of ~~a dead domesticated animal~~ animals shall be recoverable from the owner of ~~such animal~~ the animals upon admission of ownership or conviction. 'Domesticated animal' as used ~~herein shall include in this section~~ includes poultry."

SECTION 10. G.S. 106-404 reads as rewritten:

"§ 106-404. *Animals affected with glanders to be killed.*

If the owner of any animal having the glanders or farcy ~~shall omit or refuse, omits or refuses,~~ upon discovery or knowledge of its condition, to ~~deprive the same of life~~ destroy the animal at once, he ~~shall be~~ that person is guilty of a Class 3 misdemeanor."

SECTION 11. This act is effective when it becomes law and expires April 1, 2003.

In the General Assembly read three times and ratified this the 4th day of April, 2001.

Became law upon approval of the Governor at 6:44 p.m. on the 4th day of April, 2001.

S.B. 85

SESSION LAW 2001-13

AN ACT TO DIRECT THE DEPARTMENT OF COMMERCE TO ENCOURAGE NORTH CAROLINA BUSINESSES TO SEEK FEDERAL CONTRACTS WITH THE DEPARTMENT OF DEFENSE AND TO COLLABORATE WITH OTHER GOVERNMENT AND NONPROFIT ENTITIES TO DEVELOP A PLAN TO EFFECTIVELY PROMOTE AND MARKET THE DEPARTMENT OF DEFENSE AS AN INDUSTRY IN THIS STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Working Group. – The Secretary of Commerce shall convene a working group of interested parties knowledgeable in the different facets of doing business with the Department of Defense. The working group must include representatives from the following government agencies and

nonprofit organizations: the Department of Commerce, the Community Colleges System, the Employment Security Commission, the Department of Administration, the Department of the Secretary of State, Concurrent Technologies Corporation, the Small Business Technology and Development Center, the Procurement Technical Assistance Center, the Governor's Advisory Commission on Military Affairs, the DoD Business Committee of the Governor's Advisory Commission on Military Affairs, and any other organization that the Department of Commerce or this working group may identify with an expertise in this area.

SECTION 2. Meetings. – The Secretary of Commerce must convene the working group created in Section 1 of this act at least once quarterly. The Secretary may chair the meetings or designate another member of the working group to chair the meetings.

SECTION 3. Goals and Objectives. – The working group created in Section 1 of this act is charged with the goal of increasing the amount of dollars from federal contracts paid to businesses in North Carolina and of utilizing the skilled workforce represented by the more than 17,000 service members which transition from active duty each year in North Carolina. In fulfilling its goals, the working group should consider studies prepared by agencies and organizations in this area, including the studies prepared by the DoD Business Committee of the Governor's Advisory Commission on Military Affairs and by Concurrent Technologies Corporation. To accomplish these goals, the working group should strive to meet the following objectives:

- (1) Investigate requirements for and establish a Single Point Registration for North Carolina vendors with automatic linked registration to DLIS Central Contractor Registration, VendorLink, and other established programs.
- (2) Coordinate within the various agencies and organizations that help North Carolina businesses obtain federal contracts to develop a unified approach to delivering these services in an efficient and effective manner.
- (3) Determine the gaps between government needs and industry capability and needs and develop an approach to encourage industry to utilize its capabilities to meet those government needs.
- (4) Complete a skills assessment program for transitioning Department of Defense personnel and develop a job placement database that may be used to promote this skilled workforce with industries that need employees with those particular skills.

- (5) Any other issue the working group determines needs to be addressed to meet its goals.

SECTION 4. Consultants. – The Department of Commerce may contract for consultant services as determined necessary by the working group.

SECTION 5. The Department of Commerce shall report on the progress of the working group to the Natural and Economic Resources-Governmental Operations Subcommittee by April 2002 and by January 2003.

SECTION 6. This act is effective when it becomes law and expires effective June 30, 2005.

In the General Assembly read three times and ratified this the 28th day of March, 2001.

Became law upon approval of the Governor at 6:45 p.m. on the 4th day of April, 2001.

H.B. 183 SESSION LAW 2001-14

AN ACT TO ALLOW EMERGENCY SUPERIOR COURT JUDGES AND DISTRICT COURT JUDGES TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:
 "§ 51-1. *Requisites of marriage; solemnization.*

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by his church, emergency superior court judge of this State, or of a magistrate, and the consequent declaration by such ~~minister~~ minister, judge, or officer that such persons are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. G.S. 51-1 reads as rewritten:
 "§ 51-1. *Requisites of marriage; solemnization.*

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and

plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by his church, district court judge of this State, or of a magistrate, and the consequent declaration by such ~~minister~~ minister, judge, or officer that such persons are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 3. Section 1 of this act becomes effective April 13, 2001, and expires April 16, 2001. Section 2 of this act becomes effective June 1, 2001, and expires June 4, 2001.

In the General Assembly read three times and ratified this the 29th day of March, 2001.

Became law upon approval of the Governor at 6:45 p.m. on the 4th day of April, 2001.

H.B. 447**SESSION LAW 2001-15**

AN ACT EXTENDING THE TERMS OF OFFICE FOR THE
MAYOR AND TOWN COMMISSIONERS OF THE TOWN OF
NORWOOD AND STAGGERING THOSE TERMS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 12 of the Charter of the Town of Norwood, being Chapter 212 of the 1905 Private Laws, reads as rewritten:

~~"Sec. 12. That all officers elected at any election in the town of Norwood shall hold office for the term of two years and until their successors are elected and qualified. That in the absence of any officer of the town, or during sickness of any of the officers, the commissioners may appoint a man to fill the office during his absence or during his inability, and no longer. If the absence be caused by resignation the board may appoint an officer to fill the unexpired term. The Commissioners and Mayor shall be elected to four-year terms by the qualified voters of the entire Town, except as provided otherwise in this section. In 2001, and quadrennially thereafter, a Mayor shall be elected to a four-year term. In 2001, for the position of Commissioner, the two persons receiving the highest numbers of votes shall be elected to four-year terms and the three persons~~

receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2005, and quadrennially thereafter, two persons shall be elected to four-year terms."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of April, 2001.

Became law on the date it was ratified.

H.B. 6 SESSION LAW 2001-16

AN ACT TO MERGE THE TOWNS OF JONESVILLE AND ARLINGTON.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Yadkin County Board of Elections shall conduct an election on a date established by it but on or before June 1, 2001, for the purpose of submitting to the qualified voters of the area described in Section 2.1 of the Charter of Jonesville contained in Section 2 of this act, the question of whether the Towns of Jonesville and Arlington shall be merged and their obligations assumed by the Town of Jonesville. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 1.(b) In the election, the question on the ballot shall be:

" [] FOR [] AGAINST
merger of the Towns of Arlington and Jonesville and the assumption of their obligations by the Town of Jonesville."

SECTION 1.(c) In the election, if a majority of the votes cast in each of the respective Towns of Jonesville and Arlington are "FOR merger of the Towns of Arlington and Jonesville and the assumption of their obligations by the Town of Jonesville", then Sections 2 through 6 of this act become effective as set forth in Section 9 of this act. Otherwise, Sections 2 through 6 of this act do not become effective.

SECTION 2. The following constitutes the Charter of the Town of Jonesville, being the Town of Jonesville of the Towns of Arlington and Jonesville:

"CHARTER OF THE TOWN OF JONESVILLE.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

Section 1.1. Incorporation and General Powers. The inhabitants of the former Town of Jonesville and the inhabitants of the former Town of Arlington are a body corporate and politic under the name of 'The Town of Jonesville' (also referred to as the 'Town'). Under that name they have all powers, duties, rights, privileges, and

immunities conferred and imposed upon municipal corporations by the general law of the State.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** The corporate limits of the Town of Jonesville consist of all of the territory that was within the corporate limits of the Town of Arlington and all of the territory that was within the corporate limits of the Town of Jonesville on the date of ratification of the act establishing this Charter. An official map of the Town, showing the current boundaries, as they may be changed from time to time in accordance with law, is maintained permanently in the office of the Town Clerk and is available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Yadkin County Register of Deeds, and the appropriate boards of elections.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Mayor and Town Council.** The Mayor and the Town Council constitute the governing body of the Town.

"Section 3.2. **Town Council; Composition; Terms of Office.** The Council is composed of five members who are elected by all the qualified voters of the Town for terms of four years or until their successors are elected and qualified.

"Section 3.3. **Mayor; Term of Office; Duties.** The Mayor is elected by all the qualified voters of the Town for a term of four years or until a successor is elected and qualified.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of the State. Elections are conducted on a nonpartisan basis and the results determined using the nonpartisan plurality method as provided in G.S. 163-292.

"Section 4.2. **Election of Town Council.** In 2001, five members of the Council shall be elected. The two persons receiving the highest numbers of votes are elected for four-year terms, and the three persons receiving the next highest numbers of votes are elected to two-year terms. In 2003 and quadrennially thereafter, three Council members are elected to four-year terms. In 2005 and quadrennially thereafter, two Council members are elected to four-year terms.

"Section 4.3. **Election of Mayor.** A Mayor shall be elected in 2001 and quadrennially thereafter for a four-year term.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Council-Manager Plan.** The Town operates under the Council-Manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes."

SECTION 3. Upon certification of the results of the election, the governing body of the Town of Jonesville and the governing body of the Town of Arlington shall each choose three persons to serve on the Town Council of the Town of Jonesville from July 1, 2001, until the organizational meeting after the regular 2001 municipal election. The new Town Council shall hold an organizational meeting on July 2, 2001, and shall elect from among its membership a Mayor to serve until the organizational meeting after the regular 2001 municipal election. The membership of the Council, notwithstanding Section 3.2 of the Charter, as enacted by this act, shall remain at six during that period.

SECTION 4.(a) All property, real, personal, and mixed, including accounts receivable, belonging to the former Town of Arlington or Jonesville shall vest in, belong to, and be the property of the Town of Jonesville. The governing bodies of the Towns of Jonesville and Arlington are authorized and directed to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.

SECTION 4.(b) All judgments, liens, rights of liens, and causes of action of any nature in favor of the former Town of Arlington or Jonesville shall vest in and remain and inure to the benefit of the Town of Jonesville.

SECTION 4.(c) All taxes, assessments, water or sewer charges, and any other charges or fees, owing to the former Town of Arlington or Jonesville shall be owed to and collected by the Town of Jonesville.

SECTION 4.(d) All actions, suits, and proceedings pending against or having been instituted by the former Town of Arlington or Jonesville shall not be abated by this act or by the merger provided herein, but shall be continued and completed in the same manner as if merger had not occurred, and the Town of Jonesville shall be a party to all such actions, suits, and proceedings in the place and stead of the former Town of Arlington or Jonesville and shall pay or cause to be paid any judgments rendered against the former Town of Arlington or Jonesville in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.

SECTION 4.(e) All obligations of the former Town of Arlington or Jonesville, including outstanding indebtedness, shall be assumed by the Town of Jonesville, and all such are hereby constituted obligations of the Town of Jonesville, and the full faith and credit of the Town of Jonesville shall be deemed to be pledged for the punctual payment of the principal of and interest on all general obligation bonds and bond anticipation notes of the former Town of Arlington or Jonesville, and all the taxable property located in the

former Town of Arlington or Jonesville shall be subject to taxation by the Town of Jonesville for such payment.

SECTION 4.(f) All ordinances of the former Town of Jonesville shall continue in full force in the entire new corporate limits of the Town unless otherwise provided by the governing body of the Town of Jonesville as provided by law, except that franchise ordinances shall not apply within the former corporate limits of the Town of Arlington as long as a franchise ordinance of the Town of Arlington continues to apply. All ordinances of the Town of Arlington, other than franchise ordinances preserved by subsection (g) of this section, expire July 2, 2001.

SECTION 4.(g) All franchises heretofore granted by the former Town of Arlington or Jonesville that are still in force shall continue as valid franchises of the Town of Jonesville for the purposes granted within the area comprising the former Town of Arlington or Jonesville.

SECTION 4.(h) No person employed by either the former Town of Arlington or Jonesville shall be terminated solely due to the merger provided for in this act.

SECTION 4.(i) The Town of Arlington is hereby abolished.

SECTION 4.(j) All references to the "Town of Jonesville" are references to the Town of Jonesville established under this act.

SECTION 5. Chapter 365 of the 1901 Session Laws, being the Charter of Jonesville, and the Charter of Arlington as adopted by the Municipal Board of Control, having served the purposes for which they were enacted, or having been consolidated into this act, are repealed.

SECTION 6.(a) This act does not repeal, modify, or in any manner affect any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind of the Town of Jonesville or of the Town of Arlington.

SECTION 6.(b) The Jonesville Town Council may adopt a budget for the 2001-2002 fiscal year on or after July 2, 2001, without following the timetable directed in the Local Government Budget and Fiscal Control Act. The governing boards of the Towns of Arlington and Jonesville may, prior to July 1, 2001, jointly adopt a temporary 2001-2002 budget for the Town of Jonesville to operate under until adoption of the permanent budget after the merger.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of April, 2001.

Became law on the date it was ratified.

H.B. 193 SESSION LAW 2001-17

AN ACT TO PROVIDE A PROPERTY TAX EXCLUSION FOR CERTAIN QUALIFIED RETIREMENT FACILITIES THAT PROVIDE CHARITY CARE AND/OR COMMUNITY BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-278.6A reads as rewritten:

"§ 105-278.6A. (*See editor's note for repeal date*) *Qualified retirement facility.*

(a) Classification. – ~~Real and Buildings, the land they actually occupy, additional adjacent land reasonably necessary for the convenient use of the buildings, and personal property owned by a qualified retirement facility and used in the operation of that facility is~~ are designated a special class of property under Section 2(2) of Article V of the North Carolina Constitution and shall not be listed, assessed, or taxed. ~~are excluded from taxation to the extent provided in this section.~~

(b) Facility Defined. – ~~As used in this section, the term "retirement facility" means a community that meets all of the following conditions:~~

- (1) ~~Its grounds and buildings are at a single site.~~
- (2) ~~It is designed for elderly residents.~~
- (3) ~~It includes independent living units for elderly residents.~~
- (4) ~~It includes a skilled nursing facility or an adult care facility.~~

Definitions. – The following definitions apply in this section:

- (1) Charity care. – The unreimbursed costs to the facility of providing health care, housing, or other services to a resident who is uninsured, underinsured, or otherwise unable to pay for all or part of the services rendered.
- (2) Community benefits. – The unreimbursed costs to the facility of providing the following:
 - a. Services, including health, recreation, community research, and education activities provided to the community at large, including the elderly.
 - b. Charitable donations.
 - c. Donated volunteer services.
 - d. Donations and voluntary payments to government agencies.
- (3) Financial reporting period. – The calendar year or tax year ending prior to the date the retirement facility applies for an exclusion under this section.

- (4) Resident revenue. – Annual revenue paid by a resident for goods and services and one year's share of the initial resident fee amortized in accordance with generally accepted accounting principles.
- (5) Retirement facility. – A community that meets all of the following conditions:
- a. It is licensed under Article 64 of Chapter 58 of the General Statutes.
 - b. It is designed for elderly residents.
 - c. It includes independent living units for elderly residents.
 - d. It includes a skilled nursing facility or an adult care facility.
- (6) Unreimbursed costs. – The costs a facility incurs for providing charity care or community benefits after subtracting payment or reimbursement received from any source for the care or benefits. Unreimbursed costs include costs paid from funds generated by a program described in subdivision (c)(5) of this section.
- (c) ~~Qualification.~~ Total Exclusion. – A retirement facility qualifies for ~~the benefits of total exclusion under~~ this section if it meets all of the following conditions:
- (1) It is exempt from tax under Article 4 of this Chapter and private shareholders do not benefit from its operations.
 - (2) All of its revenues, less operating and capital expenses, are applied to providing uncompensated goods and services to the elderly and to the local community, or are applied to an endowment or a reserve for these purposes.
 - (3) Its charter provides that in the event of dissolution, its assets will revert or be conveyed to an entity that is organized exclusively for charitable, educational, scientific, or religious purposes, and is an exempt organization under section 501(c)(3) of the Code.
 - (4) ~~Its charter or bylaws provide that it is governed by a board of directors or trustees at least a majority of whose members are selected by one or more nonprofit corporations or associations that meet all of the following conditions:~~
 - a. ~~It is exempt under section 501(c)(3), (8), or (10) of the Code.~~
 - b. ~~It is organized for a charitable purpose as defined in G.S. 105-278.6.~~
 - e. ~~It is not a private foundation as defined in section 509 of the Code.~~

- (5) It has an active program to generate funds through one or more sources, such as gifts, grants, trusts, bequests, endowment, or an annual giving program, to assist the retirement facility in serving persons who might not be able to reside there without financial assistance or subsidy.
- (6) It meets at least one of the following conditions:
- a. The facility serves all residents without regard to the residents' ability to pay.
 - b. At least five percent (5%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both.

(d) Partial Exclusion. – A retirement facility qualifies for a partial exclusion under this subsection if it meets conditions under subdivisions (c)(1) through (c)(5) of this section and at least one percent (1%) of the facility's resident revenue for the financial reporting period is provided in charity care to its residents, in community benefits, or in both. The percentage of the retirement facility's assessed value that is excluded from taxation is the applicable percentage provided in the following table, based on the minimum percentage of the facility's resident revenue that it provides in charity care to its residents, in community benefits, or in both:

<u>Partial Exclusion</u>	<u>Minimum Percentage of Resident Revenue</u>
<u>80%</u>	<u>4%</u>
<u>60%</u>	<u>3%</u>
<u>40%</u>	<u>2%</u>
<u>20%</u>	<u>1%</u>

(e) Application for Exclusion. – The application requirements of G.S. 105-282.1 apply to this section."

SECTION 2. Subsection (e) of Section 29A.18 of S.L. 1998-212, as amended by S.L. 2000-20, reads as rewritten:

"(e) Subsection (a) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 1998. Notwithstanding the provisions of G.S. 105-282.1(a), an application for the benefit provided in subsection (a) of this section for the 1998-99 tax year is timely if it is filed on or before November 15, 1998. ~~G.S. 105-278.6A is repealed effective for taxes imposed for taxable years beginning on or after July 1, 2001.~~ The remainder of this section is effective when it becomes law."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2001. Notwithstanding the provisions of G.S. 105-282.1(a), an application for the benefit provided in this act for the 2001-2002 tax year is timely if it is filed on or before September 1, 2001.

In the General Assembly read three times and ratified this the 3rd day of April, 2001.

Became law upon approval of the Governor at 5:15 p.m. on the 11th day of April, 2001.

H.B. 198 SESSION LAW 2001-18

AN ACT TO REPEAL THE MOREHEAD CITY FIREMEN'S SUPPLEMENTAL RETIREMENT FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 360 of the 1973 Session Laws is repealed.

SECTION 2. All funds remaining in the Morehead City Firemen's Supplemental Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Morehead City to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 306 SESSION LAW 2001-19

AN ACT TO REMOVE THE SUNSET ON THE LAW PROVIDING FOR THE HUNTING AND TRAPPING OF FOXES AND RACCOONS IN HYDE AND BEAUFORT COUNTIES AND ALLOWING THE USE OF SNARES WHEN TRAPPING FUR-BEARING ANIMALS IN THOSE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1997-132, as amended by S.L. 1999-86, reads as rewritten:

"Section 9. This act becomes effective ~~October 1, 1997, and expires June 1, 2001.~~ October 1, 1997."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 423**SESSION LAW 2001-20**

AN ACT TO ALLOW THE CITY OF GREENSBORO TO DISCLOSE LIMITED PERSONNEL INFORMATION CONCERNING THE DISPOSITION OF DISCIPLINARY CHARGES AGAINST POLICE OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-168(c) reads as rewritten:

"(c) All information contained in a city employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (2) A ~~license~~-licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the

release to prospective employers, educational institutions, or other persons specified in the release.

- (7) The city manager, with concurrence of the council, or, in cities not having a manager, the council may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.
- (8) In order to facilitate citizen review of the police disciplinary process, the city manager or the chief of police, or their designees may release the disposition of disciplinary charges against a police officer and the facts relied upon in determining that disposition to the Human Relations Commission Complaint Subcommittee, and may release the disposition of the disciplinary charges to the person alleged to have been aggrieved by the officer's actions or to that person's survivor. Commission members shall maintain as confidential all personnel information released to them under this subdivision that is not a matter of public record under this section, and any member who violates that confidentiality is guilty of the violations set forth in subsections (e) and (f) of this section. Each member of the Commission shall execute and adhere to a confidentiality agreement that is satisfactory to the city. For purposes of this subdivision, the term "disposition of disciplinary charges" includes determinations that the charges are sustained, not sustained, unfounded, exonerated, classified as an information file, or classified as any other disciplinary disposition category subsequently adopted by the Greensboro Police Department."

SECTION 2. The act applies only to the City of Greensboro.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 477 SESSION LAW 2001-21**AN ACT TO REPEAL THE MARION FIREMEN'S
SUPPLEMENTAL RETIREMENT FUND.**

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 26 of the 1979 Session Laws is repealed.

SECTION 2. All funds remaining in the Marion Firemen's Supplemental Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Marion to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 604 SESSION LAW 2001-22**AN ACT TO AMEND THE LAW ESTABLISHING THE
CHARLOTTE FIREMEN'S RETIREMENT SYSTEM.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 830 of the 1991 Session Laws, as amended by Chapter 171 of the 1995 Session Laws, Chapter 640 of the 1993 Session Laws, and S.L. 1999-100, which rewrote Chapter 926 of the 1947 Session Laws, as amended, reads as rewritten:

"Section 1. Chapter 926, 1947 Session Laws, as amended, is rewritten to read:

TITLE I. PREFACE.

Section 1. **Introduction.** The Charlotte Firemen's Retirement System heretofore established pursuant to the provisions of Chapter 926 of the 1947 Session Laws, as amended, is hereby continued and shall hereafter be known as the Charlotte Firefighters' Retirement System. The purpose of the Charlotte Firefighters' Retirement System shall be to provide retirement, disability and survivor benefits for the uniformed employees of the Charlotte Fire Department who are entitled thereto under the provisions of this act. This act shall be officially known and may be referred to as the Charlotte Firefighters' Retirement System Act.

Sec. 2. **Definitions.** The following words and phrases as used in this act shall have the indicated meanings unless a different meaning is clearly required by the context.

- (1) 'Accrued Benefit' means the amount of monthly retirement benefits earned by a Member computed, as of any date, on his Final Average Salary and Membership Service Credit as of such date. In no event shall the Accrued Benefit be less than the Accrued Benefit as of June 30, 1986.
- (1a) 'Act' means Chapter 926 of the 1947 Session Laws, as amended.
- (2) 'Actuarial Equivalent' means a benefit payable by the System that is determined by the Actuary to be equal to the basic benefit provided by the System based on the interest rate and the mortality and other tables and assumptions adopted for such purposes by the Board of Trustees. In no event shall any Actuarial Equivalent be less than the corresponding Actuarial Equivalent as of June 30, 1987, based on the Accrued Benefit and the assumptions in effect on that date.
- (3) 'Actuarial Valuation' or 'Valuation' means a determination of the normal costs, actuarial accrued liability, actuarial value of assets and related actuarial present values of the System performed by an Actuary which are based on the characteristics of the System. Such characteristics include, but are not limited to, age, service, salaries, and rate of turnover by death, disability, termination or retirement.
- (3a) 'Adjustment Factor' means the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415(d) of the Code for years beginning after December 31, 1987, applied to those items and in the manner the Secretary prescribes.
- (4) 'Armed Forces' means the Armed Forces of the United States of America.
- (5) 'Audit' means an examination of the accounting records of the System performed by a certified public accountant or certified public accounting firm. Such examination is to determine if said records are properly maintained and to make recommendations and suggestions for better record-keeping and management.
- (6) 'Beneficiary', 'Designated Beneficiary', or 'Surviving Beneficiary' means any person, or persons, who is in receipt of, or who is designated in writing to receive, a retirement benefit or other benefit as provided in this act.

- (7) 'Board of Trustees', 'Board' or 'Trustees' means the Board of Trustees of the Charlotte Firefighters' Retirement System, as specified in Section 29, or any individual Member thereof.
- (8) 'City' means the City of Charlotte.
- (8a) 'Code' means the Internal Revenue Code of 1986, as amended.
- (9) 'Compensation' means the remuneration reportable on Form W-2 earned by a Member for services performed as an employee of the Charlotte Fire Department ~~and for which contributions are made to the System prior to any reductions pursuant to sections 125, 401(k), 402(k), 402(e)(3), 414(h)(2), and 457 of the Internal Revenue Code.~~ Compensation shall include ~~compensation received during the applicable period by the Member from the City for services performed as an employee of the Charlotte Fire Department during the taxable year ending with or within the Plan Year that is required to be reported as wages on the Member's Form W 2. Compensation also includes compensation realized during the applicable period that is not currently includable in the Member's gross income by reason of the application of sections 125, 401(k), 402(a)(8), 402(h)(1)(B), 403(b), or 457 of the Code.~~ payments for unused sick and vacation days, longevity payments, bonus payments, and merit increases. For the purpose of calculating a Member's Final Average Salary, ~~any lump sum payments for which contributions were made to the System, such as longevity pay and bonus payments, and received by said Member within two consecutive years of Membership Service shall be apportioned over the previous Membership Service for which the payment(s) was earned.~~ (i) payments for unused sick and vacation days shall be included as Compensation to the extent that the vacation and sick days for which payments are made could have accrued during two Plan Years of the Member's last five years of Membership Service, and (ii) payments for longevity shall be included as Compensation to the extent such payments were made during two Plan Years of the Member's last five years of limit is one hundred fifty thousand dollars (\$150,000).
- (9a) 'Death Benefit Recipient' means any person who is in receipt of benefits payable as specified in Section 21.

- (10) 'Effective Date' of this amended and restated act means ~~July 1, 1999,~~ July 1, 2001, unless otherwise specified herein.
- (11) 'Final Average Salary' means the monthly average Compensation received by a Member during any two consecutive ~~years~~ Plan Years of Membership Service which produces the highest average and is contained within the Member's last five years of Membership Service. If a Member has less than two years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service. ~~Effective July 1, 1989, if the Member's monthly benefit, as calculated pursuant to Section 17(a) of this act, exceeds one hundred percent (100%) of his Final Average Salary, as defined by this subdivision, then 'Final Average Salary' means the monthly average Compensation received by a Member during any three consecutive years of Membership Service during which the Member was an active Member of the Retirement System and had the greatest aggregate Compensation from the City. If a Member has fewer than three years of Membership Service, his Final Average Salary shall mean the monthly average Compensation for his total Membership Service.~~ For the purpose of calculating a Member's Final Average Salary, (i) payments for unused sick and vacation days shall be included as Compensation to the extent that the vacation and sick days for which payments are made could have accrued during two Plan Years of the Member's last five years of Membership Service, and (ii) payments for longevity shall be included as Compensation to the extent such payments were made during two Plan Years of the Member's last five years of Membership Service.
- (12) 'He', 'Him', 'His', and any other pronouns and terms shall be used when referring to both male and female Members and/or Beneficiaries of this System, and vice versa.
- (13) 'Investment Fiduciary' means any person, or persons, who exercises any discretionary authority or control in the investment of the System's assets and/or renders investment advice for a fee to the System.

- (14) 'Majority Vote' means that number of votes which is more than fifty percent (50%) of the System Members casting ballots.
- (15) 'Member' means an employee of the Charlotte Fire Department who is subject to the provisions of the Civil Service Act contained in Chapter 333 of the 1969 Session Laws as amended, and, in addition, shall include the chief of the fire department where the chief was subject to the provisions of the Civil Service Act immediately prior to being appointed fire chief, and any probationary employee or officer of the fire department under the Civil Service Act.
- (16) 'Membership Service Credit' or 'Membership Service' means the amount of service credited to a Member as provided in this act to determine what, if any, benefits are due him.
- (17) 'Participant' means any Member, Retiree, Beneficiary in receipt of benefits or a former Member with a deferred Accrued Benefit.
- (17a) 'Qualified Participant' means a Participant who is in a defined benefit plan that is maintained by a State or a political subdivision thereof; and
 - a. Who has at least 15 years of Membership Service Credit as a full-time employee of any police department or fire department that is organized and operated by the State or a political subdivision, that maintains such a defined benefit plan; or
 - b. Who is a member of the armed forces of the United States.
- (18) 'Retiree' means any person who retires with a retirement benefit payable by the System.
- (19) 'Retirement System' or 'System' means the Charlotte Firefighters' Retirement System.
- (20) 'Total Contributions' means the sum of the amounts paid by or on behalf of a Member and credited to his individual account by the System.
- (20a) 'Trustee' means any individual member of the Board of Trustees of the Charlotte Firefighters' Retirement System, as specified in Section 29 of this act.
- (21) 'Year,' 'Plan Year,' or 'Limitation Year' means the twelve months from July 1 through June 30.

TITLE II. MEMBERSHIP SERVICE CREDIT.

Sec. 3. **General.** A Member of this Retirement System shall receive Membership Service Credit for all periods of employment

with the Charlotte Fire Department for which contributions have been paid to, and not subsequently refunded by, the Charlotte Firefighters' Retirement System. In no case shall more than one year of Membership Service Credit be credited a Member for any 12 calendar month period of time.

Sec. 4. **Periods of Workers' Compensation & Accident and Sickness, Family Medical Leave Act, and Long-Term Disability Benefits.** Membership Service Credit shall be credited to a Member for any periods of workers' compensation, accident and sickness, Family Medical Leave Act, or long-term disability benefits for which said Member contributes to the Charlotte Firefighters' Retirement System an amount equal to the Compensation the Member would have earned multiplied by ~~the sum of the then current social security contribution rate plus five percent (5%)~~ twelve and sixty-five hundredths percent (12.65%). Such contributions must be made within a 12 calendar month period from and after the date the Member returns to employment with the Charlotte Fire Department and prior to the Member's termination of membership or retirement.

Sec. 5. **Reinstatement of Membership Service Credit Previously Forfeited.** Membership Service Credit shall be credited for previous Membership Service for a Member who is reemployed by the Charlotte Fire Department within five years of the termination date of his previous employment, and provided the Member has not received reimbursement of his contributions pursuant to the provisions of this act.

Sec. 6. **Return from Active Military Duty.** Membership Service Credit shall be credited to any Member who entered the Armed Forces of the United States of America during World War I, World War II, the Korean War, any period of national emergency conditions, or entered the Armed Forces at any time through the operation of the compulsory military service law of the United States of America, upon the return to membership employment with the Charlotte Fire Department. Such Membership Service Credit shall include the period of active military service and any period after discharge or release from active duty from the Armed Forces for which his reemployment rights are guaranteed by law unless otherwise specified in this act. Notwithstanding any other provision of this section, effective December 12, 1994, this act shall at all times be construed and enforced according to the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994.

Sec. 7. **Purchase of Membership Service Credit for Prior Active Military Duty.** Effective July 1, 1999, Membership Service Credit for prior active military duty may be purchased upon the completion of five years of Membership Service Credit by any Member who served on active duty in the Armed Forces of the United

States of America prior to his employment with the Charlotte Fire Department. Such Membership Credit shall be purchased by the Member before termination of membership or retirement. The amount of Membership Service Credit that may be purchased by a Member will be equal to the actual active military duty by the Member not to exceed five years and shall be credited upon the payment of the required contributions as determined by the Administrator, provided that the Membership Service to be so credited shall not be credited in any other retirement system, except the national guard or any reserve component of the Armed Forces of the United States. The required contributions shall be an amount equal to the annualized Compensation rate the Member earned when he first entered membership in the Retirement System, multiplied by the sum of the Member and the City of Charlotte contribution rates in effect at the time when he first entered membership in the Retirement System, increased by five percent (5%) compounded per annum from the date of membership to the date of the payment of the required contributions and multiplied by the number of years and days of Membership Service to be credited.

Sec. 8. Accumulated Sick Leave and Vacation at Retirement. Membership Service Credit shall be credited to a Member for the balance of any unpaid sick leave and/or unpaid vacation at the time of his retirement, excluding any sick leave and/or vacation that was converted to a qualified deferred compensation program as defined by the City. Such Membership Service Credit shall be determined by the Administrator and shall be proportional based on the normal work schedule of the Member. Such Membership Service Credit cannot be used to meet the minimum qualifications for a disability retirement benefit, vested benefit or early retirement benefit, but may be used to meet the minimum qualifications for a service retirement benefit.

Sec. 9. Determination by Board of Trustees. In any case of doubt as to the period of Membership Service Credit to be so credited any Member, the Board of Trustees shall have final authority to determine such period.

TITLE III. TERMINATION OF MEMBERSHIP.

Sec. 10. Members With Less Than Five Years of Membership Service Credit. (a) If a Member with less than five years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said former Member shall thereupon cease membership and shall be entitled to reimbursement of the contributions made by the Member. The former Member shall not be entitled to any contributions made on the former Member's behalf by the City of Charlotte under the provisions of Section 25 of this act or to any interest which has accrued on his contributions or any

contributions made on the Member's behalf. A former Member desiring reimbursement of said contributions must complete and file the form 'Application for Refund of Accumulated Contributions' with the Administrator within five years of the termination date of his employment. Should a former Member fail to complete and file said form with the Administrator within such five years, the former Member shall receive reimbursement of said contributions as provided in this act.

(b) If such a former Member dies within five years after terminating his employment prior to receiving reimbursement of contributions pursuant to subsection (a) of this section, his Designated Beneficiary(s) on file with the Retirement System or his personal representative in the absence of any Designated Beneficiary, may apply for reimbursement of contributions pursuant to subsection (a) of this section and must file such application with the Administrator within five years of the date of death of the former Member or the funds will be paid to the Designated Beneficiary, if living, or otherwise to the former Member's estate.

Sec. 11. Members With Five or More Years of Membership Service Credit. (a) Effective July 1, 1989, if a Member with five or more years of Membership Service Credit with this Retirement System ceases employment with the Charlotte Fire Department, whether voluntarily or involuntarily, the Member shall receive his Accrued Benefit and defer this benefit until the Participant reaches 60 years of age. The Accrued Benefit shall be calculated pursuant to the provisions of Sections 15 and 17 of this act in effect on the last day of work by said Participant. If such Participant dies before applying for his deferred benefits and attaining age 60 years, reimbursement of the Participant's contributions may be accomplished in the same manner and in all respects as in Section 10 of this act.

(b) As an alternative to the provisions of subsection (a) of this section, if a Member with five or more years of Membership Service Credit with this Retirement System shall cease employment with the Charlotte Fire Department, whether voluntary or involuntary, said Member shall thereupon cease membership and may elect to receive reimbursement of his contributions in the same manner and in all respects as in Section 10 of this act, plus interest compounded annually at a rate of four percent (4%) per year, with the right reserved to the Board of Trustees to set a different rate from time to time. The former Member shall not be entitled to any contributions made on the Member's behalf by the City of Charlotte under the provision of Section 25 of this Act or to any interest on such contributions.

Sec. 12. Failure to Return From Active Military Duty. Should any Member of this Retirement System who entered the Armed

Forces of the United States of America pursuant to the provisions of Section 6 of this act fail to return to employment with the Charlotte Fire Department within the period for which his reemployment rights are guaranteed by law, said Member shall thereupon cease membership and shall be entitled to a deferred benefit or reimbursement of his contributions in the same manner and in all respects as provided for in Section 10 or 11 of this act, whichever is applicable.

Such former Member shall not receive Membership Service Credit for the period of active military duty or any period after discharge or release from active duty from the Armed Forces for which his reemployment rights had been guaranteed by law.

Sec. 13. Repealed by Section 7 of Chapter 248 of the 1989 Session Laws.

Sec. 13.1. Direct Rollover of Eligible Rollover Distributions.

(a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions.

- (1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; any hardship distribution described in section 401(k)(2)(B)(i)(IV); and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified

trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (3) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.
- (4) Direct rollover. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

Sec. 14. **Retirement of Member.** Upon his retirement pursuant to the provisions of this act, a Member shall thereupon cease membership in the Charlotte Firefighters' Retirement System.

TITLE IV. BENEFITSBENEFITS.

Sec. 15. **Service Retirement.** A Member may upon written application through the Administrator to the Board of Trustees set forth an effective date of not less than 30 days nor more than 90 days subsequent to the execution and filing thereof that he desires to be retired, provided that he has attained the age and acquired the required Membership Service Credit and has been approved by the Board:

- (1) The age and Membership Service Credit requirements for service retirement are as follows:
 - a. Any age and 30 or more years of Membership Service Credit;
 - b. Age 50 years or older and 25 or more, but less than 30 years of Membership Service Credit; or
 - c. Effective July 1, 1989, age 60 years or older and 5 or more, but fewer than 25 years of Membership Service Credit.
- (2) Upon a Member's service retirement, he shall be paid a benefit as provided in Section 17 of this act.

Sec. 16. Repealed by Section 9 of Chapter 248 of the 1989 Session Laws.

Sec. 17. (a) Effective July 1, 1998, upon retirement pursuant to the provisions of Section 15 of this act, a Member shall receive a monthly benefit equal to two and six-tenths percent (2.6%) of his Final Average Salary multiplied by his Membership Service Credit, not to

exceed the Final Average Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred two dollars and seventy-five cents (\$902.75). The benefit payable pursuant to this subsection shall be referred to as the basic benefit.

(b) Prior to his retirement, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his basic benefit from subsection (a) of this section in a reduced monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of option 1, 2, 3, 4, 5 or 6 as set forth below. Actuarial Equivalent for all Members retiring prior to July 1, 1987, shall be computed in accordance with the Group Annuity Table for 1951 with interest at four percent (4%). Actuarial Equivalent for all Members retiring after June 30, 1987, shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age with interest at six percent (6%). If a Member does not have an option election in force at the time of his retirement, his monthly benefit shall be paid as the basic benefit.

(c) Option 1. Benefit for 10 Years Certain and Life Thereafter. A Retiree shall receive a reduced basic benefit payable monthly throughout his life with the provision that if he dies before he has received 120 monthly payments, the payments will continue for the remainder of the 120-month period to such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees.

(d) Option 2. 100% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees prior to retirement but not thereafter.

(e) Option 3. 75% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death seventy-five percent (75%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees prior to retirement but not thereafter.

(f) Option 4. 66 2/3% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death sixty-six and two-thirds percent (66 2/3%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees prior to retirement but not thereafter.

(g) Option 5. 50% Joint and Survivor Benefit. A Retiree shall receive a reduced basic benefit payable monthly throughout his life and upon his death fifty percent (50%) of his reduced monthly benefit shall continue throughout the life of such Beneficiary, if living, as the Retiree shall have nominated by written designation duly executed and filed with the Board of Trustees prior to retirement but not thereafter.

(h) Option 6. A Retiree may elect any of Options 2 through 5 with the added provision that in the event the Designated Beneficiary predeceases the Retiree, the monthly benefit payable to the Retiree after the Beneficiary's death shall be equal to the basic benefit. Such election will result in a benefit that is further reduced than the corresponding benefit payable under Options 2 through 5 if this Option 6 has not been elected. The intent of this additional reduction is to support the additional cost of this election.

(i) In the event that a Retiree who named his spouse as Beneficiary in accordance with the provisions of Options 1 through 6 and shall subsequently become divorced from the named Beneficiary, the Retiree may then elect a life annuity which shall be the Actuarial Equivalent of the value of all future benefit payments under the option then in effect upon written request to the Board of Trustees provided such request is not inconsistent with the terms of the divorce decree. It is the Retiree's responsibility to provide all pertinent documentation.

Sec. 18. Early Retirement. A Member may upon written application through the Administrator to the Board of Trustees set forth an effective date of not less than 30 days nor more than 90 days subsequent to the execution and filing thereof that he desires to be retired, provided that he has acquired 25 or more, but less than 30 years of Membership Service Credit and is less than age 50 years. Upon a Member's early retirement, he shall receive a benefit as provided in Section 17, except such benefit shall be reduced by twenty-five one-hundredths of one percent (.25%) for each whole month the early retirement date precedes the Member's attainment of age 50 years.

Sec. 19. Disability Retirement in the Line of Duty.

(a) An 'Application for Disability Retirement in the Line of Duty' shall be filed by the Member or his department head with the Administrator, provided that the Member has applied for and been granted workers' compensation benefits on account of this disability.

(b) An 'Application for Disability Retirement in the Line of Duty' shall be administered pursuant to the Disability Regulations adopted by the Board of Trustees from time to time and approved by the City of Charlotte and administered in a uniform and nondiscriminatory manner. The Administrator shall request the Board of Trustees to

conduct a hearing on the Application for Disability Retirement in the Line of Duty pursuant to the provisions of the Disability Regulations. The Member or any person filing on the Member's behalf or the Administrator may appeal from any order of the Board to the Superior Court of Mecklenburg County, within 10 days of the order. The appeal to the Superior Court shall be upon the record of the proceeding before the Board at the hearing.

(c) Effective July 1, 1999, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to the greater of seventy-eight percent (78%) of Final Average Salary or two and six-tenths percent (2.6%) of Final Average Salary multiplied by his Membership Service Credit, not to exceed the Final Average Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred two dollars and seventy-five cents (\$902.75) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this Section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this Section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this Section shall be effective on the date of approval by the Board of Trustees or upon exhaustion of workers' compensation benefits, whichever is later. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the Charlotte Fire Department at such time as the Retiree's attained age and Membership Service Credit meet the requirements for a service retirement.

Sec. 20. Disability Retirement not in the Line of Duty.

(a) An 'Application for Disability Retirement not in the Line of Duty' shall be filed by a Member or his department head with the Administrator, provided that the Member has 10 or more years of Membership Service Credit and has applied for and been granted accident and sickness benefits on account of the disability.

(b) An 'Application for Disability Retirement not in the Line of Duty' shall be administered pursuant to rules and regulations adopted by the Board of Trustees from time to time and approved by the City

of Charlotte and administered in a uniform and nondiscriminatory manner. The Administrator shall request the Board of Trustees to conduct a hearing on the Application for Disability Retirement not in the Line of Duty pursuant to the provisions of the Disability Regulations. The Member or any person filing on the Member's behalf or the Administrator may appeal from any order of the Board to the Superior Court of Mecklenburg County by giving notice of appeal, in writing, to the Superior Court, within 10 days of the order. The appeal to the Superior Court shall be upon the record of the proceeding before the Board at the hearing.

(c) Effective July 1, 1999, upon retirement pursuant to the provisions of this section, a Member shall receive a monthly benefit equal to thirty-nine percent (39%) of his Final Average Salary, plus one and ninety-five hundredths percent (1.95%) of his Final Average Salary multiplied by the Membership Service Credit in excess of 10 years, not to exceed the Final Average Salary limits imposed by section 415 of the Internal Revenue Code, as amended, but not less than nine hundred two dollars and seventy-five cents (\$902.75) per month. Effective July 1, 1988, prior to his retirement pursuant to the provisions of this section, but not thereafter, a Member may elect to receive an Actuarial Equivalent, computed as of the effective date of his retirement, of his monthly amount payable throughout his life, and nominate a Beneficiary in accordance with the provisions of the Option 5, Fifty Percent (50%) Joint and Survivor Benefit, as set forth in subsection (g) of Section 17. The Actuarial Equivalent for all Members retiring pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%). Benefits payable under this section shall be effective on the date of approval by the Board of Trustees. Also, disability retirement benefits payable under this Section may be adjusted by the disability retirement regulations adopted pursuant to the requirements contained in subsection (b) of this Section. A Retiree receiving disability retirement benefits shall revert to a service retirement as specified in Section 15 and shall receive the greater of such disability retirement benefits or his Accrued Benefit as determined as of the last date of active employment with the Charlotte Fire Department at such time as the Retiree's attained age and Membership Service Credit meet the requirements for a service retirement.

Sec. 21. Death Benefits.

(a) In the event of the death of any Member of the System prior to his effective date of retirement pursuant to the provisions of Sections 15, 16, 18, 19, or 20 of this act, his Designated Beneficiary(s) on file with the Retirement System, or his personal representative in the absence of any Designated Beneficiary, shall be

entitled to reimbursement of the Total Contributions by him or on his behalf and contributions by City of Charlotte to the System on his behalf; plus, ~~two and five tenths percent (2.5%)~~ interest compounded annually at the rate of four percent (4%) per year on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf. The Board of Trustees has the right to set a different interest rate from time to time. ~~However, the two and five tenths percent (2.5%) interest~~ Interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement. As an option, a Beneficiary may elect to receive an annuity equal to and in lieu of a lump sum distribution by so designating on the above form. Effective July 1, 1989, as an option, a surviving spouse of a deceased Member who was eligible for a service or early retirement benefit on the date preceding death may elect to receive an Actuarial Equivalent computed as of the date preceding death in the same manner as if the deceased member had retired and elected a reduced monthly amount payable throughout his life, and nominated the surviving spouse as his beneficiary in accordance with the provisions of Option 4, Sixty-Six and Two-Thirds Percent (66 2/3%) Joint and Survivor benefit, as set forth in subsection (f) of Section 17. The Actuarial Equivalent for all benefits payable pursuant to this section shall be computed in accordance with the Unisex Mortality Table for 1984 set forward one year in age, with interest at six percent (6%).

(b) In the event of the death of a Retiree of this System before he has received monthly benefit payments equal to the present value on the effective date of retirement of the Total Contributions by him or on his behalf and contributions by the City of Charlotte to the System on his behalf; plus, ~~two and five tenths percent (2.5%)~~ interest compounded annually at the rate applicable to subsection (a) of this section on the contribution balance at the beginning of each Plan Year in which the Participant contributed or in which contributions were made on his behalf and provided a monthly benefit is not payable in accordance with Section 17, the Designated Beneficiary(s) or estate of the retiree shall be entitled to an amount equal to the difference between such contributions, plus interest, and the sum of the monthly benefit payments received by the retiree. However, ~~the two and five tenths percent (2.5%)~~ interest shall not apply to death benefits occurring before July 1, 1986. Such Beneficiary(s) or personal representative must complete and file the form 'Application for Survivor Death Benefits' with the Administrator to receive reimbursement.

Sec. 22. **Coordination of Benefits.** The Board of Trustees shall reduce the amount of any benefits payable under the provisions of this section by any amount of benefits being concurrently paid to a Retiree by or on behalf of the City of Charlotte.

Sec. 23. **Post-Retirement Adjustments.**

(a) The retirement benefits payable to a Retiree pursuant to the provisions of this act may be adjusted at the discretion of the Board of Trustees based upon the prevailing economic and funding conditions. Such adjustment shall not be paid until such adjustment is ratified by the City of Charlotte.

(b) Effective ~~July 1, 1989~~, July 1, 2001, the Board of Trustees shall make an annual bonus payment in the month of January following an annual actuarial valuation when the actuary determines that the actual payroll contributions exceed the required contributions adjusted for any actuarial gains and losses that may have occurred during the preceding year. The lesser of fifty percent (50%) of the excess amount determined by the actuary or upon receipt of a fiscal note prepared by the actuary demonstrating that the Retirement System could support such payment in an actuarially sound manner. Such fiscal note, at a minimum, shall evaluate the effect that granting the bonus payment will have on the amortization period, the level of unfunded accrued liabilities, and the annual required contributions. The total amount to be distributed shall be recommended by the actuary but in all events shall not exceed the aggregate monthly benefit ~~benefits~~ of the Retirees eligible for the ~~bonus~~ shall be distributed. bonus. A Retiree who has been retired for at least one year as of December 31, preceding distribution of the bonus, shall receive a bonus that is determined by the Administrator as proportional of the Retiree's monthly benefit to the aggregate monthly benefits of all Retirees eligible for the bonus.

(b1) Effective July 1, 1998, a Member who retired prior to July 1, 1989, shall receive an adjustment to the annual benefit equivalent to eight and thirty-three one hundredths percent (8.33%), which shall result in a monthly benefit of not less than nine hundred two dollars and seventy-five cents (\$902.75) per month. Effective July 1, 1998, a Member who retired pursuant to a disability retirement after July 1, 1989, shall receive an adjustment to the annual benefit equivalent to eight and thirty-three one hundredths percent (8.33%) through July 1, 1999, which shall result in a monthly benefit of not less than nine hundred two dollars and seventy-five cents (\$902.75) per month.

(c) Effective July 1, 1994, the provisions of this section shall apply to surviving beneficiaries and death benefit recipients receiving benefits from the Charlotte Firefighters' Retirement System.

TITLE V. METHOD OF FINANCING.

Sec. 24. **Member Contributions.** Each Member shall contribute to the Charlotte Firefighters' Retirement System and the City of Charlotte shall cause to be deducted from each and every payroll of such Member, an amount equal to the Member's Compensation multiplied by ~~the sum of the then current social security contribution rate plus five percent (5%);~~ twelve and sixty-five hundredths percent (12.65%).

Notwithstanding any provision of this act to the contrary, effective July 1, 1983, the City of Charlotte, as an employer, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended from time to time, may elect to pick up and pay the contributions that would be payable by the Members of the Retirement System under this section with respect to the service of the Members after June 30, 1983.

The Members' contributions picked up by the City of Charlotte shall be designated for all purposes of the Retirement System as Member contributions, except for the determination of tax upon a distribution from the Retirement System. These contributions shall be credited to the fund created by this act accumulated within the fund in a Member's account that shall be separately established for the purpose of accounting for picked-up contributions. Member contributions picked up by the City of Charlotte shall be payable from the same source of funds used for the payment of Compensation to a Member. A deduction shall be made from a Member's Compensation equal to the amount of his contributions picked up by the City of Charlotte. This deduction, however, shall not reduce his Compensation for purposes of the Retirement System. Picked-up contributions shall be transmitted to the Retirement System.

Sec. 25. **City of Charlotte Contributions.** (a) The City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Member's Compensation multiplied by ~~the sum of the then current social security contribution rate plus five percent (5%);~~ twelve and sixty-five hundredths percent (12.65%) for each and every payroll of such Member.

(b) Should any Member of this Retirement System enter the Armed Forces of the United States of America, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System for each and every payroll an amount equal to the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to subsection (a) of this section for a period not to exceed the lesser of the Member's actual period of active military duty or five years.

(c) Should any Member of the Retirement System enter the Armed Forces of the United States of America, upon approval by the

City Council, the City of Charlotte by and on behalf of such Member may contribute an amount equal to, but not to exceed, the Compensation such Member would have earned based upon the last pay grade with the Fire Department multiplied by the contribution rate established pursuant to Section 24 of this act. Any contributions by and on behalf of such Member shall inure to the benefit of such Member as though made by such Member under the provisions of this act unless otherwise specified in this act.

(c1) Should any Member of the Retirement System contribute an amount pursuant to Section 4 for the purpose of receiving Membership Service Credit for any period of benefits under the federal Family Medical Leave Act, the City of Charlotte shall contribute to the Charlotte Firefighters' Retirement System an amount equal to the Compensation that Member would have earned multiplied by the ~~then current social security contribution rate plus five percent (5%)~~ contribution rate established in Section 24 of this act.

(d) In addition thereto, the City Council may, within its discretion and upon the recommendation of the Board of Trustees, appropriate funds necessary to provide a cost of living increase to the Retirees of the System.

Sec. 26. **Other.** Any other contributions by or on the behalf of any Member or the City of Charlotte pursuant to the provisions of this act, shall be received by the Charlotte Firefighters' Retirement System.

TITLE VI. ADMINISTRATION BY BOARD OF TRUSTEES.

Sec. 27. **General.** The Board of Trustees heretofore established is hereby continued. The general administration, management and responsibility for the proper operation of the Retirement System and for construing and making effective the provisions of this act are vested in the Board of Trustees.

Sec. 28. **Body Politic and Corporate.** The Board of Trustees shall be a body politic and corporate under the name of the Board of Trustees of the Charlotte Firefighters' Retirement System and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, receive, demand and possess all kinds of property hereinafter specified, and to bargain, sell, grant, transfer or dispose of all such property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof, specifically, but not limited to, income, license, machinery, franchise and sales taxes. In addition, the Board of Trustees as a body politic and corporate may purchase and maintain such insurance policy or policies as may be necessary

for the protection of the System, the System's assets, and trustees for acts performed by them as trustees, excluding malfeasance. All expenses for the purchase or maintenance of insurance shall be borne by the System.

Sec. 29. Board of Trustees. (a) The Board of Trustees shall consist of 11 Trustees, as follows: (i) City Manager, or some other City department head or employee as duly designated by the City Manager; (ii) City Finance Director, or a deputy finance director as duly designated by the City Finance Director; (iii) City Treasurer; (iv) a Chairman of the Board and three Trustees to represent the public and who are residents of Mecklenburg County and who are appointed by the Resident Judge of the Superior Court of Mecklenburg County and who shall hold office for a period of three years or until their successor shall have been appointed and been qualified; (v) three Members of the Retirement System, each of whom shall be elected by a vote of the Members of the Retirement System for a term of three years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation; and (vi) one Retiree of the Retirement System to be elected by a majority vote of the retirees of the Retirement System for a term of three years, pursuant to the Charlotte Firefighters' Retirement System Election Regulation. The terms of office for elected Member Trustees and, effective July 1, 1989, for appointed Trustees, shall be graduated so that no more than three Trustees' terms shall expire each year. Any Member shall be eligible to succeed himself as a Trustee.

(b) **Conflict of Interest.** No trustee, chairman, or other officer or employee of the Charlotte Firefighters' Retirement System shall directly or indirectly become an independent contractor for work done by, or on behalf of, the System, or become directly or indirectly financially interested in, or receive profits from any purchase, contract, or association by or with the System.

Sec. 30. Election of Member Trustees. The elections of the Member Trustees as provided for in Subsection 29(a) and the Retiree Trustee as provided for in Subsection 29(a) shall be administered in accordance with rules and regulations adopted by the Board of Trustees from time to time.

Sec. 31. Oath of Office. An oath of office shall be administered to the Chairman of the Board and each Trustee prior to their assumption of duties with the Board of Trustees. The oath of office shall be administered by the Mayor only after the Trustee having first qualified and within 10 days after having been appointed or elected. The Chairman of the Board and each Trustee shall swear to diligently and honestly administer the affairs of said Board and that he will not knowingly violate or willfully permit to be violated any of the provisions of the law applicable to the Retirement System. Such oath

of office shall be subscribed to by the Member making it, and certified by the officer by whom it is taken, and immediately filed in the office of the City Clerk.

Sec. 32. **Vacancy on Board of Trustees.** A vacancy on the Board of Trustees shall be deemed to have occurred for any or all of the following reasons:

(a) In the event that an elected Trustee of the Board shall make application for benefits under this act he shall first submit a written notice to the Chairman of the Board disqualifying himself from his trusteeship.

(b) A vacancy shall be deemed to have occurred if a Trustee or the Chairman fails to attend any three consecutive meetings of the Board without prior notification unless excused for cause by the Trustees attending said meetings.

(c) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should die.

(c1) A vacancy shall be deemed to have occurred if a Trustee or the Chairman should fail to satisfy the classification requirements in Subsection 29(a) of this act.

(d) If a Trustee shall deem himself incapable of fulfilling his Board obligations for any reason or if any condition exists that renders the Trustee disqualified, the Trustee shall submit a written notice to the Chairman disqualifying himself from his trusteeship. If the Chairman shall deem himself to be disqualified for any of the foregoing reasons, he shall submit written notice to the Resident Judge of the Superior Court of Mecklenburg County.

(e) If a vacancy shall occur pursuant to the provisions of subsections (a) through (d) of this section, the vacancy shall be filled within 90 days after the date of the vacancy, for the unexpired portion of the term, for the same classification and in the same manner as the position was previously filled.

Sec. 33. **Compensation of Trustees.** The members of the Board of Trustees of the Charlotte Firefighters' Retirement System shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses incurred through service upon said Board.

Sec. 34. **Officers of System.** (a) The Chairman of the Board, named pursuant to the provisions of Subsection 29(a) of this act, shall preside at all meetings that he is in attendance.

(b) At its first regular meeting each year, the Board shall elect from its membership: (1) A Vice Chairman, who shall preside at any meeting that the Chairman is absent; and (2) A Secretary of the Board, who shall be responsible for the recording and certifying of the record of proceedings.

(c) The City Treasurer shall be the Treasurer of the Retirement System and shall be custodian of its assets.

Sec. 35. **Meetings.** (a) The Board of Trustees shall conduct its business at meetings that conform with the 'Open Meetings Law,' Article 33C of Chapter 143 of the General Statutes, G.S. 143-318.9 through G.S. 143-318.18, as amended.

(a1) The Board of Trustees shall hold meetings regularly, at least one in each calendar quarter, and shall designate the time and place thereof. The first regular meeting in each Plan Year shall be held on the fourth Thursday of the month of July.

(b) The Chairman or, in the absence of the Chairman, the Vice Chairman may hold a special meeting and/or an emergency meeting at his discretion. Additionally, upon the written request of two members of the Board of Trustees, the Chairman shall call a special meeting of the Board.

When a special meeting is called, the Administrator shall insure that notice is given to each trustee either in person or by first class mail to the address of record on file with the Administrator. Such notice shall include the purpose of the meeting and designate the time, date and place thereof. The Chairman or Vice Chairman shall insure that the business of the special meeting be limited to the purpose as set forth in the notice.

When an emergency meeting is called, the Administrator shall attempt to notify each Trustee by telephone to the telephone number on file with the Administrator.

(c) Each Trustee shall be entitled to one vote on each motion presented to the Board of Trustees. The Chairman shall only vote in case of a tie or in such case as to create a quorum. Six attending Trustees, including the Chairman, shall constitute a quorum at any meeting of the Board and at least six affirmative votes shall be necessary for a decision by the Trustees at any meeting of said Board. Prior to any discussion of a specific agenda item for which a Trustee or the Chairman deems himself to have a conflict of interest, or at such point during discussion that he determines himself to have a conflict of interest, the Trustee or Chairman shall thereupon make such conflict known to the Board and the Board shall inquire into the nature of the conflict and make a determination whether a conflict of interest exists and if the Trustee or Chairman participate in the discussion and vote on the agenda item.

(d) The Board of Trustees through the Secretary shall cause to be kept a record of all of its proceedings which shall be open to public inspection.

Sec. 36. **Employment of Professional Services.** (a) The Board of Trustees shall have the authority to employ and/or utilize professional and secretarial services and to purchase and maintain

such property, equipment and supplies as are deemed necessary for the proper operation of the System. All expenses, fees and/or retainers for the employment of services shall be borne by the System with the singular exception of the employment of the Actuary. All fees and expenses in connection with the employment of a qualified actuary to perform the annual evaluation of the Retirement System's financial condition shall be paid by the City of Charlotte.

(a1) **Actuary.** The Board of Trustees shall annually request the City to employ a qualified Actuary to perform such studies and evaluations of the Charlotte Firefighters' Retirement System as may be necessary and/or desirable by the Board or City in connection with the administration of the System. Within the meaning of this subsection, a qualified Actuary shall be ~~an Actuary who has been enrolled by the Joint Board for the Enrollment of Actuaries and shall be an associate, member, or fellow of the conference of Actuaries in Public Practice~~an associate or fellow of the Society of Actuaries and either a member of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.

(b) **Medical Board.** The Board of Trustees shall appoint a Medical Board to be composed of one or more physicians to serve at the pleasure of the Board. The Medical Board shall arrange for and evaluate all medical examinations required under provisions of this act. The Medical Board shall also investigate and evaluate all medical evidence, statements, and certificates submitted by and on behalf of a Member in connection with an application for disability retirement. The Medical Board shall render its conclusions and recommendations in writing to the Board of Trustees in accordance with the provisions of this act.

(c) **Legal Counsel.** The City attorney and staff shall be the legal advisor to the Board of Trustees. The Board may employ separate legal counsel as it deems necessary and beneficial for the operation of the System.

(d) **Auditor.** The Board of Trustees shall appoint an Auditor who shall be a certified public accountant.

(e) **Administrator.** The Board of Trustees shall have the authority to appoint an Administrator who shall be responsible for the administration and coordination of all System operations and activities that are not otherwise specified in this act. Such administration shall be in accordance with rules and regulations of this act and the policy and direction of the Board. In the absence of an Administrator, the Secretary of the Board as specified in Section 34(b)(2) shall be responsible for the coordination of Board meetings and providing proper notice of such meetings.

(f) **Insurance.** The Board of Trustees may purchase and maintain that insurance coverage necessary for the proper operation

of the System, including worker's compensation, fidelity insurance, and officers' and employees' liability coverage. All expenses incurred in purchasing or maintaining this coverage, including fees, and retainers, shall be borne by the System.

Sec. 37. **Committees.** The Chairman of the Board shall appoint an Investment Committee and a Benefits Committee and shall have the authority to appoint such other committees of the Board as deemed appropriate.

Sec. 38. **Authority of Board of Trustees to Recommend Changes to the Retirement System.** The Board of Trustees shall have the authority to recommend to the City changes to the Retirement System. All recommendations for changes must be actuarially sound and must take into account the interest of all Participants in the System.

Sec. 39. **Authority of City of Charlotte to Make Changes with Respect to the Retirement System.** Upon the recommendation of the Board of Trustees as provided in Section 38 of this act, the City may, within its discretion, increase or decrease the rate of contribution of the Members of the System and the City of Charlotte as may be necessary for the proper operation of the Retirement System. Provided, however, that no change shall reduce benefits being paid to Retirees of the System.

The City may deviate from the provisions of this act to the extent necessary to make any changes in the System required by the Internal Revenue Service prior to its issuing a favorable determination letter under Section 401(a) and Section 501(a) of the Internal Revenue Code of 1986, as amended from time to time, and as required by the Internal Revenue Service to maintain the qualified status of the Retirement System.

Sec. 40. **Authority of City of Charlotte to Recommend Changes to the Retirement System.** Subject to the approval of the Board of Trustees, the City may recommend to the General Assembly of the State of North Carolina changes to the Retirement System. All recommendations for changes must be actuarially sound and must take into account the interest of all Participants in the System.

Sec. 41. **Rules and Regulations.** Consistent with the provisions of this act, the Board of Trustees shall have the authority to adopt the rules and regulations for the administration of the Retirement System and for the transaction of its business.

TITLE VII. RECORD-KEEPING AND REPORTING REQUIREMENTS.

Sec. 42. **Record-Keeping.** The Administrator, or the Secretary of the Board in the absence of an administrator, shall maintain all data, files and records as is necessary to comply with the reporting requirements of this act.

Sec. 43. **Annual Audit.** There shall be an annual Audit of the books of the System. The Audit shall be performed by the Auditor as specified in ~~Section 36(d)~~Section 36 (d) of this act.

Sec. 44. **Annual Actuarial Valuation.** There shall be an annual Actuarial Valuation as of the 1st of July. The Valuation shall be performed by the actuary as specified in ~~Section 36(a1)~~Section 36(a1) of this act. Such Valuation shall be completed and presented to the Board no later than the second regular quarterly meeting each year.

Sec. 45. **Annual Report to City Council.** An annual report of the financial and actuarial condition of the System, as of the preceding June 30, shall be prepared and forwarded to the City Council in the quarter after receipt of the System's audit report from the Auditor. Such report shall contain but shall not be limited to the Auditor's opinion, such statements contained in the Auditor's report, a summary of the annual actuarial valuation and the actuary's valuation certification.

Sec. 46. **Annual Report to Participants.** A copy of the report required by Section 45 shall be provided to each of the fire stations and Fire Department administrative offices of the City of Charlotte. In addition, a copy of the report or portions of the report shall be provided to the Participants of the System.

Sec. 47. **Other Reports.** The Administrator, or the Secretary of the Board in the absence of an administrator, shall be responsible for insuring that all reporting requirements with the Internal Revenue Service and the United States Government, including its various other agencies, departments, and offices, are complied with.

TITLE VIII. CUSTODY AND INVESTMENT OF SYSTEM ASSETS.

Sec. 48. **Trusteeship of Funds.** The Board of Trustees of the Charlotte Firefighters' Retirement System shall be the trustee of the funds and assets of the System and shall have the power to take by gift, grant, devise or bequest any money, real or personal property or other things of value, and hold, sell or invest the same.

Sec. 49. **Custody of System Assets.** The Treasurer of the Retirement System shall be the custodian and responsible for the safekeeping of all funds paid into the Charlotte Firefighters' Retirement System. The Treasurer shall deposit said funds in a bank or banks as designated by the Board of Trustees. The Treasurer may, with Board concurrence, use one or more nominees to facilitate transfer of the System's securities and may hold the securities in safekeeping with the Federal Reserve System, a clearing corporation, or a custodian bank which is a member of the Federal Reserve System. All payments from said funds shall be authorized by the treasurer only upon the signed, written request of the Administrator,

or the Secretary of the Board in the absence of an administrator. The Treasurer shall furnish such bond as shall be required by the Board of Trustees and premium for said bond shall be paid out of the funds of the System.

Sec. 50. **Investment/Reinvestment of Funds and Assets.** The Board of Trustees shall be vested with the authority and responsibility and shall have full power to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities and investments in which the System shall have been invested, as well as the proceeds of said investments and any monies belonging to the System. The Board of Trustees as fiduciaries shall:

- (1) Discharge its duties solely in the interest of the Participants and the Beneficiaries;
- (2) Act with the same care, skill, prudence and diligence under the circumstances then prevailing, that a prudent person acting in a similar capacity and familiar with those matters would use in the conduct of a similar enterprise with similar aims;
- (3) Act with due regard for the management, reputation and stability of the issuer and the character of the particular investments being considered;
- (4) Make investments for the exclusive purpose of providing benefits to Participants and Participants' Beneficiaries;
- (5) Give appropriate consideration to those facts and circumstances the Board of Trustees knows or should know are relevant to the particular investment or investment course of action involved, including the role the investment or investment course of action plays in that portion of the System's investments for which the Board of Trustees has responsibility, and shall act accordingly. Appropriate consideration shall include, but is not limited to, a determination by the Board of Trustees that a particular investment or investment course of action is reasonably designed as part of the investments of the System to further the purposes of the System taking into consideration the risk of loss and the opportunity for gain or other return associated with the investment or investment course of action; and consideration of the following factors as they relate to the investment or the investment course of action:
 - a. The diversification of the investments of the System;
 - b. The liquidity and current return of the investments of the System relative to the anticipated cash flow requirements of the System; and

- c. The projected return of the investments of the System relative to the funding objectives of the System;
- (6) Give appropriate consideration to investments which would enhance the general welfare of the City and its citizens if those investments offer the safety and rate of return comparable to other investments held by the System and available to the Board of Trustees at the time the investment decision is made;
- (7) May use a portion of income of the System to defray the cost of investing, managing and protecting the assets of the System; and
- (8) May utilize the services of Investment Fiduciaries to manage the assets of the System. These Investment Fiduciaries shall be subject to the terms, conditions, and limitations provided in this section and any limitations as set forth by the Board of Trustees.

TITLE IX. RESTRICTIONS.

Sec. 51. **Restrictions.** Notwithstanding any provision of this act to the contrary:

- (1) No part of the funds contributed to the Retirement System, or the income thereon, may be used for, or diverted to, purposes other than for the exclusive benefit of the Participants of the Retirement System as authorized by the provisions of this ~~act~~, provided that in the event of the termination of the Retirement System, the City shall receive any surplus funds or assets after all liabilities of the Retirement System are satisfied.
- (2) Upon termination of the Retirement System or upon complete discontinuance of contributions to the Retirement System, the rights of all Participants of the Retirement System to benefits accrued to the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.
- (3) Forfeitures under the Retirement System may not be applied to increase the benefits that any Participant would otherwise receive under the Retirement System.
- (4) Notwithstanding any provision of the Retirement System to the contrary, the maximum annual benefit payable in the form of a straight life annuity from the Retirement System on behalf of a Participant, when combined with any benefits from another qualified benefit plan maintained by the City, shall not exceed the amount as ~~provided in this section. If the normal form of payment is other than a straight life annuity or a qualified joint~~

~~and survivor annuity, the amount so determined hereunder shall be adjusted on an actuarially equivalent basis to reflect such other payment form.~~

- ~~a. Ninety thousand dollars (\$90,000) (or, beginning January 1, 1988), such larger dollar amount as the Commissioner of Internal Revenue may prescribe. Such amount shall be the maximum annual benefit pursuant to this subdivision a. for that calendar year and shall apply to the limitation year ending with or within that calendar year.~~
- ~~b. The average annual compensation the Participant received from the City during the three consecutive calendar years which would produce the highest such average, permitted by section 415 of the Internal Revenue Code.~~

- (5) Any benefit payable to a Participant pursuant to Section 4 of this act shall commence not later than the April 1 immediately following the calendar year in which the Participant attains age 70 1/2 or, if later, the April 1 immediately following the calendar year in which the Participant terminates service. Additionally, the distribution of any such benefit must satisfy the minimum distribution requirements set forth in this paragraph and must be consistent with Treasury Regulations, as of the required beginning date. The minimum distribution for a calendar year equals the Participant's nonforfeitable Accrued Benefit at the beginning of the year divided by the Participant's life expectancy or, if applicable, the joint and last survivor expectancy of the participant and his Designated Beneficiary. The minimum distribution shall be computed by using the life expectancy multiples under Treasury Regulation 1.72-9. The minimum distribution for a calendar year subsequent to the first calendar year for which a minimum distribution is required may be computed by redetermining the applicable life expectancy. However, there shall be no redetermination of the joint life and last survivor expectancy of the Participant and a nonspouse Designated Beneficiary in a manner which takes into account any adjustment to a life expectancy other than the Participant's life expectancy. A distribution to the Participant in the form of a life annuity, joint and survivor annuity, or an annuity over a fixed period will satisfy the minimum distribution requirements of this paragraph if the method of

distribution provides non-increasing payments or otherwise satisfies Treasury Regulations. If the Participant dies after the payment of his benefit has commenced, the death benefit provided by this act shall be paid over a period which does not exceed the payment period which had commenced. If a Participant dies prior to the time the payment of his benefit commences, the death benefit provided by this act shall be paid over a period not exceeding: (i) five years after the date of the Participant's death; or (ii) if the Beneficiary is a Designated Beneficiary, over the Designated Beneficiary's life or life expectancy. No payment of benefit over a period described in (ii) shall be permitted, unless the payment of such benefit to the Designated Beneficiary will commence no later than one year after the date of the Participant's death, or, if later, and the Designated Beneficiary is the Participant's surviving spouse, the date the Participant would have attained age 70 1/2. The life expectancy multiples under Treasury Regulation 1.72-9 shall be used for purposes of applying this paragraph. The life expectancy of a Participant's surviving spouse may be recalculated not more frequently than annually, but the life expectancy of a nonspouse Designated Beneficiary may not be recalculated after the commencement of payment of benefits to the Designated Beneficiary. Any amount paid to a Participant's child, which becomes payable to the Participant's surviving spouse upon the child's attaining the age of majority, shall be treated as paid to the Participant's surviving spouse for purposes of applying this paragraph.

TITLE X. MISCELLANEOUS.

Sec. 52. **Liabilities of Trustees.** No member of the Board of Trustees shall be personally liable by reason of his service as a Trustee for any acts performed by him as a Trustee, except for malfeasance in office. Except for costs or expenses incurred because of Trustee malfeasance, the System shall indemnify each Trustee for any and all costs or expenses incurred by that Trustee as a result of acts performed as a Trustee, including all insurance deductibles, copayments, and amounts exceeding insurance policy limits.

Sec. 53. **Assignments Prohibited.** The right of a Member to any benefits payable or reimbursement of any contributions, and any other right accrued or accruing to any person pursuant to the provisions of this act, and any monies belonging to the Retirement System shall not be subject to execution, garnishment, attachment, the operation of

bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable except as is specifically authorized by statute. If a Member is covered under a group insurance or prepayment plan participated in by the City, and should he be permitted to, and elect to, continue such coverage as a Retiree, he may authorize the Board of Trustees to have deducted from his monthly retirement benefits the payments required of him to continue coverage under such group insurance or prepayment plan.

Sec. 54. **Errors.** Should any change in the records result in any person receiving from the Retirement System more or less than he would have been entitled to receive had the records been correct, the Board of Trustees shall correct such error, and as far as practicable shall adjust the payment in such manner that the Actuarial Equivalent of the benefit to which the said person was correctly entitled shall be paid.

Sec. 55. **Protection Against Fraud.** Whoever with intent to deceive shall make any statements and/or reports required under this act which are untrue, or shall falsify or permit to be falsified any records of the Retirement System, or who shall otherwise violate, with intent to deceive, any of the provisions of this act, shall be prosecuted to the fullest extent of the law.

The Charlotte Firefighters' Retirement System shall have the right of setoff for any claim arising from embezzlement or by fraud of a Participant.

Sec. 56. Repealed by Section 17 of Chapter 248 of the 1989 Session Laws.

Sec. 57. **Laws Inconsistent Repealed.** All laws and clauses of law pertaining to the Charlotte Firefighters' Retirement System that are in conflict with the provisions of this act are hereby revoked.

Sec. 58. **Savings Provisions.** If any section or part of this act is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections of this act or the act in its entirety; it being the legislative intent that this act shall stand notwithstanding the invalidity of any section or part of a section.

Sec. 59. This act shall apply to the City of Charlotte only."

SECTION 2. None of the provisions of this act shall create an additional liability for the Charlotte Firefighters' Retirement System unless sufficient assets are available to pay for the liability.

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 621 SESSION LAW 2001-23**AN ACT TO REPEAL THE CARY LOCAL FIREMEN'S
SUPPLEMENTAL RETIREMENT BENEFIT FUND.**

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 159 of the 1985 Session Laws, as amended by Chapter 924 of the 1989 Session Laws and by Chapter 147 of the 1991 Session Laws, is repealed.

SECTION 2. All funds remaining in the Cary Local Firemen's Supplemental Retirement Benefit Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the Town of Cary to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 699 SESSION LAW 2001-24**AN ACT TO PROVIDE FOR THE ELECTION OF THE CAMDEN
COUNTY BOARD OF EDUCATION IN THE GENERAL
ELECTION ON A NONPARTISAN BASIS.**

The General Assembly of North Carolina enacts:

SECTION 1. The Camden County Board of Education shall consist of five members who shall serve for terms of four years each.

SECTION 2. Each member of the Camden County Board of Education shall be elected on an at-large basis.

SECTION 3. Beginning with the election for those members whose terms expire in the year 2002, the elections for the members of the Camden County Board of Education shall be held during the general election. Such elections shall be conducted on a nonpartisan basis, and the results shall be determined on a plurality basis as provided by G.S. 163-292. There shall be no election of the members of the Camden County Board of Education during the primary elections.

SECTION 4. The members of the Camden County Board of Education shall each be a resident of Camden County. Each candidate shall file a notice of candidacy with the Board of Elections of Camden County between 12:00 noon on the first business day of July and 12:00 noon on the last business day of July of the year in which the election will be held, which shall give the candidate's name,

address, place of residence, and a statement that the candidate desires to be candidate for membership on the said Camden County Board of Education. The Board of Elections of Camden County shall prepare a separate ballot for the election of said members which shall contain the names of the candidates, but shall not refer to any party affiliation in any manner or form. The candidates for membership on the Camden County Board of Education shall be voted on at large by the eligible voters of Camden County, and the Board of Elections of Camden County shall canvas and judicially determine the results of said election and declare the members so elected. The candidates receiving the highest number of votes shall be declared to be elected.

SECTION 5. All persons so elected shall serve until their successors are elected and qualified, and any vacancy occurring on the Camden County Board of Education by death, resignation, or otherwise shall be filled by the remaining members of the Camden County Board of Education for the unexpired term, but the person appointed to fill such vacancy must be a resident of Camden County.

SECTION 6. The election of the members of the Camden County Board of Education is governed by Chapter 163 of the General Statutes, insofar as the same may be applicable and not in conflict with the express terms of this act. The Camden County Board of Elections may carry out the terms of this act.

SECTION 7. Chapter 173 of the 1977 Session Laws is repealed.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law on the date it was ratified.

H.B. 602

SESSION LAW 2001-25

AN ACT TO REMOVE CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF TRINITY AND TO ADD THE PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF THOMASVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Trinity and is added to the corporate limits of the City of Thomasville:

Commencing at N.C.G.S. "Carl" Having NAD 83 Grid Coordinates of North:

779,884.3060 East: 1,687,740.6240, Thence South 36°08'50" East 4,505.01 feet (grid bearing and distance, combined factor: 0.9998959) to an EIP, said EIP being in an eastern line of the existing

Thomasville city limit line said point also being in the Western property line of N/F Mont Mendenhall (Deed Book 1005, page 278) thence with the existing Thomasville city limit line South $37^{\circ}47'48''$ West 120.35' feet to an EIP said point being in the Northeast margin of Unity Street N.C.S.R. #1547, the true POINT AND PLACE OF BEGINNING. Thence crossing the existing right-of-way of Unity Street South $50^{\circ}42'28''$ West 57.08 and Beginning the New Thomasville Corporate Limit line to a point in the South Western margin of Unity Street, thence with the South Western margin of Unity street the following courses and distances: A curve to the right having a chord bearing of South $34^{\circ}56'11''$ East, a chord distance of 211.93' a radius of 1395.21 and an arc length of 212.14'; South $30^{\circ}34'50''$ East 145.55'; a curve to the right having a chord bearing and distance of South $27^{\circ}24'47''$ East 298.65 feet a radius of 2702.34 feet and an arc length of 298.80 feet; South $24^{\circ}14'43''$ East 362.84 feet; a curve to the left having a chord bearing and distance of South $32^{\circ}28'04''$ East 266.86 feet a radius of 692.39 feet and an arc length of 268.54'; thence leaving the existing Southwest right-of-way of Unity Street and continuing with the Proposed Southern right-of-way of Sunrise Street Extension the following courses and distances North $83^{\circ}41'52''$ West 30.21 feet; South $55^{\circ}21'20''$ West 103.29 feet; a curve to the right having a chord bearing and distance of South $86^{\circ}49'21''$ West 605.53 feet, a radius of 580.00' and an arc length of 637.07'; a curve to the left having a chord bearing and distance of North $73^{\circ}37'32''$ West 297.30; a radius of 720.00' and an arc length of 299.45'; North $85^{\circ}32'26''$ West 676.50'; South $48^{\circ}42'34''$ West 27.91 feet to a point, in the Eastern margin of the existing right-of-way of County Line Road (N.C.S.R. #2051) thence crossing County Line Road South $85^{\circ}24'30''$ East 61.55' to a point in the existing Western right-of-way of County Line Road thence with the existing right-of-way of County Line Road North $03^{\circ}06'32''$ East 80.00' to an existing concrete monument said monument being located in the North West quadrant of the Intersection of County Line Road and existing Sunrise Street, a Southeast corner of existing Thomasville Corporate limits; thence with the Western right-of-way margin of County Line Road along the existing Thomasville Corporate Limit Line the following courses and distances: North $03^{\circ}06'32''$ East 302.82'; North $03^{\circ}58'53''$ East 147.97'; North $03^{\circ}08'15''$ East 926.79'; North $02^{\circ}55'47''$ East 105.08'; North $02^{\circ}57'01''$ East 269.16' to an EIP; North $03^{\circ}41'01''$ East 355.96'; thence with a curve to the left having a chord bearing and distance of North $08^{\circ}06'19''$ West 114.47', a radius of 280.54 and an ARC length of 115.28' to a point in the Southwest intersection of County Line Road and Unity Street; thence crossing the existing right-of-way of Unity Street North $50^{\circ}30'43''$ East 62.77 feet to a point in the Eastern margin of Unity Street said point also being a

Southwestern corner of the existing Corporate limits of Thomasville; thence with the Northeastern margin of Unity Street along the existing southwestern boundary of the existing Thomasville Corporate limits the following courses and distance: South 39°29'17" East 110.76 feet; South 36°15'41" East 93.10 feet; South 35°18'11" East 633.06 feet; South 35°26'59" East 101.57 feet; South 37°06'35" East 50.48'; South 40°11'46" East 49.31'; South 46°22'36" East 90.87'; South 51°42'38" East 98.47'; South 52°33'39" East 47.80'; South 50°56'40" East 57.96'; South 48°28'49" East 61.87'; South 46°36'37" East 59.92'; South 43°58'06" East 58.87'; South 42°24'25" East 52.17'; South 38°41'46" East 31.97' to the POINT AND PLACE OF BEGINNING. Above referenced New Thomasville Corporate Limits containing 54.075± Acres.

SECTION 2. This act shall have no effect upon the validity of any liens of the City of Trinity for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Trinity.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of April, 2001.

Became law on the date it was ratified.

S.B. 45 SESSION LAW 2001-26

AN ACT TO CLARIFY AND STRENGTHEN THE LAW PERTAINING TO PERSONS WHO INTERFERE WITH THE OPERATION OF PUBLIC SCHOOL BUSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-132.2 reads as rewritten:

"§ 14-132.2. ~~Willfully trespassing upon or damaging upon,~~
damaging, or impeding the progress of a public school bus.

(a) Any person who shall unlawfully and willfully demolish, destroy, deface, injure, burn or damage any public school bus or public school activity bus shall be guilty of a Class 1 misdemeanor.

(b) Any person who shall enter a public school bus or public school activity bus after being forbidden to do so by the authorized school bus driver in charge thereof, or the school principal to whom the public school bus or public school activity bus is assigned, shall be guilty of a ~~Class 2~~Class 1 misdemeanor.

(c) Any occupant of a public school bus or public school activity bus who shall refuse to leave said bus upon demand of the authorized driver in charge thereof, or upon demand of the principal of the

school to which said bus is assigned, shall be guilty of a ~~Class 2~~Class 1 misdemeanor.

(c1) Any person who shall unlawfully and willfully stop, impede, delay, or detain any public school bus or public school activity bus being operated for public school purposes shall be guilty of a Class 1 misdemeanor.

(d) Subsections (b) and (c) of this section shall not apply to a child less than 12 years of age, or authorized professional school personnel."

SECTION 2. G.S. 14-288.4(a) reads as rewritten:

"(a) Disorderly conduct is a public disturbance intentionally caused by any person who:

- (1) Engages in fighting or other violent conduct or in conduct creating the threat of imminent fighting or other violence; or
- (2) Makes or uses any utterance, gesture, display or abusive language which is intended and plainly likely to provoke violent retaliation and thereby cause a breach of the peace; or
- (3) Takes possession of, exercises control over, or seizes any building or facility of any public or private educational institution without the specific authority of the chief administrative officer of the institution, or his authorized representative; or
- (4) Refuses to vacate any building or facility of any public or private educational institution in obedience to:
 - a. An order of the chief administrative officer of the institution, or his representative, who shall include for colleges and universities the vice chancellor for student affairs or his equivalent for the institution, the dean of students or his equivalent for the institution, the director of the law enforcement or security department for the institution, and the chief of the law enforcement or security department for the institution; or
 - b. An order given by any fireman or public health officer acting within the scope of his authority; or
 - c. If a state of emergency is occurring or is imminent within the institution, an order given by any law-enforcement officer acting within the scope of his authority; or
- (5) Shall, after being forbidden to do so by the chief administrative officer, or his authorized representative, of any public or private educational institution:

- a. Engage in any sitting, kneeling, lying down, or inclining so as to obstruct the ingress or egress of any person entitled to the use of any building or facility of the institution in its normal and intended use; or
 - b. Congregate, assemble, form groups or formations (whether organized or not), block, or in any manner otherwise interfere with the operation or functioning of any building or facility of the institution so as to interfere with the customary or normal use of the building or facility; or
- (6) Disrupts, disturbs or interferes with the teaching of students at any public or private educational institution or engages in conduct which disturbs the peace, order or discipline at any public or private educational institution or on the grounds adjacent ~~thereto~~ thereto; or
- (6a) Engages in conduct which disturbs the peace, order, or discipline on any public school bus or public school activity bus; or
- (7) Disrupts, disturbs, or interferes with a religious service or assembly or engages in conduct which disturbs the peace or order at any religious service or assembly.

As used in this section the term "building or facility" includes the surrounding grounds and premises of any building or facility used in connection with the operation or functioning of such building or facility."

SECTION 3. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of April, 2001.

Became law upon approval of the Governor at 12:37 p.m. on the 19th day of April, 2001.

S.B. 118 SESSION LAW 2001-27

AN ACT AUTHORIZING THE NORTH CAROLINA MEDICAL BOARD TO REQUIRE ANY PERSON TREATING A PATIENT BY USE OF THE INTERNET OR A TOLL-FREE TELEPHONE NUMBER TO OBTAIN A LICENSE IN THIS STATE AND TO PERMIT THE MEDICAL BOARD TO BRING AN ACTION FOR INJUNCTIVE RELIEF AGAINST NONRESIDENTS IN THE DISTRICT WHERE THE BOARD RESIDES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-14.12 reads as rewritten:

"§ 90-14.12. *Injunctions.*

The Board may appear in its own name in the superior courts in an action for injunctive relief to prevent violation of this Article and the superior courts shall have power to grant such injunctions regardless of whether criminal prosecution has been or may be instituted as a result of such violations. Actions under this section shall be commenced in the superior court district or set of districts as defined in G.S. 7A-41.1 in which the respondent resides or has his principal place of business or in which the alleged acts ~~occurred~~occurred, or in the case of an action against a nonresident, in the district where the Board resides."

SECTION 2. G.S. 90-18 reads as rewritten:

"§ 90-18. *Practicing without license; practicing defined; penalties.*

(a) No person shall practice medicine or surgery, or any of the branches thereof, nor in any case prescribe for the cure of diseases unless the person shall have been first licensed and registered so to do in the manner provided in this Article, and if any person shall practice medicine or surgery without being duly licensed and registered, as provided in this Article, the person shall not be allowed to maintain any action to collect any fee for such services. The person so practicing without license shall be guilty of a Class 1 misdemeanor.

(b) Any person shall be regarded as practicing medicine or surgery within the meaning of this Article who shall diagnose or attempt to diagnose, treat or attempt to treat, operate or attempt to operate on, or prescribe for or administer to, or profess to treat any human ailment, physical or mental, or any physical injury to or deformity of another person. A person who resides in any state or foreign country and who, by use of any electronic or other mediums, performs any of the acts described in this ~~subsection~~subsection, including prescribing medication by use of the Internet or a toll-free telephone number, shall be regarded as practicing medicine or surgery and shall be subject to the provisions of this Article and appropriate regulation by the North Carolina Medical Board.

(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

- (1) The administration of domestic or family remedies in cases of emergency.
- (2) The practice of dentistry by any legally licensed dentist engaged in the practice of dentistry and dental surgery.
- (3) The practice of pharmacy by any legally licensed pharmacist engaged in the practice of pharmacy.
- (3a) The provision of drug therapy management by a licensed pharmacist engaged in the practice of pharmacy pursuant to an agreement that is physician, pharmacist, patient, and disease specific when performed in accordance with

rules and rules developed by a joint subcommittee of the North Carolina Medical Board and the North Carolina Board of Pharmacy and approved by both Boards. Drug therapy management shall be defined as: (i) the implementation of predetermined drug therapy which includes diagnosis and product selection by the patient's physician; (ii) modification of prescribed drug dosages, dosage forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be pursuant to an agreement that is physician, pharmacist, patient, and disease specific.

- (4) The practice of medicine and surgery by any surgeon or physician of the United States army, navy, or public health service in the discharge of his official duties.
- (5) The treatment of the sick or suffering by mental or spiritual means without the use of any drugs or other material means.
- (6) The practice of optometry by any legally licensed optometrist engaged in the practice of optometry.
- (7) The practice of midwifery as defined in G.S. 90-178.2.
- (8) The practice of chiropody by any legally licensed chiropodist when engaged in the practice of chiropody, and without the use of any drug.
- (9) The practice of osteopathy by any legally licensed osteopath when engaged in the practice of osteopathy as defined by law, and especially G.S. 90-129.
- (10) The practice of chiropractic by any legally licensed chiropractor when engaged in the practice of chiropractic as defined by law, and without the use of any drug or surgery.
- (11) The practice of medicine or surgery by any nonregistered reputable physician or surgeon who comes into this State, either in person or by use of any electronic or other mediums, on an irregular basis, to consult with a resident registered physician or to consult with personnel at a medical school about educational or medical training. This proviso shall not apply to physicians resident in a neighboring state and regularly practicing in this State.
- (12) Any person practicing radiology as hereinafter defined shall be deemed to be engaged in the practice of medicine within the meaning of this Article. "Radiology" shall be defined as, that method of medical practice in which demonstration and examination of the normal and abnormal structures, parts or functions of the

human body are made by use of X ray. Any person shall be regarded as engaged in the practice of radiology who makes or offers to make, for a consideration, a demonstration or examination of a human being or a part or parts of a human body by means of fluoroscopic exhibition or by the shadow imagery registered with photographic materials and the use of X rays; or holds himself out to diagnose or able to make or makes any interpretation or explanation by word of mouth, writing or otherwise of the meaning of such fluoroscopic or registered shadow imagery of any part of the human body by use of X rays; or who treats any disease or condition of the human body by the application of X rays or radium. Nothing in this subdivision shall prevent the practice of radiology by any person licensed under the provisions of Articles 2, 7, 8, and 12A of this Chapter.

- (13) The performance of any medical acts, tasks, and functions by a licensed physician assistant at the direction or under the supervision of a physician in accordance with rules adopted by the Board. This subdivision shall not limit or prevent any physician from delegating to a qualified person any acts, tasks, and functions that are otherwise permitted by law or established by custom. The Board shall authorize physician assistants licensed in this State or another state to perform specific medical acts, tasks, and functions during a disaster.
- (14) The practice of nursing by a registered nurse engaged in the practice of nursing and the performance of acts otherwise constituting medical practice by a registered nurse when performed in accordance with rules and regulations developed by a joint subcommittee of the North Carolina Medical Board and the Board of Nursing and adopted by both boards.
- (15) The practice of dietetics/nutrition by a licensed dietitian/nutritionist under the provisions of Article 25 of this Chapter.
- (16) The practice of acupuncture by a licensed acupuncturist in accordance with the provisions of Article 30 of this Chapter.
- (17) The use of an automated external defibrillator as provided in G.S. 90-21.15.
- (18) The practice of medicine by any nonregistered physician residing in another state or foreign country who is

contacted by one of the physician's regular patients for treatment by use of the Internet or a toll-free telephone number while the physician's patient is temporarily in this State."

SECTION 3. This act becomes effective December 1, 2001, and applies to offenses committed and causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 11th day of April, 2001.

Became law upon approval of the Governor at 12:37 p.m. on the 19th day of April, 2001.

H.B. 286 SESSION LAW 2001-28

AN ACT TO CLARIFY THE APPLICABILITY OF DISEASE REPORTING AND INVESTIGATION REQUIREMENTS TO ALL DIAGNOSTIC LABORATORIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-139 reads as rewritten:
"§ 130A-139. *Persons in charge of laboratories to report.*

A person in charge of a ~~clinical or pathological~~ laboratory providing diagnostic service in this State shall report information required by the Commission to a public health agency specified by the Commission when the laboratory makes any of the following findings:

- (1) Sputa, gastric contents, or other specimens which are smear positive for acid fast bacilli or culture positive for *Mycobacterium tuberculosis*;
- (2) Urethral smears positive for Gram-negative intracellular diplococci or any culture positive for *Neisseria gonorrhoeae*;
- (3) Positive serological tests for syphilis or positive darkfield examination;
- (4) Any other positive test indicative of a communicable disease or communicable condition for which laboratory reporting is required by the Commission."

SECTION 2. G.S. 130A-144 reads as rewritten:
"§ 130A-144. *Investigation and control measures.*

(a) The local health director shall investigate, as required by the Commission, cases of communicable diseases and communicable conditions reported to the local health director pursuant to this Article.

(b) Physicians and persons in charge of medical facilities or ~~clinical or pathological~~ laboratories shall, upon request and proper

identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical records in their possession or under their control which pertain to the diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or condition.

(c) A physician or a person in charge of a medical facility or ~~clinical or pathological~~ laboratory who permits examination, review or copying of medical records pursuant to subsection (b) shall be immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of complying with a request made pursuant to subsection (b).

(d) The attending physician shall give control measures prescribed by the Commission to a patient with a communicable disease or communicable condition and to patients reasonably suspected of being infected or exposed to such a disease or condition. The physician shall also give control measures to other individuals as required by rules adopted by the Commission.

(e) The local health director shall ensure that control measures prescribed by the Commission have been given to prevent the spread of all reportable communicable diseases or communicable conditions and any other communicable disease or communicable condition that represents a significant threat to the public health. The local health department shall provide, at no cost to the patient, the examination and treatment for tuberculosis disease and infection and for sexually transmitted diseases designated by the Commission.

(f) All persons shall comply with control measures, including submission to examinations and tests, prescribed by the Commission subject to the limitations of G.S. 130A-148.

(g) The Commission shall adopt rules that prescribe control measures for communicable diseases and conditions subject to the limitations of G.S. 130A-148. Temporary rules prescribing control measures for communicable diseases and conditions shall be adopted pursuant to G.S. 150B-13.

(h) Anyone who assists in an inquiry or investigation conducted by the State Health Director for the purpose of evaluating the risk of transmission of HIV or Hepatitis B from an infected health care worker to patients, or who serves on an expert panel established by the State Health Director for that purpose, shall be immune from civil liability that otherwise might be incurred or imposed for any acts or omissions which result from such assistance or service, provided that the person acts in good faith and the acts or omissions do not amount to gross negligence, willful or wanton misconduct, or intentional wrongdoing. This qualified immunity does not apply to acts or omissions which occur with respect to the operation of a motor

vehicle. Nothing in this subsection provides immunity from liability for a violation of G.S. 130A-143."

SECTION 3. G.S. 130A-458 reads as rewritten:
 "§ 130A-458. *Persons in charge of laboratories to report.*

A person in charge of a ~~clinical or pathological~~ laboratory providing diagnostic service in this State shall report to the Department laboratory findings related to occupational ~~diseases, illnesses, diseases and illnesses~~ for which laboratory reporting is required by the Commission."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of April, 2001.

Became law upon approval of the Governor at 12:37 p.m. on the 19th day of April, 2001.

H.B. 18 SESSION LAW 2001-29

AN ACT TO ALLOW COUNTIES ADVERSELY AFFECTED BY THE FLOODS ACCOMPANYING HURRICANE FLOYD TO DISPOSE OF CERTAIN PROPERTY AT PRIVATE SALE.

The General Assembly of North Carolina enacts:

SECTION 1. This act is for the public purposes of benefiting citizens who were adversely affected by the floods accompanying Hurricane Floyd, promoting economic and community development, and strengthening the tax base.

SECTION 2. A county may sell any improvements affixed to or located on real property that it has purchased through the Hazard Mitigation Grant Program related to Hurricane Floyd. These improvements may be sold and are exempt from the restrictions and limitations required to effectuate sales of real or personal property provided for in Article 12 of Chapter 160A of the General Statutes. No dwelling may be sold pursuant to this section unless the following requirements are met:

- (1) The dwelling may be sold only to the verifiable owner of the dwelling at the time of Hurricane Floyd, September 15, 1999, and must initially be reoccupied by the same owner.
- (2) The dwelling must have been properly repaired in compliance with the North Carolina Building Code as verified by the county Planning and Development Department by issuance of a building permit, subsequent inspections, and a certificate of occupancy.
- (3) The dwelling must be sold on or before July 31, 2001.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of April, 2001.

Became law upon approval of the Governor at 12:38 p.m. on the 19th day of April, 2001.

H.B. 290 SESSION LAW 2001-30

AN ACT TO ADD TWO ADDITIONAL MEMBERS TO THE INTERIM COUNCIL OF THE TOWN OF MIDLAND.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.4 of the Charter of the Town of Midland, being S.L. 2000-91, reads as rewritten:

"Section 3.4. **Initial Council.** Until the organizational meeting after the initial regular municipal election of 2001, L.W. 'Bunk' Whitley, Joyce Beatty, A. J. Tucker, Frederick W. Buchta, and Dan Short are hereby appointed as members of the Town Council. Until that time, the Council shall consist of ~~three~~ five members. Until the organizational meeting after the initial regular municipal election of 2001, the Town Council shall choose from among its members one person to serve as Mayor."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 656 SESSION LAW 2001-31

AN ACT TO ALLOW JOHNNY S. MYERS TO CONVEY CERTAIN PROPERTY TO THE COUNTY OF YADKIN.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 14-234, Johnny S. Myers may convey to the County of Yadkin some or all of the property owned by him and described in a deed recorded in Book 296, Page 859, Yadkin County Registry.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 702 SESSION LAW 2001-32

AN ACT TO AUTHORIZE TYRRELL COUNTY TO DISPOSE OF WETLANDS MITIGATION BANKING CREDITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the County of Tyrrell may dispose of any or all of its rights, title, and interest in wetlands mitigation banking credits.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 768

SESSION LAW 2001-33

AN ACT TO MAKE VIOLATIONS OF CURRITUCK COUNTY BEACH DRIVING ORDINANCES ENFORCEABLE IN THE SAME MANNER AS STATE TRAFFIC STATUTES AND TO MAKE THE VIOLATION PROVISION OF THE ACT CONSISTENT WITH STRUCTURED SENTENCING.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 875 of the 1985 Session Laws, as amended by S.L. 1998-64, reads as rewritten:

"Section 1. Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-139.1. *Regulation of motor vehicles at beaches.*

(a) A county may by ordinance regulate, restrict, and prohibit the use of dune or beach buggies, jeeps, motorcycles, cars, trucks, or any other form of power-driven vehicle specified by the governing body of the county on the foreshore, beach strand, and the barrier dune system. Violation of any ordinance adopted by the governing body pursuant to this section is a Class 2 misdemeanor, ~~misdemeanor, punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than 30 days, or both in the discretion of the court.~~

(b) A county shall not prohibit the use of the specified vehicles from the foreshore, beach strand, and the barrier dune system by commercial fishermen for commercial activities. Commercial fishermen, however, shall abide by all other regulations or restrictions duly enacted by counties pursuant to this section.

(c) Notwithstanding G.S. 153A-122, a city may not take any action to limit the applicability of any ordinance adopted pursuant to this section on land within the county that is also within the city limits.

(d) For purposes of this section, a violation of any ordinances issued pursuant to subsection (a) of this section may be enforced in

the same manner as a violation of a provision of Article 3 of Chapter 20 of the General Statutes."

SECTION 2. This act applies to Currituck County only.

SECTION 3. This act becomes effective October 1, 2001, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 777 SESSION LAW 2001-34

AN ACT TO REPEAL THE GASTONIA FIREMEN'S SUPPLEMENTARY PENSION FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 537 of the 1949 Session Laws, as amended by Chapter 111 of the 1957 Session Laws, Chapter 51 of the 1975 Session Laws, Chapter 1016 of the 1983 Session Laws, and S.L. 97-161, is repealed.

SECTION 2. All funds remaining in the Gastonia Firemen's Supplementary Pension Fund are transferred to the board of trustees established for the Fund, to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 885 SESSION LAW 2001-35

AN ACT TO ALLOW THE TOWN OF NAGS HEAD TO DESIGNATE CERTAIN TOWN-OWNED PROPERTY TO BE USED FOR ASSISTED LIVING AND ENVIRONMENTAL EDUCATION FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1160 of the 1973 Session Laws reads as rewritten:

"Section 1. The Board of Commissioners of the Town of Nags Head, Dare County, is hereby authorized to designate that such part or portion of town-owned lands may be used for health care purposes as

it may determine necessary in accordance with the provisions hereinafter set out.

Sec. 2. Any conveyance of a parcel, parcels or all of the said town-owned lands from the Town of Nags Head in accordance with this act may be made by lease for such term and upon such conditions as the Town may designate, or, by deed of conveyance. The instrument of lease or conveyance shall contain a clause requiring the property to be used solely for health care purposes as specifically authorized by this act. Those purposes include and shall be limited to rural health care clinics, nursing homes, hospitals, out-patient care ~~facilities and facilities,~~ offices for doctors and ~~dentists, dentists,~~ assisted living facilities, and environmental education facilities.

Sec. 3. Any conveyance by deed shall be for consideration equivalent to the fair market value of the said property as determined by the Board of Commissioners of the Town of Nags Head; conveyances by lease shall be for the fair market lease value as shall be determined by the Board of Commissioners of the Town of Nags Head; conveyances to bonafide nonprofit corporations organized for the purpose of providing health care facilities as defined above, however, may be by lease, deed or other instrument of conveyances for nominal consideration in the discretion of the Board of Commissioners of the Town of Nags Head.

Sec. 4. In the event property ~~eased~~-leased or conveyed pursuant to the provisions of this act is not used for purposes authorized herein within 18 calendar months of the delivery of the instrument of conveyance or lease, or ceases to be used for such purposes, or herein set out, the property shall revert to the Town of Nags Head."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law on the date it was ratified.

H.B. 19

SESSION LAW 2001-36

AN ACT TO ALLOW CAROLINA BEACH, CARTERET COUNTY, DARE COUNTY, AND THE TOWNS OF INDIAN BEACH, KILL DEVIL HILLS, KITTY HAWK, KURE BEACH, NAGS HEAD, NORTH TOPSAIL BEACH, PINE KNOLL SHORES, SURF CITY, TOPSAIL BEACH, AND WRIGHTSVILLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-3(b) reads as rewritten:

"(b) Local Public Condemnors. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any ~~property, property or interest therein~~, either inside or outside its boundaries, for the following purposes.

- (1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.
- (2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.
- (3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.
- (4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.
- (6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.
- (7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.
- (8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.
- (9) Opening, widening, extending, or improving public wharves.
- (10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach

erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.

(11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this Chapter."

SECTION 2. G.S. 40A-42(a) reads as rewritten:

"(a) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), ~~(4) or (7)~~, (4), (7), (10), or (11), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10) or (12), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

SECTION 3. This act applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of April, 2001.

Became law on the date it was ratified.

H.B. 77

SESSION LAW 2001-37

AN ACT TO REMOVE THE PERCENTAGE OF AREA LIMITATION FOR SATELLITE ANNEXATIONS BY VARIOUS MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) ~~The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city."~~

SECTION 2. This act applies to the Cities of Marion, Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of April, 2001.

Became law on the date it was ratified.

H.B. 569**SESSION LAW 2001-38**

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF FUQUAY-VARINA.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Fuquay-Varina:

Being 4 tracts of land located in Middle Creek Township, Wake County, North Carolina. The property being east of the intersection of S.R. 2751 (Hilltop Rd.) and S.R. 2752 (Airpark Rd.) and being more particularly described as follows:

TRACT 1

BEGINNING at an existing axle, said axle lying on the eastern right-of-way of a 100' Norfolk-Southern Railroad easement and being in the southern line of the property now or formerly owned by Wayne L. Baker; Thence from said axle along the southern line of Wayne L. Baker south $87^{\circ}50' 21''$ east 1253.80 feet to an existing iron pipe, said pipe being the south east corner of the Wayne L. Baker property; thence from said iron along the eastern line of Wayne L. Baker north $16^{\circ}35' 41''$ east 49.09 feet to an existing iron pipe; thence from said pipe south $73^{\circ}21' 30''$ east 240.02 feet along the southern line of lot 20, Dunallie Downs, phase II recorded at Book of Maps 1991, page 1280 to an existing iron pipe on the western right-of-way of Dunallie Drive; Thence from said pipe along said right-of-way south $16^{\circ}39' 17''$ west 7.30 feet to an existing iron pipe; Thence from said pipe along a curve to the right, said curve having a radius of 25.00 feet, an arc length of 21.03 feet, a delta angle of $48^{\circ}11' 23''$, a chord bearing of south $40^{\circ}44' 58''$ west and a chord of 20.41 feet to an existing iron pipe; Thence from said pipe along a curve to the left, said curve having a radius of 50.00 feet. An arc length of 119.15 feet, a delta angle of $136^{\circ}32' 00''$, a chord bearing of south $03^{\circ}25' 20''$ east and a chord of 92.89 feet to an existing iron pipe; Thence from said iron pipe leaving said right-of-way south $35^{\circ}44' 43''$ west to an existing iron pipe on the edge of a well lot recorded at Book of Maps 1991, page 1280; Thence from said pipe along edge of said well lot along a curve to the left, said curve having a radius of 100 feet, an arc length of 362.53 feet, a delta angle of $207^{\circ}42' 44''$, a chord bearing of south $30^{\circ}30' 48''$ west and a chord of 194.18 feet to point; Thence from said point leaving said well lot south $12^{\circ}26' 23''$ west 1.38 feet to an existing iron pipe; Thence from said pipe north $73^{\circ}21' 07''$ west 203.03 feet to an existing iron pipe; Thence from said iron pipe south $16^{\circ}38' 36''$ west 321.50 feet to a point; Thence from said point north $87^{\circ}50' 21''$ west 1423.38 feet to a point in the center of the aforementioned 100' Norfolk-Southern easement; Thence from said point along the center of said easement north $26^{\circ}30' 31''$ east 88.50 feet, north $26^{\circ}28' 09''$ east 214.54 feet, north $26^{\circ}17' 54''$ east 217.61 feet, north $26^{\circ}05' 29''$ east 113.34 feet and north $24^{\circ}56' 24''$ east 19.63 feet to an existing P.K. nail; Thence from said nail south $87^{\circ}50' 21''$ east 56.26 feet to the point and place of beginning and containing a total of 20.05 acres and being the property standing in the name of Seth S. Fish and wife Jean S. Fish and being recorded in deed book 5392, page 872 at the Wake County Register of Deeds.

TRACT 2

Beginning at an existing iron pipe, said pipe lying on the southern right-of-way of S.R. 2752 A(Airpark Rd.) and lying on the eastern line of Dunallie Downs Subdivision recorded at book of maps 1986, Page 1218 at the Wake County Register of Deeds; thence from said pipe along the eastern line of aforementioned subdivision south 16°39' 5" West 1662.73 feet to an existing iron pipe; thence from said pipe north 73°21' 07" West 529.93 feet to an existing iron pipe; thence from said pipe south 16°38' 36" west 321.50 feet to a point; thence from point north 87°50' 21" West 1423.38 Feet to a point in the center of a 100' Norfolk-Southern Railroad Easement; thence from said point along center of said easement south 26°30' 31" West 179.42 Feet and south 26°29' 47" west 153.95 feet; thence leaving said easement north 88°15' 16" west 612.52 feet to an existing iron pipe; thence from said pipe 88°13' 07" west 274.24 feet to an existing iron pipe on the eastern right-of-way of S.R. 2751 (Hilltop Rd.); thence from said iron north 88°13' 07" west 32.85 feet to a point in the centerline of said road; thence along the centerline of said road south 26°19' 29" West 15.10 feet, south 24°59' 22" West 49.89 feet, south 22°51' 51" west 49.96 feet, south 20°06' 58" West 49.92 feet, south 17°22' 54" west 49.96 feet. South 15°12' 40" west 49.99 feet, south 13°21' 27" west 49.91 feet, south 12°12' 35" west 49.96 feet, south 11°14' 34" west 49.96 feet, south 10°13' 41" west 49.97 feet, south 09°43' 41" west 49.94 feet, south 09°10' 26" west 49.98 feet, south 09°35' 55" west 52.30 feet, south 08°12' 34" West 47.70 feet, south 08°47' 46" west 49.97 feet, south 07°26' 54" west 50.01 feet, south 05°08' 07" west 50.01 feet, south 03°23' 19" west 49.96 feet, south 01°27' 34" west 50.03 feet, south 00°07' 55" west 49.93 feet to a P.K. nail set on a bridge at the intersection of S.R. 2751 and Terrible Creek, thence along said creek the following courses and distances:

North 67°13' 32" East 138.50 Feet
 North 72°36' 15" East 68.66 Feet
 North 34°08' 20" East 59.51 Feet
 North 68°56' 27" East 56.33 Feet
 South 70°52' 00" East 40.54 Feet
 North 63°24' 42" East 31.18 Feet
 North 38°34' 04" East 58.58 Feet
 North 24°51' 00" East 36.78 Feet
 North 74°47' 54" East 66.78 Feet
 South 82°10' 03" East 158.19 Feet
 South 78°45' 23" East 60.41 Feet
 South 59°38' 40" East 72.48 Feet
 South 44°56' 33" East 74.33 Feet
 North 86°43' 13" East 59.06 Feet

South 87°18' 21" East 61.21 Feet
 South 60°26' 09" East 222.81 Feet
 North 73°31' 33" East 114.78 Feet
 North 51°33' 24" East 107.96 Feet
 South 58°04' 38" East 55.55 Feet
 North 51°18' 12" East 187.19 Feet
 North 73°11' 15" East 140.67 Feet
 South 72°52' 12" East 79.53 Feet
 North 88°05' 15" East 126.07 Feet
 South 77°50' 13" East 150.65 Feet
 North 54°28' 57" East 49.07 Feet
 North 88°23' 52" East 163.93 Feet
 South 61°53' 52" East 156.10 Feet
 North 56°32' 30" East 84.19 Feet
 South 53°49' 17" East 141.26 Feet
 North 28°00' 32" East 64.91 Feet
 South 76°04' 06" East 183.80 Feet
 South 27°25' 28" East 87.43 Feet
 North 62°29' 38" East 150.76 Feet
 South 43°55' 12" East 50.72 Feet
 North 67°13' 12" East 130.21 Feet
 South 39°09' 11" East 164.16 Feet
 North 73°40' 19" East 51.53 Feet
 South 46°52' 08" East 110.83 Feet
 South 08°56' 16" West 81.99 Feet
 South 34°40' 54" East 81.11 Feet
 South 58°57' 37" East 188.37 Feet
 South 53°40' 01" East 219.77 Feet
 South 88°27' 10" East 207.84 Feet
 North 28°45' 43" East 59.57 Feet
 North 81°17' 36" East 80.84 Feet

To an existing iron pipe on the north bank of Terrible Creek, thence from said iron pipe north 03°46' 00" East 3244.02 feet to an existing iron pipe near the southern right-of-way of S.R. 2752 (Airpark Rd.); thence from said iron pipe north 03°15' 46" east 38.18 feet to an existing cotton spike in the center of S.R. 2752; thence from said spike along the center of S.R. 2752 north 77°32' 13" west 53.23 feet; north 78°56' 59" west 39.29 feet; north 80°57' 14" west 50.06 feet; north 83°54' 23" west 50.00 feet; north 86°30' 20" west 50.00 feet; north 88°28' 35" west 50.01 feet; north 89°23' 04" west 49.98 feet; south 89°58' 36" west 50.00 feet and south 89°40' 59" west 26.97 feet; thence leaving said centerline south 16°39' 05" west 31.55 feet to an existing iron on the southern right-of-way of S.R. 2752 and being the point and place of beginning containing 124.29 acres and being the

property standing in the name of Seth S. Fish, J. W. Fish and wife Thelma R. Fish and being recorded at Deed Book 4600, Page 607 at the Wake County Register of Deeds.

TRACT 3

Beginning at an existing concrete monument, said monument being the southwest corner of Lot 71 Wind Haven South subdivision recorded at Book of Maps 1986, page 947 at the Wake County Register of Deeds; thence from said monument along the western line of said subdivision north 12°39' 21" west 749.54 feet to a point; thence from said point north 85°57' 04" west 1037.62 feet to a point; thence from said point south 03°46' 00" west 1996.02 feet to an existing iron pipe on the northern bank of Terrible Creek; thence from said iron pipe along said creek the following courses and distances:

South 66°45' 14" East	85.62 Feet
North 52°19' 10" East	61.80 Feet
South 14°57' 02" East	95.68 Feet
South 60°01' 32" East	58.00 Feet
South 54°48' 41" East	201.87 Feet
South 74°05' 48" East	112.31 Feet
South 42°43' 41" East	172.95 Feet
South 35°08' 50" East	205.84 Feet
South 15°53' 01" East	153.09 Feet
South 47°12' 06" East	181.25 Feet
South 78°02' 23" East	114.34 Feet
North 32°08' 28" East	62.03 Feet
South 75°16' 55" East	179.65 Feet
South 35°42' 52" East	126.94 Feet
North 81°48' 44" East	63.22 Feet
South 28°56' 41" East	60.38 Feet
South 63°03' 43" East	35.97 Feet
North 67°20' 23" East	276.77 Feet
North 64°30' 03" East	165.12 Feet
North 75°48' 02" East	126.52 Feet
North 61°53' 02" East	282.00 Feet

Thence leaving said creek north 79°06' 58" west 449.00 feet to an existing concrete monument; thence from said monument along the western line of aforementioned subdivision north 01°53' 02" east 1672.23 feet to an existing concrete monument; thence from said monument north 75°14' 57" west 391.42 feet to the point and place of beginning containing 89.35 acres and being the property standing in the name of Seth S. Fish and wife Jean S. Fish and recorded in Deed Book 1758, page 18 at the Wake County Register of Deeds.

TRACT 4

Beginning at an existing pipe, said pipe being in the southern line of lot 34 Wind Haven Subdivision recorded at book of maps 1986, page 974 at the Wake County Register of Deeds; thence from said iron pipe along the southern line of lots 30, 31, 32, 33, and 34 of said subdivision north 56°12' 04" West 930.43 feet to an existing iron pipe near the southern right-of-way of S.R. 2752 (Airpark Rd.) and being the southwest corner of lot 30 of said subdivision; thence from said iron pipe south 03° 46' 00" west 1248.00 feet to a point; thence from said point south 85°57' 04" east 1037.62 feet to a point in the western line of lot 74 Wind Haven South Subdivision recorded at book of maps 1986, page 947 at the Wake County Register of Deeds; thence from said point along the western line of said subdivision north 12°39' 21" west 820.93 feet to the point and place of beginning containing 20.90 acres and being the property standing in the name of Seth S. Fish and wife Jean S. Fish and recorded at deed book 1751, page 678 at the Wake County Register of Deeds.

SECTION 2. This act shall have no effect upon the validity of any liens of the Town of Fuquay-Varina for ad valorem taxes or special assessments outstanding before this act becomes law. The liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Fuquay-Varina.

SECTION 3. The Wake County zoning district classification of R-30 shall apply to the property described in Section 1 of this act until the classification is changed by the county in accordance with county ordinances and general law.

SECTION 4. This becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 26th day of April, 2001.

Became law on the date it was ratified.

H.B. 633**SESSION LAW 2001-39**

AN ACT TO AUTHORIZE THE CITY OF ARCHDALE TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-48, the City of Archdale may adopt ordinances annexing property that, on January 1, 2001, was completely enclosed by the corporate limits of the City, if the City does the following:

- (1) Fixes a date for a public hearing on the annexation and publishes notice of the public hearing at least 10 days before the date of the hearing.
- (2) Makes a finding based upon circumstances and evidence satisfactory to the City Council that the annexation is necessary for the orderly growth and development of the City.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-51.

SECTION 3. Any annexation ordinance adopted by the City Council under this act shall be adopted before December 31, 2002.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of April, 2001.

Became law on the date it was ratified.

S.B. 3 SESSION LAW 2001-40

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE DESERT STORM SPECIAL REGISTRATION PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(11a) Desert Storm Veteran. – Issuable to either a member or veteran of the armed services of the United States who served during Operation Desert Shield or Operation Desert Storm. If the person is a veteran of the armed services, then the veteran must be separated from the armed services under honorable conditions. The plate must bear the words "Desert Storm Veteran" and shall bear a replica of the Southwest Asia Service Medal. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of April, 2001.

Became law upon approval of the Governor at 2:10 p.m. on the 26th day of April, 2001.

H.B. 740 SESSION LAW 2001-41

AN ACT AUTHORIZING THE LEGISLATIVE SERVICES COMMISSION TO OPERATE THE SNACK BAR IN THE LEGISLATIVE OFFICE BUILDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 111-42 reads as rewritten:

"§ 111-42. *Definitions as used in this Article.*

(a) "Regular vending facility" means a vending facility where food preparation or cooking is not done on the State property.

(b) "State agency" means department, commission, agency or instrumentality of the State.

(c) "State property or State building" means building and land owned, leased, or otherwise controlled by the State, exclusive of schools, colleges and universities, the North Carolina State Fair, the Legislative Office Building, and the State Legislative Building.

(d) "Vending facility" includes a snack bar, cafeteria, restaurant, cafe, concession stand, vending stand, cart service, or other facilities at which food, drinks, novelties, newspapers, periodicals, confections, souvenirs, tobacco products or related items are regularly sold.

(e) Repealed by Session Laws 2000-121, s. 21."

SECTION 2. G.S. 66-58 (c) reads as rewritten:

"(c) The provisions of subsection (a) shall not prohibit:

...

(5) The operation of a snack bar and cafeteria in the State Legislative ~~Building~~ Building, and a snack bar in the Legislative Office Building.

...."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of April, 2001.

Became law upon approval of the Governor at 2:10 p.m. on the 26th day of April, 2001.

S.B. 831 SESSION LAW 2001-42

AN ACT TO EXTEND THE DEADLINE FOR THE GOVERNOR TO APPOINT THE STATE CONTROLLER TO JUNE 15, 2001.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 143B-426.37(b), the Governor shall have until June 15, 2001, to submit the name of the person to be appointed as State Controller, for confirmation by the General Assembly, to the President of the Senate and the Speaker of the House of Representatives.

SECTION 2. This act is effective when it becomes law and shall expire on June 30, 2001.

In the General Assembly read three times and ratified this the 1st day of May, 2001.

Became law upon approval of the Governor at 4:49 p.m. on the 1st day of May, 2001.

S.B. 381 SESSION LAW 2001-43

AN ACT TO SET OUT THE BOUNDARIES OF THE TOWN OF BOSTIC AND TO VALIDATE ACTIONS OF THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of the Charter of the Town of Bostic, being Chapter 191 of the Private Laws of 1915, reads as rewritten:

~~"Section 1. That section two of chapter two hundred and sixty-three of the Private Laws of North Carolina, enacted by the General Assembly at its regular session in one thousand nine hundred and thirteen, be and the same is hereby repealed and stricken out and the following substituted in lieu thereof: "That the corporate limits of the said town of Bostic shall be as follows: Beginning on a post, L.L. Moore's corner; thence S. 44 ³/₄ E. 14 20/100 chains to a stone on the east side of the Bostic and Forest City road; thence N. 62 ³/₄ E. 18 chains to a stone; thence S. 69 ¹/₂ E. from northeast corner of church; thence N. 10 E. 28 12/100 chains to a stone; thence N. 88 ³/₄ W. 33 chains to a stone; thence S. 43 ¹/₂ E. 26 63/100 chains to the place of beginning, embracing nearly all of the dwellings, together with the Bostic depot, which were formerly inside of the old corporate limits of Bostic, North Carolina. The boundaries of the Town of Bostic are as follows:~~

Lying and being in Cool Springs Township, Rutherford County, North Carolina, and being particularly described as follows:

BEGINNING at a concrete monument on a farm road, said beginning point being the northwesternmost corner of the Town of Bostic town limits, said beginning point more specifically located at N(NAD'83(1986)): 601,353.53' and E(NAD'83(1986)): 1,151,863.65' and running thence from said beginning point South 89

degrees 18 minutes 38 seconds East (crossing a number five rebar at 4,086.46 feet in the line and a number five rebar at 5,281.25 feet in the line) 5,500 feet to a concrete monument in a pasture N(NAD'83(1986)): 601,287.30' and E(NAD'83(1986)): 1,157,362.48'; thence South 1 degree 4 minutes 8 seconds West 4,850.07 feet to a p.k. nail in the center of the bridge on East Church Street (S.R.1576), which bridge lies over Puzzle Creek N(NAD'83(1986)): 596,438.74' and E(NAD'83(1986)): 1,157,271.98'; thence North 89 degrees 18 minutes 38 seconds West (crossing a number five rebar 3,165.16 feet in the line) and another number five rebar at 3,203.22 feet in the line) 5,445.72 feet at an eight-inch hickory, same being the southwest corner of the Town of Bostic town limits N(NAD'83(1986)): 596,504.34' and E(NAD'83(1986)): 1,151,827.41'; thence North 0 degrees 25 minutes 39 seconds East (crossing a number five rebar at 1,914.09 feet in the line, another number five rebar at 1,969.48 feet in the line, a railroad spike lying in the centerline of Blueberry Hill Road (S.R.1582) at 3,013.75 feet in the line, number five rebar at 3,895.06 feet in the line, a number five rebar at 4,013.12 feet in the line) 4,850 feet to the BEGINNING, containing 609.35 acres, according to map and survey by Burnt Chimney Surveying, Charles D. Owens, Jr., Registered Land Surveyor, dated November 15, 2000."

SECTION 2. Any and all official acts, actions, expenditures, and levies of taxes or assessments by the Town of Bostic prior to July 1, 2001, with respect to or affecting territories and properties described in Section 1 of this act are hereby ratified, validated, and confirmed.

SECTION 3. All elections, and the results thereof, previously held in and for the Town of Bostic are hereby validated.

SECTION 4. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 516 SESSION LAW 2001-44

AN ACT TO ASSIST WAKE COUNTY WITH THE CONSTRUCTION AND RENOVATION OF PUBLIC SCHOOL FACILITIES.

Whereas, Wake County is faced with a critical need for school facilities as a result of unusual growth in student population; and

Whereas, the voters of Wake County gave approval in November 2000 to a five hundred million dollar bond referendum to

support the construction and renovation of public school facilities in Wake County between 2001 and 2004; and

Whereas, the Wake County Board of Education is planning a program of construction and renovation that will include the construction of 14 new school facilities and renovation of 32 existing school facilities between 2001 and 2004; and

Whereas, the Wake County Board of Education has substantial professional staff devoted to planning, design, and administration of the construction and renovation of school facilities that will enable the Wake County Board of Education to implement the provisions of this act; and

Whereas, the Wake County Board of Education has already completed the design, construction, and renovation of over one billion dollars in school projects over the past 15 years; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Prequalified Bidders; Solicited Bid List. Notwithstanding G.S. 143-129, the Wake County Board of Education ("Board") may prequalify contractors for school facility construction, rebuilding, or renovation contracts and may solicit bids from all prequalified contractors.

In prequalifying a contractor for the purposes of this section, the Board may consider the contractor's experience on the type of project to be bid; ability to administer and meet the project schedule; financial strength; safety record and procedures including drug testing procedures; employee training and retention; and the contractor's performance on past or current projects. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The prequalification process shall be conducted quarterly during the fiscal year. Notification of disqualified bidders shall be provided within 14 days of the prequalification submittal date. Prequalification submittal dates shall be advertised through public advertising.

The Board shall attempt to prequalify and maintain a list of at least five contractors per building trade and shall not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors or act otherwise in accordance with G.S. 143-128(d1). The Board shall award the contract or contracts to the lowest responsible bidder or bidders having already prequalified the bidder or bidders for each project. Notwithstanding the provisions of this section, if the Board does not receive at least three or more proposals for the project pursuant to this section, the Board may award the contract to the lowest responsible bidder even if only one proposal is received. The Board shall establish a written policy containing its prequalification procedures within 90 days following

the effective date of this act. The existence of and availability of these procedures shall be contained in each advertisement or solicitation for prequalification submittals or bids.

SECTION 2. Prequalified Construction Management. Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to assume liability for the completion of a project. The construction manager shall not contract with the Board or any contractor for any individual construction contracts associated with the project.

Notwithstanding G.S. 143-129, the Board may prequalify construction managers for a school facility construction, rebuilding, or renovation contract or project and shall solicit bids from all prequalified construction managers.

In prequalifying a construction manager for the purposes of this section, the Board may consider each construction manager's relevant experience on the type of project to be bid; ability to administer and meet the project schedule; the company's financial strength; prompt payment record on other past or current Board projects; safety record and procedures including drug testing procedures; employee training and retention; and performance on past or current projects. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The prequalification process shall be conducted quarterly during our fiscal year. Notification of disqualified bidders shall be provided within 14 days of the prequalification submittal date. Prequalification submittal dates shall be advertised through public advertising.

The Board shall attempt to prequalify and maintain a list of at least five construction managers and shall not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified construction managers. The Board shall award the contract or contracts to the lowest responsible bidder having already prequalified the bidder for the project. Notwithstanding the provisions of this section, if the Board does not receive three or more proposals for the project pursuant to this section, the Board may award the contract to the lowest responsible bidder even if only one proposal is received.

If the Board contracts with a construction manager who is liable for the completion of the project, that construction manager shall (i) receive bids under the separate-prime system, (ii) award and administer contracts with the construction manager liable to the various separate contractors in accordance with G.S. 143-128(a), 143-129, and 143-132, and (iii) otherwise comply with and be subject to Article 8 of Chapter 143 of the General Statutes as if it were a public owner, except as expressly provided by this act.

SECTION 3. Design Plus Construction Management. Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design plus construction management method of construction as follows:

- (1) The Board shall seek to prequalify and solicit at least five design plus construction management teams, each consisting of an architect and construction manager, to bid on the project and shall receive sealed proposals from at least three of those teams. The request for proposals shall contain a design-criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond.
- (2) The Board shall interview at least three of the design plus construction management teams that submit proposals. The Board shall award the contract to the best-qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.
- (3) The construction manager shall receive bids under the separate prime system and shall award and administer such contracts in accordance with G.S. 143-128(a), 143-129, and 143-132. The construction manager shall comply with and be subject to Article 8 of Chapter 143 of the General Statutes as if it were a public owner, except as expressly provided in this act.

SECTION 4. Other Methods. Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes. Except as expressly provided in this act, the provisions of Article 3D and 8 of Chapter 143 of the General Statutes shall remain in full force and effect.

SECTION 5. Bonds. Any construction manager contracting with the Board pursuant to this act shall be a "contractor" and that contract shall be a "construction contract" pursuant to G.S. 44A-25. Any such construction manager shall provide payment and performance bonds to the Board in accordance with Article 3 of Chapter 44A of the General Statutes.

SECTION 6. The Wake County Board of Education shall make an annual report to the North Carolina State Building Commission, beginning in January 2002 and continuing in January of each successive year, concerning the comparative costs and effectiveness, efficiency, and economy, if any, achieved by its implementation of this act. The Board shall submit a final report to the Commission in January 2005.

SECTION 7. This act applies only to the Wake County Board of Education.

SECTION 8. This act is effective when it becomes law and expires July 1, 2005.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

S.B. 557 SESSION LAW 2001-45

**AN ACT TO INCORPORATE THE TOWN OF MILLERS CREEK,
SUBJECT TO A REFERENDUM.**

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Millers Creek is enacted to read:

"CHARTER OF THE TOWN OF MILLERS CREEK.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Millers Creek are a body corporate and politic under the name 'Town of Millers Creek'. The Town of Millers Creek has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Millers Creek are as follows:

Beginning at a point in the centerline intersection of Secondary Road #1372 (Boone Trail / Old U. S. 421) with Secondary Road #1320 (Congo Road) and running thence in a westerly direction, along the centerline of Congo Road to a point in the centerline intersection of said road with S. R. #1319 (Buck Road); thence adjoining the Town of Wilkesboro as shown on a plat entitled "Town Of Wilkesboro 421 Annexation" recorded in Map Book 9, Pages 433 through 436 in a northwesterly direction to a point in the centerline of N. C. Highway No. 16; thence a northwesterly direction to a point in the centerline intersection of said road with S. R. #1313 (Congo Road); thence along the centerline of said road to the southern boundary of PIN #3838-74-8409; thence along the southern and eastern boundary of said parcel to the eastern boundary of PIN #3838-75-1248; thence along the eastern boundary of the following five parcels, (1) PIN #3838-75-1248, (2) PIN #3838-75-1604, (3) PIN #3838-76-0032, (4) PIN #3838-66-9212, (5) PIN #3838-66-9304; thence along the northern boundary of the following three parcels, (1) PIN

#3838-66-9304, (2) PIN #3838-76-2627, (3) PIN #3838-66-8658; thence along the eastern and southern boundary of PIN #3838-66-3750; thence along the southern boundary of PIN #3838-56-9710 to a point in the centerline of S. R. #1315 (Fish Dam Creek Road); thence along the center of said road in a northwesterly direction to a point in the southern boundary of PIN # 3839-21-0084; thence along the southern, eastern and northern boundary of PIN #3839-21-0084; thence along the northern boundary of PIN #3839-12-9695 to a point in the centerline of the aforesaid S. R. #1315; thence in a northerly direction along the centerline of said road to a point in the centerline intersection of said road with S. R. #1304 (Old U. S. 421); thence continuing in a northerly direction along the centerline of S. R. #1315 (Arbor Grove Church Road) to a point in the centerline intersection of said road with S. R. #1317 (Old Hwy. 60); thence continuing in a northerly direction and along the centerline of the aforesaid S. R. #1315 to the southern boundary line of PIN # 3839-39-7406; thence along the southern and eastern boundary line of PIN # 3839-39-7406; thence along the southern, eastern and northern boundary of PIN # 3839-48-5809; thence along the northern boundary line PIN #3839-39-7406 to a point in the centerline of the aforesaid S. R. #1315; thence in a northeasterly direction along the centerline of said S. R. #1315 to PIN #3930-50-8449; thence southeast along the southern boundary of said PIN #3839-50-8449; thence southeast with the southern boundary line of PIN #3839-69-8719; thence along the western, southern, eastern, and northern boundary line of PIN #3839-78-8565; thence in a western direction along the northern boundary of PIN #3839-69-8719; thence along the northern line of PIN #3930-50-8449 to a point in the centerline of the aforesaid S. R. #1368 (Arbor Grove Church Road); thence westerly to the western end of the southern right of way along S. R. #1315 (Pierce Road); thence northeast along the southern edge of the right of way along said road to a point in the centerline of S. R. #1347 (Charity Church Road); thence eastwardly along the centerline of said road to a point in the centerline intersection of N. C. Highway No. 16; thence northeastwardly along the centerline of S. R. #1315 (Pleasant Home Church Road) to the centerline intersection of said road with S. R. #1315 (Friendly Grove Church Road); thence southward along the centerline of Friendly Grove Church Road to the northern boundary of PIN #3849-36-8893; thence easterly along the northern boundary of PIN #3849-36-8893; thence northward along the western boundary of the following six parcels: (1) PIN #3849-47-1138, (2) PIN #3849-47-3334, (3) PIN #3849-47-4656, (4) PIN #3849-47-5855, (5) PIN #3849-48-6222, (6) PIN #3849-48-7594; thence eastward along the northern boundary of PIN #3849-48-9529; thence northward along the western boundary of

PIN #3849-58-1565; thence eastwardly along the northern boundary of PIN #3849-58-2674; thence along the northern and eastern boundary of PIN #3849-58-5026; thence along the northern and eastern boundary of PIN #3849-57-8803; thence along the northern boundary of PIN #3849-67-0639; thence along the western and northern boundary of PIN #3849-68-5340; thence eastwardly along the northern boundary of PIN #3849-68-9350; thence eastwardly along the northern boundary of PIN #3849-78-4440; thence northward along the western and northern boundary of PIN #3849-79-6003; thence eastwardly along the northern boundary of PIN #3849-79-8454; thence eastwardly along the northern boundary of PIN #3849-79-3132; thence northward along the western boundary of the following five parcels: (1) PIN #3849-89-8871, (2) PIN #3940-80-7170, (3) PIN #3940-80-7308, (4) PIN #3940-80-7677, (5) PIN #3940-81-9015; thence eastwardly along the northern boundary of PIN #3940-91-1220; thence along the northern and eastern boundary of PIN #3940-91-3177; thence southward along the eastern boundary of PIN #3940-90-4703; thence eastwardly as the northern boundary of the following three parcels: (1) PIN #3940-90-2268, (2) PIN #3940-90-4158, (3) PIN #3940-90-7201; thence southeast along the eastern boundary of PIN #3849-99-8819; thence as the eastern and southern line of PIN #3859-09-1792; thence southwestward along the southern line of PIN #3849-99-8269; thence southward along the eastern edge of the right of way along S. R. 1552 (N Oak Grove Ext.) to the northern boundary of PIN #3849-98-8886; thence eastwardly along the following six parcels; (1) PIN #3859-08-0821, (2) PIN #3859-08-0882, (3) PIN #3859-08-2608, (4) PIN #3859-08-3265, (5) PIN #3859-08-5493, (6) PIN #3859-08-7424; thence along the northern and eastern boundary of PIN #3859-18-0541; thence southward along the eastern boundary of PIN #3859-17-1961; thence along the northern and eastern boundary of PIN #3859-18-3071; thence along the western and northern boundary of PIN #3859-17-7934; thence eastwardly along the northern boundary of PIN #3859-17-9801; thence along the northern, eastern and southern boundary of PIN #3869-27-0769; thence southward along the eastern boundary of PIN #3859-17-5416; thence along the northeastern edge of the right of way along S. R. #1551 (Nelson Lane); thence eastward along the southern boundary of PIN #3859-27-6477; thence eastward along the northern boundary of PIN #3859-36-8508; thence along the northern and eastern boundary of PIN #3859-46-0513; thence southward along the eastern and southern boundary of PIN #3859-46-0311; thence along the eastern, southern and western boundary of PIN #3859-35-5758; thence along the southern and western boundary of PIN #3859-36-1179; thence northwestward along the southern edge of the right of way along the aforesaid S. R.

#1551 (Nelson Lane) to the eastern line of PIN #3859-26-8331; thence southward along the eastern and southern boundary of PIN #3859-26-8331; thence southward along the eastern, northern, eastern and southern boundary of PIN #3859-25-7887; thence northerly along the eastern boundary of PIN #3859-16-5792; thence along the northern eastern boundary of said PIN #3859-16-5792; thence northwestward along the southern edge of the right of way along the aforesaid S. R. #1551 (Nelson Lane) and crossing S. R. #1552 (S. Oak Grove Ext.) to the eastern boundary of PIN #3849-97-5710; thence southward along the eastern, and southern boundary of said PIN #3849-97-5710; thence westward along the northern boundary of PIN #3849-86-3614; thence continuing westward along the northern boundary of PIN #3849-66-6099; thence along the western and southern boundaries of PIN #3849-45-6893; thence southward along the western boundary of PIN #3849-66-6099; thence eastward along the northern edge of the right of way along S. R. #1372 (Boone Trail / Old U. S. 421) and continuing along the southern and eastern boundary of said PIN #3849-66-6099; thence southward along the western and southern boundary of PIN #3849-85-2443, and crossing S. R. #1552 (S. Oak Grove Ext.); thence eastward along the northern boundary of PIN #3849-94-1814; thence along the northern and eastern boundary of PIN #3849-94-3713; thence southward along the eastern boundary of PIN #3849-94-9671; thence continuing southward along the eastern boundary of PIN #3849-84-3085; thence southward along the eastern right of way of S. R. #1552 (S. Oak Grove Ext.) to the northern boundary of PIN #3849-93-1685; thence eastwardly along the northern boundary of PIN #3849-93-1685; thence along the western, northern and eastern boundary of PIN #3849-93-4642; thence southward crossing the aforesaid S. R. #1552 (S. Oak Grove Ext.) to the southern edge of the right of way of the aforesaid road; thence southeastward along said right of way and the northern boundary of PIN #3849-93-4119; thence along the western boundary of PIN #3859-03-3975 to a point in the centerline of S. R. #1372 (Boone Trail / Old U. S. 421); thence westward along the centerline of said S. R. #1372 and bounded on all sides by the Canterbury Estates Addition to the Town of North Wilkesboro as shown on the plat recorded in Map Book 9, Page 405); thence eastward along the centerline of S. R. #1372 (Boone Trail / Old U. S. 421) to the centerline intersection of said road with S. R. #1517 (Suncrest Orchard Road); thence eastward along the centerline of said road to the western boundary of PIN #3859-13-7903; thence along the western, southern, and eastern boundary of said PIN #3859-13-7903 to the centerline of the aforesaid S. R. #1517; thence eastward along the centerline of said road to the western boundary of PIN #3859-22-2694; thence along the western and northern boundary of

PIN #3859-22-2694; thence along the western and northern boundary of PIN #3859-23-8329; thence along the western, northern and eastern boundary of PIN #3859-33-6488; thence eastward along the northern boundary of PIN #3859-43-3007; thence northward along the eastern boundary of PIN #3859-23-2375 to the southwestern corner of PIN #3859-64-5153; thence southeastwardly along the southern and eastern boundary of PIN #3859-64-5153; thence southwestwardly along the northern, western and southern boundary of PIN #3859-64-0269; thence eastwardly along the western, southern, eastern and northern boundary of the aforesaid PIN #3859-64-5153; thence eastwardly along the northern boundary of PIN #3859-63-7925; thence easterly along the northern and eastern boundary of PIN #3859-74-1133; thence along the western and southern boundary of PIN #3859-73-4709; thence northward along the western and northern boundary of PIN #3859-73-6299; thence eastward along the northern and eastern boundary of PIN #3859-73-8069; thence continuing southward along the eastern and southern boundary of PIN #3859-82-1857; thence southward along the eastern and southern boundary of tract one of PIN #3859-82-9789; thence continuing westward along the southern boundary of PIN #3859-72-6229; thence continuing westward along the southern boundary of PIN #3859-62-9238; thence continuing westward, crossing the aforesaid S. R. #1517 (Suncrest / Sunset Conn. Road) and running along the northern, western, and southern boundary of PIN #3859-61-5279; thence southward along the eastern boundary of PIN #3859-60-2186; thence eastwardly along the northern boundary of the following two parcels: (1) PIN #3858-69-8733, (2) PIN #3858-79-7661, to the eastern boundary of PIN #3858-88-0643; thence in a southerly direction along the eastern boundary of the aforesaid PIN #3858-88-0643; thence in a westerly direction along the northern, eastern, northern and western boundary of PIN #3858-68-0077; thence westward along the southern boundary of the following six parcels: (1) PIN #3858-48-3771, (2) PIN #3858-47-8811, (3) PIN #3858-47-3893, (4) PIN #3858-47-2873, (5) PIN #3858-47-0893, (6) PIN #3858-38-7059; thence southward along the eastern boundary of the following seven parcels: (1) PIN #3858-37-4640, (2) PIN #3858-37-4398, (3) PIN #3858-37-4112, (4) PIN #3858-37-6089, (5) PIN #3858-36-8839, (6) PIN #3858-46-0609, (7) PIN #3858-36-9530; thence along the northern, eastern and southern boundary of PIN #3858-46-1466; thence along the northwestern boundary of PIN #3858-35-9718 to a point in the centerline of S. R. #1372 (Boone Trail / Old U. S. 421); thence northwestward along said centerline to the point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Millers Creek is the Mayor and the Town Council, which shall have six members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2001 provided for by Section 4.1 of this Charter, Buck Parsons is hereby appointed Mayor, and Ravaughn Ashley, Harold Bowlin, Clyde Bumgarner, Joyce Dyer, John Higgins, and Archie Nichols are appointed members of the Town Council. They shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2001, the three candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three members shall be elected to four-year terms. In 2005, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2001, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate under Mayor-Council Plan.** The Town shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Clerk.** The Town Council shall appoint a Town Clerk as provided in G.S. 160A-171, and the clerk shall perform the duties required by law or the Council.

"Section 5.3. **Town Attorney.** The Town Council shall appoint a Town Attorney as provided in G.S. 160A-173, and the Town Attorney shall serve at the pleasure of the Town Council and be its legal adviser."

SECTION 2. From and after the effective date of this act, the citizens and property in the Town of Millers Creek shall be subject to municipal taxes levied for the year beginning July 1, 2001.

For that purpose the Town shall obtain from Wilkes County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2001. The Town may adopt a budget ordinance for fiscal year 2001-2002 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2001-2002, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2001, the Town may adopt a budget ordinance for fiscal year 2000-2001 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2000-2001 fiscal year.

SECTION 3. The Wilkes County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of Millers Creek the question of whether or not the area shall be incorporated as the Town of Millers Creek. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 4. In the election, the question on the ballot shall be:

" FOR AGAINST

Incorporation of the Town of Millers Creek".

SECTION 5. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Millers Creek", Sections 1 and 2 of this act shall become effective on the date that the Wilkes County Board of Elections certifies the results of the election. Otherwise, Sections 1 and 2 of this act shall have no force and effect.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 651

SESSION LAW 2001-46

AN ACT TO AUTHORIZE THE CITY OF GREENVILLE AND THE TOWN OF CHAPEL HILL TO REQUIRE PRETOWING NOTICES BEFORE A MOTOR VEHICLE MAY BE TOWED FROM A PRIVATE LOT, GARAGE, OR OTHER PARKING FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-301 of the General Statutes is amended by adding a new subsection to read:

"(b1) A city may by ordinance require that pretowing notices be displayed on lots, garages, or other parking facilities not owned or leased by the city. Pretowing notices shall be displayed before vehicles parked without the permission of the owner or lessee of the lot, garage, or other parking facility not owned or leased by the city, may be towed or removed from that lot, garage, or other parking facility. The city may set the size and nature of the required notices. The city may provide penalties for violation of the ordinance created under this subsection."

SECTION 2. This act applies to the City of Greenville and the Town of Chapel Hill only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

S.B. 655

SESSION LAW 2001-47

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF COATS AND TO VALIDATE ACTIONS OF THE TOWN TAKEN WITH RESPECT TO THAT PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Coats are extended to include the following:

BEGINNING at found iron pipe in the common corner of the properties of Rebecca Alma McKoy as described in Deed Book 1071, Page 952 of the Harnett County Registry and Kenneth Johnson as described in Deed Book 1034, Page 823 of the Harnett County Registry (said found iron pipe also being located on the existing boundary of the city limits of the town of Coats), thence traveling South 15 degrees 49 minutes 26 seconds East 94.80 feet to a found iron pipe, thence traveling North 89 degrees 13 minutes 48 seconds West 708.16 feet to a found iron pipe, thence traveling North 89 degrees 13 minutes 48 seconds West 50.21 feet to another found iron pipe, thence traveling North 89 degrees 13 minutes 48 seconds West 50.00 feet to a computed point, said point being located in the eastern property line of Ricky and William Hawley described in Deed Book 1172, Page 578 of the Harnett County Registry, thence traveling North 17 degrees 23 minutes 48 seconds West 93.50 feet to a computed point, thence traveling South 89 degrees 22 minutes 20

seconds East 810.45 feet to the point and place of BEGINNING, and containing 1.67 acres, more or less, consisting of portions of tracts A, B, C, D, E, F, G, H, I, J and K of the Owen Odum Subdivision as appears in Map Book 4, Page 180 of the Harnett County Registry. Said parcel being more specifically described on that certain map entitled "Annexation Map for the Town of Coats – A Portion of the Owen Odum Subdivision," prepared February 20, 2001 by Joyner Piedmont Surveying, reference to which is hereby made for greater accuracy of description.

SECTION 2.(a) Any and all official acts, actions, expenditures and levies of taxes or assessments by the Town of Coats, prior to this act becoming law, with respect to or affecting territories and properties described in Section 1 of this act are hereby ratified, validated, and confirmed.

SECTION 2.(b) All elections, and the results thereof, previously held in and for the Town of Coats are hereby validated.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 664

SESSION LAW 2001-48

AN ACT RELATING TO ZONING PROTEST PROCEDURES IN THE CITY OF ROCKINGHAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-385(a) reads as rewritten:

"(a) Zoning regulations and restrictions and zone boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths of ~~all~~ the voting members of the ~~city-council~~ council, excluding the mayor. The foregoing provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted special use district or conditional use district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase

the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the special use or conditional use district."

SECTION 2. This act applies to the City of Rockingham only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

S.B. 677**SESSION LAW 2001-49**

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF WELDON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Weldon:

Beginning at a new iron pipe set on the eastern line of State Route 1710-100' R/W, said new iron pipe set being the southernmost corner of a triangular shaped tract or parcel of land now or formerly owned by Leroy Harrison and said new iron pipe set being the northwestern corner of the unnumbered Residential Lots; thence leaving the eastern line of State Route 1710-100' R/W. N. 18° 47' 03" E., 3,219.41 feet to a new concrete monument set; thence S. 73° 20' 27" E., 100.07 feet to a new iron pipe set; thence N. 18° 47' 03" E., 165.11 feet to a new iron pipe set; thence N. 06° 21' 16" E., 265.76 feet to a point; thence N. 24° 03' 50" E., 78.28 feet to a point; thence N. 32° 19' 26" E., 191.76 feet to a point; thence N. 65° 45' 00" E., 283.63 feet to a point; thence S. 85° 21' 30" E., 26.19 feet to a point; thence S. 10° 11' 22" E., 76.84 feet to a point; thence S. 56° 50' 17" E., 206.76 feet to a point; thence S. 76° 15' 08" E., 67.43 feet to a point; thence S. 67° 43' 27" E., 115.00 feet to a point; thence S. 50° 46' 35" E., 208.16 feet to a point; thence S. 36° 05' 57" E., 119.69 feet to a point; thence S. 25° 36' 47" E., 140.75 feet to a point; thence S. 23° 19' 49" E., 199.47 feet to a point; thence S. 20° 45' 53" E., 162.83 feet to a point; thence S. 09° 28' 04" W., 166.81 feet to a point; thence S. 07° 48' 39" W., 194.98 feet to a new iron pipe; thence S. 65° 00' 00" W., 422.70 feet to a point; thence S. 49° 43' 03" W., 153.25 feet to a new iron pipe set; thence S. 40° 16' 57" E., 97.14 feet to a point; thence S. 36° 55' 33" E., 258.01 feet to a point; thence S. 15° 57' 18" E., 161.39 feet to a point; thence S. 11° 41' 30" E., 185.63 feet to a steel fence post; thence S. 07° 21' 08" E., 107.97 feet to a point; thence S. 18° 10' 43" W., 22.48 feet to a point; thence S. 46° 26' 34" W., 107.97 feet to a

point; thence S. 18° 10' 43" W., 22.48 feet to a point; thence S. 46° 26' 34" W., 210.91 feet to a new iron pipe set; thence S. 39° 02' 50" W., 190.62 feet to a new iron pipe set; thence S. 31° 37' 48" W., 139.01 feet to a new iron pipe set; thence S. 21° 32' 34" W., 175.34 feet to a new iron pipe set; thence S. 12° 58' 43" W., 159.02 feet to a new iron pipe set; thence S. 03° 49' 58" E., 136.50 feet to a new iron pipe set; thence S. 76° 46' 13" W., 134.38 feet to a new iron pipe set; thence N. 71° 15' 19" W., 501.31 feet to a new iron pipe set; thence S. 14° 38' 41" W., 448.91 feet to a new iron pipe set; thence S. 71° 15' 19" E., 275.00 feet to a new iron pipe set; thence S. 18° 44' 41" W., 619.01 feet to a point on the northern line of CSX Transportation 80' R/W; thence along the northern line of CSX Transportation 80' R/W N. 79° 30' 19" W., 502.66 feet to a new iron pipe set; thence leaving the northern line of CSX Transportation 80' R/W N. 10° 59' 41" E., 174.01 feet to a new iron pipe set; thence N. 79° 30' 19" W., 630.00 feet to the point and place of beginning, and containing 113.92 acres, more or less. A plat of said property is recorded at Plat Cabinet 4, Slide 125, Halifax Public Registry.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 682

SESSION LAW 2001-50

AN ACT RELATING TO THE DEFINITION OF SUBDIVISION IN HARNETT COUNTY AND THE MUNICIPALITIES WITHIN THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335, as it applies to Harnett County pursuant to S.L. 1997-246, reads as rewritten:

"§ 153A-335. *"Subdivision" defined.*

For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;

- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets;
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations; and
- (5) ~~The~~ A one-time division of land ~~is~~ by any method of transfer ~~among members of a lineal family, which from a grantor to an individual grantee who is a member of the grantor's immediate family, solely for the residential use of the grantee, where the entire area of the land divided is not more than an acre as shown on a recorded map prepared by a registered land surveyor currently licensed by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.~~ for the purposes of this subdivision, the term "immediate family" shall include direct lineal descendants (children, grandchildren, and great grandchildren children and grandchildren) and direct lineal ascendants (father, mother, grandfather, and grandmother) and brothers, sisters, nieces, and nephews only."

SECTION 2. G.S. 160A-376, as it applies to Harnett County municipalities pursuant to S.L. 1997-246, reads as rewritten: "§ 160A-376. Definition.

For the purpose of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets;

- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations; and
- (5) ~~The~~ A one-time division of land ~~is~~ by any method of transfer ~~among members of a lineal family, which from a grantor to an individual grantee who is a member of the grantor's immediate family, solely for the residential use of the grantee, where the entire area of the land divided is not more than an acre as shown on a recorded map prepared by a registered land surveyor currently licensed by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. For the purposes of this subdivision, the term "immediate family" shall include direct lineal descendants (children, grandchildren, and great grandchildren) and direct lineal ascendants (father, mother, grandfather, and grandmother) and brothers, sisters, nieces, and nephews only.~~

SECTION 3. Section 1 of this act applies to Harnett County only. Section 2 of this act applies to the municipalities in Harnett County only.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 683

SESSION LAW 2001-51

AN ACT TO CLARIFY THAT MEMBERS OF THE PLYMOUTH TOWN COUNCIL ELECTED FROM A WARD ARE VOTED ON ONLY WITHIN THAT WARD.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.3 of the Charter of the Town of Plymouth, being Chapter 325 of the 1995 Session Laws, reads as rewritten:

"Sec. 3.3. **Election of Governing Body.** Six Council members and a Mayor shall be elected in each regular municipal election. The qualified voters of the Town voting at large shall elect a Mayor, and the qualified voters in each of the three wards shall elect two Council members from each of the three wards, members, all to serve for terms of two years, or until their successors are elected and qualified.

In each election, the candidate for Mayor who receives the largest number of votes cast for Mayor shall be declared elected, and the two candidates for Council member from each ward who receive the highest number of votes cast ~~for candidates who reside in the ward wherein in that ward in which~~ they reside shall be declared elected."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 726 SESSION LAW 2001-52

AN ACT RELATING TO REGULATION OF OCEAN ACTIVITIES BY DARE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. A county may adopt ordinances to regulate and control swimming, personal watercraft operation, surfing, and littering in the Atlantic Ocean and other waterways within its territorial jurisdiction. The governing board of a municipality within the county may by resolution permit a county ordinance adopted pursuant to this act to be applicable within the municipality consistent with the provisions of G.S. 153A-122.

SECTION 2. This act applies only to Dare County.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

H.B. 727 SESSION LAW 2001-53

AN ACT RELATING TO THE USE OF FUNDS BY THE DARE COUNTY DEPARTMENT OF SOCIAL SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 202 of the 1977 Session Laws, as amended by Section 1 of Chapter 679 of the 1995 Session Laws, reads as rewritten:

"Section 1. After making the distributions provided in subsections (b) and (c) of G.S. 18B-805, the Dare County Alcoholic Beverage Control Board shall determine and retain from the remaining gross receipts a sufficient and proper amount necessary to be retained as working capital, within the limits set by rules of the Commission.

The entire remaining gross receipts shall be paid over to the Dare County Board of County Commissioners to be allocated as follows:

- (1) an An amount equal to forty-two and one-half percent (42.5%) shall be allocated to the County of Dare to be administered by the Dare County Department of Social Services, through use of a special revenue fund account, to be used to supplement the operating cost of an in-county out-of-home group care facility for abused, neglected, and dependent ~~children;~~ children and for other child and family services;
- (2) up Up to twenty percent (20%) may be allocated to the Dare County Alcoholic Beverage control Board for capital improvements;
- (3) fifteen Fifteen percent (15%) shall be allocated to and divided among the incorporated towns within Dare County, such sums to go to the general fund of each of the incorporated towns to be used for any governmental purpose deemed necessary by the governing body of each town; and
- (4) the The balance of gross receipts not allocated under the foregoing subdivisions shall be allocated to the general fund of the county to be expended for any lawful purpose."

SECTION 2. This act applies to Dare County only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law on the date it was ratified.

S.B. 675

SESSION LAW 2001-54

AN ACT AUTHORIZING THE CITY OF WINSTON-SALEM AND FORSYTH COUNTY TO PURCHASE OR LEASE TELECOMMUNICATIONS, DATA PROCESSING AND DATA COMMUNICATIONS EQUIPMENT, SOFTWARE, SUPPLIES, AND SERVICES ON A REQUEST FOR PROPOSALS BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 8 of Chapter 143 of the General Statutes or any general, special, or local law, the City of Winston-Salem and Forsyth County may award contracts to purchase or lease telecommunications, data processing and data communications equipment, software, supplies, and services on a request for proposals basis. In evaluating proposals, the City and County may consider any relevant factors, including system design, system reliability, operational experience, operational costs, compatibility with existing systems and equipment, and emerging

technology. All contracts and leases entered into pursuant to this act shall be approved and awarded by the governing body of the City or County.

SECTION 2. The City and County shall give notice that they are requesting proposals under this act in one of the following ways:

- (1) By mailing a notice of request for proposals to persons and companies on the City's or County's bid list at least 10 days before the time specified for the opening of proposals.
- (2) By posting a notice of request for proposals on the City's or County's Internet website or on the State's Internet website at least 10 days before the time specified for the opening of proposals.
- (3) By advertising in a newspaper having general circulation in the City or County, whichever is applicable, a notice of request for proposals at least one week before the time specified for the opening of proposals. The advertisement shall include the time and place where request for proposals may be obtained and the time and place for opening proposals.

Any notice given under this section shall reserve to the City or County the right to reject any or all proposals.

SECTION 3. The City and County may prescribe the form and content of proposals, and may require that proposals contain sufficiently detailed information to allow for an objective and fair evaluation of proposals using the factors stated in Section 1 of this act. Each proposal shall contain:

- (1) Information regarding any experience the proposer may have that qualifies him or her to perform the requirements of the proposal.
- (2) Information demonstrating the proposer's ability to secure financing needed to perform the requirements of the proposal.
- (3) Information demonstrating the proposer's ability to provide staffing, implement work tasks, and carry out all other responsibilities necessary to perform the requirements of the proposal.
- (4) Information clearly identifying and specifying all elements of cost of the proposal for the term of the proposed contract, including the cost of the purchase or lease of equipment and supplies, design, installation, operation, management, and maintenance of any system, and any proposed services.

- (5) Any other information the City or County determines has a material bearing on its ability to evaluate the proposal as authorized in this act.

SECTION 4. At any point in the request for proposals process, the City and County may negotiate any proposal with any responsible proposer with regard to the factors stated in Section 1 of this act to determine which proposal is the most responsive. A determination of most responsive proposer by the City or County shall be final.

SECTION 5. The City and County may negotiate a contract price with the most responsive proposer for the purchase or lease of equipment, software, supplies, and the performance of services specified in the request for proposals. The City and County may enter into a contract with the most responsive proposer for the negotiated contract price. If the City or County is unable to successfully negotiate the terms of the proposal or contract price with the most responsive proposer, the City or County may proceed to negotiate, as provided in this section, with the person or company determined to be the next most responsive proposer.

SECTION 6. All proposals shall be sealed and shall be opened in public.

SECTION 7. This act applies only to the City of Winston-Salem and Forsyth County.

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law on the date it was ratified.

H.B. 575

SESSION LAW 2001-55

AN ACT REVISING AND CLARIFYING THE BOUNDARIES OF THE TOWN OF FAIR BLUFF.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 25 of the 1913 Private Laws, Extra Session, reads as rewritten:

"Sec. 2. That the corporate limits of the ~~said~~ town of Fair Bluff shall be and are hereby declared to be included within and up to the following boundaries to wit: ~~Beginning at a large pine in Lumber River, running south thirty seven and a half east thirty chains to a stake in a field belonging to the estate of Absalom Powell, then north sixty six and a half east eighty chains to a stake in Augustus Smith's field, then north thirty seven west fifty chains to a stake in river swamp, then fifty and a half west forty four and a half chains to a pine near old sawmill, then Lumber River to the beginning.~~

Commencing at NCGS monument "Elm" (NAD 83) having coordinates North 206,017.5276, East 1,991,425.653; thence from said monument North 64 degrees 09 minutes 45 seconds East 3467.38 to a found railroad spike in the centerline of the Carolina and Southern Railroad Track, the point of beginning; said spike having coordinates North 207,528.6832 and East 1,994,546.402; thence South 26 degrees 30 minutes 51 seconds East 2350.84 feet to a mag. nail set in the centerline of N. C. S. R. 1004 (Rough and Ready Road); thence South 33 degrees 49 minutes 06 seconds West 3737.77 feet to a mag. nail set in the centerline of NC 904 at the Cole Mill; thence South 77 degrees 21 minutes 20 seconds West 5503.33 feet to a set iron stake; thence South 07 degrees 22 minutes 06 seconds East 868.75 feet to a found iron stake, the northwest corner of a well lot owned by the Town of Fair Bluff, as recorded in Book 544 at Page 461, Columbus County Registry; thence with the northern property line of said well lot South 89 degrees 42 minutes 55 seconds East 210 feet to a found iron stake, the northeast corner of said well lot; thence with the eastern property line of said well lot South 7 degrees 22 minutes 06 seconds East 210.72 feet to a found iron stake in the northern property line of a tract owned by Kroy Building Products, Inc., as recorded in Book 640 at Page 597, Columbus County Registry, said iron stake being the southeast corner of the aforementioned well lot; thence with the northern property line of said Kroy Building Products, Inc., South 89 degrees 42 minutes 55 seconds East 676.50 feet to a found iron pipe, thence with the eastern property line of said Kroy Building Products, Inc., South 5 degrees 49 minutes 33 seconds East 735.23 feet to a found iron stake in the centerline of an abandoned road, the southeast property line of said Kroy Building Products, Inc.; thence South 29 degrees 45 minutes 57 seconds West 112.63 feet to a found iron stake; thence with southern property line of said Kroy Building Products, Inc., North 89 degrees 45 minutes 59 seconds West 1074.34 feet to a found iron pipe; thence continuing with the southern property line of said Kroy Building Products, Inc., South 89 degrees 47 minutes 49 seconds West 435.64 feet to a found iron stake; thence with the western property line of said Kroy Building Products, Inc., North 5 degrees 41 minutes 08 seconds West 150.45 feet to a found iron stake; thence with the southern property line of said Kroy Building Products, Inc., South 89 degrees 53 minutes 52 seconds West 290.17 feet to a found iron stake in the eastern right-of-way line of U. S. Highway 76; thence North 86 degrees 31 minutes 55 seconds West 30.54 feet to a mag. nail set at the point of intersection of the centerline of U. S. Highway 76 and the centerline of the railroad spur line from the Carolina and Southern Railroad to Kroy Building Products, Inc.; thence with the centerline of said spur line a curve to the right the following courses and

distances: South 72 degrees 11 minutes 20 seconds West 95.18 feet; thence South 75 degrees 31 minutes 50 seconds West 113.35 feet; thence South 81 degrees 51 minutes 40 seconds West 84.97 feet; North 86 degrees 13 minutes 48 seconds West 84.02 feet; thence North 75 degrees 37 minutes 28 seconds West 86.02 feet; thence North 65 degrees 27 minutes 23 seconds West 92 feet to a mag. nail set; thence parallel to U. S. Highway 76 North 5 degrees 42 minutes 55 seconds West 1845.19 feet to an iron stake set; thence North 64 degrees 01 minutes 12 seconds West 2390.23 feet to a mag. nail set in the centerline of N. C. S. R. 1360 (Causey Road), said nail being at the point of intersection of the centerline of said Causey Road and the centerline of a canal leading to the Lumber River; thence with the centerline of said canal North 42 degrees 29 minutes West 1565 feet to a point in the centerline of the Lumber River; thence with the centerline of said Lumber River in a northerly direction various courses and distances to a calculated point in the centerline of said Lumber River at the entrance to Porter Swamp; thence South 75 degrees 10 minutes 27 seconds East 3940 feet+ to a calculated point; thence South 32 degrees 57 minutes 50 seconds West 2150 feet to an old railroad spike found in the centerline of the Carolina and Southern Railroad, the point of beginning. Containing 1466 acres+."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law on the date it was ratified.

H.B. 879

SESSION LAW 2001-56

AN ACT TO ALLOW HAYWOOD COUNTY TO ADJUST THE BOUNDARIES OF CHAPTER 69 FIRE TAX DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 69-25.11, the boundaries of any fire protection district in Haywood County established under Article 3A of Chapter 69 of the General Statutes may be changed by resolution of the Board of Commissioners of Haywood County to follow the boundaries shown on the map in Attachment A to a resolution adopted by that board on March 19, 2001.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law on the date it was ratified.

S.B. 229

SESSION LAW 2001-57

AN ACT REVISING THE BOUNDARY LINE BETWEEN THE TOWNS OF CAROLINA BEACH AND KURE BEACH BY REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF CAROLINA BEACH AND ADDING THE PROPERTY TO THE LIMITS OF THE TOWN OF KURE BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. The boundary line between the Towns of Carolina Beach and Kure Beach is hereby changed to be as follows:

Beginning at a point within the right of way of Alabama Avenue (90.0' right of way) that is located South 16 degrees 26 minutes 55 seconds West – 9.0' from a point on the center line of Alabama Avenue and being in line with the western right of way line of Spot Lane (50.0' right of way). Said point of beginning having North Carolina grid coordinates: North = 98470.218, East = 2331283.041 (Nad 83). Said center line point being located South 34 degrees 53 minutes 40 seconds East – 2902.55' from NCGS "OCEAN" with North Carolina grid coordinates: North = 100851.163, East = 2329622.414 (Nad 83) which is located South 21 degrees 33 minutes 44 seconds West – 9931.49' (grid distance) from NCGS "WILDLIFE" with North Carolina grid coordinates: North = 110087.647, East = 2333272.335 (Nad 83). Running thence from said point of beginning South 73 degrees 33 minutes 05 seconds West – 1565.00' to an iron rod on the center line of Snapper Lane; thence continuing the same course, South 73 degrees 33 minutes 05 seconds West – 515.00' to an iron rod; thence South 16 degrees 26 minutes 55 seconds West – 36.00' to an iron rod; thence South 73 degrees 33 minutes 05 seconds East – 408.46' to the Mean Low Water Line of the Atlantic Ocean.

SECTION 2. This act shall have no effect upon the validity of any liens of the Town of Carolina Beach for ad valorem taxes or special assessments outstanding before this act becomes law. The liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Carolina Beach.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law on the date it was ratified.

S.B. 645**SESSION LAW 2001-58**

AN ACT TO AUTHORIZE THE WILKES COUNTY BOARD OF EDUCATION TO CONVEY CERTAIN DESCRIBED PROPERTY BY PRIVATE SALE TO THE MOUNTAIN VIEW MEDICAL CENTER.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Wilkes County Board of Education may convey by private negotiation and sale to the Mountain View Center, with or without monetary consideration, and upon such terms as the Wilkes County Board of Education deems appropriate, any or all of its right, title, and interest in the following described property:

Beginning on a Concrete Monument found, Lois Ann Wood's southwest corner and being the southeast corner of herein described tract. Thence with a new line, the southern line of the Mountain View Medical Center Lease. South 88-13-21 West 144.63 feet to a ½ inch pipe found at the edge of a paved road, Thence North 34-57-14 East 63.95 feet to a ½ inch pipe found at the edge of a paved road, thence North 08-15-51 East 39.91 feet to a ½ inch pipe found at the edge of a paved road. Thence North 13-41-42 West 70.01 feet to a ½ inch pipe found at the edge of a paved road. Thence North 01-19-59 West 61.36 feet to an iron set in the original northern line for Mountain View School. Thence continuing North 01-19-59 West 7.14 feet to an iron set at the edge of the southern Right-of-Way for S.R. 1957, said iron being located South 63-19-06 East 343.45 feet from a P.K. Nail set at the centerline intersection of S.R. 1002 and S.R. 1957. Thence with said Right of Way: South 70-41-21 East 167.68 feet to an iron set, thence leaving said Right-of-Way South 12-40-36 West 12.68 feet to an iron set, the northern corner between Lois Ann Wood and the Mountain View School property, thence with Wood's line: South 12-40-36 West 160.00 feet to beginning.

Containing 27,048 Sq. Ft., more or less, by Coordinate Computation.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law on the date it was ratified.

S.B. 650**SESSION LAW 2001-59**

AN ACT DIRECTING FORSYTH TECHNICAL COMMUNITY COLLEGE TO STUDY THE FEASIBILITY OF ESTABLISHING A SATELLITE CAMPUS IN STOKES COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Forsyth Technical Community College shall study the feasibility of establishing a satellite campus in Stokes County. The study shall address each of the 10 criteria set out in the policies of the State Board of Community Colleges regarding the establishment and maintenance of satellite campuses.

Forsyth Technical Community College shall complete this study prior to October 15, 2001.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law on the date it was ratified.

S.B. 667**SESSION LAW 2001-60**

AN ACT TO PROVIDE THAT MUNICIPAL LAW ENFORCEMENT OFFICERS HAVE CONDITIONAL AUTHORITY TO SERVE CRIMINAL PROCESS IN THE COUNTY GOVERNMENT COMPLEX ONLY IN CARTERET COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-301(c) reads as rewritten:

"(c) Service. –

- (1) A law-enforcement officer or other employee designated as provided in subsection (b) receiving criminal process for service or execution must note thereon the date of its receipt. Upon execution or service, a copy of the process must be delivered to the person arrested or served.
- (2) A corporation may be served with criminal summons as provided in G.S. 15A-773.
- (3) Notwithstanding any other provision of law, a municipal law enforcement officer may serve criminal process in the Carteret County Government Complex if the officer otherwise has territorial jurisdiction to serve criminal process in a municipality located in that county. This subdivision shall apply only for service of criminal process and shall not affect in any way a law enforcement officer's powers to arrest as set out under Article 20 of this Chapter. A municipal law enforcement officer serving criminal process as provided in this subdivision shall be protected under subsection (f) of this section. For purposes of this subdivision, the term 'Carteret County Government Complex' means the

following county facilities and the property located within 50 feet of those facilities:

- a. County courthouse.
- b. Magistrate's office.
- c. Jail."

SECTION 2. This act applies only in Carteret County.

SECTION 3. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law on the date it was ratified.

H.B. 7 SESSION LAW 2001-61

AN ACT TO PROVIDE THAT A PROGRAM ESTABLISHED BY A DISTRICT ATTORNEY FOR COLLECTION IN WORTHLESS CHECK CASES IN CERTAIN COUNTIES MAY INCLUDE WORTHLESS CHECK OFFENSES PUNISHABLE AS CLASS I FELONIES AND CLASS 1 MISDEMEANORS AS WELL AS THOSE PUNISHABLE AS CLASS 2 MISDEMEANORS AND TO MAKE OTHER CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S.14-107.2 reads as rewritten:

"§ 14-107.2. Program for ~~the~~in worthless check cases.

(a) As used in this section, the terms 'check passer' and 'check taker' have the same meaning as defined in G.S. 14-107.1.

(b) A district attorney may establish a program for the collection of worthless ~~check~~ checks in cases that would, if ~~may~~ be prosecuted under G.S. 14-107, be punishable as a Class 2 misdemeanor. G.S. 14-107. The district attorney may establish a program for the collection of worthless checks in cases that would be punishable as misdemeanors, in cases that would be punishable as felonies, or both. The purpose of the program is to collect worthless checks in a more timely manner, to alleviate the need to prosecute each worthless check case, and to provide an opportunity for the check passer to avoid criminal prosecution. In creating the program, the ~~The~~ district attorney ~~must~~ shall establish criteria for the types of worthless check cases that will be eligible for ~~collection~~ under the program.

(c) If ~~the~~ a check passer participates in the program by paying the fee under G.S. 7A-308(c) and providing restitution to the check taker for (i) the amount of the check or draft, (ii) any service charges imposed on the check taker by a bank or depository for processing the dishonored check, and (iii) any processing fees imposed by the check taker pursuant to G.S. 25-3-512, ~~G.S. 25-3-506,~~ then the district

attorney ~~will~~shall not prosecute the worthless check case under G.S. 14-107.

(d) The Administrative Office of the Courts ~~must~~shall establish procedures for remitting the fee and providing restitution to the check taker. ~~For the purposes of this section, the terms "check passer" and "check taker" have the same meanings as defined in G.S. 14-107.1.~~

(e) This ~~act~~section applies only to ~~Brunswick,~~ Bladen, Brunswick, Columbus, Cumberland, Durham, Edgecombe, Nash, New Hanover, Onslow, Pender, Rockingham, Wake, and Wilson Counties."

SECTION 2. G.S. 7A-346.2(b) reads as rewritten:

"(b) The Administrative Office of the Courts shall report by April 1 of each year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the implementation of the worthless check collection programs ~~in Columbus, Durham, Rockingham, and Wake Counties and the establishment of such programs in Bladen, Brunswick, Cumberland, Edgecombe, Nash, New Hanover, Onslow, and Pender, and Wilson Counties, established by district attorneys pursuant to G.S. 14-107.2, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved in~~ from not prosecuting worthless check cases."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law on the date it was ratified.

H.B. 142

SESSION LAW 2001-62

AN ACT TO AMEND THE MARRIAGE STATUTES TO BROADEN THE LIST OF PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGES; TO VALIDATE A MARRIAGE LICENSED AND SOLEMNIZED BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR NATION; TO REQUIRE JUDICIAL AUTHORIZATION BEFORE A FOURTEEN- OR FIFTEEN-YEAR-OLD APPLICANT MAY BE MARRIED; TO PROHIBIT MARRIAGE BY ANYONE UNDER FOURTEEN YEARS OF AGE; TO LIMIT THE REGISTER OF DEEDS' RESPONSIBILITY IN ISSUING MARRIAGE LICENSES TO VERIFYING OBJECTIVE REQUIREMENTS; TO PROVIDE A PROCEDURE BY WHICH A PERSON MAY APPLY FOR A MARRIAGE LICENSE WITHOUT APPEARING IN PERSON; TO EXPAND THE GEOGRAPHICAL SCOPE OF A MARRIAGE LICENSE; TO MAKE INCLUSION OF RACE ON

THE LICENSE OPTIONAL; AND TO ALLOW FOR CORRECTIONS OF ERRORS IN THE APPLICATION OR LICENSE, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"§ 51-1. *Requisites of marriage; solemnization.*

A valid and sufficient marriage is created by the ~~The~~ consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, ~~and either:~~

- (1) a. ~~in~~ In the presence of an ordained minister of any religious denomination, a minister authorized by his a church, or ~~of a magistrate, and the consequent declaration by such minister or officer that such persons are husband and wife,~~ a magistrate; and
- b. ~~and~~ With the consequent declaration by ~~such~~ the minister or ~~officer~~ magistrate that ~~such~~ the persons are husband and ~~wife,~~ wife; or

- (2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

~~shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages~~ Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. G.S. 51-2 reads as rewritten:

"§ 51-2. *Capacity to marry.*

(a) All unmarried persons of 18 years, or older, may lawfully marry, except as hereinafter forbidden.

(a1) In addition, persons ~~Persons~~ over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for ~~such~~ the marriage, only after there shall have been filed with the register of deeds a written consent to ~~such~~ the marriage, said consent having been signed by the appropriate person as follows:

- (1) ~~By the father if the male or female child applying to marry resides with his or her father, but not with his or her mother;~~

- (2) ~~By the mother if the male or female child applying to marry resides with his or her mother, but not with his or her father;~~
- (3)(1) ~~By either the mother or father, without preference, if the male or female child applying to marry resides with his or her mother and father; a parent having full or joint legal custody of the underage party; or~~
- (4)(2) ~~By a person, agency, or institution having legal custody, standing in loco parentis, custody or serving as a guardian of such male or female child applying to marry. the underage party.~~

The written consent required by this subsection shall be either acknowledged before a notary public or signed in the presence of the register of deeds. Such written consent shall not be required for an emancipated minor if a certificate of emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed with the register of deeds.

(b) Persons over 14 years of age and under 16 years of age may marry as provided in G.S. 51-2A.

~~When an unmarried female who is more than 12 years old, but less than 18 years old, is pregnant or has given birth to a child and such unmarried female and the putative father of the child, either born or unborn, shall agree to marry, and consent in writing to such marriage, as set out in subsection (a), subdivisions (1), (2), (3) or (4) above, or by the director of social services of the county of residence of either party, is given on the part of the female, the register of deeds is authorized to issue to said parties a license to marry, and it shall be lawful for them to marry in accordance with the provisions of this Chapter.~~

(b1) It shall be unlawful for any person under 14 years of age to marry.

(c) ~~When a license to marry is procured by or on behalf of any person under 18 years of age by fraud or misrepresentation, a parent or person standing in loco parentis to such person under 18 years of age shall be a proper party plaintiff in parent of the underage party, a person, agency, or institution having legal custody or serving as a guardian of the underage party, or a guardian ad litem appointed to represent the underage party pursuant to G.S. 51-2A(b) is a proper party to bring an action to annul said the marriage."~~

SECTION 3. Article 1 of Chapter 51 of the General Statutes is amended by adding a new section to read:

"§ 51-2A. Marriage of certain underage parties.

(a) If an unmarried female who is more than 14 years of age, but less than 16 years of age, is pregnant or has given birth to a child and

the unmarried female and the putative father of the child, either born or unborn, agree to marry, or if an unmarried male who is more than 14 years of age, but less than 16 years of age, is the putative father of a child, either born or unborn, and the unmarried male and the mother of the child agree to marry, the register of deeds is authorized to issue to the parties a license to marry; and it shall be lawful for them to marry in accordance with the provisions of this Chapter, only after a certified copy of an order issued by a district court authorizing the marriage is filed with the register of deeds. A district court judge may issue an order authorizing a marriage under this section only upon finding as fact and concluding as a matter of law that the underage party is capable of assuming the responsibilities of marriage and the marriage will serve the best interest of the underage party. In determining whether the marriage will serve the best interest of an underage party, the district court shall consider the following:

- (1) The opinion of the parents of the underage party as to whether the marriage serves the best interest of the underage party.
- (2) The opinion of any person, agency, or institution having legal custody or serving as a guardian of the underage party as to whether the marriage serves the best interest of the underage party.
- (3) The opinion of the guardian ad litem appointed to represent the best interest of the underage party pursuant to G.S. 51-2A(b) as to whether the marriage serves the best interest of the underage party.
- (4) The relationship between the underage party and the parents of the underage party, as well as the relationship between the underage party and any person having legal custody or serving as a guardian of the underage party.
- (5) Any evidence that it would find useful in making its determination.

There shall be a rebuttable presumption that the marriage will not serve the best interest of the underage party when all living parents of the underage party oppose the marriage. The fact that the female is pregnant, or has given birth to a child, alone does not establish that the best interest of the underage party will be served by the marriage.

(b) An underage party seeking an order granting judicial authorization to marry pursuant to this section shall file a civil action in the district court requesting judicial authorization to marry. The clerk shall collect court costs from the underage party in the amount set forth in G.S. 7A-305 for civil actions in district court. Upon the filing of the complaint, summons shall be issued in accordance with G.S. 1A-1, Rule 4, and the underage party shall be appointed a guardian ad litem in accordance with the provisions of G.S. 1A-1,

Rule 17. The guardian ad litem appointed shall be an attorney and shall be governed by the provisions of subsection (d) of this section. The underage party shall serve a copy of the summons and complaint, in accordance with G.S. 1A-1, Rule 4, on the father of the underage party; the mother of the underage party; and any person, agency, or institution having legal custody or serving as a guardian of the underage party. The underage party also shall serve a copy of the complaint, either in accordance with G.S. 1A-1, Rule 4, or G.S. 1A-1, Rule 5, on the guardian ad litem appointed pursuant to this section. A party responding to the underage party's complaint shall serve his response within 30 days after service of the summons and complaint upon that person. The underage party may participate in the proceedings before the court on his or her own behalf. At the hearing conducted pursuant to this section, the court shall consider evidence, as provided in subsection (a) of this section, and shall make written findings of fact and conclusions of law.

(c) Any party to a proceeding under this section may be represented by counsel, but no party is entitled to appointed counsel, except as provided in this section.

(d) The guardian ad litem appointed pursuant to subsection (b) of this section shall represent the best interest of the underage party in all proceedings under this section and also has standing to institute an action under G.S. 51-2(c). The appointment shall terminate when the last judicial ruling rendering the authorization granted or denied is entered. Payment of the guardian ad litem shall be governed by G.S. 7A-451(f). The guardian ad litem shall make an investigation to determine the facts, the needs of the underage party, the available resources within the family and community to meet those needs, the impact of the marriage on the underage party, and the ability of the underage party to assume the responsibilities of marriage; facilitate, when appropriate, the settlement of disputed issues; offer evidence and examine witnesses at the hearing; and protect and promote the best interest of the underage party. In fulfilling the guardian ad litem's duties, the guardian ad litem shall assess and consider the emotional development, maturity, intellect, and understanding of the underage party. The guardian ad litem has the authority to obtain any information or reports, whether or not confidential, that the guardian ad litem deems relevant to the case. No privilege other than attorney-client privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law.

(e) If the last judicial ruling in this proceeding denies the underage party judicial authorization to marry, the underage party

shall not seek the authorization of any court again under this section until after one year from the date of the entry of the last judicial ruling rendering the authorization denied.

(f) Except as otherwise provided in this section, the rules of evidence in civil cases shall apply to proceedings under this section. All hearings pursuant to this section shall be recorded by stenographic notes or by electronic or mechanical means. Notwithstanding any other provision of law, no appeal of right lies from an order or judgment entered pursuant to this section."

SECTION 4. Article 1 of Chapter 51 of the General Statutes is amended by adding a new section to read:

"§ 51-2B. Parent includes adoptive parent.

As used in this Article, the terms "parent", "father", or "mother" includes one who has become a parent, father, or mother, respectively, by adoption."

SECTION 5. Article 1 of Chapter 51 of the General Statutes is amended by adding a new section to read:

"§ 51-3.2. Marriage licensed and solemnized by a federally recognized Indian Nation or Tribe.

(a) Subject to the restriction provided in subsection (b), a marriage between a man and a woman licensed and solemnized according to the law of a federally recognized Indian Nation or Tribe shall be valid and the parties to the marriage shall be lawfully married.

(b) When the law of a federally recognized Indian Nation or Tribe allows persons to obtain a marriage license from the register of deeds and the parties to a marriage do so, Chapter 51 of the General Statutes shall apply and the marriage shall be valid only if the issuance of the license and the solemnization of the marriage is conducted in compliance with this Chapter."

SECTION 6. G.S. 51-6 reads as rewritten:

"§ 51-6. Solemnization without license unlawful.

No ~~minister or officer~~ minister, officer, or any other person authorized to solemnize a marriage under the laws of this State shall perform a ceremony of marriage between a man and woman, or shall declare them to be husband and wife, until there is delivered to ~~him~~ that person a license for the marriage of the said persons, signed by the register of deeds of the county in which the marriage is intended to take place ~~license was issued~~ or by ~~his~~ a lawful ~~deputy~~ deputy or assistant. There must be at least two witnesses to the marriage ceremony.

Whenever a man and woman have been lawfully married in accordance with the laws of the state in which the marriage ceremony took place, and said marriage was performed by a ~~justice of the peace~~ magistrate or some other civil official duly authorized to perform

such ceremony, and the parties thereafter wish to confirm their marriage vows before an ordained minister or minister authorized by ~~his~~ a church, or in a ceremony recognized by any religious denomination, federally or State recognized Indian Nation or Tribe, nothing herein shall be deemed to prohibit such confirmation ceremony; provided, however, that such confirmation ceremony shall not be deemed in law to be a marriage ceremony, such confirmation ceremony shall in no way affect the validity or invalidity of the prior marriage ceremony performed by a civil official, no license for such confirmation ceremony shall be issued by a register of deeds, and no record of such confirmation ceremony may be kept by a register of deeds."

SECTION 7. G.S. 51-7 reads as rewritten:

"§ 51-7. *Penalty for solemnizing without license.*

Every ~~minister or officer~~ minister, officer, or any other person authorized to solemnize a marriage under the laws of this State, who marries any couple without a license being first delivered to ~~him, that person,~~ as required by law, or after the expiration of such license, or who fails to return such license to the register of deeds within 10 days after any marriage celebrated by virtue thereof, with the certificate appended thereto duly filled up and signed, shall forfeit and pay two hundred dollars (\$200.00) to any person who sues therefore, and he shall also be guilty of a Class 1 misdemeanor."

SECTION 8. G.S. 51-8 reads as rewritten:

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

Every register of deeds shall, upon proper application, issue a license for the marriage of any two persons ~~if it appears that such persons~~ who are able to answer the questions regarding age, marital status, and intention to marry, and, based on the answers, the register of deeds determines the persons are authorized to be married in accordance with the laws of this State. In making a determination as to whether or not the parties are authorized to be married under the laws of this State, the register of deeds may require the applicants for the license to marry to present certified copies of birth certificates or birth registration cards provided for in G.S. 130-73, or such other evidence as the register of deeds deems necessary to such determination. The register of deeds may administer an oath to any person presenting evidence relating to whether or not parties applying for a marriage license are eligible to be married pursuant to the laws of this State. Each applicant for a marriage license shall provide on the application the applicant's social security number. If an applicant does not have a social security number and is ineligible to obtain one, the applicant shall present a statement to that effect, sworn to or affirmed before an officer authorized to administer oaths. Upon presentation of a sworn or affirmed statement, the register of deeds

shall issue the license, provided all other requirements are met, and retain the statement with the register's copy of the license. The register of deeds shall not issue a marriage license unless all of the requirements of this section have been met."

SECTION 9. Chapter 51 of the General Statutes is amended by adding the following new section:

"§ 51-8.2. Issuance of marriage license when applicant is unable to appear.

If an applicant for a marriage license is over 18 years of age and is unable to appear in person at the register of deeds' office, the other party to the planned marriage must appear in person on behalf of the applicant and submit a sworn and notarized affidavit in lieu of the absent applicant's personal appearance.

The affidavit shall be in the following or some equivalent form:

_____, [applicant] appearing before the undersigned notary and being duly sworn, says that:

1. I, _____, [applicant's name] am applying for a license in _____ County, North Carolina, to marry _____ [name of other applicant] in North Carolina within the next 60 days and I am authorized under G.S. 51-8.2 to complete this Affidavit in Lieu of Personal Appearance for Marriage License Application.

I attach: (1) documentation that I am over 18 years of age as required in county of issuance; and (2) documentation of divorce as required by county of issuance.

2. I submit the following information in applying for a marriage license:

Name: _____

First Middle Last

Residence: _____

State County City or Town

Street and Number Inside City Limits (Yes or No)

Birthplace: _____

Birth Date: _____ Age: _____

County & State or Country _____

Father: _____
Name State of Birth Address (if living) or
Deceased

Mother: _____
Name State of Birth Address (if living) or
Deceased

Race (Optional): _____ Number of this marriage:
_____ 1st, 2nd, etc.

Last Marriage Ended by: _____
Date Marriage Ended: _____
Death, Divorce, Annulment _____
Specify Highest Grade Completed in School (Optional):
Social Security # _____ (If
applicant does not have Social Security number,
attach affidavit of ineligibility)

I hereby make application to the Register of Deeds for a
Marriage License and solemnly swear that all of the
statements contained in the above application are
true and I further make oath that there is no legal
impediment to such marriage.

Signature of Applicant
Sworn to (or affirmed) and subscribed before me
this _____ day of _____.

[Seal] Notary Public

My commission expires: _____
[Notary's typed or printed name]".

SECTION 10. G.S. 51-15 reads as rewritten:

"§ 51-15. *Obtaining license by false representation misdemeanor.*
If any person shall ~~obtain~~ obtain, or aid and abet in obtaining, a
marriage license by misrepresentation or false pretenses, ~~he~~ that
person shall be guilty of a Class 31 misdemeanor."

SECTION 11. G.S. 51-16 reads as rewritten:

"§ 51-16. *Form of license.*
License shall be in the following or some equivalent form:
To any ordained minister of any religious denomination, minister
authorized by his a church, ~~or to any magistrate for~~
County: magistrate, or any other person
authorized to solemnize a marriage under the laws of this State: A.B.
having applied to me for a license for the marriage of C.D. (the name
of the man to be written in full) of (here state his residence), aged

_____ years (race, as the case may be), the son of (here state the father and mother, if known; state whether they are living or dead, and their residence, if known; if any of these facts are not known, so state), and E.F. (write the name of the woman in full) of (here state her residence), aged _____ years (race, as the case may be), the daughter of (here state names and residences of the parents, if known, as is required above with respect to the man). (If either of the parties is under 18 years of age, the license shall here contain the following:) And the written consent of G.H., father (or mother, etc., as the case may be) to the proposed marriage having been filed with me, and there being no legal impediment to such marriage known to me, you are hereby authorized, at any time within 60 days from the date hereof, to celebrate the proposed marriage at any place within the ~~said county~~ State. You are required within 10 days after you shall have celebrated such marriage, to return this license to me at my office with your signature subscribed to the certificate under this license, and with the blanks therein filled according to the facts, under penalty of forfeiting two hundred dollars (\$200.00) to the use of any person who shall sue for the same.

Issued this _____ day of _____, _____
_____ L.M.

Register of Deeds of _____ County

Every register of deeds ~~shall~~ shall, at the request of an applicant, designate in ~~every~~ a marriage license issued the race of the persons proposing to marry by inserting in the blank after the word "race" the words "white," "~~colored,~~ or "Indian," "black," "African- American," "American Indian," "Alaska Native," "Asian Indian," "Chinese," "Filipino," "Japanese," "Korean," "Vietnamese," "Other Asian," "Native Hawaiian," "Guamarian," "Chamorro," "Samoan," "Other Pacific Islander," "Mexican," "Mexican-American," "Chicano," "Puerto Rican," "Cuban," "Other Spanish/Hispanic/Latino," or "other," as the case may be. The certificate shall be filled ~~up~~ out and signed by the ~~minister or officer~~ minister, officer, or other authorized individual celebrating the marriage, and also be signed by two witnesses present at the marriage, who shall add to their names their place of residence, as follows:

I, N.O., an ordained or authorized minister or other authorized individual of (here state to what religious denomination, or magistrate, as the case may be), united in matrimony (here name the parties), the parties licensed above, on the _____ day of _____, _____, at the house of P.R., in (here name the town, if any, the township and county), according to law.

_____ N.O.

Witness present at the marriage:

S.T., of (here give residence)."

SECTION 12. G.S. 51-18.1 reads as rewritten:

"§ 51-18.1. *Correction of errors ~~in names~~ in application or license; amendment of names in application or license.*

(a) When it shall appear to the register of deeds of any county in this State that ~~the names of either or both parties to a marriage~~ information is incorrectly stated on an application for a marriage license, or upon a marriage license issued thereunder, or upon a return or certificate of an officiating officer, the register of deeds is authorized to correct such record or records ~~to show the true name and names of the parties to the marriage~~ upon being furnished with an affidavit signed by one or both of the applicants for the marriage license, accompanied by affidavits of at least two other persons who know the ~~true name or names of the person or persons seeking such correction.~~ correct information.

(b) When the name of a party to a marriage has been changed by court order as a result of a legitimation action or other cause of action, and the party whose name is changed ~~present~~ presents a signed affidavit to the register of deeds indicating the name change and requesting that the application for a marriage license, the marriage license, and the marriage certificate of the officiating officer be amended by substituting the changed name for the original name, the register of deeds may amend the records as requested by the party, provided the other party named in the records consents to the amendment."

SECTION 13. G.S. 7B-200 reads as rewritten:

"§ 7B-200. *Jurisdiction.*

(a) The court has exclusive, original jurisdiction over any case involving a juvenile who is alleged to be abused, neglected, or dependent. This jurisdiction does not extend to cases involving adult defendants alleged to be guilty of abuse or neglect.

The court also has exclusive original jurisdiction of the following proceedings:

- (1) Proceedings under the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter;
- (2) Proceedings involving judicial consent for emergency surgical or medical treatment for a juvenile when the juvenile's parent, guardian, custodian, or other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court refuses to consent for treatment to be rendered;
- (3) Proceedings to determine whether a juvenile should be emancipated;
- (4) Proceedings to terminate parental rights;

- (5) Proceedings to review the placement of a juvenile in foster care pursuant to an agreement between the juvenile's parents or guardian and a county department of social services;
- (6) Proceedings in which a person is alleged to have obstructed or interfered with an investigation required by G.S. 7B-302; ~~and~~
- (7) Proceedings involving consent for an abortion on an unemancipated minor pursuant to Article 1A, Part 2 of Chapter 90 of the General ~~Statutes~~; ~~Statutes~~; and
- (8) Proceedings by an underage party seeking judicial authorization to marry, pursuant to Article 1 of Chapter 51 of the General Statutes.

(b) The court shall have jurisdiction over the parent or guardian of a juvenile who has been adjudicated abused, neglected, or dependent, as provided by G.S. 7B-904, provided the parent or guardian has been properly served with summons pursuant to G.S. 7B-406."

SECTION 14. G.S. 7A-451 is amended by adding a new subsection to read as follows:

"(f) A guardian ad litem shall be appointed to represent the best interest of an underage party seeking judicial authorization to marry pursuant to G.S. 51-2A. The appointment and duties of the guardian ad litem shall be governed by G.S. 51-2A. The procedure for compensation of the guardian ad litem shall comply with rules adopted by the Office of Indigent Defense Services."

SECTION 15. G.S. 130A-110 reads as rewritten:
 "§ 130A-110. *Registration of marriage certificates.*

(a) On or before the fifteenth day of the month, the register of deeds shall transmit to the State Registrar a record of each marriage ceremony performed in the county during the preceding calendar month. The State Registrar shall prescribe a form containing the information required by ~~G.S. 50-16~~ G.S. 51-16 and additional information to conform with the requirements of the federal agency responsible for national vital statistics. The form shall be the official form of a marriage license, certificate of marriage and application for marriage license.

(b) Each form signed and issued by the register of deeds, assistant register of deeds or deputy register of deeds shall constitute an original or a duplicate original. Upon request, the State Registrar shall furnish a true copy of the marriage registration. The copy shall have the same evidentiary value as the original.

(c) The register of deeds shall provide copies or abstracts of marriage certificates to any person upon request. Certified copies of

these certificates shall be provided only to those persons described in G.S. 130A-93(c).

(d) Marriage certificates maintained by the local register of deeds shall be open to inspection and examination."

SECTION 16. The Administrative Office of the Courts shall develop any and all forms necessary for carrying out the purpose of this act and distribute them to the Office of the Clerk of Superior Court in each county.

SECTION 17. G.S. 51-1 reads as rewritten:

"§ 51-1. Requisites of marriage; solemnization.

The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by ~~his~~ church, regular resident superior court judge of this State, or of a magistrate, and the consequent declaration by such ~~minister~~ minister, judge, or officer that such persons are husband and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 18. Section 17 of this act becomes effective May 19, 2001, and expires May 28, 2001. The remainder of this act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 2nd day of May, 2001.

Became law upon approval of the Governor at 6:19 p.m. on the 10th day of May, 2001.

S.B. 678

SESSION LAW 2001-63

AN ACT TO ESTABLISH RESIDENCE DISTRICTS FOR THE GATES COUNTY BOARD OF EDUCATION AND THE GATES COUNTY BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 1047 of the 1973 Session Laws reads as rewritten:

"Sec. 2. For the purpose of electing members to the Board of Education, the County is divided into five residence districts and

herein described. One member shall be elected from each district, and the candidates must reside in the district from which they seek election but they shall be voted on by the voters of the entire County.

~~District I (Gatesville): Beginning at a point on the Chowan River, in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northern direction to a point where Cole's Creek crosses U.S. 158; thence proceeding in a westerly direction along U.S. 158 through White Oak to Roduco to a point where U.S. 158 intersects U.S. 13; thence continuing on U.S. 13 in a northerly direction to a point where county road 1221 intersects U.S. 13; thence continuing on county road 1221 to the Atlantic Coast Line Railroad and proceeding on said railroad in a northerly direction to county road 1217; thence proceeding down county road 1217 to a point where county road 1225 intersects county road 1217; thence proceeding down county road 1225 to county road 1220; thence proceeding on county road 1220 in a northerly direction to where county road 1220 intersects N.C. 37; thence proceeding on N.C. 37 a short distance to a point where county road 1303 intersects N.C. 37 at Buckland; thence continuing down county road 1303 in an easterly direction to a point where county road 1303 touches county road 1300; thence proceeding down county road 1300 in a southerly direction to Eason's Crossroads; thence continuing on a southerly direction on county road 1400 to a point where county road 1404 intersects county road 1400; thence proceeding in an easterly direction down county road 1404 to a point where county road 1411 intersects county road 1404; thence proceeding in a southeasterly direction down county road 1411 to where said road intersects county road 1410; thence proceeding down county road 1410 in a southerly direction to a place where county road 1410 intersects N.C. 37; thence continuing across N.C. 37 to the mouth of Trotman Creek; thence continuing down Trotman Creek in a southerly direction to a place where Trotman Creek runs into Catherine's Creek; thence down Catherine's Creek in a southerly direction to a point where Catherine's Creek flows into the Chowan River; thence proceeding up the Chowan River in a northwest direction to the point where Sarem Creek flows into the Chowan River, at the beginning point.~~

~~District II (Eure): Beginning at a point on the Chowan River and proceeding due east to the point where county road 1221 intersects U.S. 13; thence proceeding south down said U.S. 13 to where U.S. 158 intersects U.S. 13 at Tarheel; continuing down U.S. 158 through Roduco to a point where Cole's Creek crosses U.S. 158; thence proceeding down Cole's Creek to Sarem Creek to the Chowan River; thence proceeding in a northwesterly direction to the beginning point, on Chowan River.~~

District III (Gates): ~~Beginning at a point where the Virginia Line crosses the Chowan River; thence proceeding along the North Carolina Virginia line in an easterly direction until the point where the Atlantic Coast Line Railroad intersects the State line; thence following said railroad to a point where the Atlantic Coast Line Railroad intersects county road 1308; proceeding down county road 1308 in an easterly direction to a point where county road 1311 intersects county road 1308; proceeding along county road 1311 in a southerly direction to a point where county road 1311 intersects county road 1304 at Hazelton; thence along county road 1304 in a southwesterly direction to a point where county road 1300 intersects county road 1304 at Willeyton; thence following county road 1300 in a southerly direction to a point where county road 1303 intersects county road 1300; thence from county road 1300 in a westerly direction along county road 1303 to Buckland, where county road 1303 intersects N.C. 37; thence proceeding south on N.C. 37 to a point where county road 1220 intersects N.C. 37; thence proceeding in a southwesterly direction along county road 1220 to a point where said road is intersected by county road 1225; thence proceeding along said county road 1225 in a westerly direction to a point where county road 1217 intersects county road 1225; thence proceeding along said county road 1217 to a point where county road 1217 intersects the Atlantic Coast Line Railroad; thence down said railroad in a southerly direction to a point where county road 1221 intersects said railroad; thence along county road 1221 to where it intersects U.S. 13; thence across said U.S. 13 and proceed due west to a point where this line reaches the Chowan River; thence following the Chowan River in a northerly direction to the Virginia Line.~~

District IV (Sunbury): ~~Beginning at a point on the Virginia Line where the Atlantic Coast Line Railroad crosses the State Line; thence proceeding down the Atlantic Coast Railroad in a southerly direction to a point where county road 1308 crosses the said railroad; thence proceeding down county road 1308 to a point where county road 1311 intersects county road 1308; thence proceeding down county road 1311 to where county road 1311 intersects county road 1304 at Hazelton; thence continuing down county road 1304 in a southerly direction to county road 1300 at Willeyton; thence continuing down county road 1300 in a southerly direction to Eason's Crossroads where county road 1403 intersects county road 1300; thence continuing down county road 1403 in a southerly direction: thence down said county road 1400 in a southerly direction to a point where county road 1400 is intersected by county road 1404; thence continuing down county road 1404 in an easterly direction to a point where county road 1411 intersects county road 1404; thence continuing down county road 1411 to a point where it intersects~~

county road 1410; thence continuing in an easterly direction to a point where county road 1410 terminates and county road 1428 begins; thence continuing down county road 1428 in a westerly direction to Green Forks; thence in a due east direction from Green Forks to the Pasquotank County line; thence proceeding along the Gates County line in a northerly direction to a point where it touches the Virginia State Line; thence along said Virginia Line to the point where the Atlantic Coast Line Railroad crosses the Virginia Line, at the point of beginning.

District V (Hobbsville): Beginning at point on the Chowan River where Catherine's Creek intersects the river, going in a northerly direction along Catherine's Creek to a point where Trotman's Creek intersects Catherine's Creek; thence proceeding along Trotman's Creek in a northerly direction to a point where N.C. 37 is intersected by county road 1410; thence across N.C. 37 on county road 1410 in a northerly direction to a point where county road 1410 meets N.C. 32; thence across N.C. 32 on county road 1428 in an easterly direction to Green Forks on county road 1002; thence continuing due east to the Pasquotank County Line; thence along the Gates County Line in a southerly direction; thence in a westerly direction to the point on the Chowan River that is the beginning point.

District 1: Beginning at a point on the Chowan River in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northerly direction to a point where Cole's Creek crosses US-158; thence proceeding in a westerly direction along US-158 to the intersection of SR-1220, Hackley Road; thence proceeding in a northeasterly direction to NC-37; thence proceeding in a northerly direction along NC-37 to the intersection of SR-1303, Parker Road; thence proceeding in an easterly direction along Parker Road to SR-1300, Medical Center Road; thence in a northerly direction along Medical Center Road to SR-1304, Willeyton Road; thence in a northeasterly direction along Willeyton Road to the intersection with SR-1312, Black Mingle Road; thence in a southeasterly direction along Black Mingle Road to the intersection with SR-1318, Middle Swamp Road; thence in a southwesterly direction along Middle Swamp Road to US-158; thence along US-158 in a westerly direction to SR-1403, Mill Pond Road at Easons Crossroads; thence in a southerly direction along SR-1403, Mill Pond Road to SR-1400, Honey Pot Road; thence in a southerly direction along SR-1400 also identified as Mill Pond Road to NC-37; thence in a westerly direction along NC-37 to SR-1106, Horace Carter Road; thence in a southerly direction along SR-1106, Horace Carter Road to the intersection with SR-1107, Carter Loop Road; thence in a southeasterly direction along Carter Loop Road to Carters Road,

thence in a easterly direction to a point where Carters Road crosses Trotman's Creek; thence in a southerly direction along Trotman's Creek to Catherine Creek; thence in a southerly direction along Catherine Creek to the Chowan River; thence in a northerly direction along the Chowan River to the beginning point.

District 2: Beginning at a point on the Chowan River and traveling due East along the boundary between Hall and Reynoldson Townships to Vehicle Trail A-51; thence in a southerly direction along Vehicle Trail A-51 to SR-1201, Tinkham Road; thence along Tinkham Road to US-13/158 at Corner High; thence along US-13/158 in a northeasterly direction to Tarheel; thence in an easterly direction along US-158 to and through Roduco continuing on US-158 to and through White Oak to a point where US-158 crosses Cole's Creek; thence in a southerly direction along Cole's Creek to Sarem Creek; thence in a southerly direction along Sarem Creek to the Chowan River; thence along the Chowan River in a northwesterly direction to the beginning point.

District 3: Beginning at a point on the North Carolina/Virginia border where SR-1308, Drum Hill Road intersect and continuing in a southeasterly direction along Drum Hill Road to the intersection with SR-1311, Hazleton Road; thence in a southerly direction along Hazleton Road to an intersection with SR-1304, Willeyton Road; thence in a westerly direction along Willeyton Road to SR-1300, Medical Center Road; thence in a southerly direction along Medical Center Road to SR-1303, Parker Road; thence in a westerly direction along Parker Road to NC-37; thence in a southerly direction NC-37 to SR-1220, Hackley Road; thence in a southwesterly direction along Hackley Road to US-158; thence in a westerly direction along US-158 to and through White Oak, to and through Roduco; thence in a westerly direction along US-158 to Tarheel and the intersection with US-13; thence in a westerly direction along US-13/158 to an intersection with SR-1201, Tinkham Road; thence in a northwesterly direction along Tinkham Road to Vehicle Trail A-51; thence in a northerly direction along Vehicle Trail A-51 to the Boundary between Hall and Reynoldson Townships; thence in a due west direction along the Township Boundary to the Chowan River; thence in a northerly direction on the river to the North Carolina/Virginia border; follow the North Carolina/Virginia border to the beginning point.

District 4: Beginning at a point on the North Carolina/Virginia border where SR-1308, Drum Hill Road intersect and continuing in a southeasterly direction along Drum Hill Road to the intersection with SR-1311, Hazelton Road; thence in a southerly direction along Hazelton Road to an intersection with SR-1304, Willeyton Road; thence in a southwesterly direction along Willeyton Road to an intersection with SR-1312, Black Mingle Road; thence in a southerly

direction along Black Mingle Road to an intersection with SR-1318, Middle Swamp Road; thence in a southwesterly direction along Middle Swamp Road to US-158; thence in a westerly direction along US-158 to the intersection with SR-1403, Mill Pond Road; thence in a southerly direction along SR-1403, Mill Pond Road; thence in a southerly direction along SR-1403, Mill Pond Road to SR-1400, Honey Pot Road; thence in a southerly direction along SR-1400, also identified as Mill Pond Road to SR-1404, Silver Springs Road; thence in an easterly direction along SR-1411, Water Swamp Road to SR-1410, Zion Road; thence in a northerly and easterly direction along SR-1410 to NC-32; thence in a southerly direction along NC-32 to SR-1428, Bosley Road and along Bosley Road to the intersection of SR-1429, Sugar Run Road; thence in a northerly direction to US-158; thence in an easterly direction along US-158 into the Dismal Swamp to the Pasquotank County Line; thence in a northerly direction along the Pasquotank County Line to the Camden County Line; thence along the Camden County Line to the North Carolina/Virginia border; thence along the North Carolina/Virginia border in a westerly direction to the beginning point at the intersection of SR-1308, Drum Hill Road.

District 5: Beginning in the Dismal Swamp at the Pasquotank County Line and traveling in a southerly direction along the Pasquotank County Line to the Perquimans County Line; thence in a southwesterly direction along the Perquimans County Line to the Chowan County Line to Trotman's Creek; thence in a northerly direction along Trotman's Creek to SR-1100, Carters Road; thence in a westerly direction along Carters Road to SR-1107, Carter Loop Road; thence in a northerly direction along Carter Loop Road to SR-1106, Horace Carter Road; thence in a northerly direction along Horace Carter Road to NC-37; thence in a southerly direction along NC-37 to SR-1404, Silver Springs Road; thence in an easterly direction along Silver Springs Road to the intersection with SR-1411, Water Swamp Road; thence in an easterly direction along SR-1410 to NC-32; thence in a southerly direction along NC-32 to SR-1428, Bosley Road; thence in an easterly direction along Bosley Road to the intersection of SR-1429, Sugar Run Road; thence in a northerly direction to US-158; thence in an easterly direction along US-158 into the Dismal Swamp to the beginning point at the Pasquotank County Line."

SECTION 2. Section 2 of Chapter 1048 of the 1973 Session Laws reads as rewritten:

"Sec. 2. District I (Gatesville): Beginning at a point on the Chowan River, in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northern direction

to a point where Coles's Creek crosses U.S. 158; thence proceeding in a westerly direction along U.S. 158 through White Oak to Roduco to a point where U.S. 158 intersects U.S. 13; thence continuing on U.S. 13 in a northerly direction to a point where county road 1221 intersects U.S. 13; thence continuing on county road 1221 to the Atlantic Coast Line Railroad and proceeding on said railroad in a northerly direction to county road 1217; thence proceeding down county road 1217 to a point where county road 1225 intersects county road 1217; thence proceeding down county road 1225 to county road 1220; thence proceeding on county road 1220 in a northerly direction to where county road 1220 intersects N.C. 37; thence proceeding on N.C. 37 a short distance to a point where county road 1303 intersects N.C. 37 at Buckland; thence continuing down county road 1303 in an easterly direction to a point where county road 1303 touches county road 1300; thence proceeding down county road 1300 in a southerly direction to Eason's Crossroads; thence continuing on a southerly direction on county road 1400 to a point where county road 1404 intersects county road 1400; thence proceeding in an easterly direction down county road 1404 to a point where county road 1411 intersects county road 1404; thence proceeding in a southeasterly direction down county road 1411 to where said road intersects county road 1410; thence proceeding down county road 1410 in a southerly direction to a place where county road 1410 intersects N.C. 37; thence continuing across N.C. 37 to the mouth of Trotman Creek; thence continuing down Trotman Creek in a southerly direction to a place where Trotman Creek runs into Catherine's Creek; thence down Catherine's Creek in a southerly direction to a point where Catherine's Creek flows into the Chowan River; thence proceeding up the Chowan River in a northwest direction to the point where Sarem Creek flows into the Chowan River, at the beginning point.

District II (Eure): Beginning at a point on the Chowan River and proceeding due east to the point where county road 1221 intersects U.S. 13; thence proceeding south down said U.S. 13 to where U.S. 158 intersects U.S. 13 at Tarheel; continuing down U.S. 158 through Roduco to a point where Cole's Creek crosses U.S. 158; thence proceeding down Cole's Creek to Sarem Creek to the Chowan River; thence proceeding in a northwesterly direction to the beginning point, on the Chowan River.

District III (Gates): Beginning at a point where the Virginia line crosses the Chowan River; thence proceeding along the North Carolina Virginia line in an easterly direction until the point where the Atlantic Coast Line Railroad intersects the State line; thence following said railroad to a point where the Atlantic Coast Line Railroad intersects county road 1308; proceeding down county road 1308 in an easterly direction to a point where county road 1311

intersects county road 1308; proceeding along county road 1311 in a southerly direction to a point where county road 1311 intersects county road 1304 at Hazelton; thence along county road 1304 in a southwesterly direction to a point where county road 1300 intersects county road 1304 at Willeyton; thence following county road 1300 in a southerly direction to a point where county road 1303 intersects county road 1300; thence from county road 1300 in a westerly direction along county road 1303 to Buckland, where county road 1303 intersects N.C. 37; thence proceeding south on N.C. 37 to a point where county road 1220 intersects N.C. 37; thence proceeding in a southwesterly direction along county road 1220 to a point where said road is intersected by county road 1225; thence proceeding along said county road 1225 in a westerly direction to a point where county road 1217 intersects county road 1225; thence proceeding along said county road 1217 to a point where county road 1217 intersects the Atlantic Coast Line Railroad; thence down said railroad in a southerly direction to a point where county road 1221 intersects said railroad; thence along county road 1221 to where it intersects U.S. 13; thence across said U.S. 13 and proceed due west to a point where this line reaches the Chowan River; thence following the Chowan River in a northerly direction to the Virginia Line.

District IV (Sunbury): Beginning at a point on the Virginia Line where the Atlantic Coast Line Railroad crosses the State Line; thence proceeding down the Atlantic Coast Railroad in a southerly direction to a point where county road 1308 crosses the said railroad; thence proceeding down county road 1308 to a point where county road 1311 intersects county road 1308; thence proceeding down county road 1311 to where county road 1311 intersects county road 1304 at Hazelton; thence continuing down county road 1304 in a southerly direction to county road 1300 at Willeyton; thence continuing down county road 1300 in a southerly direction to Eason's Crossroads where county road 1403 intersects county road 1300; thence continuing down county road 1403 in a southerly direction; thence down said county road 1400 in a southerly direction to a point where county road 1400 is intersected by county road 1404; thence continuing down county road 1404 in an easterly direction to a point where county road 1411 intersects county road 1404; thence continuing down county road 1411 to a point where it intersects county road 1410; thence continuing in an easterly direction to a point where county road 1410 terminates and county road 1428 begins; thence continuing down county road 1428 in a westerly direction to Green Forks; thence in a due east direction from Green Forks to the Pasquotank County line; thence proceeding along the Gates County line in a northerly direction to a point where it touches the Virginia State Line; thence along said Virginia Line to the point where the

Atlantic Coast Line Railroad crosses the Virginia Line, at the point of beginning.

~~District V (Hobbsville): Beginning at a point on the Chowan River where Catherine's Creek intersects the river, going in a northerly direction along Catherine's Creek to a point where Trotman's Creek intersects Catherine's Creek; thence proceeding along Trotman's Creek in a northerly direction to a point where N.C. 37 is intersected by county road 1410; thence across N.C. 37 on county road 1410 in a northerly direction to a point where county road 1410 meets N.C. 32; thence across N.C. 32 on county road 1428 in an easterly direction to Green Forks on county road 1002; thence continuing due east to the Pasquotank County Line; thence along the Gates County Line in a southerly direction; thence in a westerly direction to the point on the Chowan River that is the beginning point.~~

District 1: Beginning at a point on the Chowan River in the mouth of Sarem Creek, proceeding up Sarem Creek in a northerly direction to a point where Cole's Creek intersects; thence proceeding up Cole's Creek in a northerly direction to a point where Cole's Creek crosses US-158; thence proceeding in a westerly direction along US-158 to the intersection of SR-1220, Hackley Road; thence proceeding in a northeasterly direction to NC-37; thence proceeding in a northerly direction along NC-37 to the intersection of SR-1303, Parker Road; thence proceeding in an easterly direction along Parker Road to SR-1300, Medical Center Road; thence in a northerly direction along Medical Center Road to SR-1304, Willeyton Road; thence in a northeasterly direction along Willeyton Road to the intersection with SR-1312, Black Mingle Road; thence in a southeasterly direction along Black Mingle Road to the intersection with SR-1318, Middle Swamp Road; thence in a southwesterly direction along Middle Swamp Road to US-158; thence along US-158 in a westerly direction to SR-1403, Mill Pond Road at Easons Crossroads; thence in a southerly direction along SR-1403, Mill Pond Road to SR-1400, Honey Pot Road; thence in a southerly direction along SR-1400 also identified as Mill Pond Road to NC-37; thence in a westerly direction along NC-37 to SR-1106, Horace Carter Road; thence in a southerly direction along SR-1106, Horace Carter Road to the intersection with SR-1107, Carter Loop Road; thence in a southeasterly direction along Carter Loop Road to Carters Road, thence in an easterly direction to a point where Carters Road crosses Trotman's Creek; thence in a southerly direction along Trotman's Creek to Catherine Creek; thence in a southerly direction along Catherine Creek to the Chowan River; thence in a northerly direction along the Chowan River to the beginning point.

District 2: Beginning at a point on the Chowan River and traveling due East along the boundary between Hall and Reynoldson

Townships to Vehicle Trail A-51; thence in a southerly direction along Vehicle Trail A-51 to SR-1201, Tinkham Road; thence along Tinkham Road to US-13/158 at Corner High; thence along US-13/158 in a northeasterly direction to Tarheel; thence in an easterly direction along US-158 to and through Roduco continuing on US-158 to and through White Oak to a point where US-158 crosses Cole's Creek; thence in a southerly direction along Cole's Creek to Sarem Creek; thence in a southerly direction along Sarem Creek to the Chowan River; thence along the Chowan River in a northwesterly direction to the beginning point.

District 3: Beginning at a point on the North Carolina/Virginia border where SR-1308, Drum Hill Road intersect and continuing in a southeasterly direction along Drum Hill Road to the intersection with SR-1311, Hazleton Road; thence in a southerly direction along Hazleton Road to an intersection with SR-1304, Willeyton Road; thence in a westerly direction along Willeyton Road to SR-1300, Medical Center Road; thence in a southerly direction along Medical Center Road to SR-1303, Parker Road; thence in a westerly direction along Parker Road to NC-37; thence in a southerly direction NC-37 to SR-1220, Hackley Road; thence in a southwesterly direction along Hackley Road to US-158; thence in a westerly direction along US-158 to and through White Oak, to and through Roduco; thence in a westerly direction along US-158 to Tarheel and the intersection with US-13; thence in a westerly direction along US-13/158 to an intersection with SR-1201, Tinkham Road; thence in a northwesterly direction along Tinkham Road to Vehicle Trail A-51; thence in a northerly direction along Vehicle Trail A-51 to the Boundary between Hall and Reynoldson Townships; thence in a due west direction along the Township Boundary to the Chowan River; thence in a northerly direction on the river to the North Carolina/Virginia border; follow the North Carolina/Virginia border to the beginning point.

District 4: Beginning at a point on the North Carolina/Virginia border where SR-1308, Drum Hill Road intersect and continuing in a southeasterly direction along Drum Hill Road to the intersection with SR-1311, Hazelton Road; thence in a southerly direction along Hazelton Road to an intersection with SR-1304, Willeyton Road; thence in a southwesterly direction along Willeyton Road to an intersection with SR-1312, Black Mingle Road; thence in a southerly direction along Black Mingle Road to an intersection with SR-1318, Middle Swamp Road; thence in a southwesterly direction along Middle Swamp Road to US-158; thence in a westerly direction along US-158 to the intersection with SR-1403, Mill Pond Road; thence in a southerly direction along SR-1403, Mill Pond Road; thence in a southerly direction along SR-1403, Mill Pond Road to SR-1400, Honey Pot Road; thence in a southerly direction along SR-1400, also

identified as Mill Pond Road to SR-1404, Silver Springs Road; thence in an easterly direction along SR-1411, Water Swamp Road to SR-1410, Zion Road; thence in a northerly and easterly direction along SR-1410 to NC-32; thence in a southerly direction along NC-32 to SR-1428, Bosley Road and along Bosley Road to the intersection of SR-1429, Sugar Run Road; thence in a northerly direction to US-158; thence in an easterly direction along US-158 into the Dismal Swamp to the Pasquotank County Line; thence in a northerly direction along the Pasquotank County Line to the Camden County Line; thence along the Camden County Line to the North Carolina/Virginia border; thence along the North Carolina/Virginia border in a westerly direction to the beginning point at the intersection of SR-1308, Drum Hill Road.

District 5: Beginning in the Dismal Swamp at the Pasquotank County Line and traveling in a southerly direction along the Pasquotank County Line to the Perquimans County Line; thence in a southwesterly direction along the Perquimans County Line to the Chowan County Line to Trotman's Creek; thence in a northerly direction along Trotman's Creek to SR-1100, Carters Road; thence in a westerly direction along Carters Road to SR-1107, Carter Loop Road; thence in a northerly direction along Carter Loop Road to SR-1106, Horace Carter Road; thence in a northerly direction along Horace Carter Road to NC-37; thence in a southerly direction along NC-37 to SR-1404, Silver Springs Road; thence in an easterly direction along Silver Springs Road to the intersection with SR-1411, Water Swamp Road; thence in an easterly direction along SR-1410 to NC-32; thence in a southerly direction along NC-32 to SR-1428, Bosley Road; thence in an easterly direction along Bosley Road to the intersection of SR-1429, Sugar Run Road; thence in a northerly direction to US-158; thence in an easterly direction along US-158 into the Dismal Swamp to the beginning point at the Pasquotank County Line."

SECTION 3. This act shall not affect the terms of those persons presently serving on the Board of Education of Gates County or the Board of Commissioners of Gates County.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

The General Assembly of North Carolina enacts:

SECTION 1. The season established by the Wildlife Resources Commission for taking bear in Martin County shall apply to the entire county.

SECTION 2. This act is effective when it becomes law and expires December 31, 2001.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

H.B. 172 SESSION LAW 2001-65

AN ACT TO ESTABLISH A NO-WAKE ZONE FOR THE TOWN OF CEDAR POINT AND AREAS WITHIN THE TOWN'S EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to operate a vessel at greater than no-wake speed on the waters of the Intracoastal Waterway within the corporate limits of the Town of Cedar Point and the Town's extraterritorial jurisdiction under G.S. 160A-360.

SECTION 2. With regard to marking the no-wake speed zone established in Section 1 of this act, the Town of Cedar Point or its designee may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zone shall be buoys or floating signs placed in the water and shall be sufficient in number and size so as to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

SECTION 3. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

SECTION 4. Violation of this act is a Class 3 misdemeanor.

SECTION 5. This act is effective when it becomes law and is enforceable after markers complying with Section 2 of this act are placed in the water.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

H.B. 196 SESSION LAW 2001-66

AN ACT TO EXEMPT FROM THE PUBLIC BIDDING LAWS THE VILLAGE OF PINEHURST IN THE RESTORATION OF

THE FAIR BARN AND COLLEGE OF THE ALBEMARLE IN
THE CONSTRUCTION OF A MULTIPURPOSE FACILITY IN
THE CITY OF ELIZABETH CITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The provisions of Article 8 of Chapter 143 of the General Statutes do not apply to the Fair Barn Restoration Project in the Village of Pinehurst.

SECTION 1.(b) This section applies only to the Village of Pinehurst.

SECTION 2.(a) The Board of Trustees of College of the Albemarle may contract for the construction of a multipurpose facility in the City of Elizabeth City without being subject to the provisions of Article 8 of Chapter 143 of the General Statutes.

SECTION 2.(b) This section applies only to the Board of Trustees of College of the Albemarle in the City of Elizabeth City.

SECTION 3. This act is effective when it becomes law and expires January 1, 2006.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

H.B. 794

SESSION LAW 2001-67

AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM
ACROSS THE RIGHT-OF-WAY OF A PUBLIC ROAD IN
CALDWELL COUNTY FOR THE PURPOSE OF TARGET
PRACTICE.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to discharge a firearm across the right-of-way of any public road for the purpose of target practice.

SECTION 2. Violation of this act is a Class 3 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Caldwell County.

SECTION 5. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

H.B. 819 SESSION LAW 2001-68**AN ACT AMENDING THE CHARTER OF THE CITY OF ROCKINGHAM.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 4.1(f) of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended by Chapter 698 of the 1995 Session Laws, reads as rewritten:

"(f) The city council shall consist of five (5) members. ~~In the regular municipal election in 1995 and quadrennially thereafter, three candidates shall be elected for four year terms. In the regular municipal election in 1997 and quadrennially thereafter, two candidates shall be elected for four year terms.~~In 2003, two candidates shall be elected for four-year terms and one candidate shall be elected for a two-year term. In 2005, and each regular municipal election held biennially thereafter, two candidates shall be elected for four-year terms and one candidate shall be elected for a two-year term. In each election, the two candidates receiving the highest numbers of votes shall be elected for four-year terms and the one candidate receiving the third highest number of votes shall be elected for a two-year term. Members shall serve until their successors are elected and ~~qualify~~qualified. Elections ~~are~~shall be conducted by the nonpartisan plurality method and the results determined in accordance with G.S. 163-292."

SECTION 2. Section 4.2 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 4.2. Organization of city council; oaths of office. The city council shall at ~~8:00 o'clock~~7:30 P.M. at the regular meeting in December following the date of their election meet and organize for the transaction of official municipal business. Before entering upon their offices the councilmen shall severally take the required oath before the city clerk to perform faithfully the duties of their respective offices. Any elected councilman not present at the organization meeting may take the oath of office within ~~thirty(30)~~30 days, and the failure on the part of any elected councilman to take said oath within ~~thirty(30)~~30 days forfeits his right to the office and the council shall have the authority to fill the vacancy."

SECTION 3. Section 4.10 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 4.10. Compensation for the mayor and council. ~~The mayor shall receive for his services such salary as the council shall~~

~~determine from time to time. The members of the council may establish a salary for its members. The salary of the mayor and the salaries of the council may be reduced but no increase therein shall be made to take effect during the term in which the increase is voted and such increase shall apply only to the terms of the members taking office after the next subsequent election. The council may fix its salary and the salary of the mayor as provided by general law."~~

SECTION 4. Section 6.2 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 6.2. City attorney. ~~The city attorney shall be appointed by the city council, and shall have the following duties:~~

- (1) ~~To serve as legal advisor to the city council, the city manager, the clerk, the treasurer, the tax collector, and all city departments, officers, and agencies.~~
- (2) ~~To represent as counsel the city, its officers, agents, or employees, in any legal action arising out of or connected with the proper functions of the city, unless disqualified so to act.~~
- (3) ~~To draft such ordinances, resolutions, and documents as requested by the council or city manager.~~

city council shall appoint a city attorney licensed to practice law in North Carolina. It shall be the duty of the city attorney to represent the city, advise city officials, and perform other duties as required by law or as the council may prescribe."

SECTION 5. Section 6.4 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 6.4. City ~~treasurer~~finance officer. ~~The city treasurer~~finance officer shall be appointed by the city ~~council~~manager and shall receive and keep all moneys belonging to the city and disburse the same according to law, and keep the manager advised of the status of all funds. Whenever this charter or any ordinance, resolution, or other document refers to the city treasurer, the reference shall be deemed to refer to the city finance officer."

SECTION 6. Section 6.6 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, is repealed.

SECTION 7. Section 17.2 of the Charter of the City of Rockingham, being Chapter 1265 of the 1973 Session Laws, as amended, reads as rewritten:

"Sec. 17.2. Settlement of claims by city ~~clerk~~or treasurer~~manager~~. The city manager, as authorized by the governing body of the city, may settle claims against the city ~~for~~:

- (1) ~~Personal injury or damages to property when the amount involved does not exceed the sum of \$1000.00 and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expense actually incurred.~~
- (2) ~~The taking of small portions of private property which are needed for the rounding of corners at street intersections, when the amount involved in any such settlement does not exceed \$1000.00 and does not exceed the actual loss sustained. Any settlement of a claim by the city manager pursuant to this section shall constitute a complete release of the city from any and all damages sustained by the person involved in such settlement in any manner arising out of the accident occasion, or taking complained of. All such releases shall be reviewed and approved as to form by the city attorney as provided by general law."~~

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

H.B. 856

SESSION LAW 2001-69

AN ACT TO ALLOW CARTERET COUNTY TO ENTER INTO SEPARATE-PRIME CONTRACTS OR A SINGLE-PRIME CONTRACT IN THE RENOVATION OF THE FORMER A&P SHOPPING CENTER IN MOREHEAD CITY FOR THE CARTERET COUNTY HEALTH AND HUMAN SERVICES BUILDING.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Authority to Seek Bids Under Separate-Prime or Separate-Prime and Single-Prime Systems. – Notwithstanding G.S. 143-128 or any other provisions of law, Carteret County may seek bids for the renovation of the former A&P Shopping Center in Morehead City for the Carteret County Health and Human Services Building under the separate-prime contract system or both the separate-prime and single-prime contract systems.

SECTION 1.(b) Standard for Award of Bids. – If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime contract systems, the county shall award the contract to the lowest responsible bidder under the single-prime system or the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded, the county may consider cost of construction oversight, time for completion of the project, ability to control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

SECTION 1.(c) Minimum Number of Bids Required. – The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective businesses. In calculating the number of bids required, either a full set of separate-prime bids or one single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by the subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If, after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received after the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

SECTION 1.(d) Applicability of General Statutes. – All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this act shall apply to the county.

SECTION 2. This act is effective when it becomes law and expires July 1, 2002.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law on the date it was ratified.

S.B. 158 SESSION LAW 2001-70**AN ACT TO REPEAL THE MONROE FIREMEN'S
SUPPLEMENTAL RETIREMENT FUND.**

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 31 of the 1975 Session Laws, as amended by Chapter 532 of the 1981 Session Laws, is repealed.

SECTION 2. All funds remaining in the Monroe Firemen's Supplemental Retirement Fund are transferred to the Board of Trustees of the Local Firemen's Relief Fund of the City of Monroe to be held and administered as provided in Article 84 of Chapter 58 of the General Statutes.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

S.B. 544 SESSION LAW 2001-71**AN ACT TO CORRECT AN INCONSISTENCY IN THE
HENDERSON FIREMEN'S SUPPLEMENTAL RETIREMENT
ACT.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 810 of the 1959 Session Laws, as amended by Chapter 374 of the 1969 Session Laws, Chapter 133 of the 1977 Session Laws, Chapter 111 of the 1981 Session Laws, Chapter 173 of the 1987 Session Laws, Chapter 897 of the 1991 Session Laws, and Chapter 636 of the 1993 Session Laws, reads as rewritten:

"Section 4. Eligibility for supplemental benefits. For the purpose of this section "supplemental benefit" as used in this section shall be defined to mean any sum of money payable by the Fund to a fireman of the Henderson City Fire Department who is a full-time paid member of the Henderson Fire Department at the time of ratification of this act or any person who shall become such a full-time paid member, provided that no person shall be eligible for benefits unless and until such person is also eligible for retirement or disability benefits as a member of the North Carolina Local Governmental Employees' Retirement System. Any disability retirement shall be on a medical board's recommendation. The board of trustees shall designate a medical board composed of three physicians. If required, other physicians may be employed in special cases. The medical board shall arrange for and make physical examinations and pass

upon all medical examinations, all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusion and recommendations upon all matters referred to it. Upon the application of a member for disability retirement, he may be retired by the board of trustees not less than thirty days nor more than ninety days next following the date of filing application, provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that such member should be retired. Once each year during the first five years following retirement of a member on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may, and upon his application shall, require any disabled member who has not yet attained the age of fifty-five (55) years to undergo a medical examination, such examination to be made at the place of residence of said member or other place mutually agreed upon, by a physician or physicians designated by the board of trustees. Should any disabled member who has not yet attained the age of fifty-five (55) years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the board of trustees, his allowance may be discontinued until his withdrawal of such refusal and should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of trustees. Should the medical board report and certify to the board of trustees that such disabled member is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his monthly compensation at time of disability, and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount which together with his pension and the amount earnable by him, shall equal the amount of his monthly compensation. Should his earning capacity be later changed, the amount of his pension may be further modified. Should he be restored to full employment in Henderson Fire Department or by any other employer at a salary equal to his compensation at the time of disability, his retirement shall cease. Should it be determined he is physically able to return to full employment in the Henderson Fire Department and he is offered full employment in the Henderson Fire Department before he has attained fifty-five (55) years of age and he refuses employment, he forfeits all rights to retirement pension. It is further provided that this Act does not modify or alter in any way the ~~workmen's~~ Workmen's Compensation Laws of the State of North Carolina. All firemen of the Henderson City Fire Department, who retire under the above conditions, including disability retirement, as

provided herein, shall receive for the remainder of his life a minimum supplemental benefit of twenty-five dollars (\$25.00) per ~~month~~, except that the total amount paid all retired members of the Henderson City Fire Department shall not exceed eighty percent (80%) of the income received by the Fund during the preceding fiscal year from interest on investment of capital funds, plus the amount derived from other sources. month. In the event that ~~eighty percent (80%) of the income above mentioned is~~ the funds available (as limited by this Act) are insufficient to pay such minimum of twenty-five dollars (\$25.00) per month to each person receiving supplemental benefit, the amount shall be equally prorated among the retired members of the Henderson City Fire Department. Each retired fireman receiving a supplemental benefit in accordance with this act shall receive the same amount of supplemental benefit per month. Commencing July 1, 1992, the maximum payment to any retired member of the Henderson City Fire Department from the Fund is three hundred dollars (\$300.00) per month. In the event a fireman dies while receiving a supplemental benefit, but within 10 years of the date of that fireman's first receiving the supplemental benefit, the board of Trustees shall continue paying the supplemental benefit for the deceased fireman to his surviving spouse, or, if there is no surviving spouse, then to the persons entitled to receive his residuary estate, until the total months during which a supplemental benefit is paid to the fireman, his surviving spouse, and his estate equals 120 months. All funds received by the Fund (including interest received) from other sources during each fiscal year and funds from prior years may be used for payments of supplemental benefits to retired members of the Henderson City Fire Department as authorized by the Trustees and as set forth under this statute, provided, however, that a minimum of two hundred fifty thousand dollars (\$250,000) of investments shall be continuously maintained by the Fund. All Fund balances in excess of this amount may be used for benefit payments and other authorized expenses. Any Fund balances, which are not paid out, may be invested as provided in this act. The board of trustees shall have the authority and power to promulgate rules and regulations to the end that the supplemental benefits herein provided may be properly administered and carried out and for the purpose of achieving the objectives herein sought."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

H.B. 321 SESSION LAW 2001-72

AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS
AREAS BY THE CITY OF SALISBURY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) does not apply to the
City of Salisbury.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the
15th day of May, 2001.

Became law on the date it was ratified.

H.B. 555 SESSION LAW 2001-73

AN ACT TO AUTHORIZE THE HALIFAX REGIONAL AIRPORT
AUTHORITY TO ACQUIRE PROPERTY BY EMINENT
DOMAIN USING THE "QUICK TAKE" PROCEDURE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of S.L. 1997-275 reads as
rewritten:

"Section 7. Private property needed by the Airport Authority for
any airport, landing field, or as facilities of an airport or landing field
may be acquired by gift or devise, or may be acquired by private
purchase or by the exercise of eminent domain pursuant to Chapter
40A of the General Statutes, including the use of the
procedures for immediate possession of property set forth in G.S.
40A-42(a)."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the
15th day of May, 2001.

Became law on the date it was ratified.

H.B. 697 SESSION LAW 2001-74

AN ACT TO MAKE MODIFICATIONS TO THE BRUNSWICK
FIRE FEE LEGISLATION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(c) of S.L. 1999-323 reads as
rewritten:

"Section 1.(c) Fees. – The fees imposed by the county may not
exceed the cost of providing fire protection services within the district
and may be imposed on owners of all real property that benefits from

the availability of fire protection and on owners of all manufactured or mobile homes that benefit from the availability of fire protection. For the purpose of this section, the term 'fire protection' includes furnishing emergency medical, rescue, and ambulance services to protect persons in the district from injury or death. The county shall establish a schedule of fees for different classes of property and the fee for each class of property shall be proportional to the estimated cost of providing fire protection services to that class of property. The schedule of fees shall include the following classes of property and the fee on each class of property shall not exceed the following maximums:

- (1) A single-family dwelling or manufactured or mobile home, and appurtenant structures, plus up to five acres of surrounding land. The fee on this class of property may not ~~exceed fifty dollars (\$50.00) per site per year.~~ ~~exceed:~~
 - a. Fifty dollars (\$50.00) per site per year for homes 1,500 square feet of heated floor area or less.
 - b. One hundred dollars (\$100.00) per site per year for homes greater than 1,500 square feet of heated floor area but less than 2,500 square feet of heated floor area.
 - c. One hundred fifty dollars (\$150.00) per site per year for homes 2,500 square feet of heated floor area and above.
- (2) Unimproved land other than the five acres of land classified as part of a single-family dwelling or manufactured or mobile home. The county may establish a maximum fee for unimproved land ~~of not more than five dollars (\$5.00) per year.~~ as follows:
 - a. Up to five acres, five dollars (\$5.00).
 - b. Five acres or more but less than 25 acres, ten dollars (\$10.00).
 - c. 25 acres or more but less than 100 acres, fifty dollars (\$50.00).
 - d. 100 acres or more but less than 500 acres, one hundred twenty-five dollars (\$125.00).
 - e. 500 acres or more, two hundred fifty dollars (\$250.00).
- (3) An animal production or horticultural operation. The fee on this class of property may not exceed ten dollars (\$10.00) per site per year.
- (4) A commercial facility other than an animal production or horticultural operation. The fee on this class of property may not ~~exceed fifty dollars (\$50.00) per site per year~~

~~for commercial facilities with structures encompassing less than 5,000 square feet and one hundred dollars (\$100.00) per site per year for commercial facilities with structures encompassing 5,000 square feet or more. exceed for a commercial facility:~~

- a. Less than 5,000 square feet, one hundred dollars (\$100.00).
 - b. 5,000 square feet but less than 10,000 square feet, two hundred dollars (\$200.00).
 - c. 10,000 square feet but less than 20,000 square feet, five hundred dollars (\$500.00).
 - d. 20,000 square feet but less than 50,000 square feet, one thousand dollars (\$1,000).
 - e. 50,000 square feet but less than 100,000 square feet, two thousand five hundred dollars (\$2,500).
 - f. 100,000 square feet or over, three thousand dollars (\$3,000).
- (5) A multiple-family dwelling. Each unit in a multiple-family dwelling shall be treated as a single-family dwelling under subdivision (1) of this subsection.
- (6) Any other class of property selected by the county. The fee on these classes of property may not exceed ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) per year."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

H.B. 712

SESSION LAW 2001-75

AN ACT TO ANNEX CERTAIN DESCRIBED AREAS TO THE CORPORATE LIMITS OF MOREHEAD CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Morehead City are extended to include the following described area:

Area 1: Medical Park Foundation 6/30/97 Voluntary Annexation Correction

Being all of lots 6, 7, 8 and 9 inclusive of the Little Nine Subdivision as per survey by James L. Powell, Registered Surveyor, dated December 23, 1981, recorded in Map Book 18, Page 97, Carteret County Registry. Being a part of the property conveyed by Ballou Enterprises, Inc., a North Carolina corporation to William H. Page and wife, Jane W. Page, by deed dated October 18, 1983,

recorded in Book 489, Page 51, Carteret County Registry, and being the same property conveyed by William H. Page and wife, Jane W. Page to Bay Foods, Inc., a North Carolina corporation, by deed dated December 14, 1983, recorded in Book 491, Page 274, Carteret County Registry.

SECTION 2. The corporate limits of the Town of Morehead City are extended to include the following described areas:

Area 2: Annexation of Waterways Adjacent to Corporate Limits

Beginning at a point on the southwesternmost corporate boundary at the point of intersection with the eastern shore of Spooners Creek, then traveling due South a distance of 500 feet, then eastward remaining parallel with and 500 feet south of the corporate limit boundary the length of the Bogue Sound shoreline to the point of intersection with the western shoreline of Sugarloaf Island, then continuing eastward along the northernmost boundary of Sugarloaf Island to a point 500 feet east of the NC State Ports Authority property [Morehead City Port Terminal], then southwardly and then eastwardly remaining 500 feet from and parallel to the Port Terminal property and continuing in an eastwardly direction to a point of 500 feet west of the western shoreline of Radio Island, then southwardly remaining 500 feet west of and parallel to the shoreline of Radio Island to a point 500 feet due south of the southernmost point of tax parcel identification number (PIN) 639566594100 NC State Port Authority property located on Radio Island, then due north 500 feet to the point of intersection with the shoreline of Radio Island, then northwardly following the westernmost shoreline of Radio Island and crossing the causeway to the point of intersection with the northernmost right-of-way boundary of the Morehead-Beaufort high rise bridge [US Highway 70 right-of-way], then westwardly following the northernmost boundary of the Morehead-Beaufort high rise bridge right-of-way to a point 500 feet west of the easternmost Morehead City limits line, then northwardly remaining 500 feet east of and parallel to the easternmost boundary of the Morehead City limit line and continuing in this direction northwardly until the point of intersection with the easternmost shoreline of the Haystack Marshes, identified by Tax Parcel Identification Number (PIN) 639625456300, then following the shoreline of this marsh in a southwardly, then northwestwardly, then northwardly direction along the property line of Tax PIN 639607251800 to a point due east of the northeasternmost corner of Tax PIN 638608884980 [Haystacks Property], then southwardly following the shoreline, encompassing the entire westernmost boundary of Calico Bay and its tributaries to the point of intersection with the northeasternmost corner of Tax PIN 638614349096 [Lot 12, Sec 4, Block F, N Morehead Subdivision

property] and being the point of intersection with the primary Morehead City Corporate limit line.

Area 3: Annexation of Bridges Street Extension Right-of-Way and Remnant State Owned Parcels

Beginning on the northernmost boundary of the Bridges Street Extension [SR 1176] right-of-way at the point of intersection with the southwesternmost corner of Tax PIN 637614227856 [Carteret County Property/former "A&P" location] then westwardly, including the portion of Country Club Road [SR 1177] right-of-way northwardly to the existing corporate limit [in the vicinity of West Carteret High School], along the entire length of Bridges Street Extension [SR 1176] to its intersection with the northernmost right-of-way boundary of US Highway 70 and including the full width of these sections of SR 1176 and SR 1177 highway right-of-ways and all the adjoining state-owned remnant properties acquired by the NC Department of Transportation and referenced as follows: Tax PIN 636616748607, 636610468193, 6366104644057, 636610361969 and 636610268767.

Area 4: Annexation of Railroad Right-of-Way

Beginning at the point of intersection with the southeasternmost corner of Tax PIN 636601089018 [NC State Port Authority "Edgewater" Tract] then westwardly and crossing the Arthur Farm Road [SR 1153] right-of-way to the point of intersection with the westernmost right-of-way boundary of Arthur Farm Road [SR 1153] and the point of intersection with the southeasternmost corner of Tax PIN 635607791542 [Town of Morehead City owned property] and including the full width of the railroad right-of-way [North Carolina Railroad Company].

SECTION 3. Section 1 of this act is effective from and after June 30, 1997. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

H.B. 804

SESSION LAW 2001-76

AN ACT TO AUTHORIZE ANSON, CRAVEN, MCDOWELL, MONTGOMERY, AND PAMLICO COUNTIES TO ACQUIRE PROPERTY FOR USE BY THEIR BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-158.1 reads as rewritten:
 "§ 153A-158.1. *Acquisition and improvement of school property in certain counties.*

(a) Acquisition by County. – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Cherokee, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Union, Vance, Wake, Watauga, Wayne, Wilkes, and Wilson Counties."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

H.B. 807 SESSION LAW 2001-77**AN ACT CONCERNING ANNEXATION OF NONCONTIGUOUS
AREAS BY THE TOWN OF WINTERVILLE.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(2) shall not apply to the Town of Winterville as to any property if the Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the town to which a point on the proposed satellite corporate limits is closer, and that agreement states that the other town will not annex the property.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

H.B. 880 SESSION LAW 2001-78

AN ACT TO AUTHORIZE THE OWNERS OF PROVISIONALLY APPROVED SEPTIC TANKS AND INNOVATIVE SEPTIC TANK SYSTEMS IN BERTIE COUNTY TO TRANSFER OWNERSHIP OF THESE SYSTEMS TO A JOINT AGENCY CREATED BY CERTAIN OTHER COUNTIES, TO AUTHORIZE ADDITIONAL COUNTIES TO COLLECT FEES FOR THE INSPECTION OF PROVISIONALLY APPROVED SEPTIC TANKS AND INNOVATIVE SEPTIC TANK SYSTEMS IN THE SAME MANNER AS PROPERTY TAXES, AND TO AUTHORIZE CERTAIN COUNTIES TO COLLECT FEES FOR THE MAINTENANCE AND REPAIR OF PROVISIONALLY APPROVED SEPTIC TANKS AND INNOVATIVE SEPTIC TANK SYSTEMS IN THE SAME MANNER AS PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 1999-288 reads as rewritten:

"Section 2. As used in this section, 'unit of local government' has the same meaning as in G.S. 160A-460. One or more units of local government located in the Counties of Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington may establish a joint agency for the purpose of owning and operating a provisionally approved septic tank or innovative septic tank system as provided in Article 20 of Chapter 160A of the General Statutes. Bertie County may join any joint agency established under this

section. The owner of any provisionally approved septic tank or innovative septic tank system may, upon acceptance by a joint agency established under this section, transfer ownership of any real or personal property or interest therein that is a part of or used in connection with the provisionally approved septic tank or innovative septic tank system to the joint agency. Notwithstanding G.S. 160A-462(a), a joint agency created pursuant to this section may hold real property necessary to the undertaking. Any county named in this section may accept real or personal property described in this section from the owner of the property for transfer to a joint agency established as provided in this section."

SECTION 2. Section 3 of S.L. 1999-288 reads as rewritten:

"Section 3. The Counties of Bertie, Camden, Chowan, Currituck, Gates and Hertford ~~Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington~~ may adopt an ordinance providing that any fee for the ~~inspection~~ inspection, maintenance, and repair of a provisionally approved septic tank or other innovative septic tank system may be billed as property taxes, may be payable in the same manner as property taxes, and in the case of nonpayment, may be collected in any manner by which property taxes can be collected. If the ordinance states that delinquent fees can be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property described on the bill that includes the fee."

SECTION 3. This act applies to only Bertie, Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington Counties.

SECTION 4. This act is effective when it becomes law. Section 2 of this act applies to fees imposed for inspections in Bertie, Camden, Chowan, Currituck, Pasquotank, Perquimans, Tyrrell, and Washington Counties performed on or after the date this act becomes law. Section 2 of this act applies to fees imposed for maintenance and repairs in Bertie, Camden, Chowan, Currituck, Gates, Hertford, Pasquotank, Perquimans, Tyrrell, and Washington Counties performed on or after the date this act becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law on the date it was ratified.

S.B. 399

SESSION LAW 2001-79

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE
CHARTER OF THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2000-26 is amended by adding a new subsection to read:

“Section 4.(d) The following provisions, having served the purposes for which they were enacted, are expressly repealed:

YEAR	CHAPTER
1953	772 (Section 2A only, as to the City of Charlotte only)
1961	303
1963	806
1967	298
1969	830
1973	228 (but this does not affect Chapter 330 of the 1973 Session Laws)
1979	449
1981	364
1983	119
1987	225
1993	229 (Section 1 only)
1995	144.”

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of May, 2001.

Became law on the date it was ratified.

S.B. 486

SESSION LAW 2001-80

AN ACT AUTHORIZING THE TOWN OF KERNERSVILLE TO CONVEY CERTAIN PROPERTY AT A PRIVATE SALE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the Town of Kernersville may convey by private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest in the following described property to the Mount Gur Cemetery Association, Inc., under the terms and conditions that the Town Board of Aldermen deem appropriate:

Tract 1

Being all of that certain 1.102 acre tract of land lying in Kernersville Township, Forsyth County, North Carolina; and bounded by natural boundaries and/or lands owned by and/or in possession of persons, as follows: on the north by Reeves, Inc., on the east by Mount Gur

Cemetery Association, Inc., on the south and west by Auto Spring Co., Inc., and on the west by T & A Automotive Enterprise, Inc.; said tract being particularly described by courses (according to the North Carolina Grid System) and distances according to a survey and plats prepared by the Town of Kernersville Public Works Department, dated January 12, 1984, and dated January 27, 1984, and other sources cited herein, as follows:

Commencing at North Carolina Geodetic Station and horizontal control monument "GUR"; said monument having N.C. grid coordinates of North 867,781.850 (feet) and East 1,682,156.642 (feet) as per the North American Datum of 1983; thence the following call taken from recorded plat cited as The Veterans Garden Section 2 as recorded in Plat Book 38 at Page 160 of the Forsyth County Registry; thence North 13 Degrees, 47 Minutes, 11 Seconds West a distance of 91.51 feet to a control corner, found existing iron pipe, the northeasterly corner of T & A Automotive Enterprise, Inc. (see Deed Book 1731 Page 3304 of said Registry; see also tax lot 66D of Tax Block 5412 of Forsyth County Tax Maps), in the southerly line of Reeves, Inc. (see Deed Book 1756 Page 2445 of said Registry; see also The Garden of the Christus as recorded in Plat Book 23 at Page 95 of said Registry; see also tax lot 64E of said tax block 5412), and being the true point of beginning:

Thence with said southerly line South 89 Degrees, 29 Minutes, 20 Seconds East a distance of 156.15 feet to a found existing iron pipe; thence crossing tax lot 65B of said tax block 5412 (see deeds to Mount Gur Cemetery Association, Inc., as follows: Deed Book 49 Page 446, Deed Book 152 Page 45, and Deed Book 273 Page 179, all of said Forsyth County Registry) South 3 Degrees, 44 Minutes, 20 Seconds West a distance of 333.16 feet to a found existing iron pipe, the northeasterly corner of Auto Spring Co., Inc. (see Deed Book 2003 Page 1594 of said Registry; see also tax lot 310 of said tax block 5412); thence with said Auto Spring Co., Inc., the following two (2) calls: (1) thence North 84 Degrees, 31 Minutes, 20 Seconds West a distance of 138.0 feet to a found existing iron pipe; (2) thence North 0 Degrees, 31 Minutes, 40 Seconds East, crossing a found existing iron pipe, the southeasterly corner of said T&A Automotive Enterprise, Inc., at 96.28 feet, and continuing with the westerly line of said T&A Automotive Enterprise, Inc., another 224.40 feet, for a total distance of 320.68 feet to the true point of BEGINNING said control corner and found existing iron pipe.

The above described 1.102 acre tract is generally known and designated as being a westerly portion of tax lot 65B of Forsyth

County Tax Maps as presently constituted, and is sometimes referred to as the Pauper's Plot Cemetery.

Tract 2

Being all of that 0.47 acre tract of land lying in Kernersville Township, Forsyth County, North Carolina; and bounded by natural boundaries and/or lands owned by and/or in possession of persons as follows: on the west and north by Mount Gur Cemetery Association, Inc., on the east by Grove Street, and on the south by West Bodenhamer Street; said tract being particularly described by courses (according to a survey and plat prepared by the Town of Kernersville Public Works Department, dated April 23, 1985, to which reference is hereby made, as follows:

Commencing at North Carolina Geodetic Station "Grove 2", said station having North Carolina Grid System coordinates of North 866,695.32 and East 1,682,524.61; thence North 58 deg. 37 min. 41 sec. West a distance of 178.10' to a 1" outside diameter set new iron pipe, flush, at the back of a sidewalk in the northerly margin of West Bodenhamer, being the true point of beginning:

Thence a new line across the lands of Mount Gur Cemetery Association, Inc. (see Deed Book 1023 Page 661 of the Forsyth County Registry) North 06 deg. 22 min. 20 sec. East a distance of 326.83' to a 1" outside diameter set new iron pipe, flush, in the southerly line of other lands of said Mount Gur Cemetery Association (see Deed Book 49 Page 446, Deed Book 152 Page 45, and Deed Book 273 Page 273 Page 179, all of said Registry); thence with said southerly line South 61 deg. 23 min. 30 sec. East a distance of 70.98' to 7/8" outside diameter found existing iron pipe, 9" high, the northwesterly terminus of Grove Street; thence with the westerly line of said Grove Street South 07 deg. 17 min. 31 sec. West a distance of 306.60' to the beginning of a curve concave northwesterly and having a radius of 18', said beginning of curve being the northeasterly corner of that easement from Mount Gur Cemetery Association, Inc., to the Town of Kernersville (see Deed Book 1287 Page 889 of said Registry); thence with the northerly line of said easement the following two (2) calls: (1) thence along said curve through a central angle of 119 deg. 13 min. 56 sec. (the long chord of said curve bears south 67 deg. 00 min. 22 sec. West a distance of 31.06') to a point in a line tangent within the northerly margin of said West Bodenhamer Street; (2) thence generally following said northerly margin of West Bodenhamer Street north 54 deg. 20 min. 29 sec. West a distance of 38.67'; thence a new line crossing the lands of said Mount Gur

Cemetery Association, Inc., North 06 deg. 22 min. 20 sec. East a distance of 2.91' to the true point of BEGINNING said 1" outside diameter set new iron pipe, flush, at the back of said sidewalk. Being that property as recorded in the Forsyth County Registry Deed Book 1492, at Page 9.

Tract 3

Lying and being in Kernersville Township, Forsyth County, North Carolina:

Being all of that certain 0.164 acre parcel of land formerly known and designated as Grove Street; said 0.164 acre parcel of land is described by courses (according to the North Carolina Grid System) and distances, as follows:

Commencing at Town of Kernersville horizontal control monument Grove 2, said control monument having N.C. Grid System coordinates of North 866,768,433 (feet) and East 1,682,602,398 (feet) as per the North American Datum of 1983; thence North 67 Degrees, 23 Minutes, 35 Seconds West, 76.00 feet, to a point in the northeasterly margin of, and within the right-of-way of, West Bodenhamer Street, at the cusp of a curve, and being the true point of Beginning:

Thence 18.34 feet along said curve, to the right, of radius 18.00 feet, a chord bearing and distance of North 21 Degrees, 50 Minutes, 00 Seconds West, 17.56 feet, to a point in the westerly line of the Town of Kernersville (see Deed Book 1356 Page 1390 of the Forsyth County Registry); thence with said westerly line North 7 Degrees, 22 Minutes, 10 Seconds East, 341.07 feet, to a 7/8" outside diameter found existing iron pipe, flush, set over a 5/8" outside diameter found existing solid iron, 14: subsurface, corner to Mt. Gur Cemetery Association, Inc. (see Deed Book 49 Page 446 of said Registry; see Deed Book 152 Page 45 of said Registry; see Deed Book 273 Page 179 of said Registry; see also tax lot 65B of tax block 5412 of Forsyth County Tax Maps as presently constituted); thence with said Mt. Gur Cemetery Association, Inc., South 89 Degrees, 36 Minutes, 45 Seconds West, 20.45 feet, to a 7/8" set new iron pipe, flush, the northeasterly corner of now or formerly the Town of Kernersville (see Deed Book 1492 Page 9 of said Registry); thence with the easterly line of said now or formerly The Town of Kernersville South 7 Degrees, 18 Minutes, 15 Seconds West, 306.71 feet, to a 7/8" outside diameter set new iron pipe, flush, at the beginning of a curve; thence 37.44 feet along said curve, to the right, of radius 18.00 feet, a chord

bearing and distance of South 67 Degrees, 00 Minutes, 35 Seconds West, 31.05 feet, to a point in said northeasterly margin of, and within the right-of-way of, said West Bodenhamer Street; thence within said right-of-way South 53 Degrees, 09 Minutes, 35 Seconds East, 63.48 feet, to the true point of Beginning.

Save and except the following described 0.0026 acre parcel of land, described as follows:

Lying and being in Kernersville Township, Forsyth County, North Carolina:

Being all of that certain 0.026 acre parcel of land formerly known and designated as being a southerly portion of Grove Street; said 0.026 acre parcel of land is described by courses (according to the North Carolina Grid System) and distances, as follows:

Commencing at Town of Kernersville horizontal control monument Grove 2, said control monument having N.C. Grid System coordinates of North 866,768,433 (feet) and East 1,682,602,398 (feet) as per the North American Datum of 1983; thence North 67 Degrees, 23 Minutes, 35 Seconds West, 76.00 feet, to a point in the northeasterly margin of, and within the right-of-way of, West Bodenhamer Street, at the cusp of a curve, and being the true point of Beginning:

Thence 18.34 feet along said curve, to the right, of radius 18.00 feet, a chord bearing and distance of North 21 Degrees, 50 Minutes, 00 Seconds West, 17.56 feet, to a point in the westerly line of the Town of Kernersville (see Deed Book 1356 Page 1390 of the Forsyth County Registry); thence with said westerly line North 7 Degrees, 22 Minutes, 10 Seconds East, 50.24 feet; thence a new line crossing said Grove Street South 54 Degrees, 15 Minutes, 00 Seconds West, 27.28 feet, to a 7/8" outside diameter set new iron pipe, flush, in the easterly line of now or formerly the Town of Kernersville (see Deed Book 1495 Page 9 of said Registry) at the beginning of a curve; thence 37.44 feet along said curve, to the right, of a radius 18.00 feet a chord bearing and distance of South 67 Degrees, 00 Minutes, 35 Seconds West, 31.05 feet, to a point in said northeasterly margin of, and within the right-of-way of, said West Bodenhamer Street; thence within said right-of-way South 53 Degrees, 09 Minutes, 35 Seconds East, 63.48 feet, to the true point of Beginning.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of May, 2001.

Became law on the date it was ratified.

H.B. 1117 SESSION LAW 2001-81

AN ACT TO PROVIDE THAT THE DISTRICT ATTORNEY HAS DISCRETION AS TO WHETHER TO SEEK THE DEATH PENALTY FOR A CAPITAL CASE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-2000(a) reads as rewritten:

"(a) Separate Proceedings on Issue of Penalty. –

- (1) ~~Upon~~ Except as provided in G.S. 15A-2004, upon conviction or adjudication of guilt of a defendant of a capital felony, felony in which the State has given notice of its intent to seek the death penalty, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment. A capital felony is one which may be punishable by death.
- (2) The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. If prior to the time that the trial jury begins its deliberations on the issue of penalty, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which he was selected. If the trial jury is unable to reconvene for a hearing on the issue of penalty after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue of the punishment. If the defendant pleads guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. A jury selected for the purpose of determining punishment in a capital case shall be selected in the same manner as juries are selected for the trial of capital cases.
- (3) In the proceeding there shall not be any requirement to resubmit evidence presented during the guilt determination phase of the case, unless a new jury is impaneled, but all such evidence is competent for the jury's consideration in passing on punishment. Evidence may be presented as to any matter that the court deems relevant to sentence, and may include matters relating to

any of the aggravating or mitigating circumstances enumerated in subsections (e) and (f) of this section. Any evidence which the court deems to have probative value may be received.

- (4) The State and the defendant or his counsel shall be permitted to present argument for or against sentence of death. The defendant or defendant's counsel shall have the right to the last argument."

SECTION 2. G.S. 15A-2001 reads as rewritten:

"§ 15A-2001. *Capital offenses; plea of guilty.*

(a) Any ~~person-defendant~~ who has been indicted for an offense punishable by death may enter a plea of guilty at any time after ~~his indictment, and the indictment~~.

(b) If the defendant enters a guilty plea to first degree murder and the State has not given notice of intent to seek the death penalty as provided in G.S. 15A-2004 or the State has agreed to accept a sentence of life imprisonment where it initially gave notice of intent to seek the death penalty, then the court shall sentence the person to life imprisonment. The defendant may plead guilty to first degree murder and the State may agree to accept a sentence of life imprisonment, even if evidence of an aggravating circumstance exists.

(c) If the defendant enters a guilty plea to first degree murder and the State has given notice of its intent to seek the death penalty, then the judge of the superior court having jurisdiction may sentence such person-the defendant to life imprisonment or to death pursuant to the procedures of G.S. 15A-2000. Before sentencing the defendant, defendant in a case in which the State has given notice of its intent to seek the death penalty, the presiding judge shall impanel a jury for the limited purpose of hearing evidence and determining a sentence recommendation as to the appropriate sentence pursuant to G.S. 15A-2000. The jury's sentence recommendation in cases where the defendant pleads guilty and the State has given notice of its intent to seek the death penalty shall be determined under the same procedure of G.S. 15A-2000 applicable to defendants who have been tried and found guilty by a jury."

SECTION 3. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-2004. *Prosecutorial discretion.*

(a) The State, in its discretion, may elect to try a defendant capitally or noncapitally for first degree murder, even if evidence of an aggravating circumstance exists. The State may agree to accept a sentence of life imprisonment for a defendant at any point in the prosecution of a capital felony, even if evidence of an aggravating circumstance exists.

(b) A sentence of death may not be imposed upon a defendant convicted of a capital felony unless the State has given notice of its intent to seek the death penalty. Notice of intent to seek the death penalty shall be given to the defendant and filed with the court on or before the date of the pretrial conference in capital cases required by Rule 24 of the General Rules of Practice for the Superior and District Courts, or the arraignment, whichever is later.

(c) If the State has not given notice of its intent to seek the death penalty prior to trial, the trial shall be conducted as a noncapital proceeding, and the court, upon adjudication of the defendant's guilt of first degree murder, shall impose a sentence of life imprisonment.

(d) Notwithstanding any other provision of Article 100 of Chapter 15A of the General Statutes, the State may agree to accept a sentence of life imprisonment for a defendant upon remand from the Supreme Court of North Carolina of a capital case for resentencing or upon an order of resentencing by a court in a State or federal post-conviction proceeding. If the State exercises its discretion and does agree to accept a sentence of life imprisonment for the defendant, then the court shall impose a sentence of life imprisonment."

SECTION 4. This act becomes effective July 1, 2001, and applies to pending and future cases, except that the provisions of this act regarding the State's notice of intent to seek the death penalty do not apply to defendants indicted in capital cases before the effective date of this act.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law upon approval of the Governor at 8:01 a.m. on the 17th day of May, 2001.

H.B. 410**SESSION LAW 2001-82**

AN ACT TO PERMIT COMMUNITY COLLEGE BOARDS TO DISPOSE OF CERTAIN REAL AND PERSONAL PROPERTY WITHOUT THE APPROVAL OF THE STATE BOARD OF COMMUNITY COLLEGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-15(a) reads as rewritten:

"(a) The board of trustees of any institution organized under this Chapter may, with the prior approval of the North Carolina Community Colleges System Office, convey a right-of-way or easement for highway construction or for utility installations or modifications. When in the opinion of the board of trustees of any institution organized under this Chapter, the use of any other real or personal property owned or held by the board of trustees is

unnecessary or undesirable for the purposes of the institution, the board of trustees, subject to prior approval of the State Board of Community Colleges, may sell, exchange, or lease the ~~property in the same manner as is provided by law for the sale, exchange, or lease of school property by county or city boards of education or in accordance with G.S. 160A-274.~~ property. The board of trustees may dispose of any personal property owned or held by the board of trustees without approval of the State Board of Community Colleges.

Article 12 of Chapter 160A of the General Statutes shall apply to the disposal or sale of any real or personal property under this subsection. Personal property also may be disposed of under procedures adopted by the North Carolina Department of Administration. The proceeds of any sale or lease shall be used for capital outlay purposes, except as provided in subsection (b) of this section."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law upon approval of the Governor at 9:50 a.m. on the 17th day of May, 2001.

H.B. 182**SESSION LAW 2001-83**

AN ACT TO AMEND THE ANTI-LAPSE STATUTE TO PROVIDE THAT THE INTEREST OF A DECEASED CLASS MEMBER WHO LEAVES NO ISSUE DEVOLVES UPON THE REMAINING CLASS MEMBERS AND THE ISSUE OF OTHER DECEASED CLASS MEMBERS, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 31-42(a) reads as rewritten:

"(a) Unless the will indicates a contrary intent, if a devisee predeceases the testator, whether before or after the execution of the will, and if the devisee is a grandparent of or a descendant of a grandparent of the testator, then the issue of the predeceased devisee shall take in place of the deceased devisee. The devisee's issue shall take the deceased devisee's share in the same manner that the issue would take as heirs of the deceased devisee under the intestacy provisions in effect at the time of the testator's death. The provisions of this section apply whether the devise is to an individual, to a class, or is a residuary devise. In the case of the class devise, the issue shall take whatever share the deceased devisee would have taken had the devisee survived the ~~testator.~~ testator; in the event the deceased class

member leaves no issue, the devisee's share shall devolve upon the members of the class who survived the testator and the issue of any deceased members taking by substitution."

SECTION 2. This act is effective when it becomes law and applies to estates of decedents dying on or after that date.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law upon approval of the Governor at 9:51 a.m. on the 17th day of May, 2001.

S.B. 25**SESSION LAW 2001-84**

AN ACT TO CLARIFY THE STATE'S AUTHORITY TO LEASE-PURCHASE THREE CLOSE SECURITY CORRECTIONAL FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-37(b1) is recodified as G.S. 148-37.2 and reads as rewritten:

"§ 148-37.2. Lease-purchase of three facilities.

(a) Authorization. – The Secretary of Correction ~~may~~ may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of three close security correctional facilities totaling up to 3,000 cells to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds. The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing

the Projects and to the special nonprofit corporation for nominal consideration.

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

- (1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.
- (2) Construction contract agreement. – A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.
- (3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.
- (4) Projects. – Three close security correctional facilities providing up to 3,000 cells to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.
- (5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.
- (6) Selected contractors. – One or more private firms selected to construct the Projects.
- (7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects for the construction of such facilities in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. The request for proposals shall provide for the option of bidding-proposing on one or more of the facilities, and shall require each bidder-proposer to provide a separate bid-proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.

The Secretary of Correction, in consultation with the Chairs of the Joint Legislative Corrections and Crime Control Oversight

~~Committee and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety, Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, and the contract which shall then be subject to the approval of the Council of State after consultation with the Joint Legislative Commission on Governmental Operations.~~State.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the Projects. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the constructed Projects to the special nonprofit corporation. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section ~~Contracts made under the authority of this subsection shall provide that the Department of Correction shall furnish the plans and specifications for these correctional facilities to the Office of State Construction for its review and that and~~ the Office of State Construction shall inspect and review each project-facility during construction to ensure and determine jointly that the project-facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

- (1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

- (2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.
 - (3) The lease-purchase agreement can be entered into on terms desirable to the State.
 - (4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.
- (e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:
- (1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.
 - (2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.
 - (3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.
 - (4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.
 - (5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.
 - (6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be 'principal components' and 'interest components.' Any interest

component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

- (7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the Projects to the special nonprofit corporation for purchase, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.
- (8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease-purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income."

SECTION 2. This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 3. G.S. 105-275(39) reads as rewritten:
 "§ 105-275. *Property classified and excluded from the tax base.*

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

- (39) Real and personal property that is: (i) owned by a nonprofit corporation organized upon the request of a State or local government unit for the sole purpose of financing projects for public use, (ii) leased to a unit of State or local government whose property is exempt from taxation under G.S. 105-278.1, and (iii) used in whole or in part for a public purpose by ~~such the~~ the unit of State or local government. If only part of the property is used for a public purpose, only that part is ~~exempt~~ excluded from the tax. This subdivision ~~shall does~~ does not

apply if any distributions are made to members, officers, or directors of the nonprofit corporation.

...."

SECTION 4. G.S. 55A-3-07 reads as rewritten:

"§ 55A-3-07. *Certain corporations subject to Public Records Act and Open Meetings Law.*

Any ~~corporation~~ of the following corporations organized under this Chapter ~~under the terms of any consent decree and final judgment in any civil action calling on a state officer to create the corporation, for the purposes of receipt and distribution of funds allocated to the State of North Carolina to provide economic impact assistance on account of one industry,~~ is subject to the Public Records Act (Chapter 132 of the General Statutes) and the Open Meetings Law (Article 33C of Chapter 143 of the General ~~Statutes~~, Statutes):

(1) A corporation organized under the terms of any consent decree and final judgment in any civil action calling on a state officer to create the corporation, for the purposes of receipt and distribution of funds allocated to the State of North Carolina to provide economic impact assistance on account of one industry.

(2) A corporation organized upon the request of the State for the sole purpose of financing projects for public use."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

Became law upon approval of the Governor at 9:56 a.m. on the 17th day of May, 2001.

H.B. 736

SESSION LAW 2001-85

AN ACT TO REQUIRE THAT LONG-TERM CARE FACILITIES POST INFORMATION ABOUT STAFFING LEVELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-4.3(a) reads as rewritten:

"(a) Pursuant to G.S. 143B-165, the North Carolina Medical Care Commission shall adopt rules to ensure at a minimum, but shall not be limited to, the provision of the following by adult care homes:

(1) Repealed by Session Laws 2000-111, s. 1.

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

hours shall be classroom training to include at a minimum:

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

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

- (3) Monitoring and supervision of residents;
- (4) Oversight and quality of care as stated in G.S. 131D-4.1; and
- (5) Adult care homes shall comply with all of the following staffing requirements:
 - a. First shift (morning): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents (licensed capacity or resident census) plus 3.0 hours for all other residents, whichever is greater;
 - b. Second shift (afternoon): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents plus 3.0 hours for all other residents (licensed capacity or resident census), whichever is greater;
 - c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census).

In addition to these requirements, the facility shall provide staff to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this subdivision, the term "heavy care resident" means an individual residing in an adult care home who is defined "heavy care" by Medicaid and for which the facility is receiving enhanced Medicaid payments for such needs. Each facility shall post in a conspicuous place information about required staffing that enables residents and their families to ascertain each

day the number of direct care staff and supervisors that are on duty for each shift for that day."

SECTION 2. Part A of Article 6 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-114.1. Posting of information indicating number of staff on duty.

Every nursing home subject to licensure under this Part shall post in a conspicuous place in the nursing home information about required staffing that enables residents and their families to readily ascertain each day the number of direct care staff and supervisors that are on duty for each shift for that day."

SECTION 3. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law upon approval of the Governor at 9:56 a.m. on the 17th day of May, 2001.

H.B. 979

SESSION LAW 2001-86

AN ACT DIRECTING THE STATE BOARD OF EDUCATION TO ISSUE SPECIAL HIGH SCHOOL DIPLOMAS TO VETERANS OF WORLD WAR II WHO HAVE NOT PREVIOUSLY RECEIVED DIPLOMAS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-12 is amended by adding a new subdivision to read:

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

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

...

(29) To issue special high school diplomas to veterans of World War II. – The State Board of Education shall issue special high school diplomas to all honorably discharged veterans of World War II who request special diplomas and have not previously received high school diplomas."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law upon approval of the Governor at 9:56 a.m. on the 17th day of May, 2001.

H.B. 150 SESSION LAW 2001-87

AN ACT TO WAIVE THE PENALTIES FOR FAILURE TO MEET CERTAIN TAX-RELATED DEADLINES BECAUSE OF A PRESIDENTIALLY DECLARED DISASTER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-249.2 reads as rewritten:

"§ 105-249.2. Due date ~~and penalties for State taxes owed by certain members of the armed forces or individuals serving in support of the armed forces.~~extended and penalties waived for certain military personnel or individuals affected by a presidentially declared disaster.

(a) The Secretary may not assess interest or a penalty against a taxpayer for any period that is disregarded under section 7508 of the Code in determining the taxpayer's liability for a federal tax. A taxpayer is granted an extension of time to file a return or take another action concerning a State tax for any period during which the Secretary may not assess interest or a penalty under this section.

(b) The penalties in G.S. 105-236(2), (3), and (4) may not be assessed for any period in which the time for filing a federal return or report or for paying a federal tax is extended under section 7508A of the Code because of a presidentially declared disaster. For the purpose of this section, 'presidentially declared disaster' has the same meaning as in section 1033(h)(3) of the Code."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of May, 2001.

Became law upon approval of the Governor at 10:55 a.m. on the 17th day of May, 2001.

S.B. 439 SESSION LAW 2001-88

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

The General Assembly of North Carolina enacts:

SECTION 1. Article II of Chapter 6 of the Charter of the City of Charlotte, as enacted in S.L. 2000-26 and amended by S.L. 2000-59, is further amended by rewriting Section 6.11 to read:

"Section 6.11. **Parking Regulations and Violations.** (a) The Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and parking penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and parking penalties. Payment of the towing fee and all outstanding parking tickets and parking penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and parking penalties.

(c) The Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars (\$50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

(d) Notwithstanding the provisions of Chapter 20 of the General Statutes or any other public or private local laws to the contrary, the Council may adopt ordinances:

- (1) Prohibiting parking or standing of a vehicle in a space designated with a sign for handicapped persons when the vehicle does not display the distinguishing registration plate, windshield placard, or disabled veteran registration plate and that prohibit parking or standing of a vehicle so as to obstruct a curb ramp or curb cut, as provided in G.S. 20-37.6(e).
- (2) Prohibiting parking or standing of a vehicle in front of or within a specified distance in either direction of a fire hydrant or the driveway entrance to any fire station, or in any area designated as a fire lane.
- (3) Prohibiting parking or standing of a vehicle in front of or within a specified distance from a public or private driveway.
- (4) Prohibiting parking or standing of a vehicle within a specified distance from an intersection or crosswalk.

(e) Notwithstanding the provisions of G.S. 20-37.6(f) and G.S. 20-176, a violation of any ordinance adopted pursuant to this section shall not be an infraction or a misdemeanor.

(f) Any ordinance adopted pursuant to this section may be enforced by law enforcement officers and any person or persons authorized by ordinance, by the city manager, or by the chief of police, whether or not the vehicle is parked on public or private property."

SECTION 2. Section 6.12 of Article II of the Charter of the City of Charlotte, as enacted in S.L. 2000-26, is repealed.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law on the date it was ratified.

H.B. 85**SESSION LAW 2001-89**

AN ACT TO AMEND THE LAW AFFECTING THE LEASE OF STATE PROPERTY TO THE NORTH CAROLINA INDIAN CULTURAL CENTER, INC.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (a) of Section 18 of Chapter 1074 of the 1989 Session Laws, as amended by subsection (e) of Section 22 of Chapter 900 of the 1991 Session Laws, Section 1 of Chapter 88 of the 1993 Session Laws, Section 33 of Chapter 561 of the 1993 Session Laws, and Section 1 of S.L. 1997-41, reads as rewritten:

"(a) The State of North Carolina shall lease out to the North Carolina Indian Cultural Center, Inc., for a period of 99 years at a monetary consideration of \$1.00 per year all the real property it acquired for the Indian Cultural Center, except that portion containing the Riverside Golf Course, but no part of Phase I of the project may be constructed either by the State or for the lessee until an environmental impact assessment is completed on Phase I of the property, and if required pursuant to Article 1 of Chapter 113A of the General Statutes, an environmental impact statement is prepared. The State shall enter into a lease agreement in accordance with this section not later than December 31, 1993. If the State and the North Carolina Indian Cultural Center, Inc., do not enter into a lease agreement by December 31, 1993, then the property may be used for any public purpose.

Any lease agreement entered into by the State with the North Carolina Indian Cultural Center, Inc., shall include ~~but not be limited to the following terms:~~

- (1) ~~An~~ a requirement that an environmental impact assessment pursuant to Article 1 of Chapter 113A of the

General Statutes is ~~is~~be completed on Phase I of the property.

- (2) ~~The lease shall include a reversionary clause stipulating that the North Carolina Indian Cultural Center, Inc., must raise funds or receive pledges totaling three million dollars (\$3,000,000) by June 1, 2001.~~
- (3) ~~If the funds or pledges are not obtained by June 1, 2001, then this lease agreement will automatically terminate."~~

SECTION 2. The State of North Carolina shall, prior to June 1, 2001, execute an amendment to the lease agreement entered into by the State and the North Carolina Indian Cultural Center, Inc., on May 12, 1994, and amended December 9, 1997, as provided for in subsection (a) of Section 18 of Chapter 1074 of the 1989 Session Laws as amended. The amendment shall delete from the amended lease Paragraph 6 providing for the automatic termination of the lease should the Indian Cultural Center, Inc., fail to raise funds or receive pledges totaling three million dollars (\$3,000,000) necessary to complete Phase I of the project by June 1, 2001.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of May, 2001.

Became law upon approval of the Governor at 12:43 p.m. on the 18th day of May, 2001.

H.B. 329

SESSION LAW 2001-90

AN ACT PERTAINING TO TRANSPORTATION SERVICES OFFERED BY ADULT DAY CARE PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-6(b) reads as rewritten:

"(b) As used in this section 'adult day care program' means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The Department of Health and Human Services shall annually inspect and certify all adult day care programs, under rules adopted by the Social Services Commission. The Social Services Commission shall adopt rules to protect the health, safety, and welfare of persons in adult day care programs. These rules shall include minimum standards relating to management of the program, staffing requirements, building requirements, fire safety, sanitation, nutrition, and program activities. Adult day care programs are not required to provide transportation to participants, however, those programs that choose to provide transportation shall

comply with rules adopted by the Commission for the health and safety of participants during transport.

The Department of Health and Human Services shall enforce the rules of the Social Services Commission."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 9th day of May, 2001.

Became law upon approval of the Governor at 12:43 p.m. on the 18th day of May, 2001.

S.B. 888**SESSION LAW 2001-91**

AN ACT TO INCREASE THE FEES FOR NONRESIDENT HUNTING LICENSES, TO PROVIDE FOR A BEAR/WILD BOAR HUNTING LICENSE, AND TO MAKE OTHER CHANGES AFFECTING LICENSES ISSUED BY THE WILDLIFE RESOURCES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-270.1C(b) reads as rewritten:

"(b) Combination hunting and fishing licenses issued by the Wildlife Resources Commission are:

- (1) Resident Annual Combination Hunting and Fishing License – \$20.00. This license shall be issued only to an individual resident of the State.
- (2), (3) Repealed by Session Laws 1997-326, s. 2.
- (4) Lifetime Combination Hunting and Fishing License for Disabled Residents – \$10.00. This license shall be issued only to (i) an individual resident of the State who is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs, remaining valid for the lifetime of the individual so long as the individual remains fifty percent (50%) or more disabled; or (ii) an individual resident of the State who is totally disabled, remaining valid for the lifetime of the individual so long as the individual remains totally disabled. For purposes of this section, "totally disabled" means physically incapable of being gainfully employed. The application form for this license, to be provided by the Wildlife Resources Commission, allows a person to apply only for the fishing privileges conveyed by the license. This license entitles the holder to fish in public mountain trout waters as provided in G.S. 113-272(a)."

SECTION 2. G.S. 113-270.2(c) reads as rewritten:

"(c) The hunting licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident State Hunting License – \$15.00. This license shall be issued only to an individual resident of the State.
- (2) Lifetime Resident Comprehensive Hunting License – \$250.00. This license shall be issued only to an individual resident of the State and is valid for the lifetime of the holder.
- (3) Resident County Hunting License – \$10.00. This license shall be issued only to an individual resident of the State and is valid only in the county of residence of the license holder.
- (4) Controlled Hunting Preserve Hunting License – \$15.00. This license shall be issued to an individual resident or nonresident to take only foxes and domestically raised game birds, other than wild turkey, only within a controlled hunting preserve licensed and operated in accordance with G.S. 113-273(g) and implementing rules of the Wildlife Resources Commission.
- (5) Resident Annual Comprehensive Hunting License – \$30.00. This license shall be issued only to an individual resident of the State.
- (6) Nonresident State Hunting License. This license shall be issued only to a nonresident. The nonresident State hunting licenses issued by the Wildlife Resources Commission are:
 - a. Season License – ~~\$40.00.~~ \$60.00.
 - b. Six-Day License – ~~\$25.00.~~ \$40.00. This license is valid for the six consecutive dates indicated on the license."

SECTION 3. G.S. 113-270.3(b) reads as rewritten:

"(b) The special activity licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident Big Game Hunting License – \$10.00. This license shall be issued only to an individual resident of the State and entitles the holder to take big game by all lawful methods and during all open seasons.
- (1a) Nonresident ~~Bear~~ Bear/Wild Boar Hunting License – ~~\$100.00.~~ \$125.00. This license is valid for use only by an individual within the State and must be procured before taking any bear or wild boar within the State. Notwithstanding any other provision of law, a nonresident individual may not take any bear or wild boar within the State without procuring this license; provided, that those persons who have a nonresident

lifetime sportsman combination license purchased prior to ~~July 1, 1993~~, May 24, 1994, shall not have to purchase this license.

- (2) Nonresident Big Game Hunting License. This license shall be issued only to an individual nonresident of the State and entitles the holder to take big game by all lawful methods and during all open seasons. The nonresident big game hunting licenses issued by the Wildlife Resources Commission are:
 - a. Season License – ~~\$40.00~~: \$60.00.
 - b. Six-Day License – ~~\$25.00~~: \$40.00. This license is only valid for the six consecutive dates indicated on the license.
- (3) Game Land License – \$15.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to hunt and trap on game lands managed by the Wildlife Resources Commission. The Wildlife Resources Commission may, pursuant to G.S. 113-264(a), designate in its rules other activities on game lands that require purchase of this license and may charge additional fees for use of specially developed facilities.
- (4) Falconry License – \$10.00. This license shall be issued to an individual resident or nonresident of the State and must be procured before:
 - a. Taking, importing, transporting, or possessing a raptor; or
 - b. Taking wildlife by means of falconry.

The Wildlife Resources Commission may issue classes of falconry licenses necessary to participate in the federal/State permit system, require necessary examinations before issuing licenses or permits to engage in various authorized activities related to possession and maintenance of raptors and the sport of falconry, and regulate licenses as required by governing federal law and rules. To defray the costs of administering required examinations, the Wildlife Resources Commission may charge reasonable fees upon giving them. To meet minimum federal standards plus other State standards in the interests of conservation of wildlife resources, the Wildlife Resources Commission may impose all necessary controls, including those set out in the sections pertaining to collection licenses and captivity licenses, and may issue permits and require reports, but no collection license or

captivity license is needed in addition to the falconry license.

- (5) Migratory Waterfowl Hunting License – \$10.00. This license shall be issued to an individual resident or nonresident of the State and entitles the holder to take migratory waterfowl in accordance with applicable laws and regulations. The Wildlife Resources Commission may implement this license requirement through the sale of an official waterfowl stamp which may be a facsimile, in an appropriate size, of the waterfowl conservation print authorized by G.S. 113-270.2B. An amount not less than one-half of the annual proceeds from the sale of this license shall be used by the Commission for cooperative waterfowl habitat improvement projects through contracts with local waterfowl interests, with the remainder of the proceeds to be used by the Commission in its statewide programs for the conservation of waterfowl."

SECTION 4. G.S. 113-270.4 reads as rewritten:

"§ 113-270.4. *Hunting and fishing guide license.*

(a) No one may serve for hire as a hunting or fishing guide without having first procured a current and valid hunting and fishing guide license. This license is valid only for use by an individual meeting the criteria set by the Wildlife Resources Commission for issuance of the license subject to the limitations set forth in this section. Possession of the hunting and fishing guide license does not relieve the guide from meeting other applicable license requirements. ~~A nonresident may be licensed pursuant to this section only upon the same or similar terms that a North Carolina resident may be licensed in the nonresident's state of residence. The Wildlife Resources Commission may enter into such reciprocal agreements with other states as are necessary to obtain a hunting and fishing guide license in North Carolina subject to the foregoing provisions.~~

(b) ~~The hunting and fishing guide license is an annual license issued upon payment of ten dollars (\$10.00) beginning July 1 of each year running until the following June 30. licenses issued by the Wildlife Resources Commission are:~~

- (1) Resident Hunting and Fishing Guide License - \$10.00. This license is valid for use only by an individual resident of the State.
- (2) Nonresident Hunting and Fishing Guide License - \$100.00. This license is valid for use by a nonresident individual in the State.

(c) The Wildlife Resources Commission may by rule provide for the qualifications and duties of hunting and fishing guides. In

implementing this section, the Wildlife Resources Commission may delegate to the Executive Director and his subordinates administrative responsibilities concerning the selection and supervision of hunting and fishing guides, except that provisions relating to revocation of hunting and fishing guide licenses must be substantially set out in the rules of the Wildlife Resources Commission."

SECTION 5. G.S. 113-270.5(a) reads as rewritten:

"(a) Except as otherwise specifically provided by law, no one may take fur-bearing animals by trapping, or by any other authorized special method that preserves the pelt from injury, without first having procured a current and valid trapping license. When the trapping license is required, it serves in lieu of a hunting license in the taking of fur-bearing animals. If fur-bearing animals are taken as game, at the times and by the hunting methods that may be authorized, hunting license requirements apply. ~~All trapping licenses are annual licenses issued beginning July 1 each year running until the following June 30.~~"

SECTION 6. G.S. 113-272(a) reads as rewritten:

"(a) Except as provided in ~~G.S. 113-270.1D~~ G.S. 113-270.1D, G.S. 113-270.1C(b), and G.S. 113-271(a), no one may fish in public mountain trout waters without having first procured a current and valid special trout license in addition to a hook-and-line fishing license required in G.S. 113-271. When public mountain trout waters occur on game lands, this license entitles the holder to use game lands only for the purpose of access to public mountain trout waters to fish with hook and line."

SECTION 7. G.S. 113-272.2 reads as rewritten:

"§ 113-272.2. *Special device licenses.*

(a) Except as otherwise specifically provided by law, no one may fish in inland fishing waters with any special device without having first procured a current and valid special device license. Special devices are all devices used in fishing other than hook and line.

~~(b) All special device licenses are annual licenses issued beginning July 1 each year running until the following June 30.~~

(c) The special device licenses issued by the Wildlife Resources Commission are as follows:

- (1) Resident Noncommercial Special Device License – \$10.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with no more than three special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission

may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar (\$1.00) per tag issued, and require periodic catch data reports. Unless specifically prohibited, nongame fish lawfully taken under this license may be sold.

- (1a) Resident Commercial Special Device License – \$100.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual resident of the State. It authorizes the taking of nongame fish from inland fishing waters with four or more special devices authorized by the rules of the Wildlife Resources Commission for use in specified waters. The Wildlife Resources Commission may restrict the user of the license to specified registered equipment, require tagging of items of equipment, charge up to one dollar (\$1.00) per tag issued, and require periodic catch data reports. Nongame fish lawfully taken under this license may be sold.
- (2) Nonresident Noncommercial Special Device License – \$50.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid for use only by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1) of this subsection.
- (2a) Nonresident Commercial Special Device License – ~~\$100.00 or the amount the nonresident's state of residence charges a North Carolina resident to engage in the activity authorized by this license, whichever is higher.~~ \$200.00. Except as rules of the Wildlife Resources Commission provide for use of equipment by more than one person, this license is valid only for use by an individual within the State. It is otherwise subject to the terms and conditions set out in subdivision (1a) of this subsection.
- (3), (4) Repealed by Session Laws 1987, c. 156, s. 11.
- (d) Repealed by Session Laws 1995, c. 36, s. 2."

SECTION 8. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 9th day of May, 2001.

Became law upon approval of the Governor at 12:43 p.m. on the 18th day of May, 2001.

S.B. 221

SESSION LAW 2001-92

AN ACT TO EXEMPT EMPLOYEES OF A PUBLIC HEALTH AUTHORITY FROM CHAPTER 126 OF THE GENERAL STATUTES AND TO MAKE CONFORMING CHANGES TO CHAPTER 126.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1B of Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-45.12. Personnel.

Employees under the supervision of the public health authority director are employees of the public health authority and shall be exempt from Chapter 126 of the General Statutes, unless otherwise provided in this Part."

SECTION 2. G.S. 126-5(a) reads as rewritten:

"§ 126-5. Employees subject to Chapter; exemptions.

(a) The provisions of this Chapter shall apply to:

- (1) All State employees not herein exempt, and
- (2) To all employees of the following local entities:
 - a. Area mental health, developmental disabilities, and substance abuse authorities.
 - b. Local social services departments.
 - c. ~~Local public health departments.~~ County health departments and district health departments.
 - d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

- (3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

SECTION 3. G.S. 130A-45.02(a) reads as rewritten:

"(a) A public health authority may be created ~~whenever a county board of commissioners finds and adopts a resolution finding upon joint resolution of the county board of commissioners and the local board of health~~ that it is in the interest of the public health and welfare to create a public health authority to provide public health services as required under G.S. 130A-34."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of May, 2001.

Became law upon approval of the Governor at 12:44 p.m. on the 18th day of May, 2001.

S.B. 30**SESSION LAW 2001-93****AN ACT TO MAKE IT UNLAWFUL TO TAKE SEA OATS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-129 reads as rewritten:

"§ 14-129. *Taking, etc., of certain wild plants from land of another.*

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*), Gentians (*Gentiana*), Ginseng (*Panax quinquefolium*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*), Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*), Orchids (all species), Pitcher Plant (*Sarracenia*), ~~Sea Oats (*Uniola paniculata*)~~, Shooting Star (*Dodecatheon meadia*), Oconee Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas (Greens-Lycodium), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain."

SECTION 2. Article 22 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-129.2. *Unlawful to take sea oats.*

(a) It is unlawful to dig up, pull up, or take from the land of another or from any public domain the whole or any part of any Sea Oats (*Uniola paniculata*) without the consent of the owner of that land.

(b) Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor and shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) for each offense."

SECTION 3. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:44 p.m. on the 18th day of May, 2001.

S.B. 538**SESSION LAW 2001-94**

AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT TO ALLOW MORE FLEXIBILITY IN CREATING TWO-COUNTY INDUSTRIAL PARKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.3(d) reads as rewritten:

"(d) Exception for Two-County Industrial Park. – For the purpose of this Article, an eligible two-county industrial park ~~that meets all of the following conditions~~ has the lower enterprise tier designation of the designations of the two counties in which it is ~~located~~:located if it meets all of the following conditions:

- (1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.
- (2) At least one-third of the park is located in the county with the lower tier designation.
- (3) It is owned by the two counties or a joint agency of the counties.
- (4) The county with the lower tier designation contributed at least the lesser of one-half of the cost of developing the park-park or a proportion of the cost of developing the park equal to the proportion of land in the park located in the county with the lower tier designation."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2001.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:44 p.m. on the 18th day of May, 2001.

H.B. 274 SESSION LAW 2001-95

AN ACT TO AMEND CERTAIN STATUTORY TERMS AND REFERENCES RELATED TO THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1501(26) is repealed.

SECTION 2. G.S. 7B-1501 is amended by adding a new subdivision to read:

"(29) Youth development center. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department."

SECTION 3. G.S. 143B-515(21) is repealed.

SECTION 4. G.S. 143B-515 is amended by adding a new subdivision to read:

"(23) Youth development center. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department."

SECTION 5. The Revisor of Statutes shall substitute the term "youth development center" for the term "training school" everywhere that term appears in Chapter 7B of the General Statutes, G.S. 115D-1, 143B-403.1, 143B-516, and 143B-543.

SECTION 6. G.S. 143B-478 reads as rewritten:

"§ 143B-478. *Governor's Crime Commission – creation; composition; terms; meetings, etc.*

(a) There is hereby created the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Commission shall consist of 36 voting members and six nonvoting members. The composition of the Commission shall be as follows:

(1) The voting members shall be:

- a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction;

- b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;
 - c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), six citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;
 - d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Assistant ~~Director~~ Secretary of the ~~Intervention/Prevention Division~~ of the Department of Juvenile Justice and Delinquency Prevention, the Assistant ~~Director~~ Secretary of the ~~Detention Division~~ Youth Development of the Department of Juvenile Justice and Delinquency Prevention, the Director of the Division of Prisons and the Director of the Division of Adult Probation and Paroles.
- (b) The membership of the Commission shall be selected as follows:
- (1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of Adult Probation and Parole, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Assistant ~~Director~~ Secretary of the ~~Intervention/Prevention Division~~ of the Department of Juvenile Justice and Delinquency Prevention, the

~~Assistant Director~~ Secretary of the Detention Division Youth Development of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.

- (2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the six citizens, the three county commissioners or county officials, the three mayors or municipal officials.
- (3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.
- (4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by section 206 of the Crime Control Act of 1976 (Public Law 94-503).
- (5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their

respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business."

SECTION 7. G.S. 143B-264 reads as rewritten:
 "§ 143B-264. *Department of Correction – organization.*

The Department of Correction shall be organized initially to include the Post-Release Supervision and Parole Commission, the Board of Correction, the Division of Prisons, ~~the Division of Youth Development,~~ the Division of Adult Probation and Parole, and such other divisions as may be established under the provisions of the Executive Organization Act of 1973.

The Department shall establish a Substance Abuse Program. All substance abuse programs established or in existence shall be administered by the Department of Correction under the Substance Abuse Program."

SECTION 8. G.S. 148-26(f) reads as rewritten:
 "(f) Adult inmates of the State prison system shall be prohibited from working at or being on the premises of any schools or institutions operated or administered by the ~~State Division of Youth Development,~~ Youth Development Division of the Department of Juvenile Justice and Delinquency Prevention."

SECTION 9. This act is effective when it becomes law.
 In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:45 p.m. on the 18th day of May, 2001.

H.B. 902**SESSION LAW 2001-96**

AN ACT TO ADD AN APPOINTEE OF THE COMMISSION ON INDIGENT DEFENSE SERVICES TO THE STATE JUDICIAL COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-409 reads as rewritten:

"§ 7A-409. *Composition of State Judicial Council.*

(a) The State Judicial Council shall consist of ~~17~~18 members as follows:

- (1) The Chief Justice, who chairs the Council;
- (2) The Chief Judge of the Court of Appeals;
- (3) A district attorney chosen by the Conference of District Attorneys;
- (4) A public defender chosen by the public defenders;
- (5) A superior court judge chosen by the Conference of Superior Court Judges;
- (6) A district court judge chosen by the Conference of District Court Judges;
- (7) A clerk of superior court chosen by the Association of Clerks of Superior Court of North Carolina;
- (8) A magistrate appointed by the North Carolina Magistrates' Association;
- (9) An attorney appointed by the Council of the State Bar;
- (10) One attorney and one nonattorney appointed by the Chief Justice;
- (11) One nonattorney and one attorney appointed by the Governor;
- (12) One nonattorney and one attorney appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; ~~and~~
- (13) One nonattorney and one attorney appointed by the General Assembly upon the recommendation of the President Pro Tempore of the ~~Senate~~Senate; ~~and~~
- (14) One member appointed by the Commission on Indigent Defense Services.

(b) The Chief Justice and the Chief Judge shall be members of the State Judicial Council during their terms in those judicial offices. The terms of the other members selected initially for the State Judicial Council shall be as follows:

- (1) One year. – The district court judge, the attorney appointed upon the recommendation of the President Pro Tempore of the Senate, and the attorney appointed upon

the recommendation of the Speaker of the House of Representatives.

- (2) Two years. – The district attorney, the magistrate, the nonattorney appointed by the Governor, and the nonattorney appointed by the Chief Justice.
- (3) Three years. – The public defender, the attorney appointed by the Council of the State Bar, the nonattorney appointed upon the recommendation of the President Pro Tempore of the Senate, and the nonattorney appointed upon the recommendation of the Speaker of the House of Representatives.
- (4) Four years. – The superior court judge, the clerk of superior court, the attorney appointed by the Governor, ~~and the attorney appointed by the Chief Justice.~~ Justice, and the member appointed by the Commission on Indigent Defense Services.

After these initial terms, the members of the State Judicial Council shall serve terms of four years. All terms of members shall begin on January 1 and end on December 31. No member may serve more than two consecutive full terms. Any vacancy on the Council shall be filled by a person appointed by the official or entity who appointed the person vacating the position.

(c) If an official or entity is authorized to appoint more than one member of the State Judicial Council, the members appointed by that official or entity must reside in different judicial districts.

(d) No incumbent member of the General Assembly or incumbent judicial official, other than the ones specifically identified by office in subsection (a) of this section, may serve on the State Judicial Council.

(e) The appointing authorities shall confer with each other and attempt to arrange their appointments so that the members of the State Judicial Council fairly represent each area of the State, both genders, and each major racial group."

SECTION 2. This act becomes effective July 1, 2001, and the term of the member added to the Judicial Council by this act begins on that date.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:45 p.m. on the 18th day of May, 2001.

H.B. 15**SESSION LAW 2001-97**

AN ACT TO AMEND THE DEFINITION OF A SCHOOL SYSTEM AND AMEND THE RECOMMENDED SCHOOL

CLASSIFICATIONS BY ADDING THE DEFINITION OF THE TERM "MIDDLE SCHOOL".

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-74 reads as rewritten:

"§ 115C-74. *School system defined.*

The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. Schools within the system may be organized in the discretion of the local board of education. ~~The system may be organized in one or two ways as follows: The first eight grades shall be styled the elementary school and the remaining four grades, the high school; or if more practicable, a junior high school may be formed by combining the first year of high school with both the seventh and eighth grades or with the eighth grade alone, and a senior high school which shall comprise the last three years of high school work. For purposes of Title V of the National Defense Education Act of 1958 (Public Law 85 864) the term "secondary school" shall be applicable to grades seven through 12.~~

SECTION 2. G.S. 115C-75 reads as rewritten:

"§ 115C-75. *Recommended school classification.*

(a) The different types of public schools are classified and defined as follows:

- (1) An "elementary school" is a school ~~which embraces a part or all of the eight elementary grades and which that~~ includes all or part of the first through eighth grade and that may have a kindergarten or other early childhood program.
- (2) A "high school" is a school ~~which embraces a high school department above the elementary grades and which that~~ includes all or part of grades nine through 12 and that offers at least the minimum high school course of study prescribed by the State Board of Education.
- (3) A ~~"union school" is a school which embraces both elementary and high school grades.~~
- (4) A "junior high school" is a school ~~which embraces not more than the first year of high school with not more than the upper two elementary grades.~~ that includes all or part of grades seven through nine.
- (4a) A "middle school" is a school that includes all or part of grades six through nine.
- (5) A "senior high school" is a school ~~which embraces that~~ includes the tenth, eleventh and twelfth grades.

(6) A "union school" is a school that includes elementary, middle, and high school grades.

(b) The school classifications in subsection (a) of this section are recommendations only and do not prohibit local boards of education from classifying schools in other ways."

SECTION 3. G.S. 115C-239 reads as rewritten:
 "§ 115C-239. *Authority of local boards of education.*

Each local board of education is hereby authorized to acquire, own, lease, contract and operate school buses for the transportation of pupils enrolled in the public schools of such local school administrative unit, and of persons employed in the operation of such schools in accordance with rules and regulations adopted by the State Board of Education under the authority of G.S. 115C-12(17) and within the limitations set forth in G.S. 115C-239 to 115C-246, 115C-248 to 115C-254 and 115C-256 to 115C-259. Boards of education which own and operate school buses for the transportation of pupils shall have authority to establish separate systems of transportation for pupils attending elementary schools and for pupils attending ~~junior or~~ middle schools, junior high schools, or senior high schools. Each such board may operate such buses to and from such of the schools within the local school administrative unit, and in such number, as the board shall from time to time find practicable and appropriate for the safe, orderly and efficient transportation of such pupils and employees to such schools."

SECTION 4. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:46 p.m. on the 18th day of May, 2001.

S.B. 463

SESSION LAW 2001-98

AN ACT TO AMEND THE LAWS RELATING TO THE PRACTICE OF NURSING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-171.20 reads as rewritten:
 "§ 90-171.20. *Definitions.*

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

- (1) "Board" means the North Carolina Board of Nursing.
- (2) "Health care provider" means any licensed health care professional and any agent or employee of any health care institution, health care insurer, health care professional school, or a member of any allied health profession. For purposes of this Article, a person

enrolled in a program ~~to prepare him~~ that prepares the person to be a licensed health care professional or an allied health professional shall be deemed a health care provider.

- (3) "License" means a permit issued by the Board to practice nursing as a registered nurse or as a licensed practical nurse, including a renewal thereof.
- (4) "Nursing" is a dynamic discipline which includes the assessing, caring, counseling, teaching, referring and implementing of prescribed treatment in the maintenance of health, prevention and management of illness, injury, disability or the achievement of a dignified death. It is ministering to; assisting; and sustained, vigilant, and continuous care of those acutely or chronically ill; supervising patients during convalescence and rehabilitation; the supportive and restorative care given to maintain the optimum health level of ~~individuals~~ individuals, groups, and communities; the supervision, teaching, and evaluation of those who perform or are preparing to perform these functions; and the administration of nursing programs and nursing services.
- (5) "Nursing program" means any educational program in North Carolina offering to prepare persons to meet the educational requirements for licensure under this Article.
- (6) "Person" means an individual, corporation, partnership, association, unit of government, or other legal entity.
- (7) The "practice of nursing by a registered nurse" consists of the following ~~nine~~ 10 components:
 - a. Assessing the patient's physical and mental health, including the patient's reaction to illnesses and treatment ~~regimens;~~ regimens.
 - b. Recording and reporting the results of the nursing ~~assessment;~~ assessment.
 - c. Planning, initiating, delivering, and evaluating appropriate nursing ~~acts;~~ acts.
 - d. Teaching, assigning, delegating to or supervising other personnel in implementing the treatment ~~regimen;~~ regimen.
 - e. Collaborating with other health care providers in determining the appropriate health care for a patient but, subject to the provisions of G.S. 90-18.2, not prescribing a medical treatment regimen or making a medical diagnosis, except under supervision of a licensed ~~physician;~~ physician.

- f. Implementing the treatment and pharmaceutical regimen prescribed by any person authorized by State law to prescribe ~~such a regimen;~~the regimen.
 - g. Providing teaching and counseling about the patient's ~~health care;~~health.
 - h. Reporting and recording the plan for care, nursing care given, and the patient's response to that ~~care;~~and care.
 - i. Supervising, teaching, and evaluating those who perform or are preparing to perform nursing functions and administering nursing programs and nursing services.
 - j. Providing for the maintenance of safe and effective nursing care, whether rendered directly or indirectly.
- (8) The "practice of nursing by a licensed practical nurse" consists of the following ~~five-seven~~ components:
- a. Participating in ~~assessing the patient's~~the assessment of the patient's physical and mental ~~health—health,~~ including the patient's reaction to illnesses and treatment ~~regimens;~~regimens.
 - b. Recording and reporting the results of the nursing ~~assessment;~~assessment.
 - c. Participating in implementing the health care plan developed by the registered nurse and/or prescribed by any person authorized by State law to prescribe such a plan, by performing tasks assigned or delegated by and performed under the supervision or under orders or directions of a registered nurse, physician licensed to practice medicine, dentist, or other person authorized by State law to provide ~~such supervision;~~the supervision.
 - c1. Assigning or delegating nursing interventions to other qualified personnel under the supervision of the registered nurse.
 - d. ~~Reinforcing~~Participating in the teaching and counseling of patients as assigned by a registered nurse, ~~physician—physician,~~ or other qualified professional licensed to practice ~~medicine in North Carolina, or dentist; and~~Carolina.
 - e. Reporting and recording the nursing care rendered and the patient's response to that care.
 - f. Maintaining safe and effective nursing care, whether rendered directly or indirectly."

SECTION 2. G.S. 90-171.21(d) reads as rewritten:

"(d) Qualifications. – Three of the registered nurse members shall hold positions with primary responsibility in nursing education and shall hold baccalaureate or advanced degrees. Six shall hold positions with primary responsibility in providing nursing care to patients. Of the six registered nurse members with primary responsibility in providing nursing care to patients, two shall be employed by a hospital and at least one shall be a hospital nursing service director; one shall be employed by a physician licensed to practice medicine in North Carolina and engaged in the private practice of medicine; one shall be employed by a skilled or intermediate care facility; one shall be ~~a registered nurse, approved to perform medical acts;~~either a nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist; and one shall be a community health nurse. If no nurse is nominated in one of the categories, the position shall be an at-large registered nursing position.

- (1) All registered nurse members shall meet the following criteria:
 - a. Hold a current license to practice as a registered nurse in North ~~Carolina;~~Carolina.
 - b. Have at least five years' experience in nursing practice, nursing administration, and/or nursing ~~education;~~andeducation.
 - c. Have been engaged in nursing practice, nursing administration, or nursing education for at least three years immediately preceding election.
- (2) Licensed practical nurse members shall meet the following criteria:
 - a. Hold a current license to practice as a licensed practical nurse in North ~~Carolina;~~Carolina.
 - b. Be a graduate of a board-approved program for the preparation of practical ~~nurses;~~nurses.
 - c. Have at least five years' experience as a licensed practical ~~nurse;~~andnurse.
 - d. Have been engaged in practical nursing for at least three years immediately preceding election.
- (3) A public member shall not be a health care provider nor the spouse of a health care provider. Public members shall reasonably represent the population of the State.
- (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:
 - a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.

- b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.
- c. Practices in a manner consistent with rules adopted by the Board and other applicable law."

SECTION 3. G.S. 90-171.23(b) reads as rewritten:

"(b) Duties, powers. The Board is empowered to:

- (1) Administer this ~~Article;~~Article.
- (2) Issue its interpretations of this ~~Article;~~Article.
- (3) Adopt, amend or repeal rules and regulations as may be necessary to carry out the provisions of this ~~Article;~~Article.
- (4) Establish qualifications of, employ, and set the compensation of an executive officer who shall be a registered nurse and who shall not be a member of the ~~Board;~~Board.
- (5) Employ and fix the compensation of other personnel that the Board determines are necessary to carry into effect this Article and incur other expenses necessary to effectuate this ~~Article;~~Article.
- (6) Examine, license, and renew the licenses of duly qualified applicants for ~~licensure;~~licensure.
- (7) Cause the prosecution of all persons violating this ~~Article;~~Article.
- (8) Prescribe standards to be met by the students, and to pertain to faculty, curricula, facilities, resources, and administration for any nursing program as provided in ~~G.S. 90-171.38;~~G.S. 90-171.38.
- (9) Survey all nursing programs at least every five years or more often as deemed necessary by the Board or program ~~director;~~director.
- (10) Grant or deny approval for nursing programs as provided in ~~G.S. 90-171.39;~~G.S. 90-171.39.
- (11) Upon request, grant or deny approval of continuing education programs for nurses as provided in ~~G.S. 90-171.42;~~G.S. 90-171.42.
- (12) Keep a record of all proceedings and make available to the Governor and licensees an annual summary of all actions ~~taken;~~taken.
- (13) Appoint, as necessary, advisory committees which may include persons other than Board members to deal with any issue under ~~study;~~study.
- (14) Appoint and maintain a subcommittee of the Board to work jointly with the subcommittee of the North

Carolina Medical Board to develop rules and regulations to govern the performance of medical acts by registered nurses and to determine reasonable fees to accompany an application for approval or renewal of such approval as provided in G.S. 90-6. The fees and rules developed by this subcommittee shall govern the performance of medical acts by registered nurses and shall become effective when they have been adopted by both ~~Boards;~~Boards.

- (15) Recommend and collect such fees for licensure, license renewal, examinations and reexaminations as it deems necessary for fulfilling the purposes of this ~~Article;~~Article.
- (16) Adopt a seal containing the name of the Board for use on all certificates, licenses, and official reports issued by it.
- (17) Enter into interstate compacts to facilitate the practice and regulation of nursing.
- (18) Establish programs for aiding in the recovery and rehabilitation of nurses who experience chemical addiction or abuse or mental or physical disabilities and programs for monitoring such nurses for safe practice."

SECTION 4. G.S. 90-171.37 reads as rewritten:

"§ 90-171.37. *Revocation, discipline, suspension, probation, or denial of licensure.*

The Board shall initiate an investigation upon receipt of information about any practice that might violate any provision of this Article or any rule or regulation promulgated by the Board. In accordance with the provisions of Chapter 150B of the General Statutes, ~~the Board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license to practice nursing in North Carolina or deny any application for licensure if the Board determines that the nurse or applicant;~~the Board shall have the power and authority to: (i) refuse to issue a license to practice nursing; (ii) refuse to issue a certificate of renewal of a license to practice nursing; (iii) revoke or suspend a license to practice nursing; and (iv) invoke other such disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that the applicant or licensee;

- (1) Has given false information or has withheld material information from the Board in procuring or attempting to procure a license to practice ~~nursing;~~nursing.
- (2) Has been convicted of or pleaded guilty or nolo contendere to any crime which indicates that the nurse is unfit or incompetent to practice nursing or that the nurse has deceived or defrauded the ~~public;~~public.

- (3) Has a mental or physical disability or uses any drug to a degree that interferes with his or her fitness to practice ~~nursing~~; nursing.
- (4) Engages in conduct that endangers the public ~~health~~; health.
- (5) Is unfit or incompetent to practice nursing by reason of deliberate or negligent acts or omissions regardless of whether actual injury to the patient is ~~established~~; established.
- (6) Engages in conduct that deceives, defrauds, or harms the public in the course of professional activities or ~~services~~; services.
- (7) Has violated any provision of this ~~Article~~; or Article.
- (8) Has willfully violated any rules enacted by the Board.

The Board may take any of the actions specified above in this section when a registered nurse approved to perform medical acts has violated rules governing the performance of medical acts by a registered nurse; provided this shall not interfere with the authority of the North Carolina Medical Board to enforce rules and regulations governing the performance of medical acts by a registered nurse.

The Board may reinstate a revoked ~~license~~ license, ~~revoke censure or probative terms~~, or remove other licensure restrictions when it finds that the reasons for ~~revocation~~ revocation, ~~censure or probative terms~~, or ~~restriction~~ other licensure restrictions no longer exist and that the nurse or applicant can reasonably be expected to safely and properly practice nursing."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

Became law upon approval of the Governor at 12:46 p.m. on the 18th day of May, 2001.

S.B. 401

SESSION LAW 2001-99

AN ACT TO ASSIST FORSYTH COUNTY AND STANLY COUNTY WITH EXPEDITING THE CONSTRUCTION OF PUBLIC SCHOOL FACILITIES.

Whereas, Stanly County is faced with the critical need for school facilities created by an unusual growth in student population; and

Whereas, the Stanly County Board of Education and the Board of Commissioners of Stanly County have jointly approved and funded a School Facilities 2000 building program; and

Whereas, the Stanly County Board of Education, faced with the critical need for school facilities, has implemented a model facilities plan using a repetitive design approach to design school facilities that are educationally effective and economically efficient; and

Whereas, the Stanly County Board of Education desires to explore alternative approaches to expedite the construction of school facilities that could assist in meeting the critical need for school facilities; and

Whereas, the General Assembly reaffirms its commitment to enhance public education and to encourage innovation by public officials in meeting the critical need for school facilities; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, the Board of Commissioners and the Board of Education may select and negotiate with single-prime or separate-prime contractors to build school buildings using the repetitive design approach if the Board of Commissioners and the Board of Education determine that using the selection and negotiations processes instead of competitive bidding will expedite the project, create an effective construction team, and control costs, quality, and schedule.

SECTION 2. This act applies to the Counties of Forsyth and Stanly only.

SECTION 3. This act is effective when it becomes law and expires on June 30, 2006.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law on the date it was ratified.

S.B. 617

SESSION LAW 2001-100

**AN ACT EXTENDING THE TERMS OF OFFICE FOR THE
MAYOR AND TOWN COMMISSIONERS OF THE TOWN OF
STOVALL AND STAGGERING THOSE TERMS.**

The General Assembly of North Carolina enacts:

SECTION 1. Sections 2.2 and 2.3 of the Charter of the Town of Stovall, being Chapter 596 of the 1979 Session Laws, read as rewritten:

"Section 2.2. Board of Commissioners; Composition; Terms of Office. The Board of Commissioners shall be composed of five members, each of whom shall be elected for terms of ~~two~~ four years

in the manner provided by Article III of this Charter; provided, they shall serve until their successors are elected and qualified.

"Section 2.3. Election of the Mayor; Term of Office; Duties. The Mayor shall be elected directly by voters of the Town in the manner provided by Article III of this Charter for a term of ~~two~~ four years; provided, the Mayor shall serve until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board of Commissioners. He shall have the right to vote only if there are equal numbers of votes in the affirmative and the negative on any matter before the Board. The Mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town."

SECTION 2. Section 3.2 of the Charter of the Town of Stovall, being Chapter 596 of the 1979 Session Laws, reads as rewritten:

"Section 3.2. Election of the Board of Commissioners; Election of Mayor. ~~At the regular municipal election in 1979 and every two years thereafter, there shall be elected a Mayor and five Commissioners to fill the seats of the Mayor and Commissioners whose terms are then expiring. The Commissioners and Mayor shall be elected to four-year terms by the qualified voters of the entire Town, except as otherwise provided in this section. In 2001, and quadrennially thereafter, a Mayor shall be elected to a four-year term. In 2001, for the position of Commissioner, the two persons receiving the highest numbers of votes shall be elected to four-year terms, and the three persons receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2005, and quadrennially thereafter, two persons shall be elected to four-year terms.~~"

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law on the date it was ratified.

S.B. 651

SESSION LAW 2001-101

AN ACT TO PROVIDE FOR THE MEMBERSHIP AND METHOD OF APPOINTING THE MEMBERS OF THE MOUNT AIRY PLANNING BOARD AND THE ZONING BOARD OF ADJUSTMENT OF AND FOR THE CITY OF MOUNT AIRY UPON THE ADOPTION OF AN ORDINANCE BY THE CITY OF MOUNT AIRY EXTENDING ITS JURISDICTION ONE MILE BEYOND ITS CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The City of Mount Airy shall create a Planning Board and a Zoning Board of Adjustment pursuant to Article 19 of Chapter 160A of the General Statutes upon extending its extraterritorial jurisdiction one mile beyond the corporate limits by ordinance.

SECTION 1.(b) The Planning Board shall consist of nine members. Five members of the Planning Board shall be appointed by the Board of Commissioners of the City of Mount Airy, and four of the members shall be appointed by the Board of Commissioners of Surry County.

SECTION 1.(c) For the initial appointments to the Planning Board, the City of Mount Airy shall appoint three members for a four-year term each and two members for a two-year term each, and Surry County shall appoint two members for a four-year term each and two members for a two-year term each. Each successive appointment of members to the Planning Board shall be for a term of four years.

SECTION 1.(d) The Zoning Board of Adjustment shall consist of nine regular members and two alternate members. Five members of the Zoning Board of Adjustment shall be appointed by the Board of Commissioners of the City of Mount Airy, and four members shall be appointed by the Board of Commissioners of Surry County. One alternate member shall be appointed by the City of Mount Airy, and one alternate member shall be appointed by Surry County. Members and alternate members may be reappointed.

SECTION 1.(e) For the initial appointments of regular members to the Zoning Board of Adjustment, the City of Mount Airy shall appoint three members for a four-year term each and two members for a two-year term each, and Surry County shall appoint two members for a four-year term each and two members for a two-year term each. Initially, each alternate member of the Zoning Board of Adjustment shall be appointed for a two-year term. Each successive appointment of members, regular or alternate, to the Zoning Board of Adjustment shall be for a term of four years.

SECTION 2. This act applies to the City of Mount Airy and to Surry County only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law on the date it was ratified.

H.B. 504

SESSION LAW 2001-102

AN ACT ALLOWING THE TOWN OF MATTHEWS TO LEASE
THE 1874 MATTHEWS DEPOT FOR A TERM OF MORE

THAN TEN YEARS AND EXTENDING THE EXPIRATION DATE FOR THE COMPLETION OF CERTAIN REAL ESTATE TRANSACTIONS BY MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 160A-272, the Town of Matthews may lease the property known as the 1874 Matthews Depot for a term of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

SECTION 2. Section 3 of S.L. 2000-65 reads as rewritten:

"Section 3. This act is effective when it becomes law, but expires the earlier of ~~June 30, 2002~~, June 30, 2003, or the date on which all property described in Section 2 of this act is sold, exchanged, or transferred."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law on the date it was ratified.

H.B. 671**SESSION LAW 2001-103**

AN ACT ANNEXING A CERTAIN DESCRIBED AREA TO THE CORPORATE LIMITS OF THE TOWN OF MATTHEWS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described area is added to the corporate limits of the Town of Matthews:

BEGINNING at a point located in the westerly right-of-way boundary line of I-485, said point being also the most northeasterly corner of the property belonging to the Town of Matthews and recorded in Deed Book 9891 at Page 181 in the Mecklenburg County Registry; thence N 39°56'29" W 47.94 feet to a point; thence along the arc of a curve to the left with a radius of 581.78 feet for an arc distance of 90.40 feet to a point; thence N 48°51'05" W 256.67 feet to a point; thence along the arc of a curve to the left with a radius of 426.47 feet for an arc distance of 227.77 feet to a point; thence N 79°40'25" W 285.76 feet to a point; thence along the arc of a curve to the right with a radius of 2,173.60 feet for an arc distance of 323.88 feet to a point; thence N 71°08'10" W 302.13 feet to a point; thence along the arc of a curve to the left with a radius of 3,500.60 feet for an arc distance of 158.61 feet to a point; thence N 73°43'56" W 178.86 feet to a point; thence along the arc of a curve to the right with a radius of 1,929.71

feet for an arc distance of 101.55 feet to a point; thence N 70°43'01" W 367.71 feet to a point; thence along the arc of a curve to the right with a radius of 739.89 feet for an arc distance of 107.92 feet to a point; thence S 53°31'22" W 17.74 feet to a point; thence N 51°28'41" W 36.48 feet to a point; thence S 59°57'54" W 41.59 feet to a point; thence N 51°08'52" W 29.84 feet to a point; thence S 53°43'14" W 33.79 feet to a point on the northerly boundary of Tank Town Road (S.R. 3453); thence along the arc of a curve to the left with a radius of 679.89 feet for an arc distance of 70.02 feet to a point; thence S 70°43'01" E 367.71 feet to a point; thence along the arc of a curve to the left with a radius of 1,869.71 feet for an arc distance of 98.39 feet to a point; thence S 73°43'56" E 178.86 feet to a point; thence along the arc of a curve to the right with a radius of 3,560.60 feet for an arc distance of 161.33 feet to a point; thence S 71°08'10" E 302.13 feet to a point; thence along the arc of a curve to the left with a radius of 2,113.60 feet for an arc distance of 314.94 feet to a point; thence S 79°40'25" E 357.83 feet to a point; thence along the arc of a curve to the right with a radius of 486.47 feet for an arc distance of 259.81 feet to a point; thence S 48°51'05" E 256.67 feet to a point; thence along the arc of a curve to the right with a radius of 641.78 feet for an arc distance of 99.72 feet to a point; thence S 40°45'13" E 64.99 feet to a point on the westerly right-of-way line of I-485; thence along the said right-of-way line of I-485 S 65°41'13" W 63.26 feet to the point and place of BEGINNING, containing 3.52 acres and being property surveyed by Sam Malone & Associates, RLS and dated February 20, 2001.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law on the date it was ratified.

H.B. 866

SESSION LAW 2001-104

AN ACT AUTHORIZING THE CITY OF GREENVILLE TO REQUIRE OWNERS OF RENTAL PROPERTY WITHIN THE CITY TO AUTHORIZE AN AGENT TO ACCEPT SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. The City Council may, by ordinance, require that each owner of rental property within the city authorize a person residing in Pitt County to serve as the owner's agent for the purpose of accepting service of process in an action involving a violation of an ordinance adopted under Part 5 or 6 of Article 19 of Chapter 160A of the General Statutes. The owner shall provide, on a

form supplied by the city clerk, the authorized agent's name and address. The owner shall notify the city clerk of any changes in the information provided not more than 10 days after the changes have occurred. Nothing in this section requires an owner to designate an agent to accept service of process where the owner of the rental property resides within Pitt County.

SECTION 2. This act applies to the City of Greenville only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law on the date it was ratified.

H.B. 877

SESSION LAW 2001-105

AN ACT ADDING CERTAIN DESCRIBED AREAS TO THE CORPORATE LIMITS OF THE CITY OF BREVARD AND PROVIDING THAT THE AREAS SHALL NOT BE CONSIDERED IN CALCULATING THE MAXIMUM AMOUNT OF SATELLITE ANNEXATIONS ALLOWED FOR THAT CITY.

The General Assembly of North Carolina enacts:

SECTION 1. The following described areas are added to the corporate limits of the City of Brevard:

Tract 1

BEGINNING on a stake in the center of the paving of the south-bound lane of travel on U.S. Highway No. 64, common corner of property of Olin Mathieson Chemical Corporation, formerly Ecusta Paper Corporation, and W. B. Gibbs and wife, Jimmie Frances Gibbs, and runs thence with the line of property of said Olin Mathieson Chemical Corporation, N 71 deg. 40 min. W 197 feet to a stake, corner of property of said Olin Mathieson Chemical Corporation; thence still with the line of the property of said Olin Mathieson Chemical Corporation, N 21 deg. E 301.2 feet to a stake in the center of U.S. Highway No. 276; thence with the center of said highway, S 74 deg. E 342 feet to a stake at the point of intersection of the center line of said U.S. Highway No. 276 with the center line of the paving on the south-bound lane of travel of U.S. Highway 64; thence with the center line of the paving on the south-bound lane of travel of U.S. Highway No. 64, S 47 deg. W 353 feet to the BEGINNING.

Tract 2

BEGINNING at an iron pin, corner of the subject property and being a point in the line of Gaylon, as is described in Deed Book 336, page 223, of the Transylvania County Registry, and being North 17 deg. 39 min. 16 sec. East 534.59 feet from N.C. Grid Monument, "Norwalk," running thence North 04 deg. 10 min. 24 sec. West 17.88 feet with Gaylon's line; thence North 02 deg. 38 min. 40 sec. West 200.80 feet to an iron pin in Penland's corner; thence North 02 deg. 33 min. 30 sec. West 532.24 feet to an iron pin in the center line of the old railroad, being a point in the common boundary of Doctow, as described in Deed Book 420, page 280, of the Transylvania County Registry; thence North 58 deg. 58 min. 14 sec. East 468.50 feet with the center of the old railroad to an iron pin in the line of Habitat for Humanity, as described in Deed Book 370, page 670, of the Transylvania County Registry; thence continuing with the center line of a creek the following courses and distances: South 00 deg. 01 min. 37 sec. West 37.51 feet; thence South 58 deg. 26 min. 19 sec. East 32.56 feet; thence South 05 deg. 14 min. 54 sec. West 43.03 feet; thence South 16 deg. 31 min. 38 sec. West 24.60 feet; thence South 54 deg. 18 min. 33 sec. East 19.16 feet; thence North 73 deg. 19 min. 24 sec. East 24.26 feet; thence South 20 deg. 49 min. 37 sec. West 36.17 feet; thence South 51 deg. 47 min. 23 sec. East 21.00 feet; thence South 52 deg. 00 min. 34 sec. East 29.31 feet; thence South 70 deg. 26 min. 17 sec. East 25.19 feet; thence North 87 deg. 10 min. 47 sec. East 27.15 feet; thence South 01 deg. 04 min. 05 sec. East 24.43 feet; thence South 11 deg. 12 min. 49 sec. East 53.89 feet; thence South 56 deg. 07 min. 59 sec. East 41.48 feet; thence leaving the said creek, South 70 deg. 29 min. 47 sec. West 212.34 feet to an iron pin, the corner of FFC Limited Partnership property as described in Deed Book 373, page 538 of the Transylvania County Registry; thence South 71 deg. 31 min. 08 sec. West 222.21 feet to an iron pin, being a corner of the John Brinkley property; thence South 01 deg. 51 min. 25 sec. East 49.79 feet to an iron pin, the corner of the Koleman property, thence South 01 deg. 39 min. 00 sec. East 276.80 feet to an iron pin, the common corner of Haberle and Shotwell properties; thence along Shotwell's line, South 01 deg. 19 min. 28 sec. East 74.66 feet to an iron pin, the corner of the Scott property; thence with Scott's line, South 02 deg. 58 min. 27 sec. West 83.94 feet to an iron pin; thence South 34 deg. 12 min. 20 sec. West 74.47 feet to an iron pin; thence South 86 deg. 18 min. 00 sec. West 119.19 feet to the point of BEGINNING.

Being 5.624 acres, more or less, as surveyed by Clarence A. Jenkins, PLS, for the City of Brevard, on March 27, 2001.

Tract 3

BEGINNING at the intersection of Probart Street (NCSR 1348) and Andante Lane (a private road owned and maintained by Brevard Music Center), being the corner of Brevard Music Center, Inc., the Transylvania Association for Disabled Citizens, and being along the line of Ray Holcombe, the following calls: North 4 deg. 00 min. 00 sec. East 317.00 feet, North 42 deg. 30 min. 00 sec. East 99.00 feet, North 15 deg. 00 min. 00 sec. East 66.00 feet, North 49 deg. 30 min. 00 sec. East 165.00 feet, North 75 deg. 00 min. 00 sec. East 132.00 feet and North 3 deg. 30 min. 00 sec. East 151.00 feet to the Northern corner of lands now or formerly belonging to Bertha Jean Lance and also to a point on the Southern fence line of the City of Brevard's reservoir; thence South 89 deg. 48 min. 20 sec. West 70.84 feet to the southwestern corner of said fence line; thence North 9 deg. 00 min. 00 sec. West 329.05 feet to the Northwest corner of said fence line; thence North 81 deg. 58 min. 03 sec. East 143.09 feet to a point on Northern margin of said fence line; thence North 3 deg. 41 min. 46 sec. East 592.39 feet to a point on the Northern margin of Burrell Mountain Road (NCSR 1352); thence North 51 deg. 54 min. 00 sec. West 374.70 feet to a concrete monument; thence North 86 deg. 52 min. 00 sec. West 179.27 feet to the Northeast corner of lands now or formerly belonging to Harry J. Hafner and Sharen Hafner, and also being a point in the center of Burrell Mountain Road (NCSR 1352); thence South 2 deg. 59 min. 53 sec. West 24.83 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 17 deg. 46 min. 18 sec. East 16.08 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 36 deg. 33 min. 42 sec. East 17.51 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 56 deg. 04 min. 48 sec. East 16.27 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 60 deg. 40 min. 30 sec. East 12.71 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 72 deg. 45 min. 34 sec. East 130.70 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 66 deg. 12 min. 37 sec. East 35.19 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 52 deg. 41 min. 04 sec. East 25.00 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 37 deg. 46 min. 50 sec. East 21.21 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 21 deg. 38 min. 28 sec. East 55.78 feet to a point in the center of Burrell Mountain Road (NCSR 1352); thence South 29 deg. 23 min. 32 sec. East 27.43 feet to the eastern corner of Hafner, also being a point in the center of Burrell Mountain Road (NCSR 1352); thence South 70 deg. 14 min. 03 sec. West 363.68 feet and South 71 deg. 25 min. 00

sec. West 81.33 feet to the southern corner of Hafner; thence North 45 deg. 55 min. 26 sec. West 170.78 feet to the Western corner of Hafner; thence North 39 deg. 22 min. 24 sec. East 341.05 feet to the Northwest corner of Hafner and a concrete monument; thence North 81 deg. 23 min. 00 sec. West 720.00 feet to the Northeast corner of lands now or formerly belonging to Anita M. Cagle; thence South 10 deg. 00 min. 00 sec. East 99.41 feet to the Southeast corner of Cagle and the Northeast corner of lands now or formerly belonging to Judith Kay Wolfe; thence South 9 deg. 54 min. 00 sec. East 234.40 feet to the Southeast corner of Wolfe; thence South 66 deg. 55 min. 00 sec. West 304.50 feet to the Southwest corner of Wolfe; thence North 17 deg. 05 min. 00 sec. West 134.60 feet to the Northwest corner of Wolfe and the Southwest corner of lands now or formerly belonging to Richard Barnett and Joann Barnett; thence North 18 deg. 58 min. 00 sec. West 270.00 feet to the Northwest corner of Barnett and the Southwest corner of Cagle; thence North 13 deg. 15 min. 00 sec. East 96.30 feet to the Northwest corner of Cagle and along the line of lands now or formerly belonging to Charles H. Taylor and Elizabeth Taylor; thence North 81 deg. 23 min. 00 sec. West 61.10 feet, North 17 deg. 00 min. 00 sec. West 205.00 feet and North 89 deg. 35 min. 49 sec. West 1387.09 feet to a corner with lands now or formerly belonging to William G. Boggs, Jr., and lands now or formerly belonging to Dean S. Klein; thence North 86 deg. 00 min. 00 sec. West 338.61 feet to a corner with Boggs; thence South 11 min. 58 min. 00 sec. West 364.90 feet to a corner with Boggs; thence North 68 deg. 03 min. 00 sec. West 401.70 to the Northwest corner of lands now or formerly belonging to Josephine Renzulli and along the line of Boggs; thence South 00 deg. 40 min. 00 sec. West 327.24 feet to the northwest corner of lands now or formerly belonging to John Candler and Linda Candler and along the line of Renzulli; thence South 85 deg. 09 min. 22 sec. East 157.50 feet to the Northeast corner of Candler; thence South 8 deg. 10 min. 11 sec. East 392.89 feet to the Southeast corner of Candler; thence South 88 deg. 54 min. 58 sec. West 223.54 feet to the Southwest corner of Candler and along the line of Renzulli; thence South 2 deg. 30 min. 00 sec. West 185.11 feet to an iron pipe in the line of Renzulli; thence South 3 deg. 10 min. 00 sec. West 515.00 feet to an iron pipe; thence South 66 deg. 00 min. 00 sec. East 407.50 feet, South 3 deg. 00 min. 00 sec. West 82.00 feet, South 81 deg. 00 min. 00 sec. East 405.00 feet and South 24.75 feet to a point on the northern edge of Pinnacle Road (NCSR 1350) (formerly known as Mackey Ridge Road), then with the edge of Pinnacle Road, South 49 deg. 00 min. 00 sec. East 181.50 feet, South 76 deg. 00 min. East 173.25 feet, North 50 deg. 00 min. 00 sec. East 165.00 feet, North 65 deg. 00 min. 00 sec. East 107.25 feet and South 65 deg. 30 min. 00 sec. East 156.75 feet to a point in the center of

Pinnacle Road, thence South 81 deg. 00 min. 00 sec. East 105.00 feet to a point on the northern edge of the portion of Pinnacle Road (NCSR 1350) formerly known as Transylvania Music Camp Road (NCSR 1350); thence South 66 deg. 45 min. 00 sec. East 311.00 feet and South 77 deg. 00 min. 00 sec. East 100.00 feet to a point on the northern edge of Pinnacle Road; thence South 5 deg. 00 min. 00 sec. West 8.00 feet to a point in the center of Pinnacle Road; thence South 80 deg. 00 min. 00 sec. East 90.00 feet to a point in the center of Pinnacle Road; thence North 5 deg. 00 min. 00 sec. East 8.00 feet to a point on the northern edge of Pinnacle Road; thence South 80 deg. 00 min. 00 sec. East 150.00 feet, South 69 deg. 00 min. 00 sec. East 106.00 feet and South 74 deg. 00 min. 00 sec. East 145.50 feet to the southwestern corner of lands now or formerly belonging to Marshall E. Whitmire and June Whitmire and also being a point on the northern edge of Pinnacle Road; thence North 8 deg. 34 min. 21 sec. East 114.23 feet to a corner of Whitmire; thence North 80 deg. 42 min. 18 sec. West 248.18 feet to a corner of Whitmire; thence North 03 deg. 54 min. 04 sec. East 223.24 feet to the northwestern corner of Whitmire; thence South 82 deg. 00 min. 00 sec. East 387.58 feet to the northeastern corner of Whitmire; thence South 2 deg. 00 min. 00 sec. East 229.75 feet to a corner of Whitmire; thence South 10 deg. 46 min. 35 sec. West 131.00 feet to the southeast corner of Whitmire, also being a point on the northern edge of Pinnacle Road, and then with Pinnacle Road; thence South 83 deg. 30 min. 00 sec. East 100.00 feet to a point on the northern edge of Pinnacle Road; thence South 78 deg. 55 min. 00 sec. East 25.00 feet to a point on the northern edge of Pinnacle Road; thence South 58 deg. 25 min. 00 sec. East 152.00 feet to the intersection of Pinnacle Road (NCSR 1350) and Probart Street (NCSR 1348); thence North 27 deg. 52 min. 00 sec. East 96.62 feet to a point in Probart Street; thence North 25 deg. 51 min. 00 sec. East 36.94 feet to the southwestern corner of Charles H. Taylor and Elizabeth Taylor, and being a point on the northern edge of Probart Street; thence North 21 deg. 23 min. 00 sec. West 150.34 feet to a corner with Taylor; thence North 10 deg. 55 min. 00 sec. West 28.70 feet to the northwestern corner of Taylor; thence North 55 deg. 08 min. 00 sec. East 82.75 feet to the northeastern corner of Taylor; thence South 18 deg. 51 min. 00 sec. East 191.33 feet to the southeastern corner of Taylor, and also being a point on the northern corner of Probart Street; thence North 82 deg. 00 min. 00 sec. East 66.00 feet to the intersection of Probart Street (NCSR 1348) and Andante Lane, and also being the BEGINNING.

Being 157.37 acres more or less.

SECTION 2. The areas described in Section 1 of this act shall not be included in any calculations made under G.S. 160A-58.1(b)(5).

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law on the date it was ratified.

S.B. 336**SESSION LAW 2001-106**

AN ACT TO MAKE IT UNLAWFUL TO FRAUDULENTLY OR UNNECESSARILY OBTAIN AMBULANCE SERVICES IN VARIOUS COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-111.2 reads as rewritten:

"§ 14-111.2. *Obtaining ambulance services without intending to pay therefor – certain named counties.*

Any person who with intent to defraud shall obtain ambulance services without intending at the time of obtaining such services to pay, if financially able, any reasonable charges therefor shall be guilty of a Class 2 misdemeanor. A determination by the court that the recipient of such services has willfully failed to pay for the services rendered for a period of 90 days after request for payment, and that the recipient is financially able to do so, shall raise a presumption that the recipient at the time of obtaining the services intended to defraud the provider of the services and did not intend to pay for the services.

The section shall apply to Alamance, Anson, Ashe, Beaufort, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Cumberland, Davie, Duplin, Durham, Forsyth, Gaston, Graham, Guilford, Halifax, Haywood, Henderson, Hoke, Hyde, Iredell, Macon, Mecklenburg, Montgomery, New Hanover, Onslow, Orange, Pasquotank, Pender, Person, Polk, Randolph, Robeson, Rockingham, Scotland, Stanly, Surry, Transylvania, Union, Vance, Washington, Wilkes and Yadkin Counties only."

SECTION 2. G.S. 14-111.3 reads as rewritten:

"§ 14-111.3. *Making unneeded ambulance request in certain counties.*

It shall be unlawful for any person or persons to willfully obtain or attempt to obtain ambulance service that is not needed, or to make a false request or report that an ambulance is needed. Every person convicted of violating this section shall be guilty of a Class 3 misdemeanor.

This section shall apply only to the Counties of Alamance, Ashe, Buncombe, Cabarrus, Camden, Carteret, Cherokee, Clay, Cleveland, Davie, Duplin, Durham, Graham, Greene, Halifax, Haywood, Hoke, Macon, Madison, New Hanover, Onslow, Pender, Polk, Robeson, Rockingham, Washington, Wilkes and Yadkin."

SECTION 3. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law on the date it was ratified.

S.B. 453 SESSION LAW 2001-107

AN ACT AUTHORIZING THE CITIES OF LEXINGTON AND WINSTON-SALEM TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF OVERGROWN VEGETATION ORDINANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 1999-58, as amended by S.L. 2000-33 and S.L. 2000-38, reads as rewritten:

"Section 2. This act applies to the Cities of ~~High Point and Gastonia~~Point, Gastonia, Lexington, and Roanoke Rapids-Rapids, and Winston-Salem only."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law on the date it was ratified.

S.B. 262 SESSION LAW 2001-108

AN ACT TO PROVIDE THAT A PERSON IMPROPERLY CHARGED WITH A CRIMINAL OFFENSE AS A RESULT OF IDENTITY FRAUD MAY HAVE HIS OR HER RECORD EXPUNGED.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 15A is amended by adding a new section to read:

"§ 15A-147. Expunction of records when charges are dismissed or there are findings of not guilty as a result of identity fraud.

(a) If any person is named in a charge for an infraction or a crime, either a misdemeanor or a felony, as a result of another person using the identifying information of the named person to commit an infraction or crime and the charge against the named person is

dismissed, a finding of not guilty is entered, or the conviction is set aside, the named person may apply by petition or written motion to the court where the charge was last pending on a form approved by the Administrative Office of the Courts supplied by the clerk of court for an order to expunge from all official records any entries relating to the person's apprehension, charge, or trial. The court, after notice to the district attorney, shall hold a hearing on the motion or petition and, upon finding that the person's identity was used without permission and the charges were dismissed or the person was found not guilty, the court shall order the expunction.

(b) No person as to whom such an order has been entered under this section shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of the person's failure to recite or acknowledge any expunged entries concerning apprehension, charge, or trial.

(c) The court shall also order that the said entries shall be expunged from the records of the court and direct all law enforcement agencies, the Division of Motor Vehicles, or any other State or local government agencies bearing record of the same to expunge their records of the entries. The clerk shall forward a certified copy of the order to the sheriff, chief of police, or other charging agency; and, when applicable, to the Division of Motor Vehicles and any other State or local agency. The sheriff, chief, or head of such other charging agency shall then transmit the copy of the order with the form supplied by the State Bureau of Investigation to the State Bureau of Investigation, and the State Bureau of Investigation shall forward the order to the Federal Bureau of Investigation. Upon receipt of a certified copy of the order, the agency must purge its records as required by this section. The costs of expunging these records shall not be taxed against the petitioner.

(d) The Division of Motor Vehicles shall expunge from its records entries made as a result of the charge or conviction ordered expunged under this section. The Division of Motor Vehicles shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged, including the assessment of drivers license points and drivers license suspension or revocation. Notwithstanding any other provision of this Chapter, the Division of Motor Vehicles shall provide to the person whose motor vehicle record is expunged under this section a certified corrected driver history at no cost and shall reinstate at no cost any drivers license suspended or revoked as a result of a charge or conviction expunged under this section.

(e) Any other applicable State or local government agency shall expunge from its records entries made as a result of the charge or

conviction ordered expunged under this section. The agency shall also reverse any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. Notwithstanding any other provision of law, the normal fee for any reinstatement of a license or privilege resulting under this section shall be waived.

(f) Any insurance company that charged any additional premium based on insurance points assessed against a policyholder as a result of a charge or conviction that was expunged under this section shall refund those additional premiums to the policyholder upon notification of the expungement."

SECTION 2. G.S. 15A-146(a) reads as rewritten:

"(a) If any person is charged with a crime, either a misdemeanor or a felony, or was charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is dismissed, or a finding of not guilty or not responsible is entered, that person may apply to the court of the county where the charge was brought for an order to expunge from all official records any entries relating to his apprehension or trial. The court shall hold a hearing on the application and, upon finding that the person had not previously received an expungement under this section, G.S. 15A-145, or G.S. 90-96, and that the person had not previously been convicted of any felony under the laws of the United States, this State, or any other state, the court shall order the expunction. No person as to whom such an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge any expunged entries concerning apprehension or trial."

SECTION 3. This act becomes effective October 1, 2001, and applies to charges filed before, on, or after the effective date.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:45 p.m. on the 24th day of May, 2001.

S.B. 541

SESSION LAW 2001-109

AN ACT TO EXEMPT SINGLE-FAMILY DWELLINGS USED AS FAMILY FOSTER HOMES OR THERAPEUTIC HOMES FROM SANITATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-235 reads as rewritten:

"§ 130A-235. *Regulation of sanitation in institutions; setback requirements applicable to certain water supply wells.*

(a) For protection of the public health, the Commission shall adopt rules to establish sanitation requirements for all institutions and facilities at which individuals are provided room or board and for which a license to operate is required to be obtained or a certificate for payment is obtained from the Department. The rules shall also apply to facilities that provide room and board to individuals but are exempt from licensure under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation requirements for these institutions and facilities. The Department shall issue a license to operate or a certificate for payment to such an institution or facility only upon compliance with all applicable sanitation rules of the Commission, and the Department may suspend or revoke a license or a certificate for payment for violation of these rules. In adopting rules pursuant to this section, the Commission shall define categories of standards to which such institutions and facilities shall be subject and shall establish criteria for the placement of any such institution or facility into one of the categories. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10). This section shall not apply to a single-family dwelling that is used for a family foster home, as defined in G.S. 131D-10.2, or a therapeutic home. For purposes of this section, 'therapeutic home' means a 24-hour residential facility located in a private residence that provides professionally trained parent-substitutes who work intensively with children and adolescents who are emotionally disturbed or who have a substance abuse problem.

(b) Rules that establish a minimum distance from a building foundation for a water supply well shall provide that an institution or facility located in a single-family dwelling served by a water supply well that is located closer to a building foundation than the minimum distance specified in the rules may be licensed or approved if the results of water testing meet or exceed standards established by the Commission and there are no other potential health hazards associated with the well. At the time of application for licensure or approval, water shall be sampled and tested for pesticides, nitrates, and bacteria. Thereafter, water shall be sampled and tested at intervals determined by the Commission but not less than annually. A registered sanitarian or other health official who is qualified by training and experience shall collect the water samples as required by this subsection and may examine the well location to determine if there are other potential health hazards associated with the well. A well shall comply with all other applicable sanitation requirements established by the Commission.

(c) The Department may suspend or revoke a license or approval for a violation of this section or rules adopted by the Commission."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:45 p.m. on the 24th day of May, 2001.

S.B. 882**SESSION LAW 2001-110**

AN ACT TO CONFORM THE LAW GOVERNING CONTRACTS FOR "FUTURES" TO THE FEDERAL COMMODITY EXCHANGE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 16-3 reads as rewritten:

"§ 16-3. *Certain contracts as to "futures" void.*

Every contract, whether in writing or not, whereby any person shall agree to sell and deliver any cotton, Indian corn, wheat, rye, oats, tobacco, meal, lard, bacon, salt pork, salt fish, beef, cattle, sugar, coffee, stocks, bonds, and chooses in action, at a place and at a time specified and agreed upon therein, to any other person, whether the person to whom such article is so agreed to be sold and delivered shall be a party to such contract or not, when, in fact, and notwithstanding the terms expressed of such contract, it is not intended by the parties thereto that the articles or things so agreed to be sold and delivered shall be actually delivered, or the value thereof paid, but it is intended and understood by them that money or other thing of value shall be paid to the one party by the other, or to a third party, the party to whom such payment of money or other thing of value shall be made to depend, and the amount of such money or other thing of value so to be paid to depend upon whether the market price or value of the article so agreed to be sold and delivered is greater or less at the time and place so specified than the price stipulated to be paid and received for the articles so to be sold and delivered, and every contract commonly called "futures" as to the several articles and things hereinbefore specified, or any of them, by whatever other name called, and every contract as to the said several articles and things, or any of them, whereby the parties thereto contemplate and intend no real transaction as to the article or thing agreed to be delivered, but only the payment of a sum of money or other thing of value, such payment and the amount thereof and the person to whom the same is to be paid to depend on whether or not the market price or value is greater or less than the price so agreed to be paid for the said article or thing at the time and place specified in

such contract, shall be utterly null and void; and no action shall be maintained in any court to enforce any such contract, whether the same was made in or out of the State, or partly in and partly out of this State, and whether made by the parties thereto by themselves or by or through their agents, immediately or mediately; nor shall any party to any such contract, or any agent of any such party, directly or remotely connected with any such contract in any way whatever, have or maintain any action or cause of action on account of any money or other thing of value paid or advanced or hypothecated by him or them in connection with or on account of such contract and agency; nor shall the courts of this State have any jurisdiction to entertain any suit or action brought upon a judgment based upon any such contract. This section shall not be construed so as to apply to any person, firm or corporation, or his or their agents, engaged in the business of manufacturing or wholesale merchandising in the purchase and/or sale of the necessary commodities required in the ordinary course of their business; nor shall this section be construed so as to apply to any contract with respect to the purchase and/or sale for future delivery of any of the articles or things mentioned and referred to in this section, where such purchase and/or sale is made on any exchange on which any such article or things are regularly bought and sold, or contracts therefor regularly entered into, and the rules and regulations of such exchange are such that either party to such contract may require delivery thereof: Provided, such contract is made in accordance with such rules and regulations.

In addition, this Article shall not apply to any person, firm, corporation, or other entity, either as principal or agent, or to any contract, that is excluded or exempted under the Commodity Exchange Act, as provided in section 16(e)(2) of the Commodity Exchange Act, 7 U.S.C. § 16(e)(2), and, accordingly, each section of this Article shall be considered a "law that regulates or prohibits the operation of bucket shops" within the meaning of section 16(e)(2) of the Commodity Exchange Act."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:45 p.m. on the 24th day of May, 2001.

H.B. 386

SESSION LAW 2001-111

AN ACT TO MODIFY THE AUDIT PROCEDURES FOR COMMUNITY COLLEGE PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-5 is amended by adding a new subsection to read:

"(m) The State Board of Community Colleges shall require auditors of community college programs to use a statistically valid sample size in performing program audits of community colleges."

SECTION 2. Section 103(a) of Chapter 321 of the 1993 Session Laws is repealed.

SECTION 3. This act becomes effective July 1, 2001, and applies to audits conducted on and after that date.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:46 p.m. on the 24th day of May, 2001.

H.B. 421**SESSION LAW 2001-112**

AN ACT TO MODIFY THE PROCEDURE FOR SUBMITTING LOCAL BUDGETS TO THE STATE BOARD OF COMMUNITY COLLEGES FOR APPROVAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-54(b)(4) reads as rewritten:

"(b) The budget shall be prepared and submitted for approval according to the following procedures:

...

- (4) Plant Fund Budget. – The budget request shall contain the items of capital outlay, as provided in G.S. 115D-31 and 115D- 32, for which funds are requested, from whatever source. ~~The budget shall be submitted first to the local tax-levying authority, which~~ board of trustees shall submit the budget to the local tax-levying authority. The local tax-levying authority shall approve or disapprove, in whole or in part, that portion of the budget requesting local public funds. Upon ~~After approval by the local tax-levying authority, the budget shall be submitted by the board of trustees to the board of trustees shall submit the budget to the State Board of Community Colleges, which~~ Colleges on a date designated by the State Board. The State Board may approve or disapprove, in whole or in part, that portion of the budget requesting State or federal funds. Plant funds provided for construction and major renovations shall be permanent appropriations until the conclusion of the project for which appropriated."

SECTION 2. G.S. 115D-55(b) reads as rewritten:

"(b) Approval of Budget by State Board of Community Colleges. – ~~Not later than 10 days after~~After notification by the local tax-levying authority of the amount appropriated, the budget shall be submitted to the State Board of Community Colleges on a date designated by the State Board of Community Colleges for approval of that portion within its authority as stated in G.S. 115D-54(b). The State Board of Community Colleges shall approve the budget for each institution in such amount as the State Board decides is available and necessary for the operation of the institution.

The State Board of Community Colleges shall have authority to call for all books, records, audit reports and other information bearing on the financial operation of the institution except records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

Nothing in this Article shall be construed to place a duty on the State Board of Community Colleges to fund a deficit incurred by an institution through failure of the institution to comply with the provisions of this Article or rules and regulations issued pursuant hereto."

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:46 p.m. on the 24th day of May, 2001.

H.B. 609

SESSION LAW 2001-113

AN ACT TO SPECIFY THE MINIMUM SEPARATION DISTANCES BETWEEN A WELL SERVING CERTAIN SINGLE-FAMILY DWELLINGS AND CERTAIN OTHER STRUCTURES ON THE SAME LOT AND TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ADOPT A TEMPORARY RULE TO INCORPORATE THOSE MINIMUM SEPARATION DISTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. For a well serving a single-family dwelling where lot size or other fixed conditions preclude the separation distances specified in subparagraph (a)(2) of 15A NCAC 2C .0107 (Standards of Construction: Water-Supply Wells), as adopted by the Environmental Management Commission on October 12, 2000, and approved by the Rules Review Commission on November 16, 2000, the required separation distances shall be the maximum possible, but shall in no case be less than the following:

- | | |
|--------------------------------|---------|
| (1) Septic tank and drainfield | 50 feet |
|--------------------------------|---------|

- | | |
|--|----------|
| (2) Water-tight sewage or liquid-waste collection or transfer facility | 25 feet |
| (3) Animal barns | 50 feet |
| (4) Cesspool or privies | 50 feet. |

SECTION 2. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management Commission may adopt a temporary rule that incorporates the provisions of Section 1 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until a permanent rule adopted to replace the temporary rule becomes effective.

SECTION 3. Except as provided by Section 1 of this act, this act does not limit the authority of the Environmental Management Commission to adopt rules governing the location, construction, repair, and abandonment of wells pursuant to G.S. 87-87 and Article 2A of Chapter 150B of the General Statutes.

SECTION 4. This act is effective retroactively to the date on which it is ratified. If the Environmental Management Commission adopts a temporary rule as provided in Section 2 of this act, Section 1 of this act expires when the temporary rule becomes effective.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:46 p.m. on the 24th day of May, 2001.

H.B. 1108 SESSION LAW 2001-114

AN ACT TO PROVIDE THAT PUBLIC AUTHORITIES ARE ELIGIBLE FOR GRANTS FROM THE PARKS AND RECREATION TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-44.15(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The approved value of land that is donated to a local government unit or public authority

may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

SECTION 2. This act is effective when it becomes law and applies to grants awarded on or after that date.

In the General Assembly read three times and ratified this the 14th day of May, 2001.

Became law upon approval of the Governor at 1:47 p.m. on the 24th day of May, 2001.

H.B. 342 SESSION LAW 2001-115

AN ACT RELATING TO THE ADMISSIBILITY, PHOTOGRAPHIC REPRODUCTION, AND RETENTION OF RECORDS OF THE EMPLOYMENT SECURITY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 8-45.3 reads as rewritten:

"§ 8-45.3. *Photographic reproduction of records of Department of ~~Revenue.~~ Revenue and Employment Security Commission.*

(a) The State Department of Revenue is hereby specifically authorized to have photographed, photocopied, or microphotocopied all records of the Department, including tax returns required by law to be made to the Department, and said photographs, photocopies, or microphotocopies, when certified by the Department as true and correct photographs, photocopies, or microphotocopies, shall be as admissible in evidence in all actions, proceedings and matters as the originals thereof would have been.

(a1) The Employment Security Commission is hereby specifically authorized to have photographed, photocopied, or microphotocopied

all records of the Commission, including filings required by law to be made to the Commission, and said photographs, photocopies, or microphotocopies, when certified by the Commission as true and correct photographs, photocopies, or microphotocopies, shall be as admissible in evidence in all actions, proceedings, and matters as the originals thereof would have been.

(b) The provisions ~~of subsection (a)~~ of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department."

SECTION 2. G.S. 132-3 is amended by adding a new subsection to read:

"(c) ~~Employment Security Commission Records.~~ – Notwithstanding subsection (a) of this section and G.S. 121-5, when a record of the Employment Security Commission has been copied in any manner, the original record may be destroyed upon the order of the Chairman of the Employment Security Commission. If a record of the Commission has not been copied, the original record shall be preserved for at least three years. After three years the original record may be destroyed upon the order of the Chairman of the Employment Security Commission."

SECTION 3. Section 1 of this act becomes effective December 1, 2001, and applies to all actions and proceedings pending in the courts of this State on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

Became law upon approval of the Governor at 1:47 p.m. on the 24th day of May, 2001.

S.B. 132**SESSION LAW 2001-116**

AN ACT TO REQUIRE HEALTH INSURANCE PLANS TO PROVIDE COVERAGE FOR COLORECTAL CANCER SCREENING.

The General Assembly of North Carolina enacts:

SECTION 1. Article 51 of Chapter 58 of the General Statutes is amended by adding the following new section to read:
"§ 58-3-179. Coverage for colorectal cancer screening.

(a) Every health benefit plan, as defined in G.S. 58-3-167, shall provide coverage for colorectal cancer examinations and laboratory tests for cancer, in accordance with the most recently published American Cancer Society guidelines or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control for colorectal cancer screening, for any nonsymptomatic covered individual who is:

- (1) At least 50 years of age, or
- (2) Less than 50 years of age and at high risk for colorectal cancer according to the most recently published colorectal cancer screening guidelines of the American Cancer Society or guidelines adopted by the North Carolina Advisory Committee on Cancer Coordination and Control.

The same deductibles, coinsurance, and other limitations as apply to similar services covered under the plan apply to coverage for colorectal examinations and laboratory tests required to be covered under this section."

SECTION 2. G.S. 58-50-155 reads as rewritten:

"§ 58-50-155. *Standard and basic health care plan coverages.*

(a) Notwithstanding G.S. 58-50-125(c), the standard health plan developed and approved under G.S. 58-50-125 shall provide coverage for all of the following:

- (1) Mammograms and pap smears at least equal to the coverage required by G.S. 58-51-57.
- (2) Prostate-specific antigen (PSA) tests or equivalent tests for the presence of prostate cancer at least equal to the coverage required by G.S. 58-51-58.
- (3) Reconstructive breast surgery resulting from a mastectomy at least equal to the coverage required by G.S. 58-51-62.
- (4) For a qualified individual, scientifically proven bone mass measurement for the diagnosis and evaluation of osteoporosis or low bone mass at least equal to the coverage required by G.S. 58-3-174.
- (5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. 58-3-178, if the plan covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. 58-3-178 apply to standard plans developed and approved under G.S. 58-50-125.

(6) Colorectal cancer examinations and laboratory tests at least equal to the coverage required by G.S. 58-3-179.

(b) Notwithstanding G.S. 58-50-125(c), in developing and approving the plans under G.S. 58-50-125, the Committee and Commissioner shall give due consideration to cost-effective and life-saving health care services and to cost-effective health care providers."

SECTION 3. This act becomes effective January 1, 2002, and applies to all health benefit plans that are delivered, issued for delivery, or renewed on and after that date. For the purposes of this act, renewal of a health benefit plan is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the health benefit plan.

In the General Assembly read three times and ratified this the 16th day of May, 2001.

Became law upon approval of the Governor at 1:47 p.m. on the 24th day of May, 2001.

H.B. 261**SESSION LAW 2001-117****AN ACT TO AMEND THE STATE VETERANS HOME ACT.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 165-49(c) reads as rewritten:

"(c) All funds received by the Division shall be deposited in the North Carolina Veterans Home Trust Fund, except for any funds deposited into special agency accounts established pursuant to G.S. 165-48(d)(3). The Veterans Affairs Commission shall authorize the expenditure of all funds from the North Carolina Veterans Home Trust Fund. The Veterans Affairs Commission may delegate authority to the Assistant Secretary of Veterans Affairs for the expenditure of funds from the North Carolina Veterans Home Trust Fund for operations of the State Veterans Nursing Homes."

SECTION 2. G.S. 165-51 reads as rewritten:

"§ 165-51. *Program staff.*

The Division shall appoint and fix the salary of an Administrative Officer for the State veterans home program. The Administrative Officer shall be an honorably discharged veteran who has served in active military service in the armed forces of the United States for other than training purposes. The Administrative Officer shall direct the establishment of the State veterans home program, coordinate the master planning, land acquisition, and construction of all State veterans homes under the procedures of the Office of State Construction, and oversee the ongoing operation of said veterans homes. ~~The Administrative Officer may hire one office assistant to~~

~~help with clerical responsibilities. The Division may hire any required additional administrative staff to help with administrative and operational responsibilities at each established State Veterans Home.~~"

SECTION 3. G.S. 165-53(a) reads as rewritten:

"(a) To be eligible for admission to a State veterans home, an applicant shall meet the following requirements:

- (1) The veteran shall have served in the active armed forces of the United States for other than training purposes;
- (2) The veteran shall have been discharged from the armed forces under ~~conditions other than dishonorable;~~ honorable conditions;
- (3) The veteran shall be disabled by age, disease, or other reason as determined through a physical examination by a State veterans home physician; and
- (4) The veteran shall have resided in the State of North Carolina for two years immediately prior to the date of ~~application.~~ application."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of May, 2001.

Became law upon approval of the Governor at 1:47 p.m. on the 24th day of May, 2001.

H.B. 608

SESSION LAW 2001-118

AN ACT TO MODIFY THE HEALTH CERTIFICATE REQUIREMENTS FOR PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-323 reads as rewritten:

"§ 115C-323. *Employee health certificate.*

~~(a) All public school employees upon initial employment, and those who have been separated from public school employment more than one school year, including superintendents, supervisors, principals, teachers, and any other employees in the public schools of the State, shall file in the office of the superintendent, before assuming his duties, a certificate from a physician licensed to practice medicine in the State of North Carolina, certifying that said person does not have tuberculosis in the communicable form, or other communicable disease, or any disease, physical or mental, which would impair the ability of the said person to perform effectively his duties. A local school board or a superintendent may require any person herein named to take a physical examination when deemed necessary. Any person initially employed in a public school or reemployed in a public school after an absence of more than one~~

school year shall provide to the superintendent a certificate certifying that the person does not have any physical or mental disease, including tuberculosis in the communicable form or other communicable disease, that would impair the person's ability to perform his or her duties effectively. A local board or a superintendent may require any school employee to take a physical examination when considered necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease ~~must, shall,~~ before returning to work, ~~file with the superintendent a physician's certificate~~ provide to the superintendent a certificate certifying that the individual is free from any communicable disease.

(b) One of the following individuals shall prepare any certificate required under this section:

- (1) A physician licensed to practice in North Carolina.
- (2) A nurse practitioner approved under G.S. 90-18(14).
- (3) A physician's assistant licensed to practice in North Carolina.

(c) Notwithstanding subsection (b) of this section, in the case of a person initially employed in a public school, any of the following who holds a current unrestricted license or registration in another state may prepare the certificate so long as evidence of that license or registration is on the certificate:

- (1) A physician.
- (2) A nurse practitioner.
- (3) A physician's assistant.

(d) The examining physician shall make the aforesaid certificates on an examination form certificate shall be prepared on a form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been conducted, at the time of the certification, and such examination shall be in accordance with rules and regulations adopted by the Superintendent of Public Instruction, with approval of the Secretary of Health and Human Services, and such Services. These rules and regulations may include the requirement of may require an X-ray chest examination for all new employees of the public school system.

(e) It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section. Any person violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:23 p.m. on the 25th day of May, 2001.

H.B. 723 SESSION LAW 2001-119

AN ACT TO REQUIRE ALL MEMBERS OF THE GENERAL ASSEMBLY TO FILE STATEMENTS OF ECONOMIC INTEREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-89 reads as rewritten:

"§ 120-89. *Statement of economic interest by legislative candidates; filing required.*

(a) Every person who files as a candidate for nomination or election to a seat in either house of the General Assembly shall file a statement of economic interest as specified in this Article within 10 days of the filing deadline for the office he seeks.

(b) The statement of economic interest shall be filed at the same place, and in the same manner, as the notice of candidacy which a candidate seeking party nomination for the office of State Senator or member of the State House of Representatives is required to file under the provisions of G.S. 163-106."

SECTION 2. G.S. 120-90 is repealed.

SECTION 3. G.S. 120-92 reads as rewritten:

"§ 120-92. *Filing by candidates not nominated in primary elections.*

A person who is nominated pursuant to the provisions of G.S. 163-114 after the primary and before the general election, and a person who qualifies pursuant to the provisions of G.S. 163-122 as an independent candidate in a general election shall file with the county board of elections of each county in the senatorial or representative district a statement of economic ~~interest~~interest as specified in this Article. A person nominated pursuant to G.S. 163-114 shall file the statement within three days following his nomination, or not later than the day preceding the general election, whichever occurs first. A person seeking to qualify as an independent candidate under G.S. 163-122 shall file the statement of economic interest with the petition filed pursuant to that section. A person who is nominated by party convention of a new political party in accordance with G.S. 163-98 shall file a statement of economic interest as specified in this Article with the county board of elections of each county in the senatorial or representative district within 10 days of the certification with the State Board of Elections of the new party's candidates required by G.S. 163-98."

SECTION 4. Part 2 of Article 14 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-92.1. *Statement of economic interest by persons appointed to legislative seats; filing required.*

Every person appointed to fill a vacant seat in the General Assembly pursuant to G.S. 163-11 shall file a statement of economic interest as specified in this Article with the Legislative Services Office and the county board of elections of each county in the senatorial or representative district no later than 10 days after taking the oath of office."

SECTION 5. G.S. 120-96 reads as rewritten:

"§ 120-96. *Contents of statement.*

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Committee, and the person filing the statement shall supply the following information:

- (1) The identity, by name, of any business with which he, or any member of his immediate household, is associated;
- (2) The character and location of all real estate of a fair market value in excess of five thousand dollars (\$5,000), other than his personal residence (curtilage), in the State in which he, or a member of his immediate household, has any beneficial interest, including an option to buy and a lease for 10 years or over;
- (3) The type of each creditor to whom he, or a member of his immediate household, owes money, except indebtedness secured by lien upon his personal residence only, in excess of five thousand dollars (\$5,000);
- (4) The name of each "vested trust" in which he or a member of his immediate household has a financial interest in excess of five thousand dollars (\$5,000) and the nature of such interest;
- (5) The name and nature of his and his immediate household member's respective business or profession or employer and the types of customers and types of clientele served;
- (6) A list of businesses with which he is associated that do business with the State, and a brief description of the nature of such business; and
- (7) In the case of professional persons and associations, a list of classifications of business clients which classes were charged or paid two thousand five hundred dollars (\$2,500) or more during the previous calendar year for professional services rendered by him, his firm or partnership. This list need not include the name of the client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

(b) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the signature date."

SECTION 6. G.S. 120-98 reads as rewritten:

"§ 120-98. *Penalty for failure to file.*

(a) If a candidate does not file the statement of economic interest within the time required by this Article, the county board of elections shall immediately notify the candidate by registered mail, restricted delivery to addressee only, that, if the statement is not received within 15 days, the candidate shall not be certified as the nominee of his party. If the statement is not received within 15 days of notification, the board of elections authorized to certify a candidate as nominee to the office shall not certify the candidate as nominee under any circumstances, regardless of the number of candidates for the nomination and regardless of the number of votes the candidate receives in the primary. A vacancy thus created on a party's ticket shall be considered a vacancy for the purposes of G.S. 163-114, and shall be filled according to the procedures set out in G.S. 163-114.

(b) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1028, s. 5.

(c) If a person appointed to fill a vacant seat in the General Assembly pursuant to G.S. 163-11 does not file the statement of economic interest within the time required by this Article, the Legislative Services Officer shall notify the person that the statement must be received within 15 days of notification. If the statement is not received within the time allowed in this subsection, then the Legislative Services Officer shall notify the Legislative Ethics Committee of the failure to file the statement."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:23 p.m. on the 25th day of May, 2001.

H.B. 837**SESSION LAW 2001-120**

AN ACT TO AUTHORIZE CERTAIN BOARDS OF COUNTY COMMISSIONERS TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF PUBLIC HEALTH LAWS OR RULES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-77(a) reads as rewritten:

"(a) In the exercise of its jurisdiction over commissions, boards and agencies, the board of county commissioners may assume direct control of any activities theretofore conducted by or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the board of county commissioners all powers, responsibilities and duties of any such commission, board or

agency. This subsection shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board and any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said county. A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. The board of county commissioners may exercise the power and authority herein conferred only after a public hearing held by said board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said county.

The board of county commissioners may also appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of county commissioners of said county."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:23 p.m. on the 25th day of May, 2001.

H.B. 434

SESSION LAW 2001-121

AN ACT TO AMEND RULE 9(J) OF THE RULES OF CIVIL PROCEDURE BY CLARIFYING WHICH JUDGE MAY SIGN ORDERS EXTENDING THE STATUTE OF LIMITATIONS IN CERTAIN CASES AS RECOMMENDED BY THE CIVIL LITIGATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 9(j) reads as rewritten:

"(j) Medical malpractice. – Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

- (1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702

of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

- (2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or
- (3) The pleading alleges facts establishing negligence under the existing common-law doctrine of *res ipsa loquitur*.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court ~~of the county for a judicial district in which venue for the cause of action arose is appropriate under G.S. 1-82 or, if no resident judge for that judicial district is physically present in that judicial district, otherwise available, or able or willing to consider the motion, then any presiding judge of the superior court for that judicial district~~ may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. The plaintiff shall provide, at the request of the defendant, proof of compliance with this subsection through up to ten written interrogatories, the answers to which shall be verified by the expert required under this subsection. These interrogatories do not count against the interrogatory limit under Rule 33."

SECTION 2. This act becomes effective October 1, 2001, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:24 p.m. on the 25th day of May, 2001.

H.B. 352

SESSION LAW 2001-122

AN ACT TO REPEAL THE EXPIRATION DATE IN THE RISK SHARING PLAN LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-42-55 is repealed.

SECTION 2. This act becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:24 p.m. on the 25th day of May, 2001.

S.B. 735 SESSION LAW 2001-123

AN ACT TO MODIFY THE MEMBERSHIP OF THE EDUCATION CABINET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116C-1(b) reads as rewritten:

"(b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the President of The University of North Carolina, the State Superintendent of Public Instruction, the Chairman of the State Board of Education, ~~and the President of the North Carolina Community College System~~ Colleges System, and the President of the North Carolina Independent Colleges and Universities. The Education Cabinet ~~shall~~ may invite other representatives of ~~private~~ education to participate in its deliberations as adjunct members."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:25 p.m. on the 25th day of May, 2001.

S.B. 542 SESSION LAW 2001-124

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION TO REVIEW THE NEED FOR ESTABLISHMENT OF A STATEWIDE DATABASE ON THE ADMINISTRATION OF PSYCHOTROPIC MEDICATIONS TO CHILDREN WHO RECEIVE STATE SERVICES.

Whereas, during the past decade the number of American children receiving medication for behavioral and emotional disorders has increased dramatically; and

Whereas, there is a growing trend for children to receive medications for depression and other behavioral and health conditions; and

Whereas, a report in the Journal of the American Medical Association indicates that the rate of prescribing psychotropic medications for preschool children rose threefold between 1991 and 1995; and

Whereas, opponents of the use of psychotropic drugs are concerned about overuse of the drugs, and also that there is not enough information about these drugs' effect on children's development or on their long-term side effects; and

Whereas, proponents argue that the use of psychotropic medications may be needed to combat mental illness, but agree that children should not be medicated unless a qualified clinician decides that such a course is in the child's best interest and the medication is used in conjunction with other types of treatment; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services and the Department of Juvenile Justice and Delinquency Prevention shall review the feasibility of establishing and maintaining a statewide database containing information on the prescription and administration of psychotropic medications to children who receive State services while residing in State facilities administered by the Department of Health and Human Services or the Department of Juvenile Justice and Delinquency Prevention. In conducting the review the Departments shall consider that any database developed must, in accordance with State and federal law, fully protect the medical records and other privacy interests of the minors for whom the drugs are prescribed. Not later than January 1, 2002, the Department of Health and Human Services and the Department of Juvenile Justice and Delinquency Prevention shall report their findings and recommendations to the Joint Legislative Health Care Oversight Committee and to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The report shall include the cost of establishing and maintaining the database in a manner that provides data for the analysis of prescription medication usage by and effects on children. The report shall also provide detailed information on how the database will be maintained in a manner that protects medical records and other privacy interests in compliance with State and federal law.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:25 p.m. on the 25th day of May, 2001.

S.B. 370 SESSION LAW 2001-125

AN ACT AMENDING THE JOINT SECURITY FORCE PROVISIONS FOR STATE FACILITIES FOR MENTALLY ILL PERSONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 122C of the General Statutes is amended by adding the following new Parts to read:

"Part 2B. Cherry Hospital Joint Security Force.

"§ 122C-430A. Joint security force.

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Cherry Hospital in Wayne County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory of the Cherry Hospital. These special police officers shall also have the power prescribed by G.S. 122C-205 outside the territory of the Cherry Hospital but within the confines of Wayne County. These special police officers may arrest persons outside the territory of the Cherry Hospital but within the confines of Wayne County, when the person arrested has committed a criminal offense within the territory of the Cherry Hospital, for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory."

"Part 2C. Dorothea Dix Hospital Joint Security Force.

"§ 122C-430B. Joint security force.

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Dorothea Dix Hospital in Wake County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory of the Dorothea Dix Hospital. These special police officers shall also have the power prescribed by G.S. 122C-205 outside the territory of the Dorothea Dix Hospital but within the confines of Wake County. These special police officers may arrest persons outside the territory of the Dorothea Dix Hospital but within the confines of Wake County, when the person arrested has

committed a criminal offense within the territory of the Dorothea Dix Hospital, for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:25 p.m. on the 25th day of May, 2001.

S.B. 310

SESSION LAW 2001-126

AN ACT TO CLARIFY THE LAW GOVERNING ADMINISTRATIVE PROCEEDINGS OF THE SECRETARY OF STATE; TO AUTHORIZE THE SECRETARY OF STATE TO APPOINT A HEARING OFFICER TO CONDUCT HEARINGS ON LICENSING MATTERS; AND TO AUTHORIZE THE SECRETARY OF STATE TO ADOPT UNIFORM NATIONAL SECURITIES REGULATION STANDARDS BY TEMPORARY RULE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-18(a) reads as rewritten:

"(a) The Administrator may by order deny or revoke any exemption specified in subdivisions (8), (9), (11), or (15) of G.S. 78A-16 or in 78A-17 with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the Administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the Administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within ~~15-20~~ days of the receipt of a written request the matter will be ~~set down-scheduled~~ for hearing, hearing in accordance with Chapter 150B of the General Statutes. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of an opportunity for hearing to all interested persons, may not modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated G.S. 78A-24 or 78A-49(d) by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and

in the exercise of reasonable care could not have known, of the order."

SECTION 2. G.S. 78A-29(c) reads as rewritten:

"(c) The Administrator may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify each person specified in subsection (d) that it has been entered and of the reasons therefor and that within ~~45~~20 days after the receipt of a written request the matter will be ~~set down~~scheduled for ~~hearing~~hearing in accordance with Chapter 150B of the General Statutes. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of an opportunity for hearing to each person specified in subsection (d), may modify or vacate the order or extend it until final determination."

SECTION 3. G.S. 78A-39(c) reads as rewritten:

"(c) The Administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman, that it has been entered and of the reasons therefor and that within ~~45~~20 days after the receipt of a written request the matter will be ~~set down~~scheduled for ~~hearing~~hearing in accordance with Chapter 150B of the General Statutes. If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the applicant or registrant and no hearing is ordered by the Administrator, the order shall become final and remain in effect unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination."

SECTION 4. G.S. 78A-47(b)(2) reads as rewritten:

"(2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78A-47(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be ~~set down~~scheduled for hearing in

accordance with Chapter 150B of the General Statutes to determine whether or not the order shall become permanent and final. If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the person subject to the order and no hearing is ordered by the Administrator, the order shall become final and remain in effect unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order."

SECTION 5. G.S. 78C-19(c) reads as rewritten:

"(c) The Administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the Administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an investment adviser representative, that it has been entered and of the reasons therefor and that within ~~15-20~~ days after the receipt of a written request the matter will be ~~set down~~ scheduled for hearing ~~hearing~~ in accordance with Chapter 150B of the General Statutes. If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the applicant or registrant and no hearing is ordered by the Administrator, the order shall become final and remain in effect unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination."

SECTION 6. G.S. 78C-28(b)(2) reads as rewritten:

"(2) If the Administrator makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under G.S. 78C-28(b)(1), the Administrator may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the Administrator shall promptly notify in writing the person subject to the order that such order has been entered, the reasons therefor, and that within 20 days after the receipt of a written request from such person the matter shall be ~~set down~~ scheduled for hearing in accordance with Chapter 150B of the General Statutes to determine whether or not the order shall become

permanent and final. If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of the order upon the person subject to the order and no hearing is ordered by the Administrator, the order shall become final and remain in effect unless it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after giving notice of an opportunity for a hearing to the person subject to the order, shall by written findings of fact and conclusion of law, vacate, modify, or make permanent the order."

SECTION 7. G.S. 78D-4(e) reads as rewritten:

"(e) If the public interest or the protection of investors so requires, the Administrator may, by order, summarily deny or suspend the exemption for a qualified seller. Upon the entry of the order, the Administrator shall promptly notify the person claiming said status that an order has been entered and the reasons therefor and that within 30 days after the receipt of a written request the matter will be set scheduled for hearing. The provisions of G.S. 78D-30 shall apply with respect to all subsequent proceedings."

SECTION 8. G.S. 78D-30 reads as rewritten:

"§ 78D-30. *Procedure for entry of an order.*

(a) The Administrator shall commence an administrative proceeding under this Chapter, by entering either a notice of intent to do a contemplated act or a summary order. The notice of intent or summary order may be entered without notice, without opportunity for hearing, and need not be supported by findings of fact or conclusions of law, but must be in writing.

(b) Upon entry of a notice of intent or summary order, the Administrator shall promptly notify all interested parties that the notice or summary order has been entered and the reasons therefor. If the proceeding is pursuant to a notice of intent, the Administrator shall inform all interested parties of the dates, time, and place set for the hearing on the notice. If the proceeding is pursuant to a summary order, the Administrator shall inform all interested parties that they have 30 business days from the entry of the order to file a written request for a hearing on the matter with the Administrator and that the hearing will be scheduled ~~to commence with 30 business~~ within 20 days after the receipt of the written request.

(c) If the proceeding is pursuant to a summary order, the Administrator, whether or not a written request for a hearing is received from any interested party, may set-schedule the matter ~~down~~ for hearing on the Administrator's own motion.

(d) If no request for a hearing, other responsive pleading, or submission is received by the Administrator within 30 business days of receipt of service of notice of summary order under subsection (b) of this section and no hearing is ordered by the Administrator, the summary order will automatically become a final order after 30 business days from the date service of the notice of summary order was received.

(e) If a hearing is requested or ordered, the Administrator, after notice of, and opportunity for, hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(f) No final order or order after hearing may be returned without:

- (1) Appropriate notice to all interested persons;
- (2) Opportunity for hearing by all interested persons; and
- (3) Entry of written findings of fact and conclusions of law.

Every hearing in an administrative proceeding under this Chapter shall be public unless the Administrator grants a request joined in by all the respondents that the hearing be conducted privately."

SECTION 9. G.S. 78A-45(a) reads as rewritten:

"(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed. The Secretary of State may designate one or more hearing officers for the purpose of conducting administrative hearings."

SECTION 10. G.S. 78C-26(a) reads as rewritten:

"(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, and make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed. The Secretary of State may designate one or more hearing officers for the purpose of conducting administrative hearings."

SECTION 11. G.S. 78D-25(a) reads as rewritten:

"(a) This Chapter shall be administered by the Secretary of State. The Secretary of State as Administrator may delegate all or part of the authority under this Chapter to the Deputy Securities Administrator including, but not limited to, the authority to conduct hearings, make, execute and issue final agency orders and decisions. The Secretary of State may appoint such clerks and other assistants as may from time to time be needed. The Secretary of State may

designate one or more hearing officers for the purpose of conducting administrative hearings."

SECTION 12. G.S. 150B-21.1(a2) reads as rewritten:

"(a2) Notwithstanding the provisions of subsection (a) of this section, the Secretary of State may adopt temporary rules to implement the certification technology provisions of Article 11A of Chapter 66 of the General ~~Statutes~~. Statutes and to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association for the purpose of promoting uniformity of state securities regulation. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
- (2) Accept oral and written comments on the proposed temporary rule; and
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the ~~Codifier~~ Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection."

SECTION 13. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:26 p.m. on the 25th day of May, 2001.

S.B. 302

SESSION LAW 2001-127

AN ACT ALLOWING THE NORTH CAROLINA MUSEUM OF ART'S REGIONAL CONSERVATION SERVICES PROGRAM TO PERFORM CONSERVATION TREATMENTS ON PRIVATELY OWNED WORKS OF ART.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58(c) is amended by adding a new subdivision to read:

"(c) The provisions of subsection (a) shall not prohibit:

...

(19) The use of the North Carolina Museum of Art's conservation lab by the Regional Conservation Services Program of the North Carolina Museum of Art Foundation for the provision of conservation treatment services on privately owned works of art. However, when providing this service, the Regional Conservation Services Program shall give priority to publicly owned works of art."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 4:26 p.m. on the 25th day of May, 2001.

H.B. 446 SESSION LAW 2001-128

AN ACT TO AUTHORIZE LOCAL ABC BOARDS TO ENTER COOPERATIVE AGREEMENTS FOR MANAGEMENT OF ABC STORES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-703 is amended by adding a new subsection (h) to read:

"(h) Agreement for Joint Store Operations. – With the approval of the Commission, two or more governing bodies of counties and/or municipalities with ABC systems may enter into a written agreement whereby one or more ABC stores located within the counties and/or municipalities that are parties to the agreement shall be controlled and operated by the local ABC board specified in the agreement, even though said ABC store or stores are located outside the boundaries of the county or municipality of the local ABC board that will be operating the ABC store or stores that are subject to the agreement. The provisions of this section shall be effective as to such agreements insofar as is applicable. Issues not addressed in this section shall be negotiated by the parties, subject to the approval of the Commission."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 6:01 p.m. on the 25th day of May, 2001.

H.B. 1285 SESSION LAW 2001-129

AN ACT TO PERMIT AN APPLICANT FOR INITIAL TEACHER CERTIFICATION TO TAKE THE APPROPRIATE

SPECIALTY AREA TEST OR SUBJECT ASSESSMENT
DURING THE APPLICANT'S SECOND YEAR OF
TEACHING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(a) reads as rewritten:
"§ 115C-296. *Board sets certification requirements.*

(a) The State Board of Education shall have entire control of certifying all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. The State Board of Education shall permit an applicant to fulfill this requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make the standard initial certification exam sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 7:07 p.m. on the 25th day of May, 2001.

H.B. 1143 SESSION LAW 2001-130

AN ACT TO AMEND THE LAW REGARDING THE ISSUANCE
OF ABC PERMITS TO RESIDENTIAL PRIVATE CLUBS AND
SPORTS CLUBS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1006(k) reads as rewritten:

"(k) Residential Private Club and Sports Club Permits. – The Commission may issue the permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or a sports club. No permit may be issued to any residential private club or sports club that practices discrimination on the basis of race, gender or ethnicity.

club that is located in a county that meets the requirements set in any of the following subdivisions:

- (1) ~~Has a population of less than 45,000 by the last federal census, has at least three but not more than four cities that have approved the sale of malt beverages or unfortified wine, has only one city that has approved the on-premises sale of malt beverages, and has at least two cities that approved the operation of ABC stores before July 10, 1992.~~
- (2) ~~Borders a county that has called elections pursuant to G.S. 18B-600(f), and:~~
 - a. ~~Has not approved the issuance of permits, other than malt beverage permits, in unincorporated areas of the county, and has no more than three cities that approved the operation of ABC stores before July 10, 1992; or~~
 - b. ~~Both the county and the two cities within the county have approved the operation of ABC stores.~~
- (3) ~~Is bordered by four counties that have not approved the issuance of permits and have at least one city that has approved the operation of an ABC store.~~
- (4) ~~Has not approved the issuance of permits, has at least three cities that have approved the issuance of only either off-premises malt beverage or both off-premises malt beverage and off-premises unfortified wine permits, and has only one city that, as of July 1, 1993, had approved the operation of an ABC store.~~
- (5) ~~Has not approved the issuance of any permits, borders one of the two largest counties in the State with more than 940 square miles, has an interstate highway running through it, and has at least six cities that have approved the sale of some malt beverages and unfortified wine and four of which have approved ABC systems.~~
- (6) ~~Borders a county that has approved the issuance of all permits and the operation of an ABC store, meets the county description of a special ABC area in G.S. 18B-101(13a)b., and, as of July 1, 1995, had at least five cities that had authorized the issuance of permits.~~
- (7) ~~Borders two states and, as of July 1, 1995, had only one city that had approved the issuance of permits.~~
- (8) ~~Has an 18-hole golf course; is in the coastal area as defined in G.S. 113A-103, but only because it is adjacent to, adjoining, intersected by, or bounded by a coastal sound; which does not allow countywide sales of mixed beverages; which does not border another state; with a~~

~~population of less than 15,000 according to the most recent decennial federal census; which does not have a city which has authorized the sale of mixed beverages; and which has least two cities with ABC systems.~~

The mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county."

SECTION 1.1. This act does not apply in Lincoln, Harnett, Davie, Graham, Swain, Yancey, and McDowell Counties.

SECTION 1.2. In the event that a court of competent jurisdiction holds that Section 1.1 of this act is unconstitutional or otherwise invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of Section 1.1 of this act are severable from the remainder of this act.

SECTION 1.3. Section 1.1 of this act becomes effective 90 days after this act becomes law, and does not affect the validity of any permit applied for before that date.

SECTION 1.4. G.S. 18B-1006(k), as rewritten by Section 1 of this act, reads as rewritten:

"(k) Residential Private Club and Sports Club Permits. –The Commission may issue the permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or a sports club, except if the sale of mixed beverages is not lawful within a jurisdiction and that locality has voted against the sale of mixed beverages in a referendum conducted on or after September 1, 2001. If the issuance of permits is prohibited by the exception in the previous sentence, the Commission may renew existing permits and may continue to issue permits for a business location that had previously held permits under this subsection.

The mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of May, 2001.

Became law upon approval of the Governor at 7:08 p.m. on the 25th day of May, 2001.

AN ACT INCREASING THE NUMBER OF COMMISSIONERS FOR THE TOWN OF NEW LONDON, EXTENDING THE TERMS OF OFFICE FOR THE TOWN'S COMMISSIONERS AND MAYOR, AND STAGGERING THOSE TERMS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of the Charter of the Town of New London, being Chapter 91 of the 1907 Private Laws, as amended, reads as rewritten:

"Sec. 3. ~~The officers of said town shall consist of a mayor, three commissioner and a marshal, all of which shall be elected at the regular elections to be held as provided by this act, except the marshal, who shall be appointed by the board of town commissioners for a term of two years: Provided, that said board of commissioners shall have the right to revoke said appointment at any time on failure of any marshal to perform the duties of his office satisfactorily; said marshal to be paid for his services in any lawful way that said board may see fit. The officers of the town shall consist of a mayor and five commissioners, and they shall be elected to four-year terms by the qualified voters of the entire town, except as provided otherwise in this section. In 2001, and quadrennially thereafter, a mayor shall be elected to a four-year term. In 2001, for the position of commissioner, the two persons receiving the highest numbers of votes shall be elected to four-year terms and the three persons receiving the next highest numbers of votes shall be elected to two-year terms. In 2003, and quadrennially thereafter, three persons shall be elected to four-year terms. In 2005, and quadrennially thereafter, two persons shall be elected to four-year terms.~~"

SECTION 2. Section 15 of the Charter of the Town of New London, being Chapter 91 of the 1907 Private Laws, as amended, is repealed.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law on the date it was ratified.

H.B. 744

SESSION LAW 2001-132

AN ACT TO PROVIDE THAT THE LAWS RELATING TO MOTOR VEHICLES APPLY ON STREETS OWNED BY WEST SIDE LANDOWNERS ASSOCIATION, INC., IN MOORE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) With the exception of any provisions prohibiting or regulating the operation of private golf carts, the provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the streets, roadways, and alleys on the properties owned by or under the control of the West Side Landowners

Association, Inc., or the members of the West Side Landowners Association, Inc. For purposes of this act, streets, roadways, and alleys in the Seven Lakes West Community shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01.

SECTION 1.(b) This section is enforceable by any law enforcement officer acting within his territorial jurisdiction.

SECTION 2. This act shall not be construed as in any way interfering with the ownership and control of the streets, roadways, and alleys of the West Side Landowners Association, Inc., or its members as is now vested by law in that association or its members. The speed limits within the Seven Lakes West Community shall be the same as those in effect at the time of ratification of this act. Any proposed change in the speed limit shall be submitted to and approved by the Board of Commissioners of Moore County. Pursuant to G.S. 20-141, the Moore County Board of Commissioners may authorize by ordinance higher or lower speeds.

SECTION 3. This act relates to Moore County only.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law on the date it was ratified.

H.B. 903**SESSION LAW 2001-133**

AN ACT TO ESTABLISH A SEASON FOR TRAPPING FOXES IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any other provision of law, there is a season for taking foxes with box-type traps only from January 2 through January 31 of each year.

SECTION 2. The Wildlife Resources Commission shall provide for the sale of foxes taken lawfully pursuant to this act.

SECTION 3. A season bag limit of 30 applies in the aggregate to gray and red foxes taken during the fox season established in this act.

SECTION 4. This act applies only to that portion of Richmond County located north of U.S. Highway 74 and west of U.S. Highway 1.

SECTION 5. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law on the date it was ratified.

H.B. 929 SESSION LAW 2001-134

AN ACT TO RESTORE EXTRATERRITORIAL JURISDICTION
AND RELATED POWERS TO THE TOWN OF MINNESOTT
BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of Chapter 478 of the 1977
Session Laws does not apply to the Town of Minnesott Beach.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the
28th day of May, 2001.

Became law on the date it was ratified.

H.B. 935 SESSION LAW 2001-135

AN ACT TO ASSIST THE JOHNSTON COUNTY BOARD OF
EDUCATION WITH THE EXPEDITING OF PUBLIC SCHOOL
FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 1997-37 reads as
rewritten:

"Section 2. This act shall apply to construction of an elementary
school at McGee's Crossroads, an elementary school in Benson, ~~and~~
an elementary/middle school in West ~~Johnson~~—Johnston
~~County~~—County, and Four Oaks Middle School. The ~~Johnson~~
Johnston County Board of Education shall report to the General
Assembly the net price per square foot for each project at the
completion of each project."

SECTION 2. Section 3 of S.L. 1997-37 reads as
rewritten:

"Section 3. This act is effective when it becomes law and expires
on June 30, ~~2000~~—2002."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the
28th day of May, 2001.

Became law on the date it was ratified.

H.B. 449 SESSION LAW 2001-136

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO
THE TOWN OF TROY.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Troy are extended to include the following described parcels:

A certain tract parcel of land in Troy Township, Montgomery County, North Carolina, and bounded and described as follows:

Beginning at a concrete hub 5 feet southwest of a triple white oak, S 3 degrees W 931.0 feet to a concrete hub in field 191 feet northeast of Norfolk Southern Railway; thence N 87 degrees 30 minutes E 551.0 feet to a concrete hub; thence S 2 degrees 20 minutes W 528.0 feet to a concrete hub, twin hickory pointers; thence N 86 degrees W 295.0 feet to a concrete hub, pine pointers; thence S 4 degrees 45 minutes W 726.0 feet to a concrete hub 8 feet northeast of Spencer Branch; thence down said branch the following courses; S 55 degrees 15 minutes E 495.0 feet; thence N 44 degrees 15 minutes E 1065.0 feet; thence S 59 degrees 45 minutes E 280 feet; thence N 56 degrees 15 minutes E 340.0; thence s 55 degrees 45 minutes E 315.0 feet; thence S 87 degrees 15 minutes E 110.0 feet; thence S 44 degrees 15 minutes E 500.0 feet; thence S 74 degrees 45 minutes E 299.3 feet; thence N 3 degrees 45 minutes W 15 feet to a concrete hub, maple and hickory pointers; thence N 3 degrees 45 minutes W 1310.0 feet to a concrete hub, 186 feet northwest Norfolk Southern Railway; thence N 54 degrees 26 minutes W 375.0 feet to a concrete hub, hickory pointer; thence N 41 degrees 29 minutes W 2195.0 feet to a concrete hub; thence S 37 degrees 29 minutes W 1061.0 feet to a stake; thence S 70 degrees 30 minutes W 331.1 feet to place of beginning, containing 121.55 acres.

All of that certain tract or parcel of land located in Montgomery County, bounded and described as follows:

Property lying and being in Troy Township, Montgomery County, and being a part of the land conveyed to Jesse Blake and wife, Alice Blake, and Carl Blake and wife, Onie Blake, of Montgomery County, North Carolina, by Mrs. Lizzie T. Smitherman, widow, and the heirs at law of N.W. Smitherman, deceased, as recorded in the office of the Register of Deeds of Montgomery County in Book 92, Page 354, said part of land being more fully described as follows:

Beginning at the accepted corner between the lands of Jessie Blake, et al., and the tract of land conveyed to the North Carolina State Highway and Public Works Commission by Dr. W.T. Harris of Montgomery County, North Carolina, as recorded in the office of the Register of Deeds of Montgomery County in Book 89 at Page 389, said corner being located 186 feet north of the Norfolk Southern Railway tracks and marked by iron pipe and rocks, also concrete monument; thence due West 412.5 feet to a concrete monument; thence North 42 degrees 30 minutes, West 2196.5 feet to a concrete monument; thence North 00 degrees 31 minutes East, 693.00 feet to a

corner in the George Green line, said corner being marked by rocks and concrete monument; thence South 38 degrees 04 minutes East, 3001.2 feet to the beginning and containing 22.74 acres.

SECTION 2. This act becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law on the date it was ratified.

H.B. 616

SESSION LAW 2001-137

AN ACT TO AUTHORIZE THE TOWN OF ATLANTIC BEACH TO ANNEX CERTAIN PROPERTIES CURRENTLY TOTALLY SURROUNDED BY THE CORPORATE LIMITS AND OTHER CERTAIN AREAS WITHIN THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 160A-36, the Town of Atlantic Beach may adopt ordinances annexing property that, on January 1, 2001, was either completely enclosed by the corporate limits of the Town or completely enclosed by the corporate limits of the Town and the waterways of the State, if the Town does the following:

- (1) Fixes a date for a public hearing on the annexation and publishes notice of the public hearing at least 10 days before the date of the hearing.
- (2) Makes a finding based upon circumstances and evidence satisfactory to the Town Council that the annexation is necessary for the orderly growth and development of the Town.

SECTION 2. The procedure for recording any annexation under this act is as provided in G.S. 160A-39.

SECTION 3. Any annexation ordinance adopted by the Town Council under this act shall be adopted before December 31, 2002.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law on the date it was ratified.

S.B. 67

SESSION LAW 2001-138

AN ACT TO ALLOW THE JOINT LEGISLATIVE CORRECTIONS AND CRIME CONTROL OVERSIGHT COMMITTEE TO STUDY ISSUES RELATED TO THE

DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION AND TO CHANGE THE NAME OF THAT COMMITTEE ACCORDINGLY, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS AND CRIME CONTROL OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.94 reads as rewritten:

"§ 120-70.94. *Purpose and powers of Committee.*

(a) The Joint Legislative ~~Corrections and Crime Control~~ Corrections, Crime Control, and Juvenile Justice Oversight Committee shall examine, on a continuing basis, the ~~correctional and law enforcement~~ correctional, law enforcement, and juvenile justice systems in North Carolina, in order to make ongoing recommendations to the General Assembly on ways to improve ~~the correctional and law enforcement~~ those systems and to assist those systems in realizing their objectives of protecting the public and of punishing and rehabilitating offenders. In this examination, the Committee shall:

- (1) Study the budget, programs, and policies of the Departments of ~~Correction and Crime Control and Public Safety,~~ Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention to determine ways in which the General Assembly may improve the effectiveness of those Departments;
- (2) Examine the effectiveness of the Department of Correction in implementing the public policy stated in G.S. 148-26 of providing work assignments and employment for inmates as a means of reducing the cost of maintaining the inmate population while enabling inmates to acquire or retain skills and work habits needed to secure honest employment after their release;
- (2a) Examine the effectiveness of the Department of Crime Control and Public Safety in implementing the duties and responsibilities charged to the Department in G.S. 143B-474 and the overall effectiveness and efficiency of law enforcement in the State; ~~and~~
- (2b) Examine the effectiveness of the Department of Juvenile Justice and Delinquency Prevention in implementing the duties and responsibilities charged to the Department in Article 12 of Chapter 143B of the General Statutes and the overall effectiveness and efficiency of the juvenile justice system in the State; and

(3) Study any other matters that the Committee considers necessary.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee."

SECTION 2. Except for the section of the General Statutes amended in this act, the Revisor of Statutes shall substitute the term "Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee" for the term "Joint Legislative Corrections and Crime Control Oversight Committee" everywhere that term appears in the General Statutes.

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

S.B. 162

SESSION LAW 2001-139

AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-282.1 reads as rewritten:

"§ 105-282.1. Applications for property tax exemption or ~~exclusion~~; annual review of property exempted or excluded from property tax.

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled thereto. ~~Except as provided below, an owner claiming exemption or exclusion shall annually file an application for exemption or exclusion during the listing period. to it.~~ If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

- (1) ~~The United States government, the State of North Carolina and the counties and municipalities of the State are exempted from the requirement that owners file applications for exemption.~~
- (2) ~~Owners of the special classes of property excluded from taxation under G.S. 105-275(5), (15), (16), (26), (31), (32a), (33), (34), or (40), or exempted under G.S. 105-278.2 are not required to file applications for the exclusion or exemption of that property.~~
- (3) ~~After an owner of property entitled to exemption under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8 or exclusion under G.S. 105-275(3), (7), (8), (12), (17) through (19), (21) or (39), G.S. 105-277.1, or G.S. 105-278 has applied for exemption or exclusion and the exemption or exclusion has been approved, the owner is not required to file an application in subsequent years except in the following circumstances:
 - a. ~~New or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property; or~~
 - b. ~~There is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion.~~~~
- (4) ~~After an owner of property entitled to exclusion under G.S. 105-277.10 has applied for the exclusion and the exclusion has been approved, the owner is not required to apply for the exclusion in subsequent years so long as the classified property, including classified property acquired after the application is approved, is used or held for use directly in manufacturing or processing as part of industrial machinery.~~
- (5) ~~Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subdivision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.~~

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

- (1) No application required. – Owners of the following exempt or excluded property do not need to file an application for the exemption or exclusion to be entitled to receive it:
 - a. Property exempt from taxation under G.S. 105-278.1 or G.S. 105-278.2.
 - b. Special classes of property excluded from taxation under G.S. 105-275(15), (16), (26), (31), (32a), (33), (34), (37), (40), or (42).
 - c. Property classified for taxation at a reduced valuation under G.S. 105-277(g) or G.S. 105-277.9.
- (2) Single application required. – An owner of one or more of the following properties eligible to be exempted or excluded from taxation must file an application for exemption or exclusion to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the exemption or exclusion:
 - a. Property exempted from taxation under G.S. 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.
 - b. Special classes of property excluded from taxation under G.S. 105-275(3), (7), (8), (12), (17), (18), (19), (20), (21), (35), (36), (38), (39), or (41) or under G.S. 131A-21.
 - c. Special classes of property classified for taxation at a reduced valuation under G.S. 105-277(h), 105-277.1, 105-277.10, 105-277.13, or 105-278.
 - d. Property owned by a nonprofit homeowners' association but where the value of the property is included in the appraisals of property owned by members of the association under G.S. 105-277.8.

(a1) Late Application. – Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing

body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subsection applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

(b) Approval and Appeal Process. – The Department of Revenue or the assessor to whom an application for exemption or exclusion is submitted ~~shall~~ must review the application and either approve or deny the application. Approved applications shall be filed and made available to all taxing units in which the exempted or excluded property is situated. If the Department denies an application for exemption or exclusion, it shall notify the taxpayer, who may appeal the denial to the Property Tax Commission.

If an assessor denies an application for exemption or exclusion, ~~he shall~~ the assessor must notify the owner of ~~his~~ the decision ~~in time for him~~ and the owner may ~~to~~ appeal the decision to the board of equalization and review or the board of county commissioners, as appropriate, and from the county board to the Property Tax Commission. If the notice of denial covers property located within a municipality, the assessor shall send a copy of the notice and a copy of the application to the governing body of the municipality. The municipal governing body shall then advise the owner whether it will adopt the decision of the county board or require the owner to file a separate appeal with the municipal governing body. In the event the owner is required to appeal to the municipal governing body and that body renders an adverse decision, the owner may appeal to the Property Tax Commission. Nothing in this ~~section~~ subsection shall prevent the governing body of a municipality from denying an application which has been approved by the assessor or by the county board provided the owner's rights to notice and hearing are not abridged. Applications handled separately by a municipality shall be filed in the office of the person designated by the governing body, or in the absence of such designation, in the office of the chief fiscal officer of the municipality.

(c) Discovery of Property. – When an owner of property that may be eligible for exemption or exclusion neither lists the property nor files an application for exemption or exclusion, the assessor or the Department of Revenue, as appropriate, shall proceed to discover the property. If, upon appeal, the owner demonstrates that the property meets the conditions for exemption or exclusion, the body hearing the appeal may approve the exemption or exclusion. Discovery of the property by the Department or the county shall automatically constitute a discovery by any taxing unit in which the property has a taxable situs.

(d) Roster of Exempted and Excluded Property. – The ~~county~~ assessor shall prepare and maintain a roster of all property in the

county that is granted tax relief through classification or exemption. On or before November 1 of each year, the assessor must send a report to the Department of Revenue summarizing the information contained in the roster. The report must be in the format required by the Department. The assessor must also send the Department a copy of the roster upon the request of the Department. As to affected real and personal property, the roster shall set forth:

- (1) The name of the owner of the property.
- (2) A brief description of the property.
- (3) A statement of the use to which the property is put.
- (4) A statement of the value of the property.
- (5) The total value of exempt property in the county and in each municipality therein.

(e) Annual Review of Exempted or Excluded Property. – Pursuant to G.S. 105-296(l), the assessor must annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that the parcels qualify for the exemption or exclusion. A duplicate copy of the roster shall be forwarded to the Department of Revenue on or before November 1, 1974. In subsequent years, on or before November 1, a report shall be filed with the Department of Revenue showing all changes since the last report."

SECTION 2. G.S. 105-287(a) reads as rewritten:

"(a) In a year in which a general reappraisal or horizontal adjustment of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, to accomplish any one or more of the following: to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property.

- (1) Correct a clerical or mathematical error.
- (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general reappraisal or horizontal adjustment.
- (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.
- (2b) Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.

- (2c) Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.
- (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b)."

SECTION 3. G.S. 105-296(j) reads as rewritten:

"(j) The assessor shall annually review one eighth of the parcels in the county classified for taxation at present-use value to verify that these parcels qualify for the classification. By this method, the assessor shall review the eligibility of all parcels classified for taxation at present-use value in an eight-year period. The assessor may require the owner of classified property to submit any information needed by the assessor to verify that the property continues to qualify for present-use value taxation. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines the owner failed to make the information requested available in the time required without good cause, the property loses its present-use value classification and the property's deferred taxes become due and payable as provided in G.S. 105-277.4(c). The assessor must reinstate the property's present-use value classification when the owner submits the requested information unless the information discloses that the property no longer qualifies for present-use value classification. When a property's present-use value classification is reinstated, it is reinstated retroactive to the date the classification was revoked and any deferred taxes that were paid as a result of the revocation must be refunded to the property owner."

SECTION 4. G.S. 105-296(l) reads as rewritten:

"(l) The assessor shall annually review at least one-eighth of the parcels in the county exempted or excluded from taxation to verify that these parcels qualify for the exemption or exclusion. By this method, the assessor shall review the eligibility of all parcels exempted or excluded from taxation in an eight-year period. The assessor may require the owner of exempt or excluded property to make available for inspection any information reasonably needed by the assessor to verify that the property continues to qualify for the exemption or exclusion. The owner has 60 days from the date a written request for the information is made to submit the information to the assessor. If the assessor determines that the owner failed to make the information requested available in the time required without good cause, then the property loses its exemption or exclusion. The assessor must reinstate the property's exemption or exclusion when the owner makes the requested information available unless the

information discloses that the property is no longer eligible for the exemption or exclusion."

SECTION 5. G.S. 105-296 is amended by adding a new subsection to read:

"(m) The assessor shall annually review the transportation corridor official maps and amendments to them filed with the register of deeds pursuant to Article 2E of Chapter 136 of the General Statutes. The assessor must indicate on all tax maps maintained by the county or city that portion of the properties embraced within a transportation corridor and must note any variance granted for the property for such period as the designation remains in effect. The assessor must tax the property within a transportation corridor as required under G.S. 105-277.9."

SECTION 6. G.S. 105-322(e) reads as rewritten:

"(e) Time of Meeting. – Each year the board of equalization and review shall hold its first meeting not earlier than the first Monday in April and not later than the first Monday in May. In years in which a county does not conduct a real property revaluation, the board shall complete its duties on or before the third Monday following its first meeting unless, in its opinion, a longer period of time is necessary or expedient to a proper execution of its responsibilities. ~~In no event shall~~ Except as provided in subdivision (g)(5) of this section, the board may not sit later than July 1 except to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. In the year in which a county conducts a real property revaluation, the board shall complete its duties on or before December 1, except that it may sit after that date to hear and determine requests made under the provisions of subdivision (g)(2), below, when such requests are made within the time prescribed by law. From the time of its first meeting until its adjournment, the board shall meet at such times as it deems reasonably necessary to perform its statutory duties and to receive requests and hear the appeals of taxpayers under the provisions of subdivision (g)(2), below."

SECTION 7. G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

- (1) ~~Powers and Duties. – It shall be the duty of the board of equalization and review to~~ Duty to Review Tax Lists. – The board shall examine and review the tax lists of the county for the current year to the end that all taxable property shall be listed on the abstracts and tax records of the county and appraised according to the standard required by G.S. 105-283, and the board shall correct the abstracts and tax records to conform to the provisions of

this Subchapter. In carrying out its responsibilities under this subdivision (g)(1), the board, on its own motion or on sufficient cause shown by any person, shall:

- a. List, appraise, and assess any taxable real or personal property that has been omitted from the tax lists.
 - b. Correct all errors in the names of persons and in the description of properties subject to taxation.
 - c. Increase or reduce the appraised value of any property that, in the board's opinion, ~~shall have~~ has been listed and appraised at a figure that is below or above the appraisal required by G.S. 105-283; however, the board shall not change the appraised value of any real property from that at which it was appraised for the preceding year except in accordance with the terms of G.S. 105-286 and 105-287.
 - d. Cause to be done whatever else ~~shall be~~ is necessary to make the lists and tax records comply with the provisions of this Subchapter.
 - e. Embody actions taken under the provisions of subdivisions (g)(1)a through (g)(1)d, above, in appropriate orders and have the orders entered in the minutes of the board.
 - f. Give written notice to the taxpayer at ~~his~~ the taxpayer's last known address in the event the ~~board shall,~~ board, by appropriate order, ~~increase~~ increases the appraisal of any property or ~~list~~ lists for taxation any property omitted from the tax lists under the provisions of this subdivision (g)(1).
- (2) Duty to Hear Taxpayer Appeals. – On request, the board of equalization and review shall hear any taxpayer who owns or controls property taxable in the county with respect to the listing or appraisal of ~~his~~ the taxpayer's property or the property of others.
- a. A request for a hearing under this subdivision (g)(2) shall be made in writing to or by personal appearance before the board prior to its adjournment. However, if the taxpayer requests review of a decision made by the board under the provisions of subdivision (g)(1), above, notice of which was mailed fewer than 15 days prior to the board's adjournment, the request for a hearing thereon may be made within 15 days after the notice of the board's decision was mailed.

- b. Taxpayers may file separate or joint requests for hearings under the provisions of this subdivision (g)(2) at their election.
 - c. At a hearing under provisions of this subdivision (g)(2), the board, in addition to the powers it may exercise under the provisions of subdivision (g)(3), below, shall hear any evidence offered by the appellant, the assessor, and other county officials that is pertinent to the decision of the appeal. Upon the request of an appellant, the board shall subpoena witnesses or documents if there is a reasonable basis for believing that the witnesses have or the documents contain information pertinent to the decision of the appeal.
 - d. On the basis of its decision after any hearing conducted under this subdivision (g)(2), the board shall adopt and have entered in its minutes an order reducing, increasing, or confirming the appraisal appealed or listing or removing from the tax lists the property whose omission or listing has been appealed. The board shall notify the appellant by mail as to the action taken on ~~his~~ the taxpayer's appeal not later than 30 days after the board's adjournment.
- (3) Powers in Carrying Out Duties. — In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:
- a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by ~~him~~ the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.
 - b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or

documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the ~~chairman~~ chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

- (4) Power to Submit Reports. – Upon the completion of its other duties, the board may submit to the Department of Revenue a report outlining the quality of the reappraisal, any problems it encountered in the reappraisal process, the number of appeals submitted to the board and to the Property Tax Commission, the success rate of the appeals submitted, and the name of the firm that conducted the reappraisal. A copy of the report should be sent by the board to the firm that conducted the reappraisal.
- (5) Duty to Change Abstracts and Records After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this subsection, the board may continue to meet to carry out the following duties:
- a. To hear and decide all appeals relating to discovered property under G.S. 105-312(d) and (k).
 - b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).
 - c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation."

SECTION 8. G.S. 105-330.4(b) reads as rewritten:

"(b) Subject to the provisions of G.S. 105-395.1, interest on unpaid taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(1) accrues at the rate of ~~three fourths of one percent (3/4%) per month beginning~~ two percent (2%) for the first month following the date the taxes were due and three-fourths percent (3/4%) for each month thereafter until the taxes are paid, unless the tax notice required by G.S. 105-330.5 is prepared after the date the

taxes are due. In that circumstance, the interest accrues beginning the second month following the date of the notice until the taxes are paid. Subject to the provisions of G.S. 105-395.1, interest on delinquent taxes on classified motor vehicles listed pursuant to G.S. 105-330.3(a)(2) accrues as provided in G.S. 105-360(a) and discounts shall be allowed as provided in G.S. 105-360(c)."

SECTION 9. G.S. 105-375(i) reads as rewritten:

"(i) Issuance of Execution. – At any time after ~~six~~ three months and before two years from the indexing of the judgment as provided in subsection (b), above, execution shall be issued at the request of the tax collector in the same manner as executions are issued upon other judgments of the superior court, and the real property shall be sold by the sheriff in the same manner as other real property is sold under execution with the following exceptions:

- (1) No debtor's exemption shall be allowed.
- (2) In lieu of personal service of notice on the owner of the property, registered or certified mail notice shall be mailed to the listing owner ~~(and to the current owner if notice was required to be mailed to him pursuant to subsection (c), above)~~ at ~~this [his]~~ the listing owner's last known address at least 30 days prior to the day fixed for the sale. The notice must also be mailed to the current owner by registered or certified mail if notice was required to be mailed to the current owner pursuant to subsection (c) of this section.
- (3) The sheriff shall add to the amount of the judgment as costs of the sale any postage expenses incurred by the tax collector and the sheriff in foreclosing under this section.
- (4) In any advertisement or posted notice of sale under execution, the sheriff may (and at the request of the governing body shall) combine the advertisements or notices for properties to be sold under executions against the properties of different taxpayers in favor of the same taxing unit or group of units; however, the property included in each judgment shall be separately described and the name of the listing taxpayer specified in connection with each.

The purchaser at the execution sale shall acquire title to the property in fee simple free and clear of all claims, rights, interests, and liens except the liens of other taxes or special assessments not paid from the purchase price and not included in the judgment."

SECTION 10. G.S. 131A-21 reads as rewritten:

"§ 131A-21. *Tax exemption.*

The exercise of the powers granted by this Chapter will be in all respects for the benefit of the people of the State and will promote their health and welfare. If bonds or notes are issued by the Commission to provide or improve a health care facility, then until the bonds or notes are retired, the facility for which bonds or notes are issued is exempt from property taxes to the extent provided in this section. If refunding bonds or notes are issued to refund bonds or notes issued to provide or improve a health care facility, the facility will continue to be exempt from property taxes as provided in this section until such time as the refunding bonds or notes are retired, provided that the final maturity of the refunding bonds or notes does not extend beyond the final maturity of the original bonds or notes.

Property may be exempt from property taxes as provided in this section if a timely application for the exemption is filed with the assessor of the county in which the property is located as required under G.S. 105-282.1. The property tax exemption under this section shall not exceed the lesser of the original principal amount of the bonds or notes or the assessed value for ad valorem tax purposes of the facility. If bonds or notes are issued to finance more than one health care facility, only that portion of the principal amount of the bonds or notes used to provide or improve the particular facility, including any allocable reserves and financing costs, may be considered for the purpose of determining the amount of the exemption allowable under this section. The exemption authorized by this section shall begin with the first full tax year of the taxpayer following the issuance of the bonds and notes. This section does not affect a health care facility's eligibility for a property tax exemption under Subchapter II of Chapter 105 of the General Statutes.

Any bonds or notes issued by the Commission under the provisions of this Chapter shall at all times be free from taxation by the State or any local unit or political subdivision or other instrumentality of the State, excepting inheritance, estate, or gift taxes, income taxes on the gain from the transfer of the bonds and notes, and franchise taxes. The interest on the bonds and notes is not subject to taxation as income."

SECTION 11. Section 2 of this act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2002. Section 9 of this act becomes effective July 1, 2001, and applies to an in rem foreclosure proceeding begun on or after that date. Section 8 of this act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

S.B. 431 SESSION LAW 2001-140

AN ACT TO ADJUST THE VALUE THRESHOLDS OF LIMITED AND INTERMEDIATE LICENSES FOR INFLATION UNDER THE LAWS REGULATING GENERAL CONTRACTORS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-10(a) reads as rewritten:

"(a) Anyone seeking to be licensed as a general contractor in this State shall file an application for an examination on a form provided by the Board, at least 30 days before any regular or special meeting of the Board accompanied by an examination fee of fifty dollars (\$50.00) and by the sum of one hundred dollars (\$100.00) if the application is for an unlimited license, the sum of seventy-five dollars (\$75.00) if the application is for an intermediate license or the sum of fifty dollars (\$50.00) if the application is for a limited license; the fees and sum accompanying any application shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to ~~five~~seven hundred thousand dollars (~~\$500,000~~);(\$700,000); the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to ~~two~~three hundred fifty thousand dollars (~~\$250,000~~);(\$350,000); and the license certificate shall be classified in accordance with this section. Before being entitled to an examination an applicant must show to the satisfaction of the Board from the application and proofs furnished that the applicant is possessed of a good character and is otherwise qualified as to competency, ability, integrity, and financial responsibility, and that the applicant has not committed or done any act, which, if committed or done by any licensed contractor would be grounds under the provisions hereinafter set forth for the suspension or revocation of contractor's license, or that the applicant has not committed or done any act involving dishonesty, fraud, or deceit, or that the applicant has never been refused a license as a general contractor nor had such license revoked, either in this State or in another state, for reasons that should preclude the granting of the license applied for, and that the applicant has never been convicted of a felony involving moral turpitude, relating to building or contracting, or involving embezzlement or misappropriation of funds or property entrusted to the applicant: Provided, no applicant shall be refused the right to an

examination, except in accordance with the provisions of Chapter 150B of the General Statutes."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

S.B. 1036**SESSION LAW 2001-141**

AN ACT TO CLARIFY THAT THE STATE BUILDING CODE COUNCIL IS SUBJECT TO THE ADMINISTRATIVE PROCEDURE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(a) reads as rewritten:

"§ 143-138. *North Carolina State Building Code.*

(a) Preparation and Adoption. – The Building Code Council is hereby empowered to prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. Prior to the adoption of this Code, or any part thereof, the Council shall hold at least one public hearing. A notice of such public hearing shall be published in the North Carolina Register at least 15 days prior to the date of the hearing. ~~given once a week for two successive calendar weeks in a newspaper published in Raleigh, said notice to be published the first time not less than 15 days prior to the date fixed for said hearing. The Council may hold such other public hearings and give such other notice as it may deem necessary. Notwithstanding G.S. 150B-2(8a)h., the North Carolina State Building Code as adopted by the Building Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes.~~

The Council shall request the Office of State Budget, Planning, and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit. ~~The Council shall not take final action on a proposed Code change that has a substantial economic impact or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit until at least 60 days after the fiscal note has been prepared. The change can become effective only in accordance with G.S. 143-138(d)."~~

SECTION 2. G.S. 143-138(d) reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code. ~~Code revisions and amendments adopted by the Building Code Council on or after September 1, 1997, but prior to July 1, 1998, shall become effective January 1, 1999. Code revisions and amendments adopted by the Building Code Council on or after July 1, 1998, but prior to July 1, 2001, shall become effective January 1, 2002. All future revisions and amendments shall be adopted prior to July 1 every three years after July 1, 2001, to become effective the first day of January of the following year. A revision or amendment may be made effective on an earlier date if determined by the Building Code Council to be necessary to address an imminent threat to the public's health, safety, or welfare.~~

Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each triennial revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks."

SECTION 3. G.S. 143-138(e) reads as rewritten:

"(e) Effect upon Local Codes. – The North Carolina State Building Code shall apply throughout the State, from the time of its adoption. Approved rules shall become effective in accordance with G.S. 150B-21.3. However, any political subdivision of the State may adopt a fire prevention code and floodplain management regulations within its jurisdiction. The territorial jurisdiction of any municipality or county for this purpose, unless otherwise specified by the General Assembly, shall be as follows: Municipal jurisdiction shall include all areas within the corporate limits of the municipality and extraterritorial jurisdiction areas established as provided in G.S. 160A-360 or a local act; county jurisdiction shall include all other areas of the county. No such code or regulations, other than floodplain management regulations and those permitted by G.S. 160A-436, shall be effective until they have been officially approved by the Building Code Council as providing adequate minimum standards to preserve and protect health and safety, in accordance with the provisions of subsection (c) above. Local floodplain regulations may regulate all types and uses of buildings or structures located in flood hazard areas identified by local, State, and federal agencies, and include provisions governing substantial improvements, substantial damage, cumulative substantial improvements, lowest floor elevation, protection of mechanical and electrical systems,

foundation construction, anchorage, acceptable flood resistant materials, and other measures the political subdivision deems necessary considering the characteristics of its flood hazards and vulnerability. In the absence of approval by the Building Code Council, or in the event that approval is withdrawn, local fire prevention codes and regulations shall have no force and effect. Provided any local regulations approved by the local governing body which are found by the Council to be more stringent than the adopted statewide fire prevention code and which are found to regulate only activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion or related hazards, and are not matters in conflict with the State Building Code, shall be approved. Local governments may enforce the fire prevention code of the State Building Code using civil remedies authorized under G.S. 143-139, 153A-123, and 160A-175. If the Commissioner of Insurance or other State official with responsibility for enforcement of the Code institutes a civil action pursuant to G.S. 143-139, a local government may not institute a civil action under G.S. 143-139, 153A-123, or 160A-175 based upon the same violation. Appeals from the assessment or imposition of such civil remedies shall be as provided in G.S. 160A-434."

SECTION 4. G.S. 143-138(g) reads as rewritten:

"(g) Publication and Distribution of Code. – The Building Code Council shall cause to be printed, after adoption by the Council, the North Carolina State Building Code and each amendment thereto. It shall, at the State's expense, distribute copies of the Code and each amendment to State and local governmental officials, departments, agencies, and educational institutions, as is set out in the table below. (Those marked by an asterisk will receive copies only on written request to the Council.)

OFFICIAL OR AGENCY	NUMBER OF COPIES
State Departments and Officials	
Governor.....	1
Lieutenant Governor.....	1
Auditor.....	1
Treasurer.....	1
Secretary of State.....	1
Superintendent of Public Instruction	1
Attorney General (Library).....	1
Commissioner of Agriculture	1
Commissioner of Labor	1
Commissioner of Insurance	1
Department of Environment and	
Natural Resources.....	1
Department of Health and Human Services	1

Department of Juvenile Justice and
 Delinquency Prevention1
 Board of Transportation.....1
 Utilities Commission1
 Department of Administration.....1
 Clerk of the Supreme Court.....1
 Clerk of the Court of Appeals.....1
 Clerk of the Superior Court1 each
 Department of Cultural Resources [State
 Library]5
 Supreme Court Library.....2
 Legislative Library1
Office of Administrative Hearings1
Rules Review Commission.....1

Schools
 All state-supported colleges and universities
 in the State of North Carolina.....1 each

Local Officials
 Clerks of the Superior Courts1 each
 Chief Building Inspector of each incorporated
 municipality or county.....1

In addition, the Building Code Council shall make additional copies available at such price as it shall deem reasonable to members of the general public."

SECTION 5. G.S. 150B-21.5 is amended by adding a new subsection to read:

"(d) State Building Code. – The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection. In adopting a rule, the Council shall comply with the procedural requirements of G.S. 150B-21.3."

SECTION 6. G.S. 150B-21.17(a) reads as rewritten:

"Part 4. Publication of Code and Register.

"§ 150B-21.17. *North Carolina Register.*

(a) Content. – The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

- (1) Temporary rules entered in the North Carolina Administrative Code.
- (1a) Notices of rule-making proceedings, the text of proposed rules, and the text of permanent rules approved by the

Commission. This subdivision does not apply to the North Carolina State Building Code.

- (2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.
- (3) Executive orders of the Governor.
- (4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.
- (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- (6) Other information the Codifier determines to be helpful to the public."

SECTION 7. G.S. 150B-21.21 reads as rewritten:

"§ 150B-21.21. *Publication of rules of North Carolina State ~~Bar~~ Bar, Building Code Council, and exempt agencies.*

(a) State Bar. – The North Carolina State Bar must submit a rule adopted or approved by it and entered in the minutes of the North Carolina Supreme Court to the Codifier of Rules for inclusion in the North Carolina Administrative Code. The State Bar must submit a rule within 30 days after it is entered in the minutes of the Supreme Court. The Codifier of Rules must compile, make available for public inspection, and publish a rule included in the North Carolina Administrative Code under this subsection in the same manner as other rules in the Code.

(a1) Building Code Council. – The Building Code Council shall publish the North Carolina State Building Code as provided in G.S. 143-138(g). The Codifier of Rules is not required to publish the North Carolina State Building Code in the North Carolina Administrative Code.

(b) Exempt Agencies. – Notwithstanding G.S. 150B-1, the North Carolina Utilities Commission must submit to the Codifier of Rules those rules of the Utilities Commission that are published from time to time in the publication titled "North Carolina Utilities Laws and Regulations." The Utilities Commission must submit a rule required to be included in the Code within 30 days after it is adopted.

Notwithstanding G.S. 150B-1, an agency other than the Utilities Commission that is exempted from this Article by that statute must submit a temporary or permanent rule adopted by it to the Codifier of Rules for inclusion in the North Carolina Administrative Code. These exempt agencies must submit a rule to the Codifier of Rules within 30 days after adopting the rule.

(c) Publication. – A rule submitted to the Codifier of Rules under this section must be in the physical form specified by the Codifier of Rules. The Codifier of Rules must compile, make available for public

inspection, and publish a rule submitted under this section in the same manner as other rules in the North Carolina Administrative Code."

SECTION 8. G.S. 150B-38(a) reads as rewritten:

"§ 150B-38. *Scope; hearing required; notice; venue.*

(a) The provisions of this Article shall apply to the following agencies:

- (1) Occupational licensing ~~agencies;~~agencies.
- (2) The State Banking Commission, the Commissioner of Banks, the Savings Institutions Division of the Department of Commerce, and the Credit Union Division of the Department of ~~Commerce;~~and Commerce.
- (3) The Department of Insurance and the Commissioner of Insurance.
- (4) The Department of Commerce in the administration of the provisions of Part 16 of Article 10 of Chapter 143B of the General Statutes.
- (5) The North Carolina State Building Code Council."

SECTION 9. This act is effective when it becomes law and applies to revisions made to the North Carolina State Building Code on or after January 1, 2002.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

S.B. 1070

SESSION LAW 2001-142

AN ACT ESTABLISHING A DISPUTE RESOLUTION PROCEDURE TO ASSIST THE OFFICE OF INFORMATION TECHNOLOGY IN THE COLLECTION OF FEES RELATED TO INFORMATION TECHNOLOGY SERVICES PROVIDED BY THE OFFICE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-33.93. *Fees; dispute resolution panel.*

In addition to the powers granted pursuant to Article 6B of this Chapter or by any other provision of law, the Office of Information Technology Services may go before a panel consisting of the State Auditor, the State Controller, and the State Budget Officer, or their designees, to resolve disputes concerning services, fees, and charges incurred by State government agencies receiving information technology services from the Office. The State Auditor shall adopt

rules for the dispute resolution process pursuant to G.S. 147-64.9. The decisions of the panel shall be final in the settlement of all fee disputes that come before it."

SECTION 2. G.S. 147-64.6(c) is amended by adding a new subdivision to read:

"(17) The Auditor or the Auditor's designee, in conjunction with the State Controller and the State Budget Officer or their designees, shall handle the resolution of fee disputes between the Office of Information Technology Services and the State agencies receiving information technology services from the Office."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

H.B. 262**SESSION LAW 2001-143**

AN ACT TO MODIFY THE ELIGIBILITY REQUIREMENTS FOR INTERMENT IN A STATE VETERANS CEMETERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-43 reads as rewritten:

"§ 65-43. *Definitions.*

For purposes of this Article, the following definitions shall apply, unless the context requires otherwise:

- (1) "Honorable military service" means:
 - a. Service on active duty, other than for training, as a member of the Armed Forces of the United States, when the service was terminated under honorable conditions;
 - b. Service on active duty as a member of the Armed Forces of the United States at the time of death under honorable conditions;
 - c. Service on active duty for training or full-time service as a member of the Reserve component of the Armed Forces, the Army National Guard, the Air National Guard, or the Reserve Officer Training Corps of the Army, Navy, or Air Force, at the time of death under honorable conditions.
- (2) A "legal resident" of a state means a person whose principal residence or abode is in that state, who uses that state to establish his right to vote and other rights in a state, and who intends to live in that state, to the

exclusion of maintaining a legal residence in any other state.

- (3) A "qualified veteran" means a ~~veteran~~veteran who meets the requirements of sub-subdivisions a. and b. of this subdivision:
- a. ~~Who~~A veteran who served an honorable military service; and service or who served a period of honorable nonregular service and is any of the following:
 1. A veteran who is entitled to retired pay for nonregular service under 10 U.S.C. §§ 12731-12741, as amended.
 2. A veteran who would have been entitled to retired pay for nonregular service under 10 U.S.C. §§ 12731-12741, as amended, but for the fact that the person was under 60 years of age.
 3. A veteran who is eligible for interment in a national cemetery under 38 U.S.C. § 2402, as amended.
 - b. Who is a legal resident of North Carolina:
 - ~~(1)~~1. At the time of death, or
 - ~~(2)~~2. For a period of at least 10 years, or
 - ~~(3)~~3. At the time he entered the Armed Forces of the United States."

SECTION 2. G.S. 65-43.1(a) reads as rewritten:

"(a) The following persons are eligible for interment at a State veterans cemetery:

- (1) A qualified ~~veteran~~veteran.
- (2) The spouse, widow, or widower of a qualified veteran, or a minor child who is unmarried and dependent on the qualified veteran at the time of ~~his death; and~~death. For purposes of this subdivision, "minor child" includes a child under 21 years of age or under 23 years of age if pursuing a course of instruction at an educational institution approved by the United States Department of Veterans Affairs.
- (3) An unmarried adult child of a qualified veteran when the child became permanently incapable of self-support because of a physical or mental disability before attaining the age of 18 years."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:24 a.m. on the 31st day of May, 2001.

S.B. 264 SESSION LAW 2001-144

AN ACT TO REQUIRE STATE REPORTS TO BE PRINTED ON BOTH SIDES OF THE PAPER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.14(j) reads as rewritten:

"(j) The Department of Administration shall develop a model report for reports published by any State agency, the General Assembly, the General Court of Justice, or The University of North Carolina. This model report shall satisfy the following:

- (1) The paper in the report shall, to the extent economically practicable, be made from recycled paper and shall be capable of being recycled.
- (2) The other constituent elements of the report shall, to the extent economically practicable, be made from recycled products and shall be capable of being recycled or reused.
- (3) The report ~~shall, to the extent practicable, shall~~ be printed on both sides of the paper if no additional time, staff, equipment, or expense would be required to fulfill this requirement.
- (4) State publications that are of historical and enduring value and importance to the citizens of North Carolina shall be printed on alkaline (acid-free) paper according to G.S. 125-11.13."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of May, 2001.

S.B. 380 SESSION LAW 2001-145

AN ACT RELATING TO THE NAMING OF ROADS AND THE ASSIGNMENT OF STREET NUMBERS BY COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-239.1(a) reads as rewritten:

"(a) A county may by ordinance name or rename any road within the county and not within a city, and may pursuant to a procedure

established by ordinance assign or reassign street numbers for use on such a road. In naming or renaming a road, a county may not:

- (1) Change the name, if any, given to the road by the Board of Transportation, unless the Board of Transportation agrees;
- (2) Change the number assigned to the road by the Board of Transportation, but may give the road a name in addition to its number; or
- (3) Give the road a name that is deceptively similar to the name of any other public road in the vicinity.

A county shall not name or rename a road or adopt an ordinance to establish a procedure to assign or reassign street numbers on a road until it has held a public hearing on the matter. At least 10 days before the day of the hearing, hearing to name or rename a road, the board of commissioners shall cause notice of the time, place and subject matter of the hearing to be prominently posted at the county courthouse, in at least two public places in the township or townships where the road is located, and shall publish a notice of such hearing in a newspaper of general circulation published in the county. At least 10 days before the day of the hearing to adopt an ordinance to establish a procedure to assign or reassign street numbers on a road, the board of commissioners shall publish a notice of such hearing in a newspaper of general circulation in the county. After naming or renaming a road, or assigning or reassigning street numbers on a road, a county shall cause notice of its action to be given to the local postmaster with jurisdiction over the road, to the Board of Transportation, and to any city within five miles of the road. Names may be initially assigned to new roads by recordation of an approved subdivision plat without following the procedure established by this section."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of May, 2001.

S.B. 803

SESSION LAW 2001-146

AN ACT TO DIRECT THE STATE UNIVERSITY SYSTEM, THE COMMUNITY COLLEGES SYSTEM, AND THE DEPARTMENT OF PUBLIC INSTRUCTION TO WORK COOPERATIVELY TO EXPAND OPPORTUNITIES FOR MILITARY PERSONNEL TO TAKE TEACHER EDUCATION CLASSES PRIOR TO DISCHARGE FROM THE MILITARY.

The General Assembly of North Carolina enacts:

SECTION 1. The Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Department of Public Instruction shall work cooperatively to expand the opportunities for military personnel to enroll in and complete teacher education programs prior to discharge from the military. The cooperative effort shall include the expansion, as feasible, of teacher education classes and programs on military bases and at alternate nearby sites, through Internet-based course offerings, and through cooperative education programs. The cooperative effort shall also focus on the educational needs unique to active military personnel who are potential teachers or teacher assistants and ways to make the necessary classes and programs more accessible to them. A special effort shall also be made to communicate with and inform military personnel of the educational opportunities available on military bases, at alternate sites near military bases, through long-distance education, and through cooperative education.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of May, 2001.

S.B. 942**SESSION LAW 2001-147**

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE TRANSPORTER PLATES TO COUNTIES FOR USE IN PROGRAMS OF PROVIDING DONATED MOTOR VEHICLES TO LOW-INCOME PERSONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.2 is amended by adding a new subsection to read:

"(d) A county may obtain one transporter plate, without paying a fee, by filing an application with the Division on a form to be provided by the Division. A transporter plate issued pursuant to this subsection may only be used to transport motor vehicles as part of a program established by the county to receive donated motor vehicles and make them available to low-income individuals.

If a motor vehicle is operated on the highways of this State using a transporter plate authorized by this section, all of the following requirements shall be met:

- (1) The driver of the vehicle shall have in his or her possession the certificate of title for the motor vehicle.

which has been properly reassigned by the previous owner to the county or the affected donor program.

- (2) The vehicle shall be covered by liability insurance that meets the requirements of Article 9A of this Chapter.

The form and duration of the transporter plate shall be as provided in subsection (c) of this section."

SECTION 2. The costs of implementing the provisions of this act shall be paid from funds available to the Department of Transportation.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of May, 2001.

S.B. 1004 SESSION LAW 2001-148

AN ACT TO AMEND THE LAW REGARDING INTERFERENCE WITH EMERGENCY COMMUNICATIONS AND TO INCREASE THE CRIMINAL PENALTY FOR THAT OFFENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-286.2 reads as rewritten:

"§ 14-286.2. *Interfering with emergency communication.*

(a) Offense. — A person ~~who, without authorization, who~~ intentionally interferes with an emergency ~~radio~~ communication, knowing that the communication is an emergency communication, and who is not making an emergency communication himself, is guilty of a Class A1 misdemeanor. In addition, a person who interferes with a communications instrument or other emergency equipment with the intent to prevent an emergency communication is guilty of a Class A1 misdemeanor. misdemeanor and is punishable by:

- (1) ~~Class 1 misdemeanor if, as a result of the interference, serious bodily injury or property damage in excess of one thousand dollars (\$1,000) occurs; or~~
- (2) ~~Class 2 misdemeanor if a result described in subdivision (1) does not occur.~~

(b) "Emergency Communication" Defined. — ~~As used in this section, the term "emergency communication" means a communication not governed by Federal law relating that an individual is or is reasonably believed to be in imminent danger of serious bodily injury or that property is or is reasonably believed to be in imminent danger of substantial damage.~~

(b1) Definitions. – The following definitions apply in this section:

- (1) Emergency communication. – The term includes communications to law enforcement agencies or other emergency personnel, or other individuals, relating or intending to relate that an individual is or is reasonably believed to be, or reasonably believes himself or another person to be, in imminent danger of bodily injury, or that an individual reasonably believes that his property or the property of another is in imminent danger of substantial damage, injury, or theft.
- (2) Intentional interference. – The term includes forcefully removing a communications instrument or other emergency equipment from the possession of another, hiding a communications instrument or other emergency equipment from another, or otherwise making a communications instrument or other emergency equipment unavailable to another, disconnecting a communications instrument or other emergency equipment, removing a communications instrument from its connection to communications lines or wavelengths, damaging or otherwise interfering with communications equipment or connections between a communications instrument and communications lines or wavelengths, disabling a theft-prevention alarm system, providing false information to cancel an earlier call or otherwise falsely indicating that emergency assistance is no longer needed when it is, and any other type of interference that makes it difficult or impossible to make an emergency communication or that conveys a false impression that emergency assistance is unnecessary when it is needed."

SECTION 2. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of May, 2001.

Became law upon approval of the Governor at 11:25 a.m. on the 31st day of May, 2001.

S.B. 274

SESSION LAW 2001-149

AN ACT TO REPEAL AN OBSOLETE PROVISION IN THE NORTH CAROLINA SECURITIES ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-16(8) is repealed.

SECTION 2. G.S. 78A-18(a) reads as rewritten:

"(a) The Administrator may by order deny or revoke any exemption specified in ~~subdivisions (8),~~ subdivision (9), (11), or (15) of G.S. 78A-16 or in 78A-17 with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the Administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the Administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the Administrator, the order will remain in effect until it is modified or vacated by the Administrator. If a hearing is requested or ordered, the Administrator, after notice of an opportunity for hearing to all interested persons, may not modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated G.S. 78A-24 or 78A-49(d) by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the order."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

S.B. 499

SESSION LAW 2001-150

AN ACT TO AMEND THE LAWS RELATING TO ADOPTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 48-1-101 reads as rewritten:

"§ 48-1-101. *Definitions.*

In this Chapter, the following definitions apply:

- (1) "Adoptee" means an individual who is adopted, is placed for adoption, or is the subject of a petition for adoption properly filed with the court.
- (2) "Adoption" means the creation by law of the relationship of parent and child between two individuals.
- (3) "Adult" means an individual who has attained 18 years of age, or if under the age of 18, is either married or has been emancipated under the applicable State law.

- (3a) "Adoption facilitator" means an individual or a nonprofit entity that assists biological parents in locating and evaluating prospective adoptive parents without charge.
- (4) "Agency" means a public or private association, corporation, institution, or other person or entity that is licensed or otherwise authorized by the law of the jurisdiction where it operates to place minors for adoption. "Agency" also means a county department of social services in this State.
- (4a) "Agency identified adoption" means a placement where an agency has agreed to place the minor with a prospective adoptive parent selected by the parent or guardian.
- (5) "Child" means a son or daughter, whether by birth or adoption.
- (5a) "Criminal history" means a county, State, or federal criminal history of conviction or a pending indictment of a crime, whether a misdemeanor or a felony, that bears upon an individual's fitness to have responsibility for the safety and well-being of children, including the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 6, Homicide; Article 7A, Rape and Kindred Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 26, Offenses Against Public Morality and Decency; Article 27, Prostitution; Article 39, Protection of Minors; Article 40, Protection of the Family; and Article 59, Public Intoxication. Such crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.
- (6) "Department" means the North Carolina Department of Health and Human Services.
- (7) "Division" means the Division of Social Services of the Department.
- (8) "Guardian" means an individual, other than a parent, appointed by a clerk of court in North Carolina to

exercise all of the powers conferred by G.S. 35A-1241, including a standby guardian appointed under Article 21 of Chapter 35A of the General Statutes whose authority has actually commenced; and also means an individual, other than a parent, appointed in another jurisdiction according to the law of that jurisdiction who has the power to consent to adoption under the law of that jurisdiction.

- (9) "Legal custody" of an individual means the general right to exercise continuing care of and control over the individual as authorized by law, with or without a court order, and:
- a. Includes the right and the duty to protect, care for, educate, and discipline the individual;
 - b. Includes the right and the duty to provide the individual with food, shelter, clothing, and medical care; and
 - c. May include the right to have physical custody of the individual.
- (10) "Minor" means an individual under 18 years of age who is not an adult.
- (11) "Party" means a petitioner, adoptee, or any person whose consent to an adoption is necessary under this Chapter but has not been obtained.
- (12) "Physical custody" means the physical care of and control over an individual.
- (13) "Placement" means transfer of physical custody of a minor to the selected prospective adoptive parent. Placement may be either:
- a. Direct placement by a parent or the guardian of the minor; or
 - b. Placement by an agency.
- (14) "Preplacement assessment" means a document, whether prepared before or after placement, that contains the information required by G.S. 48-3-303 and any rules adopted by the Social Services Commission.
- (15) "Relinquishment" means the voluntary surrender of a minor to an agency for the purpose of adoption.
- (16) "Report to the court" means a document prepared in accordance with G.S. 48-2-501, et seq.
- (17) "State" means a state as defined in G.S. 12-3(11).
- (18) "Stepparent" means an individual who is the spouse of a parent of a child, but who is not a legal parent of the child."

SECTION 2. G.S. 48-2-304(b) reads as rewritten:

- "(b) Any petition to adopt a minor shall also state:
- (1) The length of time the adoptee has been in the physical custody of the ~~petitioner;~~petitioner.
 - (2) If the adoptee is not in the physical custody of the petitioner, the reason why the petitioner does not have physical custody and the date and manner in which the petitioner intends to acquire ~~custody;~~custody.
 - (3) That the petitioner has the resources, including those available under a subsidy for an adoptee with special needs, to provide for the care and support of the ~~adoptee;~~adoptee.
 - (4) Any information required by the Uniform Child-Custody Jurisdiction and Enforcement Act, Article 2 of Chapter 50A of the General Statutes, which is known to the ~~petitioner;~~petitioner.
 - (5) That any required assessment has been completed or updated within the ~~12~~18 months before the ~~placement;~~and placement.
 - (6) That all necessary consents, relinquishments, or terminations of parental rights have been obtained and will be filed as additional documents with the petition; or that the necessary consents, relinquishments, and terminations of parental rights that have been obtained will be filed as additional documents with the petition, along with the document listing the names of any other individuals whose consent, relinquishment, or termination of rights may be necessary but has not been obtained."

SECTION 3. G.S. 48-2-305 reads as rewritten:

"§ 48-2-305. *Petition for adoption; additional documents.*

At the time the petition is filed, the petitioner shall file or cause to be filed the following documents:

- (1) Any required affidavit of parentage executed ~~pursuant to G.S. 48-3-206;~~under G.S. 48-3-206.
- (2) Any required consent or relinquishment that has been ~~executed;~~executed.
- (3) A certified copy of any court order terminating the rights and duties of a parent or a guardian of the ~~adoptee;~~adoptee.
- (4) A certified copy of any court order or pleading in a pending proceeding concerning custody of or visitation with the ~~adoptee;~~adoptee.
- (5) A copy of any required preplacement assessment certified by the agency that prepared it and any certificate of service required by G.S. 48-3-307 or an

affidavit from the petitioner stating why the assessment is not ~~available~~;available.

- (6) A copy of any document containing the information required under G.S. 48-3-205 concerning the health, social, educational, and genetic history of the adoptee and the adoptee's original family which the petitioner received before the placement or at any later time, certified by the person who prepared it, or if this document is not available, an affidavit stating the reason why it is not ~~available~~;available.
- (7) Any signed copy of the form required by the Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes, authorizing a minor to come into this ~~State~~;State.
- (8) A writing that states the name of any individual whose consent is or may be required, but who has not executed a consent or a relinquishment or whose parental rights have not been legally terminated, and any fact or circumstance that may excuse the lack of consent or ~~relinquishment~~; andrelinquishment.
- (9) In an adoption pursuant to Article 4 of this Chapter, a copy of any agreement to release past-due child support payments.
- (10) Any consent to an agency by a placing parent and adopting parents to release identifying information under G.S. 48-9-109.

The petitioner may also file any other document necessary or helpful to the court's determination."

SECTION 4. G.S. 48-2-402(c) reads as rewritten:

"(c) In an agency placement under Article 3 of this Chapter, the agency or other proper person shall file a petition to terminate the parental rights of an unknown parent or possible parent instead of serving notice under ~~this subsection~~;subsubsection (b) of this section, and the court shall stay any adoption proceeding already ~~filed~~;filed, except that nothing in this subsection shall require that the agency or other proper person file a petition to terminate the parental rights of any known or possible parent who has been served notice as provided under G.S. 1A-1, Rule 4(j)(1) of the Rules of Civil Procedure."

SECTION 5. G.S. 48-2-603(a) reads as rewritten:

"(a) At the hearing on, or disposition of, a petition to adopt a minor, the court shall grant the petition upon finding by a preponderance of the evidence that the adoption will serve the best interest of the adoptee, and ~~that~~;upon finding the following:

- (1) At least 90 days have elapsed since the filing of the petition for adoption, unless the court for cause waives this ~~requirement;~~ requirement.
- (2) The adoptee has been in the physical custody of the petitioner for at least 90 days, unless the court for cause waives this ~~requirement;~~ requirement.
- (3) Notice of the filing of the petition has been served on any person entitled to receive notice under Part 4 of this ~~Article;~~ Article.
- (4) Each necessary consent, relinquishment, waiver, or judicial order terminating parental rights, has been obtained and filed with the court and the time for revocation has ~~expired;~~ expired.
- (5) Any assessment required by this Chapter has been filed with and considered by the ~~court;~~ court.
- (6) If applicable, the requirements of the Interstate Compact on the Placement of Children, Article 38 of Chapter 7B of the General Statutes, have been ~~met;~~ met.
- (7) Any motion to dismiss the proceeding has been ~~denied;~~ denied.
- (8) Each petitioner is a suitable adoptive ~~parent;~~ parent.
- (9) Any accounting and affidavit required under G.S. 48-2-602 has been reviewed by the court, and the court has denied, modified, or ordered reimbursement of any payment or disbursement that violates Article 10 or is unreasonable when compared with the expenses customarily incurred in connection with an ~~adoption;~~ adoption.
- (10) The petitioner has received information about the adoptee and the adoptee's biological family if required by ~~G.S. 48-3-205; and~~ G.S. 48-3-205.
- (10a) Any certificate of service required by G.S. 48-3-307 has been filed.
- (11) There has been substantial compliance with the provisions of this Chapter."

SECTION 6. G.S. 48-3-202(b) reads as rewritten:

"(b) Information about a prospective adoptive parent ~~must~~ shall be provided to a parent or guardian by the prospective adoptive parent, the prospective adoptive parent's attorney, or a person or entity assisting the parent or guardian. ~~This~~ Except as otherwise provided in this subsection, this information ~~must~~ shall include the preplacement assessment ~~or assessments~~ prepared pursuant to Part 3 of this Article, and may include additional information requested by the parent or guardian. The agency preparing the preplacement assessment may redact from the preplacement assessment provided to a placing parent

or guardian detailed information reflecting the prospective adoptive parent's financial account balances and detailed information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses, and other similarly detailed information about extended family members obtained under G.S. 48-3-303."

SECTION 7. G.S. 48-3-203 reads as rewritten:

"§ 48-3-203. *Agency placement adoption.*

(a) An agency may acquire legal and physical custody of a minor for purposes of adoptive placement only by means of a relinquishment pursuant to Part 7 of this Article or by a court order terminating the rights and duties of a parent or guardian of the minor.

(b) An agency shall give any ~~individual~~individual, upon ~~request~~request, a written statement of the services it ~~provides and~~ provides, its procedure for selecting a prospective adoptive parent for a minor, including the role of the minor's parent or guardian in the selection ~~process~~process, and the procedure for an agency identified adoption and the disclosures permitted under G.S. 48-9-109. This statement ~~must~~shall include a schedule of any fee or expenses charged or required to be paid by the agency and a summary of the provisions of this Chapter that pertain to the requirements and consequences of a relinquishment and to the selection of a prospective adoptive parent.

(c) An agency may notify the parent when a placement has occurred and when an adoption decree is issued.

(d) ~~The selection of a prospective adoptive parent for a minor shall be made by the agency on the basis of a preplacement assessment.~~An agency may place a minor for adoption only with an individual for whom a favorable preplacement assessment has been prepared. Placement shall be made as follows:

- (1) If the agency has agreed to place the minor with the prospective adoptive parent selected by the parent or guardian, the minor shall be placed with the individual selected by the parent or guardian.
- (2) If the agency has not agreed to place the minor with the prospective adoptive parent selected by the parent or guardian, the minor shall be placed with the prospective adoptive parent selected by the agency on the basis of the preplacement assessment. The selection may not be delegated, but may be based on criteria requested by a parent who relinquishes the child to the agency.

(d1) A minor who is in the custody or placement responsibility of a county department of social services shall not be placed with a selected prospective adoptive parent prior to the completion of an

investigation of the individual's criminal history pursuant to G.S. 48-3-309 or G.S. 131D-10.3A and, based on the criminal history, a determination as to the individual's fitness to have responsibility for the safety and well-being of children.

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

(f) An agency may release identifying information as provided in G.S. 48-9-104."

SECTION 8. G.S. 48-3-303(c) is amended by adding a new subdivision to read:

"(c) The preplacement assessment ~~must~~shall, after a reasonable investigation, report on the following about the individual being assessed:

...

(12) The agency preparing the preplacement assessment may redact from the preplacement assessment provided to a placing parent or guardian detailed information reflecting the prospective adoptive parent's financial account balances and detailed information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses, and other similarly detailed information about extended family members obtained under subsections (b) and (c) of this section."

SECTION 9. G.S. 48-3-307 is amended by adding a new subsection to read:

"(c) A prospective adoptive parent shall file or cause to be filed a certificate indicating that the prospective adoptive parent has delivered a copy of the assessment to the parent or guardian who placed the minor for adoption."

SECTION 10. G.S. 48-3-608 reads as rewritten:
"§ 48-3-608. *Revocation of consent.*

(a) ~~A consent to the adoption of an infant who is in utero or is three months old or less at the time the consent is given may be revoked within 21 days following the day on which it is executed, inclusive of weekends and holidays.~~ A consent to the adoption of any ~~other~~ infant who is in utero or any minor may be revoked within seven days following the day on which it is executed, inclusive of weekends and holidays. If the final day of the revocation period falls on a weekend or North Carolina or federal holiday, then the revocation period extends to the next business day. The individual who gave the consent may revoke by giving written notice to the person specified in the consent. Notice may be given by personal delivery, overnight

delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the person to whom consent was given at the address specified in the consent. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the person to whom consent was given at the address specified in the consent.

(b) In a direct placement, if:

- (1) A preplacement assessment is required, and
- (2) Placement occurs before the preplacement assessment is given to the parent or guardian who is placing the minor,

then that individual's time under subsection (a) of this section to revoke any consent previously given shall be either five business days after the date the individual receives the preplacement assessment or the remainder of the time provided in subsection (a) of this section, whichever is longer. The date of receipt is the earlier of the date of actual receipt or the date established pursuant to G.S. 48-3-307.

(c) If a person who has physical custody places the minor with the prospective adoptive parent and thereafter revokes a consent pursuant to this section, the prospective adoptive parent shall, immediately upon request, return the minor to that person. The revocation restores the right to physical custody and any right to legal custody to the person who placed the minor and divests the prospective adoptive parent of any right to legal or physical custody and any further responsibility for the care and support of the minor. In any subsequent proceeding, the court shall award reasonable attorneys' fees to the person who revoked if the prospective adoptive parent fails upon request to return the minor.

(d) If a person other than a person described in subsection (c) of this section revokes a consent pursuant to this section and this person's consent is required, the adoption cannot proceed until another consent is obtained or the person's parental rights are terminated. The person who revoked consent is not thereby entitled to physical custody of the minor. If the minor whose consent is required revokes consent, the county department of social services shall be notified for appropriate action.

(e) A second consent to adoption by the same adoptive parents is irrevocable."

SECTION 11. G.S. 48-3-706 reads as rewritten:

"§ 48-3-706. *Revocation of relinquishments.*

(a) ~~A relinquishment of an infant who is in utero or is three months old or less at the time the relinquishment is executed may be revoked within 21 days following the day on which it is executed,~~

~~inclusive of weekends and holidays.~~ A relinquishment of any ~~other~~ infant who is in utero or any minor may be revoked within seven days following the day on which it is executed, inclusive of weekends and holidays. If the final day of the period falls on a weekend or a North Carolina or federal holiday, then the revocation period extends to the next business day. The individual who gave the relinquishment may revoke by giving written notice to the agency to which the relinquishment was given. Notice may be given by personal delivery, overnight delivery service, or registered or certified mail, return receipt requested. If notice is given by mail, notice is deemed complete when it is deposited in the United States mail, postage prepaid, addressed to the agency at the agency's address as given in the relinquishment. If notice is given by overnight delivery service, notice is deemed complete on the date it is deposited with the service as shown by the receipt from the service, with delivery charges paid by the sender, addressed to the agency at the agency's address as given in the relinquishment.

(b) If a person who has physical custody relinquishes a minor and thereafter revokes a relinquishment pursuant to this section, the agency shall upon request return the minor to that person. The revocation restores the right to physical custody and any right to legal custody to the person who relinquished the minor and divests the agency of any right to legal or physical custody and any further responsibility for the care and support of the minor. In any subsequent proceeding, the court may award the person who revoked reasonable attorneys' fees from a prospective adoptive parent with whom the minor was placed who refuses to return the minor and from the agency if the agency fails to cooperate in securing the minor's return.

(c) If a person other than a person described in subsection (b) of this section revokes a relinquishment pursuant to this section and this person's consent is required, the agency may not give consent for the adoption and the adoption cannot proceed until another relinquishment or a consent is obtained or parental rights are terminated. The person who revoked the relinquishment is not thereby entitled to physical custody of the minor.

(d) A second relinquishment for placement with the same adoptive parent selected by the agency and agreed upon by the person executing the relinquishment, or a second general relinquishment for placement by the agency with any adoptive parent selected by the agency, is irrevocable."

SECTION 12. G.S. 48-9-104 reads as rewritten:

"§ 48-9-104. *Release of identifying information.*

~~No~~ Except as provided in G.S. 48-9-109(2), no person or entity shall release from any records retained and sealed under this Article the name, address, or other information that reasonably could be

expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, an adoptee's parent at birth, or an individual who, but for the adoption, would be the adoptee's sibling or grandparent, except upon order of the court for cause pursuant to G.S. 48-9-105."

SECTION 13. G.S. 48-9-109 reads as rewritten:

"§ 48-9-109. *Certain disclosures authorized.*

Nothing in this Article shall be interpreted or construed to ~~prevent~~prevent:

- (1) ~~an~~An employee of a court, agency, or any other person from:
 - (4) a. Inspecting permanent, confidential, or sealed records, other than records maintained by the State Registrar, for the purpose of discharging any obligation under this ~~Chapter;~~Chapter.
 - (2) b. Disclosing the name of the court where a proceeding for adoption occurred, or the name of an agency that placed an adoptee, to an individual described in G.S. 48-9-104 who can verify his or her ~~identity;~~ identity.
 - (3) c. Disclosing or using information contained in permanent and sealed records, other than records maintained by the State Registrar, for statistical or other research purposes as long as the disclosure will not result in identification of a person who is the subject of the information and subject to any further conditions the Department may reasonably impose.
- (2) In agency placements, a parent or guardian placing a child for adoption and the adopting parents from authorizing an agency to release information or from releasing information to each other that could reasonably be expected to lead directly to the identity of an adoptee, an adoptive parent of an adoptee, or an adoptee's placing parent or guardian. The consent to the release of identifying information shall be in writing and signed prior to the adoption by any placing parent or guardian and the adopting parents and acknowledged under oath in the presence of an individual authorized to administer oaths or take acknowledgments. Any consent to release identifying information shall be filed under G.S. 48-2-305."

SECTION 14. G.S. 48-10-101 reads as rewritten:

"§ 48-10-101. *Prohibited activities in placement.*

(a) No one other than a person or entity specified in G.S. 48-3-201 may place a minor for adoption. No one other than a person or entity specified in G.S. 48-3-201, or an adoption facilitator, may solicit potential adoptive parents for children in need of adoption. No one other than an agency or an adoption facilitator, or an individual with a completed preplacement assessment that contains a finding that the individual is suitable to be an adoptive parent or that individual's immediate family, may solicit for adoption a potential adoptee.

(b) No one other than a county department of social services, an adoption facilitator, or an agency licensed by the Department in this State may advertise in any periodical or newspaper, or by radio, television, or other public medium, that any person or entity will place or accept a child for adoption.

(b1) Notwithstanding subsections (a) and (b) of this section, this Article shall not prohibit a person from advertising that the person desires to adopt. This subsection shall apply only to a person with a current completed preplacement assessment finding that person suitable to be an adoptive parent. The advertisement may be published only in a periodical or newspaper or on radio, television, cable television, or the Internet. The advertisement shall include a statement that (i) the person has a completed preplacement assessment finding that person suitable to be an adoptive parent, (ii) identifies the name of the agency that completed the preplacement assessment, and (iii) identifies the date the preplacement assessment was completed. Any advertisement under this subsection may state whether the person is willing to provide lawful expenses as permitted by G.S. 48-10-103.

(c) A person who violates ~~subsection (a) or (b)~~ subsection (a), (b), or (b1) of this section is guilty of a Class 1 misdemeanor.

(d) The district court may enjoin any person from violating this section."

SECTION 15. This act becomes effective November 1, 2001. Section 4 applies to adoptions in which the petition is pending or filed on or after that date. Sections 3, 5, 7, 9, 12, and 13 apply to adoptions in which the petition is filed on or after that date. Sections 6 and 8 apply to preplacement assessments prepared on or after that date. Section 10 applies to consents executed on or after that date. Section 11 applies to relinquishments executed on or after that date. Section 14 applies to advertising published on or after that date.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

S.B. 708

SESSION LAW 2001-151

AN ACT TO ELIMINATE UNNECESSARY AND DUPLICATIVE PAPERWORK IN THE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-12(19) reads as rewritten:
"§ 115C-12. Powers and duties of the Board generally.

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

- ...
- (19) Duty to Identify Required ~~Reports~~Reports and to Eliminate Unnecessary Reports and Paperwork. – Prior to the beginning of each school year, the State Board of Education shall identify all reports that are required at the State level for the school year.

The State Board of Education shall adopt policies to ensure that local school administrative units are not required by the State Board of Education, the State Superintendent, or the Department of Public Instruction staff to (i) provide information that is already available on the student information management system or housed within the Department of Public Instruction; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; or (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA). Notwithstanding the foregoing, the State Board may require information available on its student information management system or require the same information twice if the State Board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

S.B. 739 SESSION LAW 2001-152

AN ACT TO EXTEND PRIVILEGED COMMUNICATIONS PROTECTION IN DOMESTIC ACTIONS TO LICENSED PSYCHOLOGICAL ASSOCIATES, LICENSED CLINICAL SOCIAL WORKERS, AND LICENSED MARRIAGE AND FAMILY THERAPISTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 8-53.6 reads as rewritten:

"§ 8-53.6. *No disclosure in alimony and divorce actions.*

In an action pursuant to G.S. ~~50-5~~, 50-5.1, 50-6, 50-7, ~~50-16.2~~ 50-16.2A, and ~~50-16.3~~ 50-16.3A if either or both of the parties have sought and obtained marital counseling by a licensed physician, licensed psychologist, licensed psychological associate, licensed clinical social worker, or ~~certified marital family therapist~~, licensed marriage and family therapist, the person or persons rendering such counseling shall not be competent to testify in the action concerning information acquired while rendering such counseling."

SECTION 2. G.S. 8-53.7 reads as rewritten:

"§ 8-53.7. *Social worker privilege.*

No person engaged in delivery of private social work services, duly certified pursuant to Chapter 90B of the General Statutes shall be required to disclose any information which he or she may have acquired in rendering professional social services, and which information was necessary to enable him or her to render professional social services: provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by G.S. 8-53.6 or any other statute or regulation."

SECTION 3. This act becomes effective October 1, 2001, and applies to information acquired on or after that date.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

S.B. 749 SESSION LAW 2001-153

AN ACT TO MAKE TECHNICAL CHANGES TO THE NURSING HOME ADMINISTRATOR ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-276(3) reads as rewritten:

"For the purposes of this Article and as used herein:

...

- (3) "Nursing home" means any institution or facility defined as such for licensing purposes under ~~G.S. 130-9(e) of the General Statutes~~, G.S. 131E-101(6), whether proprietary or nonprofit, including but not limited to nursing homes owned or administered by the federal or State government or any agency or political subdivision thereof and nursing homes operated in combination with a home for the aged or any other facility."

SECTION 2. G.S. 90-283 reads as rewritten:

"§ 90-283. *Organization of Board; compensation; employees and services.*

The Board shall elect from its membership a chairman, vice-chairman and secretary, and shall adopt rules and regulations to govern its proceedings. Board members shall be entitled to receive only such compensation and reimbursement as is prescribed by Chapter ~~138-93B~~ of the General Statutes for State boards generally. At any meeting a majority of the voting members shall constitute a quorum. The Board ~~may, in accordance with the State Personnel Act,~~ may employ any necessary personnel to assist it in the performance of its duties and may contract for such services as may be necessary to carry out the provisions of this Article."

SECTION 3. G.S. 90-285.1(2) reads as rewritten:

"The Board may suspend, revoke, or refuse to issue a license or may reprimand or otherwise discipline a licensee after due notice and an opportunity to be heard at a formal hearing, upon substantial evidence that a licensee:

...

- (2) Has violated the provisions of ~~G.S. 130-9(e)~~ Part B of Article 6 of Chapter 131E of the General Statutes and rules promulgated thereunder;"

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

H.B. 700

SESSION LAW 2001-154

AN ACT TO VALIDATE CERTAIN NOTARIAL ACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 10A-16 reads as rewritten:

"§ 10A-16. *Acts of notaries public in certain instances validated.*

(a) Any acknowledgment taken and any instrument notarized by a person prior to qualification as a notary public but after commissioning or recommissioning as a notary public, or by a person whose notary commission has expired, is hereby validated. The acknowledgment and instrument shall have the same legal effect as if the person qualified as a notary public at the time the person performed the act.

(b) All documents bearing a notarial seal in which the date of the expiration of the notary's commission is stated, whether correctly or erroneously, or having a notarial seal that does not contain a readable impression of the notary's name, or contains an incorrect spelling of the notary's name, or that does not bear the name of the notary exactly as it appears on the commission, as required by G.S. 10A-11, or where the signature does not comport exactly with the name on the notary commission or on the notary seal, as required by G.S. 10A-9, or contains typed, printed, drawn, or handwritten material added to the seal, fails to contain the words "North Carolina" or the abbreviation "N. C.", or contains correct information except that instead of the abbreviation for North Carolina contains the abbreviation for another state are validated and given the same legal effect as if the errors had not occurred.

(c) All deeds of trust in which the notary was named in the document as a trustee only are validated.

(d) This section applies to notarial acts performed on or before ~~February 28, 1999~~ April 15, 2001."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

H.B. 857

SESSION LAW 2001-155

AN ACT TO CLARIFY THAT AN AREA MENTAL HEALTH AUTHORITY THAT HAS ACCESS TO THE CRIMINAL RECORDS DATA BANK MAY OBTAIN THE REQUIRED CRIMINAL HISTORY RECORD CHECK THROUGH THE DATA BANK.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-80(b) reads as rewritten:

"(b) Requirement. – An offer of employment by an area authority licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a State and national criminal history record

check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An area authority shall not employ an applicant who refuses to consent to a criminal history record check required by this section. ~~Within~~ Except as otherwise provided in this subsection, within five business days of making the conditional offer of employment, an area authority shall submit a request to the Department of Justice under G.S. 114-19.10 to conduct a criminal history record check required by this section. A county that has adopted an appropriate local ordinance and has access to the Division of Criminal Information data bank may conduct on behalf of an area authority a State criminal history record check required by this section without the area authority having to submit a request to the Department of Justice. In such a case, the county shall commence with the State criminal history record check required by this section within five business days of the conditional offer of employment by the area authority. All criminal history information received by the area authority is confidential and may not be disclosed, except to the applicant as provided in subsection (c) of this section."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

H.B. 875

SESSION LAW 2001-156

AN ACT DIRECTING THE WILDLIFE RESOURCES COMMISSION TO ASSIST THE TOWN OF BILTMORE FOREST IN REDUCING ITS DEER POPULATION TO A MANAGEABLE LEVEL.

The General Assembly of North Carolina enacts:

SECTION 1. The Wildlife Resources Commission shall consult with the Town of Biltmore Forest and assist the Town in determining the most effective method of reducing the deer population in the Town to a manageable level, to be implemented by the Town. The Commission shall consider all appropriate and feasible options available to bring the deer population under control as quickly as possible.

SECTION 2. The Commission shall report to the General Assembly upon the convening of the 2002 Regular Session of the 2001 General Assembly on its progress in reducing the deer population in the Town of Biltmore Forest.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

H.B. 958**SESSION LAW 2001-157**

AN ACT TO REQUIRE COST REPORTS SPECIFIC TO ADULT CARE HOME SPECIAL CARE UNITS AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP A DESIGNATED REIMBURSEMENT SYSTEM FOR RESIDENTS IN SPECIAL CARE UNITS.

Whereas, the number of individuals diagnosed with Alzheimer's disease or related dementia and mental health disabilities is increasing; and

Whereas, family members must often seek out-of-home care for these individuals in special care units; and

Whereas, separate licensure and operational policies are required for special care units that advertise themselves as such; and

Whereas, current reimbursement systems do not adequately address the total cost of care being provided for persons diagnosed with Alzheimer's disease or related dementia or mental health disabilities in licensed adult care home special care units, and this inadequacy creates a barrier to access for the public assistance population; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-4.2 reads as rewritten:

"§ 131D-4.2. *Adult care homes; family care homes; annual cost reports; exemptions; enforcement.*

(a) Except for family care homes, adult care homes with a licensed capacity of seven to twenty beds, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit audited reports of actual costs to the Department at least every two years in accordance with rules adopted by the Department under G.S. 143B-10. For years in which an audited report of actual costs is not required, an annual cost report shall be submitted to the Department in accordance with rules adopted by the Department under G.S.

143B-10. Adult care homes licensed under Chapter 131D of the General Statutes that have special care units shall include in reports required under this subsection cost reports specific to the special care unit and shall not average special care costs with other costs of the adult care home.

(b) Except for family care homes, adult care homes with a licensed capacity of twenty-one beds or more, which are licensed pursuant to this Chapter, to Chapter 122C of the General Statutes, and to Chapter 131E of the General Statutes, shall submit annual audited reports of actual costs to the Department of Health and Human Services, in accordance with rules adopted by the Department under G.S. 143B-10. Adult care homes licensed under Chapter 131D of the General Statutes that have special care units shall include in the reports required under this subsection cost reports specific to the special care unit and shall not average special care costs with other costs of the adult care home.

(d) Facilities that do not receive State/County Special Assistance or Medicaid personal care are exempt from the reporting requirements of this section.

(e) Except as otherwise provided in this subsection, the annual reporting period for facilities licensed pursuant to this Chapter or Chapter 131E of the General Statutes shall be October 1 through September 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. The annual report for combination facilities and free-standing adult care home facilities owned and operated by a hospital shall be due 15 days after the hospital's Medicare cost report is due. The annual report for combination facilities not owned and operated by a hospital shall be due 15 days after the nursing facility's Medicaid cost report is due. The annual reporting period for facilities licensed pursuant to Chapter 122C of the General Statutes shall be July 1 through June 30, with the annual report due by the following December 31, unless the Department determines there is good cause for delay. Under this subsection, good cause is an action that is uncontrollable by the provider. If the Department finds good cause for delay, it may extend the deadline for filing a report for up to an additional 30 days.

(f) The Department shall have the authority to conduct audits and review audits submitted pursuant to subsections (a), (b), and (c) above.

(g) The Department shall suspend admissions to facilities that fail to submit annual reports by December 31, or by the date established by the Department when good cause for delay is found pursuant to G.S. 131D-4.2(e). Suspension of admissions shall remain in effect until reports are submitted or licenses are suspended or revoked under subdivision (2) of this subsection. The Department

may take either or both of the following actions to enforce compliance by a facility with this section, or to punish noncompliance:

- (1) Seek a court order to enforce compliance;
- (2) Suspend or revoke the facility's license, subject to the provisions of Chapter 150B of the General Statutes.

(h) The report documentation shall be used to adjust the adult care home rate annually, an adjustment that is in addition to the annual standard adjustment for inflation as determined by the Office of State Budget, Planning and Management. Rates for family care homes shall be based on market rate data. The Secretary of Health and Human Services shall adopt rules for the rate-setting methodology and audited cost reports in accordance with G.S. 143B-10."

SECTION 2. Based upon the data obtained from cost reports, the Department of Health and Human Services shall develop a designated reimbursement system for residents residing in special care units in adult care homes taking into account the costs determined and funding available from both State/County Special Assistance and Medicaid payments. The Department shall not implement the designated reimbursement system until the General Assembly has reviewed the system pursuant to Section 3 of this act.

SECTION 3. Not later than May 1, 2002, the Department of Health and Human Services shall report to the General Assembly on the development of cost reports and designated reimbursement systems required under this act. The Department shall provide a copy of the report to the House of Representatives and Senate appropriations committees on health and human services and to the Fiscal Research Division of the Legislative Services Office.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

H.B. 1083**SESSION LAW 2001-158**

AN ACT TO ALLOW THE COURT TO ORDER SECURE CUSTODY OF A JUVENILE PENDING AN ADJUDICATORY PROCEEDING IF THE JUVENILE ALLEGEDLY COMMITTED A MISDEMEANOR OFFENSE INVOLVING A WEAPON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-1903(b) reads as rewritten:

"(b) When a request is made for secure custody, the court may order secure custody only where the court finds there is a reasonable factual basis to believe that the juvenile committed the offense as alleged in the petition, and that one of the following circumstances exists:

- (1) The juvenile is charged with a felony and has demonstrated that the juvenile is a danger to property or persons.
- (2) ~~The juvenile is charged with a misdemeanor at least one element of which is assault on a person and has demonstrated that the juvenile is a danger to persons.~~ The juvenile has demonstrated that the juvenile is a danger to persons and is charged with either (i) a misdemeanor at least one element of which is assault on a person or (ii) a misdemeanor in which the juvenile used, threatened to use, or displayed a firearm or other deadly weapon.
- (3) The juvenile has willfully failed to appear on a pending delinquency charge or on charges of violation of probation or post-release supervision, providing the juvenile was properly notified.
- (4) A delinquency charge is pending against the juvenile, and there is reasonable cause to believe the juvenile will not appear in court.
- (5) The juvenile is an absconder from (i) any residential facility operated by the Department or any detention facility in this State or (ii) any comparable facility in another state.
- (6) There is reasonable cause to believe the juvenile should be detained for the juvenile's own protection because the juvenile has recently suffered or attempted self-inflicted physical injury. In such case, the juvenile must have been refused admission by one appropriate hospital, and the period of secure custody is limited to 24 hours to determine the need for inpatient hospitalization. If the juvenile is placed in secure custody, the juvenile shall receive continuous supervision and a physician shall be notified immediately.
- (7) The juvenile is alleged to be undisciplined by virtue of the juvenile's being a runaway and is inappropriate for nonsecure custody placement or refuses nonsecure custody, and the court finds that the juvenile needs secure custody for up to 24 hours, excluding Saturdays, Sundays, and State holidays, or where circumstances require, for a period not to exceed 72 hours to evaluate

the juvenile's need for medical or psychiatric treatment or to facilitate reunion with the juvenile's parents, guardian, or custodian.

- (8) The juvenile is alleged to be undisciplined and has willfully failed to appear in court after proper notice; the juvenile shall be brought to court as soon as possible and in no event should be held more than 24 hours, excluding Saturdays, Sundays, and State holidays or where circumstances require for a period not to exceed 72 hours."

SECTION 2. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 31st day of May, 2001.

S.B. 396**SESSION LAW 2001-159**

AN ACT AUTHORIZING THE BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS TO ACQUIRE REAL PROPERTY, TO ESTABLISH A SYSTEM OF STAGGERED LICENSE RENEWAL, AND TO INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-42 reads as rewritten:
"§ 87-42. *Duties and powers of Board.*

In order to protect the life, health and property of the public, the State Board of Examiners of Electrical Contractors shall provide for the written examination of all applicants for certification as a qualified individual, as defined in G.S. 87-41.1. The Board shall receive all applications for certification as a qualified individual and all applications for licenses to be issued under this Article, shall examine all applicants to determine that each has met the requirements for certification and shall discharge all duties enumerated in this Article. Applicants for certification as a qualified individual must be at least 18 years of age and shall be required to demonstrate to the satisfaction of the Board their good character and adequate technical and practical knowledge concerning the safe and proper installation of electrical work and equipment. The examination to be given for this purpose shall include, but not be limited to, the appropriate provisions of the National Electrical Code as incorporated in the North Carolina State Building Code, the analysis of electrical plans and specifications, estimating of electrical installations, and the fundamentals of the installation of electrical work and equipment.

Certification of qualified individuals shall be issued in the same classifications as provided in this Article for license classifications. The Board shall prescribe the standards of knowledge, experience and proficiency to be required of qualified individuals, which may vary for the various license classifications. The Board shall issue certifications and licenses to all applicants meeting the requirements of this Article and of the Board upon the receipt of the fees prescribed by G.S. 87-44. The Board shall have power to make rules and regulations necessary to the performance of its duties and for the effective implementation of the provisions of this Article. The Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the Chairman for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor. The Board shall have the power to acquire, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board. The Board shall keep minutes of all its proceedings and shall keep an accurate record of receipts and disbursements which shall be audited at the close of each fiscal year by a certified public accountant, and the audit report shall be filed with the State of North Carolina in accordance with Chapter 93B of the General Statutes."

SECTION 2. G.S. 87-44 reads as rewritten:

"§ 87-44. *Fees; license term.*

The Board shall collect a fee from each applicant before granting or renewing a license under the provisions of this Article; the annual license fee for the limited classification shall not ~~be in excess of thirty dollars (\$30.00)~~ exceed one hundred dollars (\$100.00) for each principal and each branch place of business; the annual license fee for the intermediate classification shall not ~~be in excess of seventy five dollars (\$75.00)~~ exceed one hundred fifty dollars (\$150.00) for each principal and each branch place of business; the annual license fee for the unlimited classification shall not ~~be in excess of one hundred fifty dollars (\$150.00)~~ exceed two hundred dollars (\$200.00) for each principal and each branch place of business; and the annual license fee for the special restricted classifications and for the single-family detached residential dwelling license shall not ~~be in excess of thirty~~

dollars ~~(\$30.00)~~exceed one hundred dollars (\$100.00) for each principal and each branch place of business.

~~Each license issued under the provisions of this Article shall expire on June 30 following the date of its issuance and~~The Board shall establish a system for the renewal of licenses with varying expiration dates. However, all licenses issued by the Board shall expire one year after the date of issuance. Licenses shall be renewed by the Board, subject to G.S. 87-44.1 and G.S. 87-47, after receipt and evaluation of a renewal application from a licensee and the payment of the required fee. The application shall be upon a form provided by the Board and shall require such information as the Board may prescribe. Renewal applications and fees shall be due 30 days prior to the license expiration date.

Upon failure to renew by ~~June 30,~~the expiration date established by the Board, the license shall be automatically revoked. This license may be reinstated by the Board, subject to G.S. 87-44.1 and G.S. 87-47, upon payment of the license fee, ~~a late renewal fee not to exceed twenty five dollars (\$25.00),~~an administrative fee of twenty-five dollars (\$25.00), and all fees for the lapsed period during which the person, partnership, firm or corporation engaged in electrical contracting, and, further, upon the satisfaction of such experience requirements during the lapse as the Board may prescribe by rule.

The Board may collect fees from applicants for examinations in ~~amounts not exceeding the maximum annual license fees for the respective license classifications prescribed in this Article,~~an amount not to exceed one hundred twenty-five dollars (\$125.00), except the fee for a specially arranged examination shall not exceed two hundred dollars (\$200.00). In addition, the Board may collect an examination review fee, not to exceed ~~ten dollars (\$10.00),~~twenty-five dollars (\$25.00), from failed examinees who apply for a supervised review of their failed examinations."

SECTION 3. Notwithstanding G.S. 87-44, as enacted in Section 2 of this act, all licenses issued by the Board prior to the effective date of this act shall expire on June 30, 2001. The Board may renew some or all of the expired licenses for a period of more than one year to establish the system of staggered license renewal authorized in G.S. 87-44, as enacted in Section 2 of this act. Licensees whose licenses were renewed for more than one year shall pay the annual fee, as authorized in this section, and a prorated annual fee for any additional period of time beyond 12 months. When the Board has fully implemented the system for staggered license renewals, the licensees shall pay only the annual fee.

Notwithstanding G.S. 87-44, as enacted in Section 2 of this act, the following fee amounts shall become effective July 1, 2001,

and shall remain in effect until changed by permanent rule of the Board:

- (1) The annual license fee for the limited classification shall be sixty dollars (\$60.00).
- (2) The annual license fee for the intermediate classification shall be one hundred dollars (\$100.00).
- (3) The annual license fee for the unlimited classification shall be one hundred fifty dollars (\$150.00).
- (4) The annual license fees for the special restricted classification and for the single-family detached residential dwelling license shall be sixty dollars (\$60.00).
- (5) The examination fees for all examinations administered by the Board, whether written or by computer, shall be seventy-five dollars (\$75.00).

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:27 a.m. on the 31st day of May, 2001.

S.B. 434

SESSION LAW 2001-160

AN ACT TO TRANSFER FROM THE STATE AUDITOR TO THE LOCAL GOVERNMENT COMMISSION THE RESPONSIBILITY FOR APPROVING COMPLIANCE SUPPLEMENTS FOR AUDITS OF LOCAL GOVERNMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-34(c) reads as rewritten:

"(c) Notwithstanding any other provision of law, except for Article 5A of Chapter 147 of the General Statutes pertaining to the State Auditor, all State departments and agencies shall rely upon the single audit accepted by the secretary as the basis for compliance with applicable federal and State regulations. All State departments and agencies which provide funds to local governments and public authorities shall provide the Commission with documents ~~approved by the State Auditor in a~~ that the Commission finds are in the prescribed format describing standards of compliance and suggested audit procedures sufficient to give adequate direction to independent auditors retained by local governments and public authorities to conduct a single audit as required by this section. The secretary shall be responsible for the annual distribution of all such standards of compliance and suggested audit procedures proposed by State departments and agencies and any amendments thereto. Further, the

Commission with the cooperation of all affected State departments and agencies shall be responsible for the following:

- (1) Procedures for the timely distribution of compliance standards developed by State departments and agencies, reviewed and approved by the ~~State Auditor~~ Commission to auditors retained by local governments and public authorities.
- (2) Procedures for the distribution of single audits for local governments and public authorities such that they are available to all State departments and agencies which provide funds to local units.
- (3) The acceptance of single audits on behalf of all State departments and agencies; provided that, the secretary may subsequently revoke such acceptance for cause, whereupon affected State departments and agencies shall no longer rely upon such audit as the basis for compliance with applicable federal and State regulations."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

Became law upon approval of the Governor at 11:27 a.m. on the 31st day of May, 2001.

S.B. 327

SESSION LAW 2001-161

AN ACT TO REMOVE CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF WILSON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Wilson:

BEGINNING at a point in the northern right-of-way of HWY 246A, also a common corner with Bennie L. Glover, Jr. said point having a NCGS coordinate of North – 732,111.8132, East 2,284,761.6375; thence continuing with the Glover property North 04 degrees 43 minutes 55 seconds West 661.14 feet to a point, a common corner with Clarence Finch said point having a NCGS coordinate North – 732,770.7139, East 2,284,707.2688; thence continuing with the Finch property North 00 degrees 36 minutes 19 seconds East 1190.30 feet to a point with a NCGS coordinate of North – 733,960.5443, East 2,284,720.1619; thence South 89 degrees 12 minutes 41 seconds East 163.50 feet to a point with a NCGS coordinate of North 733,958.6513, East 228,4883.6368; thence North 00 degrees 47 minutes 19 seconds East 2046.60 feet to a point with a

NCGS coordinate of North 736005.0500, East 2284912.3378, a common corner with Bobby and Juanita Eatmon; thence with the Eatmon property North 80 degrees 21 minutes 48 seconds East 85.73 feet to a point; thence South 82 degrees 18 minutes 11 seconds East 113.49 feet to a point; thence North 88 degrees 50 minutes 09 seconds East 274.45 feet to a point; thence South 60 degrees 18 minutes 45 seconds East 393.42 feet to a point; thence South 52 degrees 06 minutes 19 seconds East 101.31 feet to a point; thence South 52 degrees 06 minutes 19 seconds East 757.28 feet to a point; thence South 51 degrees 52 minutes 22 seconds East 64.62 feet to a point; thence South 51 degrees 12 minutes 24 seconds East 825.24 feet to a point; thence South 36 degrees 18 minutes 10 seconds East 571.51 feet to a point; thence South 26 degrees 25 minutes 51 seconds East 405.17 feet to a point; thence South 08 degrees 54 minutes 46 seconds East 480.91 feet to a point in the northern right-of-way of HWY 264A; thence continuing with the right-of-way South 39 degrees 55 minutes 40 seconds West 414.72 feet to a point; thence South 41 degrees 39 minutes 55 seconds West 60.43 feet to a point; thence South 44 degrees 44 minutes 14 seconds West 122.59 feet to a point; thence South 42 degrees 10 degrees 20 seconds West 129.00 feet to a point; thence South 43 degrees 44 minutes 39 seconds West 300.20 feet to a point; thence South 56 degrees 24 minutes 10 seconds West 534.24 feet to a point; thence North 88 degrees 50 minutes 41 seconds West 159.94 feet to a point; thence South 05 degrees 04 minutes 05 seconds West 66.98 feet to a point; thence South 70 degrees 10 minutes 56 seconds West 312.99 feet to a point; thence South 84 degrees 24 minutes 16 seconds West 309.72 feet to a point; thence South 88 degrees 25 minutes 10 seconds West 48.58 feet to a point; thence South 88 degrees 25 minutes 10 seconds West 245.86 to a point; thence South 00 degrees 17 minutes 37 seconds East 50.18 feet to a point; thence South 89 degrees 43 minutes 33 seconds West 641.94 feet to a point; thence South 89 degrees 39 minutes 44 seconds West 90.00 feet to the point and place of BEGINNING and containing 188.05 acres more or less according to a map for Lloyd and Associates, LLC, prepared by Southwind Surveying and Engineering, Inc. dated 2-7-2000.

SECTION 2. This act becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law on the date it was ratified.

H.B. 105

SESSION LAW 2001-162

**AN ACT TO AUTHORIZE BUNCOMBE COUNTY TO LEVY AN
ADDITIONAL ONE PERCENT ROOM OCCUPANCY AND**

TOURISM DEVELOPMENT TAX, TO MODIFY THE
PURPOSES FOR WHICH THE ROOM TAX MAY BE USED,
AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Part VI of Chapter 908 of the 1983 Session Laws, as amended by Section 1 of Chapter 942 of the 1985 Session Laws, reads as rewritten:

"PART VI. BUNCOMBE OCCUPANCY TAX.

"Sec. 17. ~~Levy of Tax. Authorization and Scope.~~ (a) The Board of Commissioners of Buncombe County may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development tax.

(b) ~~Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

"Sec. 18. ~~Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this Part shall be tax of up to two percent (2%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, or other similar place within the county now subject to the three percent (3%) accommodations within the county that are subject to sales tax imposed by the State under G.S. 105-164.4(3). 105-164.4(a)(3). This tax is in addition to any local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:~~

- (1) religious organizations;
- (2) educational ~~organization;~~ organizations;
- (3) any business that offers to rent fewer than five units; and
- (4) summer camps.

"Sec. 19. ~~Administration of Tax. A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.~~

(a) ~~Any tax levied under this Part is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts~~

derived in the preceding month from rentals upon which the tax is levied.

(b) ~~Any person, firm, corporation, or association who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

(c) ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due, in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.~~

(d) ~~Any person who willfully attempts in any manner to evade the occupancy tax imposed by this Part or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both.~~

~~"Sec. 20. Collection of Tax. Every operator of a business subject to the tax levied by this Part shall, on and after the effective date of the levy of the tax, collect the two percent (2%) room occupancy tax. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Buncombe County. The room occupancy tax levied pursuant to this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in Buncombe County the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~"Sec. 21. Disposition of Taxes Collected. (a) Buncombe County shall remit the net proceeds of the occupancy tax to the county Tourism Development Authority in Buncombe County. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax. The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant to this subsection for administrative expenses of the Authority.~~

(b) ~~The Authority may expend any funds distributed to it pursuant to subsection (a) of this section only as follows:~~

- (1) ~~Three-fourths of the funds may be used only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion.~~
- (2) ~~The Authority shall create a Tourism Product Development Fund and, in order to further economic~~

development in the county, shall credit the remainder of the funds to the Tourism Product Development Fund. The purpose of the fund shall be to provide financial assistance for major tourism projects in order to significantly increase patronage of lodging facilities in Buncombe County.

(c) The Authority shall administer and spend the funds in the Tourism Product Development Fund as follows:

- (1) The Authority shall create a Product Development Committee to review and evaluate proposals from applicants for tourism capital projects and to make recommendations to the Authority regarding use and disposition of funds derived from the Tourism Product Development Fund. Only upon recommendation of the Product Development Committee, the Authority may award funds to qualified projects in the form of outright grants of money and may guarantee loans and participate in pledges of debt service for these projects. Projects must be located in Buncombe County unless the Commissioners of Buncombe County give specific approval to projects outside the county. Applicants must provide a feasibility study satisfactory to the Product Development Committee demonstrating the project's economic value to the area and the number of estimated new room nights it will generate.
- (2) To be a qualified project, a project must be expected to significantly increase patronage of lodging facilities in Buncombe County.
- (3) The Authority is not required to exhaust all of the funds generated each year and may accumulate money in order to create a revolving fund to further the purposes of this section. The Authority may not commit for purposes of debt service in excess of thirty-three percent (33%) of net funds received in any one year for a period of time in excess of 10 years. The Authority may not commit for purposes of debt service in excess of ten percent (10%) of net funds received in any one year for any single project.
- (4) The Product Development Committee need not be comprised solely of members of the Authority. A majority of the members of the Product Development Committee must be persons who are owners or operators of hotels, motels, or other taxable tourist accommodations.

~~only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than ten percent (10%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.~~

"Sec. 22. Appointment, Duties of Tourism Development Authority. (a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following nine members:

- (1) a county commissioner appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;
- (2) a member of the Asheville City Council appointed by the board of county commissioners, who shall serve as an ex officio, nonvoting member;
- (3) four owners or operators of hotels, motels, or other taxable tourist accommodations, two of which own or operate hotels, motels, or other accommodations with more than 100 rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners; and two of which own or operate hotels, motels, or other accommodations with 100 or fewer rental units, one of whom shall be appointed by the Asheville City Council and one by the board of county commissioners;
- (4) three individuals involved in the tourist business who have demonstrated an interest in tourist development and do not own or operate hotels, motels, or other taxable tourist accommodations, appointed as follows: one by the Asheville City Council, one by the Asheville Area Chamber of Commerce, and one by the board of county commissioners.

All members of the Authority shall serve without compensation. Vacancies in the Authority shall be filled by the appointing authority of the member creating the vacancy. Members appointed to fill vacancies shall serve for the remainder of the unexpired term for which they are appointed to fill. Members shall serve three-year terms, except the initial members who shall serve the following terms:

- (1) members appointed pursuant to subdivisions (1) and (2) above shall serve one-year terms;
- (2) of the members appointed pursuant to subdivision (3) above, one appointee of the city council and the board of

commissioners shall serve a two-year term and one appointee of the city council and the board of commissioners shall serve a three-year term, as designated by the city council and board of county commissioners;

- (3) of the three members appointed pursuant to subdivision (4) above, the appointee of the Asheville City Council shall serve a one-year term, the appointee of the Asheville Area Chamber of Commerce shall serve a two-year term, and the appointee of the board of county commissioners shall serve a three-year term.

Members may serve no more than two consecutive terms. The members shall elect a ~~chairman~~, chair, who shall serve for a term of two years. The Authority shall meet at the call of the ~~chairman~~ chair and shall adopt rules of procedure to govern its meetings. The finance officer for Buncombe County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions and may recommend to the board of county commissioners that county staff be employed for this advice and assistance. Any county staff employed under this Part shall be hired and supervised by the Tourism Development Authority, which shall pay the salaries and expenses of this staff.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

~~"Sec. 23. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Buncombe County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.~~

~~(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.~~

"Sec. 23.1. First Additional Tax. In addition to the tax authorized by ~~Sections 17 and 18~~ Section 17 of this Part, the Buncombe County Board of Commissioners may levy a an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under ~~those sections~~. that section. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a

tax levied under this section, shall be in accordance with Sections 17 through 23 of this Part. Buncombe County may not levy a tax under this section unless it also levies a tax under ~~Sections 17 and 18~~ Section 17 of this Part.

"Sec. 23.2. Second Additional Tax. In addition to the tax authorized by Sections 17 and 23.1 of this Part, the Buncombe County Board of Commissioners may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under those sections. The levy, collection, administration, and repeal of the tax authorized by this section, and the use of tax revenue from a tax levied under this section, shall be in accordance with Sections 17 through 23 of this Part. Buncombe County may not levy a tax under this section unless it also levies the taxes under Sections 17 and 23.1 of this Part."

SECTION 2. G.S. 153A-155 reads as rewritten:

"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues.

Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Buncombe, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law on the date it was ratified.

H.B. 800

SESSION LAW 2001-163

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Betty Ann Knudsen of Wake County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar to fill the remainder of a term to expire June 30, 2003.

SECTION 2. Neil Ross MacIntyre, Jr. of Durham County and Floyd Elexander Boyer of Sampson County are appointed to the North Carolina Respiratory Care Board to fill the remainder of terms to expire October 31, 2003.

SECTION 3. Daisy Millett of Yadkin County is appointed to the North Carolina Board of Massage and Bodywork Therapy to fill the remainder of a term to expire June 30, 2003.

SECTION 4. Margaret Markey of Mecklenburg County is appointed to the Clean Water Management Trust Fund Board of Trustees to fill the remainder of a term to expire December 31, 2004.

SECTION 5. Sharon Elliott-Bynum of Durham County is appointed to the North Carolina Center for Nursing to fill the remainder of a term to expire June 30, 2001, and for a full term beginning July 1, 2001, and expiring June 30, 2004.

SECTION 6. Unless otherwise provided for in this act, appointments are for terms to begin when this bill becomes law.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law on the date it was ratified.

H.B. 891

SESSION LAW 2001-164

AN ACT TO REGULATE SPOTLIGHTING OF DEER IN WAKE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful for any person to shine a light intentionally upon a deer or to sweep a light in search of deer between the hours of one-half hour after sunset and one-half hour before sunrise.

SECTION 2. Section 1 of this act shall not apply to the necessary shining of lights by landholders, motorists engaged in normal travel on the highway, and campers and others legitimately in the area who are not attempting to attract wildlife.

SECTION 3. Violation of this act is a Class 3 misdemeanor.

SECTION 4. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and

deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 5. This act applies only to Wake County.

SECTION 6. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law on the date it was ratified.

H.B. 931

SESSION LAW 2001-165

AN ACT TO AUTHORIZE ORANGE COUNTY TO REGULATE THE USE OF ALCOHOL AND OTHER IMPAIRING SUBSTANCES WHILE HUNTING WITH FIREARMS AND TO REGULATE HUNTING NEAR GOVERNMENT BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. A county may regulate, control, restrict, and prohibit hunting with firearms by persons under the influence of alcohol or other impairing substances and regulate, control, restrict, and prohibit hunting with firearms by persons who have any blood alcohol concentration as measured by an alcosensor. For the purposes of this act, an impairing substance is defined as set forth in G.S. 20-4.01.

SECTION 2. A county may regulate, control, restrict, and prohibit hunting within 150 yards of any federal, State, or local government building, including those owned or leased by boards of education.

SECTION 3. A person violating an ordinance enacted under the authority of Sections 1 and 2 of this act is guilty of a Class 3 misdemeanor, and upon conviction shall be punished as provided in G.S. 14-4, "Violation of local ordinance misdemeanor."

SECTION 4. This act applies only to Orange County.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law on the date it was ratified.

H.B. 331

SESSION LAW 2001-166

AN ACT TO PROVIDE FOR THE APPOINTMENT OF TWO ADDITIONAL PUBLIC MEMBERS OF THE INFORMATION RESOURCE MANAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.78(a) reads as rewritten:

"(a) Creation; Membership. – The Information Resource Management Commission is established and shall be located within the Office for organizational, budgetary, and administrative purposes. The Commission consists of the following members:

- (1) Four members of the Council of State, appointed by the Governor.
- (2) The Secretary of State.
- (3) The Secretary of Administration.
- (4) The State Budget Officer.
- (5) Two members of the Governor's cabinet, appointed by the Governor.
- (6) ~~One citizen~~ Two citizens of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.
- (7) ~~One citizen~~ Two citizens of the State of North Carolina with a background in and familiarity with information systems or telecommunications, appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.
- (8) The Chair of the Information Technology Management Advisory Council.
- (9) The Chair of the Criminal Justice Information Network Governing Board.
- (10) The State Controller.
- (11) The Director of the Administrative Office of the Courts or the Director's designee.
- (12) The President of The University of North Carolina or the President's designee.
- (13) The President of the Community Colleges System Office or the President's designee.
- (14) The Executive Director of the North Carolina League of Municipalities or the Executive Director's designee, who shall be a nonvoting member.
- (15) The Executive Director of the North Carolina Association of County Commissioners or the Executive Director's designee, who shall be a nonvoting member.
- (16) The State Chief Information Officer, who shall be a nonvoting member.

Members of the Commission shall not be employed by or serve on the board of directors or other corporate governing body of any information systems, computer hardware, computer software, or

telecommunications vendor of goods and services to the State of North Carolina.

The initial appointed members of the Commission shall be the members appointed to the Information Resource Management Commission who are serving unexpired terms as of July 1, 2000, who shall serve for a period equal to the remainder of their current terms on the Information Resource Management Commission. Upon the expiration of the current terms of the appointed members, their successors shall be appointed for four-year terms, commencing July 1. Members of the Governor's cabinet shall be disqualified from completing a term of service on the Commission if they are no longer cabinet members. Members of the Council of State shall be disqualified from completing a term of service on the Commission if they are no longer members of the Council of State.

Vacancies in the ~~two~~ four legislative appointments shall be filled as provided in G.S. 120-122.

The Commission chair shall be elected in the first meeting of each calendar year from among the appointees of the Governor from the Council of State and shall serve a term of one year. The State Chief Information Officer shall be secretary to the Commission.

No member of the Information Resource Management Commission shall vote on an action affecting solely his or her own State agency."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 8:59 a.m. on the 7th day of June, 2001.

S.B. 852**SESSION LAW 2001-167**

AN ACT TO AUTHORIZE THE STATE TO PURCHASE OWNER-CONTROLLED OR WRAP-UP INSURANCE FOR PUBLIC WORKS PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 31 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-31-65. Owner-controlled or wrap-up insurance authorized.

(a) To the extent it is determined necessary and in the best interest of this State, the Department may obtain design and construction insurance or provide for self-insurance against property damage caused by this State, its departments, agencies, boards, and commissions and all officers and employees of this State in connection with the construction of public works projects. Workers'

compensation and general liability insurance may be purchased to cover both general contractors and subcontractors doing work on a specific contracted work site. In connection with the construction of public works projects, the Department may also use an owner-controlled or wrap-up insurance program if all of the following conditions are met:

- (1) The total cost of the project or group of projects is over fifty million dollars (\$50,000,000).
 - (2) The program maintains completed operations coverage for a term during which coverage is reasonably commercially available as determined by the Commissioner, but in no event for fewer than three years.
 - (3) Bid specifications clearly specify for all bidders the insurance coverage provided under the program and the minimum safety requirements that shall be met.
 - (4) The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor believes is necessary for protection from any liability arising out of the contract. The cost of the additional insurance shall not be passed through to this State on a contract bid.
 - (5) The program does not include surety insurance.
 - (6) The State may purchase an owner-controlled or wrap-up policy that has a deductible or self-insured retention as long as the deductible or self-insured retention does not exceed one million dollars (\$1,000,000).
- (b) For the purposes of subsection (a) of this section:
- (1) "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover this State and all of the construction managers, contractors, subcontractors, architects, and engineers on a specified contracted work site or work sites for purposes of general liability, property damage, and workers' compensation. A State agency or the State may be a secondary insured under owner-controlled or wrap-up insurance.
 - (2) "Specific contracted work site" means construction being performed at one site or a series of contiguous sites separated only by a street, roadway, waterway, or railroad right-of-way, or along a continuous system for the provision of water and power."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 8:59 a.m. on the 7th day of June, 2001.

S.B. 731 SESSION LAW 2001-168

AN ACT TO UPDATE AND MODIFY THE PROCESS FOR DEVELOPMENT OF COORDINATED TRANSPORTATION PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-66.2 reads as rewritten:

"§ 136-66.2. *Development of a coordinated transportation street system and provisions for streets and highways in and around municipalities.*

(a) Each municipality, not located within a metropolitan planning organization (MPO) as recognized in G.S. 136-200.1, with the cooperation of the Department of Transportation, shall develop a comprehensive transportation plan for a street system that will serve present and anticipated travel demand volumes of vehicular traffic in and around the municipality. The plan shall be based on the best information available including, but not limited to, population growth, economic conditions and prospects, and patterns of land development in and around the municipality, and shall provide for the safe and effective use of the transportation system, streets and highways through such means as parking regulations, signal systems, and traffic signs, markings, construction and other devices. In the development of the plan, consideration shall be given to all transportation modes including, but not limited to, the street system, transit alternatives, bicycle, pedestrian, and operating strategies. The Department of Transportation may provide financial and technical assistance in the preparation of such plans. Each MPO, with cooperation of the Department of Transportation, shall develop a comprehensive transportation plan in accordance with 23 U.S.C. § 134. In addition, an MPO may include projects in its transportation plan that are not included in a financially constrained plan or are anticipated to be needed beyond the horizon year as required by 23 U.S.C. § 134. For municipalities located within an MPO, the development of a comprehensive transportation plan will take place through the metropolitan planning organization. For purposes of transportation planning and programming, the MPO shall represent the municipality's interests to the Department of Transportation.

(b) After completion and analysis of the plan, the plan shall ~~may~~ be adopted by both the governing body of the municipality or MPO and the Department of Transportation as the basis for future transportation street and highway improvements in and around the

municipality or within the MPO. As a part of the plan, the The governing body of the municipality and the Department of Transportation shall reach agreement as to which of the existing and proposed streets and highways included in the adopted plan will be a part of the State highway system and which streets will be a part of the municipal street system. As used in this Article, the State highway system shall mean both the primary highway system of the State and the secondary road system of the State within municipalities.

(b1) The Department of Transportation may participate in the development and adoption of a transportation plan or updated transportation plan when all local governments within the area covered by the transportation plan have adopted land development plans within the previous five years. The Department of Transportation may participate in the development of a transportation plan if all the municipalities and counties within the area covered by the transportation plan are in the process of developing a land development plan. The Department of Transportation may not adopt or update a transportation plan until a local land development plan has been adopted. A qualifying land development plan may be a comprehensive plan, land use plan, master plan, strategic plan, or any type of plan or policy document that expresses a jurisdiction's goals and objectives for the development of land within that jurisdiction. At the request of the local jurisdiction, the Department may review and provide comments on the plan but shall not provide approval of the land development plan.

(b2) The municipality or the MPO shall provide opportunity for public comments prior to adoption of the transportation plan.

(b3) Each county, with the cooperation of the Department of Transportation, may develop a comprehensive transportation plan utilizing the procedures specified for municipalities in subsection (a) of this section. This plan may be adopted by both the governing body of the county and the Department of Transportation. For portions of a county located within an MPO, the development of a comprehensive transportation plan shall take place through the metropolitan planning organization.

(b4) To complement the roadway element of the transportation plan, municipalities and MPOs may develop a collector street plan to assist in developing the roadway network. The Department of Transportation may review and provide comments but is not required to provide approval of the collector street plan.

(c) From and after the date that the plan is adopted, the streets and highways designated in the plan as the responsibility of the Department of Transportation shall become a part of the State highway system and all such system streets shall be subject to the provisions of G.S. 136-93, and all streets designated in the plan as the

responsibility of the municipality shall become a part of the municipal street system.

(d) For municipalities not located within an MPO, either ~~Either~~ the municipality or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the municipal governing board. For MPOs, either the MPO or the Department of Transportation may propose changes in the plan at any time by giving notice to the other party, but no change shall be effective until it is adopted by both the Department of Transportation and the MPO.

(e) Until the adoption of a comprehensive transportation plan that includes ~~for~~ future development of the street system in and around municipalities, the Department of Transportation and any municipality may reach an agreement as to which existing or proposed streets and highways within the municipal boundaries shall be added to or removed from the State highway system.

(f) Streets within municipalities which are on the State highway system as of July 1, 1959, shall continue to be on that system until changes are made as provided in this section.

(g) The street and highway elements of the plans developed pursuant to G.S. 136-66.2 shall serve as the plan referenced in G.S. 136-66.10(a)."

SECTION 2. This act is effective when it becomes law and applies to plans adopted on or after the effective date.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 8:59 a.m. on the 7th day of June, 2001.

S.B. 716**SESSION LAW 2001-169**

AN ACT TO GIVE PRECINCT ELECTION OFFICIALS (CHIEF JUDGES, JUDGES, AND ASSISTANTS) THE SAME PROTECTION FROM DISCHARGE AS JURORS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 163 of the General Statutes is amended by adding a new section to read:
"§ 163-41.2. Discharge of precinct official unlawful.

(a) No employer may discharge or demote any employee because the employee has been appointed as a precinct official and is serving as a precinct official on election day or canvass day.

(b) An employee discharged or demoted in violation of this section shall be entitled to be reinstated to that employee's former position. The burden of proof shall be upon the employee.

(c) The statute of limitations for actions under this section shall be one year pursuant to G.S. 1-54.

(d) This section does not apply unless the employee provides the employer with not less than 30 days written notice, before the date the leave is to begin, of the employee's intention to take leave to serve as a precinct official.

(e) As used in this section, 'precinct official' has the same meaning as in G.S. 163-41(a)."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 8:59 a.m. on the 7th day of June, 2001.

H.B. 752

SESSION LAW 2001-170

AN ACT TO AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA AT GREENSBORO TO REGULATE PARKING ON CERTAIN STREETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-44.5 reads as rewritten:

"§ 116-44.5. *Special provisions applicable to identified constituent institutions of the University of North Carolina.*

In addition to the powers granted by ~~G.S. 116-42.4~~G.S. 116-44.4, the board of trustees of each of the constituent institutions enumerated hereinafter shall have the additional powers prescribed:

- (1) The Board of Trustees of the University of North Carolina at Chapel Hill may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the Town of Chapel Hill where parking is not prohibited by an ordinance of the Town of Chapel Hill:
 - a. Battle Lane;
 - b. Country Club Road, between Raleigh Street and South Road;
 - c. Manning Drive;
 - d. McCauley Street, between Columbia Street and Pittsboro Street;
 - e. Pittsboro Street, between South Columbia Street and Cameron Avenue;

- f. Boundary Street, between Country Club Road and East Franklin Street;
- g. Park Place, between Boundary Street and East Franklin Street;
- h. South Columbia Street, between Franklin Street and Manning Drive;
- i. Cameron Avenue, between South Columbia Street and Raleigh Street;
- j. Raleigh Street;
- k. Ridge Road;
- l. South Road, between Columbia Street and Country Club Road.

In addition, the Board of Trustees of the University of North Carolina at Chapel Hill may regulate traffic on Cameron Avenue, between Raleigh Street and South Columbia Street, and on Raleigh Street, in any manner not inconsistent with ordinances of the Town of Chapel Hill.

- (2) The Board of Trustees of Appalachian State University may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the Town of Boone where parking is not prohibited by an ordinance of the Town of Boone:
 - a. Faculty Street, between U.S. 221-U.S. 321 (Hardin Street) and Water Street;
 - b. Stadium Drive, between Faculty Street and Fernclift Drive;
 - c. College Street, between U.S. 421-U.S. 321 (King Street) and Locust Street;
 - d. Appalachian Street, between Locust Street and Howard Street;
 - e. Brown Street, between Locust Street and Howard Street.
- (3) The Board of Trustees of the University of North Carolina at Charlotte may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public roads in the County of Mecklenburg where parking is not prohibited by ordinance or other source of legal regulation of the County of Mecklenburg or other governmental entity with jurisdiction to regulate parking on such public road:

- a. Mary Alexander Boulevard (State Road No. 2834), between its intersection with N.C. Highway 49 and its intersection with Mallard Creek Church Road.

In addition, the Board of Trustees of the University of North Carolina at Charlotte may regulate traffic on Mary Alexander Boulevard (State Road No. 2834), between its intersection with N.C. Highway 49 and its intersection with Mallard Creek Church Road, in any manner not inconsistent with any ordinances or other sources of legal regulation of the County of Mecklenburg or other governmental entity with jurisdiction to regulate traffic on such public road.

- (3a) The Board of Trustees of the University of North Carolina at Wilmington may by ordinance prohibit, regulate, and limit the parking of motor vehicles on those portions of the following public streets in the City of Wilmington where parking is not prohibited by an ordinance of the City of Wilmington:

- a. "H" Street.

- (3b) The Board of Trustees of the University of North Carolina at Greensboro may by ordinance prohibit, regulate, and limit the parking of motor vehicles for those portions of any of the following public streets in the City of Greensboro where parking is not prohibited by an ordinance of the City of Greensboro:

- a. Forest Street between Oakland Avenue and Spring Garden Street.
- b. Highland Avenue between Oakland Avenue and Spring Garden Street.
- c. Jefferson Street between Spring Garden Street and the Walker/Aycock parking lot.
- d. Kenilworth Street between Oakland Avenue and Walker Avenue.
- e. McIver Street between Walker Avenue and West Market Street.
- f. Stirling Street between Oakland Avenue and Walker Avenue.
- g. Theta Street between Kenilworth Street and Stirling Street.
- h. Walker Avenue between Aycock Street and Jackson Library and between Tate Street and McIver Street.

- (4) This section does not diminish the authority of any affected municipality, county or other governmental entity to prohibit parking on any public street or road listed herein. It is intended only to authorize the

respective boards of trustees of the constituent institutions identified hereinabove to further prohibit, regulate, and limit parking on certain public streets and roads running through or adjacent to the campuses of the constituent institutions where parking is not prohibited by ordinance or other law of any affected municipality, county or other governmental entity. When an ordinance or other law of an affected municipality, county or other governmental entity is adopted to prohibit parking on any portion of any public street or road then regulated by an ordinance of a board of trustees, the ordinance of the board of trustees is superseded and the University, upon request of the municipality, county or other governmental entity, shall immediately remove any signs, devices, or markings erected or placed by the University on that portion of the street or road pursuant to the superseded ordinance."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 9:00 a.m. on the 7th day of June, 2001.

H.B. 1090**SESSION LAW 2001-171**

AN ACT PROVIDING THAT THE PRESIDENT OF THE NORTH CAROLINA RURAL ECONOMIC DEVELOPMENT CENTER SHALL SERVE AS AN EX OFFICIO MEMBER OF THE RURAL INTERNET ACCESS AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.42(b) reads as rewritten:

"(b) Commission. – The Authority is governed by a Commission that consists of 21 members, six members appointed by the Governor, six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, and the following three ex officio, voting members: the State's Chief Information Officer, the ~~chair-president~~ of the North Carolina Rural Economic Development Center, and the Secretary of Commerce.

It is the intent of the General Assembly that the appointing authorities, in making appointments, shall appoint members who represent the geographic, gender, and racial diversity of the State,

members who represent rural counties, members who represent regional partnerships, and members who represent the communications industry, which may include local telephone exchange companies, rural telephone cooperatives, Internet service providers, commercial wireless communications carriers, and other communications businesses."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 9:00 a.m. on the 7th day of June, 2001.

H.B. 1160

SESSION LAW 2001-172

AN ACT TO PROVIDE FOR UNIFORM PROVIDER CREDENTIALING BY HEALTH INSURANCE PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-230. Uniform provider credentialing.

(a) An insurer that provides a health benefit plan and that credentials providers for its networks shall maintain a process to assess and verify the qualifications of a licensed health care practitioner, or applicant for licensure as a health care practitioner, within 60 days of receipt of a completed provider credentialing application form approved by the Commissioner.

(b) The Commissioner shall by rule adopt a uniform provider credentialing application form that will provide health benefit plans with the information necessary to adequately assess and verify the qualifications of an applicant. The Commissioner may update the uniform provider credentialing application form, as necessary. No insurer that provides a health benefit plan may require an applicant to submit information that is not required by the uniform provider credentialing application form.

(c) As used in this section, the terms 'health benefit plan' and 'insurer' shall have the meaning provided under G.S. 58-3-167."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 30th day of May, 2001.

Became law upon approval of the Governor at 9:01 a.m. on the 7th day of June, 2001.

H.B. 1149 SESSION LAW 2001-173

AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO ADOPT POLICIES ADDRESSING THE SEXUAL HARASSMENT OF SCHOOL EMPLOYEES, AND TO CLARIFY THE LAW PROHIBITING RETALIATION AGAINST EMPLOYEES WHO REPORT SEXUAL HARASSMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 8 of Article 22 of Chapter 115C of the General Statutes reads as rewritten:

"Part 8. ~~Protection for Reporting Harassment.~~ Sexual Harassment Policies.

"§ 115C-335.5. ~~Protection Policies addressing harassment of school employees; protection against retaliation for reporting harassment.~~

(a) Each local board of education may adopt a policy addressing the sexual harassment of local board employees by students, other local board employees, or school board members. The policy may, at a minimum, set out (i) the consequences of sexually harassing school employees and (ii) a procedure for reporting incidents of sexual harassment.

(b) No employee of a local board of education or employee of a local board shall be disciplined in any discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee way solely for the reason that the employee has filed files a written complaint alleging sexual harassment by students, other local board employees, or school board members, unless the employee reporting the harassment knows knew or has reason to believe should have known the report is was false."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 30th day of May, 2001.

Became law upon approval of the Governor at 9:01 a.m. on the 7th day of June, 2001.

S.B. 378 SESSION LAW 2001-174

AN ACT TO PERMIT AN INDIVIDUAL WHO HAS LEADERSHIP, MANAGEMENT, AND ADMINISTRATIVE ABILITY IN A FIELD OTHER THAN EDUCATION TO SERVE AS A LOCAL SUPERINTENDENT OF SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-271(a) reads as rewritten:

"(a) It is the policy of the State that each local board of education has the sole discretion to elect a superintendent of schools. However, the State Board shall adopt rules that establish the qualifications for election. At a minimum, each superintendent shall have been a principal in a North Carolina public school or shall have ~~equivalent experience.~~ other leadership, management, and administrative experience. In addition, the State Board ~~may establish other~~ shall adopt rules that include minimum credentials, educational prerequisites, and relevant experience requirements. ~~requirements that would qualify a person to serve as a superintendent without having direct experience or certification as an educator.~~ It is the duty of each local board to elect a superintendent who is qualified. If a local board elects a superintendent who is not qualified or who cannot qualify under this section, then the election and contract are null and void, and the board shall elect a person who is qualified."

SECTION 2. This act becomes effective July 1, 2001, and applies to superintendents elected after that date.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law upon approval of the Governor at 9:02 a.m. on the 7th day of June, 2001.

H.B. 665

SESSION LAW 2001-175

AN ACT TO EXTEND THE STATUTE OF LIMITATIONS FOR ASSAULT, BATTERY, AND FALSE IMPRISONMENT TO THREE YEARS IN ORDER TO PROVIDE THAT THE PERIOD OF LIMITATIONS FOR THESE INTENTIONAL TORTS IS AS LONG AS THE PERIOD OF LIMITATIONS FOR UNINTENTIONAL TORTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-54 reads as rewritten:

"§ 1-54. *One year.*

Within one year an action or proceeding –

- (1) Repealed by Session Laws 1975, c. 252, s. 5.
- (2) Upon a statute, for a penalty or forfeiture, where the action is given to the State alone, or in whole or in part to the party aggrieved, or to a common informer, except where the statute imposing it prescribes a different limitation.
- (3) For ~~libel, slander, assault, battery, or false imprisonment.~~ libel and slander.

- (4) Against a public officer, for the escape of a prisoner arrested or imprisoned on civil process.
- (5) For the year's allowance of a surviving spouse or children.
- (6) For a deficiency judgment on any debt, promissory note, bond or other evidence of indebtedness after the foreclosure of a mortgage or deed of trust on real estate securing such debt, promissory note, bond or other evidence of indebtedness, which period of limitation above prescribed commences with the date of the delivery of the deed pursuant to the foreclosure sale: Provided, however, that if an action on the debt, note, bond or other evidence of indebtedness secured would be earlier barred by the expiration of the remainder of any other period of limitation prescribed by this subchapter, that limitation shall govern.
- (7) Repealed by Session Laws 1971, c. 939, s. 2.
- (7a) For recovery of damages under Article 1A of ~~General Statutes Chapter 18B~~ Chapter 18B of the General Statutes.
- (8) As provided in G.S. 105-377, to contest the validity of title to real property acquired in any tax foreclosure action or to reopen or set aside the judgment in any tax foreclosure action.
- (9) As provided in Article 14 of Chapter 126 of the General Statutes, entitled 'Protection for Reporting Improper ~~Governmental~~ Government Activities'."

SECTION 2. G.S. 1-52 reads as rewritten:

"§ 1-52. *Three years.*

Within three years an action –

- (1) Upon a contract, obligation or liability arising out of a contract, express or implied, except those mentioned in the preceding sections or in G.S. 1-53(1).
- (1a) Upon the official bond of a public officer.
- (2) Upon a liability created by statute, either state or federal, unless some other time is mentioned in the statute creating it.
- (3) For trespass upon real property. When the trespass is a continuing one, the action shall be commenced within three years from the original trespass, and not thereafter.
- (4) For taking, detaining, converting or injuring any goods or chattels, including action for their specific recovery.
- (5) For criminal conversation, or for any other injury to the person or rights of another, not arising on contract and not hereafter enumerated.

- (6) Against the sureties of any executor, administrator, collector or guardian on the official bond of their principal; within three years after the breach thereof complained of.
- (7) Against bail; within three years after judgment against the principal; but bail may discharge himself by a surrender of the principal, at any time before final judgment against the bail.
- (8) For fees due to a clerk, sheriff or other officer, by the judgment of a court; within three years from the rendition of the judgment, or the issuing of the last execution thereon.
- (9) For relief on the ground of fraud or mistake; the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.
- (10) Repealed by Session Laws 1977, c. 886, s. 1.
- (11) For the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, said act being an act of Congress.
- (12) Upon a claim for loss covered by an insurance policy which is subject to the three-year limitation contained in lines 158 through 161 of the Standard Fire Insurance Policy for North Carolina, G.S. 58-44-15(c).
- (13) Against a public officer, for a trespass, under color of his office.
- (14) An action under Chapter 75B of the General Statutes, the action in regard to a continuing violation accrues at the time of the latest violation.
- (15) For the recovery of taxes paid as provided in G.S. 105-267 and G.S. 105-381.
- (16) Unless otherwise provided by statute, for personal injury or physical damage to claimant's property, the cause of action, except in causes of actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the claimant or physical damage to his property becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Provided that no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.
- (17) Against a public utility, electric or telephone membership corporation, or a municipality for damages or for compensation for right-of-way or use of any lands

for a utility service line or lines to serve one or more customers or members unless an inverse condemnation action or proceeding is commenced within three years after the utility service line has been constructed or by October 1, 1984, whichever is later.

- (18) Against any registered land surveyor as defined in G.S. 89C-3(9) or any person acting under his supervision and control for physical damage or economic or monetary loss due to negligence or a deficiency in the performance of surveying or platting as defined in G.S. 1-47(6).

(19) For assault, battery, or false imprisonment."

SECTION 3. This act becomes effective October 1, 2001, and applies to claims arising on or after that date.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law upon approval of the Governor at 9:03 a.m. on the 7th day of June, 2001.

H.B. 436

SESSION LAW 2001-176

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS TO ESTABLISH NEW FEES AND INCREASE CERTAIN CURRENT FEES AND AMENDING CERTAIN PROVISIONS UNDER THE ELECTROLYSIS PRACTICE ACT RELATING TO FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88A-9(b) reads as rewritten:

"(b) All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act, but in no event may they exceed the following:

- (1) Application for licensure as an electrologist\$150.00
- (1a) Initial license 150.00
- (1b) Examination or reexamination 125.00
- (2) Licensure of electrology renewal~~100.00~~ 200.00
- (3) Application for certification as an electrology instructor..... 150.00
- (4) Certificate of electrology instructor renewal~~40.00~~ 75.00
- (5) Application for certification as a Board approved school of electrology 500.00
- (6) Certificate of Board approved school of electrology renewal 250.00
- (6a) Certification of out-of-state schools 100.00
- (6b) Certification of out-of-state schools renewal 75.00

(6c) Office inspection or reinspection 100.00
 (6d) License by reciprocity 150.00
 (7) Late renewal charge ~~25.00~~ 75.00
 (8) Reinstatement of expired license..... ~~150.00~~ 300.00
 (9) Reactivation of license 200.00
 (10) Duplicate license 25.00."

SECTION 2. G.S. 88A-10 reads as rewritten:

"§ 88A-10. *Requirements for licensure as an electrologist.*

(a) Any person who desires to be licensed as an "electrologist" pursuant to this Chapter shall:

- (1) Submit an application on a form approved by the ~~Board;~~Board.
- (2) Be a resident of North ~~Carolina;~~Carolina.
- (3) Be 18 years of age or ~~older;~~older.
- (4) Meet the requirements of subsection (a1) of this ~~section;~~andsection.
- (5) Pass an examination given by the Board.
- (6) Submit the application and examination fees required in G.S. 88A-9(b).

(a1) An applicant for licensure under this section shall provide:

- (1) Proof of graduation from a school certified by the Board pursuant to G.S. 88A-19; or
- (2) Proof satisfactory to the Board that, for at least one year prior to the date of application or the date of initial residence in this State, whichever is earlier, the applicant was engaged in the practice of electrology in a state that does not license electrologists.

Subdivision (2) of this subsection applies only to applicants whose residence in this State began on or after January 31, 1994, who do not meet the qualifications of subdivision (1) of this subsection or G.S. 88A-12.

(b) At least twice each year, the Board shall give an examination to applicants for licensure to determine the applicants' knowledge of the basic and clinical sciences relating to the theory and practice of electrology. The Board shall give applicants notice of the date, time, and place of the examination at least 60 days in advance.

(c) When the Board determines that an applicant has met all the ~~qualifications~~requirements for licensure, and has submitted the ~~required fee,~~initial license fee required in G.S. 88A-9(b), the Board shall issue a license to the applicant.

(d) An applicant otherwise qualified for licensure who is not a resident of this State may nevertheless submit a statement of intent to begin practicing electrology in this State and receive a license. The applicant must provide to the Board within six months of receiving a license evidence satisfactory to the Board that the applicant has

actually begun to practice electrology in this State. The Board may revoke the license of an applicant who fails to submit this proof or whose proof fails to satisfy the Board."

SECTION 3. G.S. 88A-14 reads as rewritten:

"§ 88A-14. *Inactive list.*

Upon request by a licensee for inactive status, the Board shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice electrology in North Carolina. When that person desires to be removed from the inactive list and returned to an active list, ~~an a reactivation~~ application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for license ~~renewal-reactivation~~. The Board may require evidence of competency to resume practice before returning the applicant to the active status. Any person whose license has lapsed or expired for a period of five years or more shall be required to take and pass the examination for licensure before the license can be ~~renewed-reactivated~~."

SECTION 4. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law upon approval of the Governor at 9:03 a.m. on the 7th day of June, 2001.

H.B. 1053

SESSION LAW 2001-177

AN ACT TO SHORTEN THE TIME PERIOD IN WHICH A CLAIMANT MAY BRING AN ACTION ON A PAYMENT BOND WHEN THE CLAIMANT HAS A DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR IN CONNECTION WITH A CONSTRUCTION CONTRACT BUT NO CONTRACTUAL RELATIONSHIP WITH THE CONTRACTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-27(b) reads as rewritten:

"(b) Any claimant who has a direct contractual relationship with any subcontractor but has no contractual relationship, express or implied, with the contractor may bring an action on the payment bond only if he has given written notice to the contractor within ~~180-120~~ days from the date on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished."

SECTION 2. This act becomes effective October 1, 2001, and applies to actions on payment bonds filed on or after that date.

In the General Assembly read three times and ratified this the 29th day of May, 2001.

Became law upon approval of the Governor at 9:04 a.m. on the 7th day of June, 2001.

S.B. 71 SESSION LAW 2001-178

AN ACT TO ESTABLISH A PILOT PROGRAM UNDER WHICH PARTICIPATING LOCAL SCHOOL ADMINISTRATIVE UNITS PLACE ALL STUDENTS WHO ARE ON SHORT-TERM OUT-OF-SCHOOL SUSPENSION IN ALTERNATIVE LEARNING PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Board of Education, in cooperation with the Department of Juvenile Justice and Delinquency Prevention, shall establish a pilot program under which participating local school administrative units place all students who are on short-term out-of-school suspension in alternative learning programs. These alternative placements may be in alternative learning programs, day reporting centers, and other similar supervised programs for students. The Superintendent of Public Instruction and the Secretary of the Department of Juvenile Justice and Delinquency Prevention shall select no more than five local school administrative units to participate in the program.

SECTION 1.(b) The State Board of Education and the Department of Juvenile Justice and Delinquency Prevention shall develop an application process that encourages local boards of education to apply for inclusion in the pilot program. As a part of the application process, a local board shall indicate how it proposes to address the issues set out in subsection (e) of this section. A local board of education that applies and is selected by the Superintendent and the Secretary to participate in the program shall develop and adopt a plan for placing in alternative learning programs, with the goal of successful reentry into the students' regular school setting, all students who are on short-term out-of-school suspension except that:

- (1) A pilot unit may elect not to include in its plan the placement of some or all of the students who are on short-term out-of-school suspension and for whom a recommendation to the local superintendent for long-term suspension is pending; and
- (2) The plan shall not require the placement of a student with disabilities in an alternative learning program if it is

determined that the placement is inappropriate under the student's individual education plan.

The assignment of a student in an alternative learning program shall be for the duration of the period of short-term suspension.

SECTION 1.(c) The chief court counselor in the judicial district or a designee must work closely with the pilot unit in developing the plan. The pilot unit shall consult with other interested parties such as local designees of the Department of Public Instruction, the Department of Health and Human Services, and the Department of Juvenile Justice and Delinquency Prevention, the local Juvenile Crime Prevention Council, educators, parents, local public and private agencies serving juveniles and their families, local business leaders, citizens with an interest in youth problems, and youth representatives on the development of the plan.

SECTION 1.(d) Any selected pilot unit may delay implementation of its plan until the local board determines that adequate funds are available from federal, State, and local allocations and other sources. If the local board of a selected pilot unit determines that funds will not be adequate to implement the pilot program, the superintendent shall notify the State Board of Education that the pilot program will not be implemented so that another pilot unit may be selected.

SECTION 1.(e) The plan should:

- (1) Include a detailed plan for:
 - a. Making the alternative placements;
 - b. Transporting each student to the student's alternative placement;
 - c. Ensuring that the student is participating in the alternative placement;
 - d. Facilitating communication between the school from which the student is suspended and the alternative placement;
 - e. Providing the student an opportunity to complete and receive credit for work missed during the period of suspension and to participate in the State accountability program; and
 - f. Notifying and providing parents the opportunity to be involved;
- (2) Identify resources that will be used to implement the plan, the sources of funds, and the process for procuring funds;
- (3) State the plan's goals and anticipated outcomes of the pilot program;

- (4) Include a process for assessing on an annual basis the success of the local school administrative unit in implementing the plan and the effectiveness of the plan; and
- (5) Identify the extent to which the plan includes collaboration with other agencies and the Juvenile Crime Prevention Councils.

SECTION 1.(f) Notwithstanding any other provision of law, the Department of Juvenile Justice and Delinquency Prevention and Juvenile Crime Prevention Councils may use their programs, employees, funds, and other resources to meet the needs of all students on short-term out-of-school suspension in the pilot units who are placed in alternative learning programs. The pilot unit shall, to the extent reasonable and practicable, ensure that suspended students are in programs or classrooms that are separate from those in which violent adjudicated offenders are placed. The pilot unit shall not send suspended students to programs or classrooms in training schools, detention centers, or other similar facilities.

Notwithstanding any other provision of law, the pilot unit may contract with nonprofit corporations and other governmental entities to meet the needs of these students and may assign students to programs administered and staffed in whole or in part by these entities. The nonprofit shall maintain adequate liability insurance to cover claims arising from the provision of services by the nonprofit.

SECTION 1.(g) Any absences from the alternative learning program shall be subject to local board policies regarding promotion and course credits. Also, if a pilot unit determines that attendance in the alternative learning program is mandatory for eligible short-term suspended students, the students shall attend in accordance with the compulsory attendance requirements of G.S. 115C-378.

SECTION 1.(h) Except as provided in subsection (e) of this section, the pilots shall be implemented in accordance with G.S. 115C-391. The policies and procedures for the discipline of students with disabilities shall be consistent with federal and State laws and regulations.

SECTION 1.(i) The Department of Public Instruction and the Department of Juvenile Justice and Delinquency Prevention shall report to the Joint Legislative Education Oversight Committee by April 15, 2003, on:

- (1) The implementation of the program in the pilot units;
- (2) The full cost of implementing the pilot program;
- (3) The sources of funds and other resources used to implement the pilot programs;
- (4) Each unit's assessment of its plan;

- (5) Instances of effective local collaboration and coordination of services;
- (6) Innovative or experimental aspects of the plans that would be useful models for replication in other local school administrative units; and
- (7) A recommendation as to whether the program should be instituted statewide, including any legislative recommendations.

SECTION 1.(j) The State Board of Education, the Department of Juvenile Justice and Delinquency Prevention, and the pilot units shall implement this act, within existing State resources, by redirecting existing State resources and by using non-State funds.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of May, 2001.

Became law upon approval of the Governor at 11:21 a.m. on the 7th day of June, 2001.

S.B. 876**SESSION LAW 2001-179**

AN ACT TO PROVIDE THAT ATTENDANCE AT A DAY REPORTING CENTER BE A LEVEL ONE DISPOSITION FOR DELINQUENT JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-2508(c) reads as rewritten:

"(c) Level 1 – Community Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (13) and (16) of G.S. 7B-2506. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public."

SECTION 2. G.S. 7B-2506(16) reads as rewritten:

"(16) Order the juvenile to cooperate with a supervised day program requiring the juvenile to be present at a specified place for all or part of every day or of certain days. In determining whether to order a juvenile to a particular supervised day program, the court shall consider the structure and operations of the program and whether that program will meet the needs of the

juvenile. The court also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision."

SECTION 3. This act becomes effective October 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:08 p.m. on the 7th day of June, 2001.

S.B. 321 SESSION LAW 2001-180

AN ACT TO PROVIDE FOR SHARING OF INFORMATION PRODUCED BY, OBTAINED BY, OR DISCLOSED TO THE INSURANCE COMMISSIONER UNDER THE EXAMINATION LAW; AND TO CLARIFY THAT THE EXAMINATION LAW APPLIES TO ALL ENTITIES SUBJECT TO REGULATION BY THE INSURANCE COMMISSIONER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-2-131(d) reads as rewritten:

"(d) The Commissioner may conduct an examination of any ~~insurer~~ entity whenever the Commissioner deems it to be prudent for the protection of policyholders or the public, but shall at a minimum conduct a regular examination of every domestic insurer not less frequently than once every five years. In scheduling and determining the nature, scope, and frequency of examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the NAIC Examiners' Handbook."

SECTION 2. G.S. 58-2-131(e) reads as rewritten:

"(e) To complete an examination of any ~~insurer~~, entity, the Commissioner may authorize an examination or investigation of any person, or the business of any person, insofar as the examination or investigation is necessary or material to the ~~insurer~~ entity under examination."

SECTION 3. G.S. 58-2-131(1) reads as rewritten:

"(1) Pending, during, and after the examination of any ~~insurer~~ entity, the Commissioner shall not make public the financial statement, findings, or examination report, or any report affecting the status or standing of the ~~insurer~~ entity examined, until the ~~insurer~~ entity examined has either accepted and approved the final examination report or has been given a reasonable opportunity to be

heard on the report and to answer or rebut any statements or findings in the report. The hearing, if requested, shall be informal and private."

SECTION 4. G.S. 58-2-132 reads as rewritten:

"§ 58-2-132. *Examination reports.*

(a) All examination reports shall comprise only facts appearing upon the books, records, or other documents of the ~~insurer~~, entity, its agents or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs, and conclusions and recommendations that the examiners find reasonably warranted from the facts.

(b) No later than 60 days following completion of an examination, the examiners shall file with the Department a verified written examination report under oath. Upon receipt of the verified report, the Department shall send the report to the ~~insurer~~-entity examined, together with a notice that affords the ~~insurer~~ entity examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report. Within 30 days ~~of~~ after the date of the examination report, the ~~insurer~~ entity examined shall file affidavits executed by each of its directors stating under oath that they have received and read a copy of the report.

(c) At the end of the 30 days provided for the receipt of written submissions or rebuttals, the Commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant parts of the examiners' work papers and enter an order:

- (1) Adopting the examination report as filed or with modifications or corrections. If the examination report reveals that the ~~insurer~~ entity examined is operating in violation of any law, rule, or prior order of the Commissioner, the Commissioner may order the ~~insurer~~ entity examined to take any action the Commissioner considers necessary and appropriate to cure the violation; or
- (2) Rejecting the examination report with directions to the examiners to reopen the examination to obtain additional data, documentation of the information, and refile under subdivision (1) of this subsection; or
- (3) Calling for an investigatory hearing with no less than 20 days' notice to the insurer for purposes of obtaining additional documentation, data, and testimony.

(d) All orders entered under subdivision (c)(1) of this section shall be accompanied by findings and conclusions resulting from the Commissioner's consideration and review of the examination report, relevant examiner work papers, and any written submissions or

rebuttals. Any such order shall be considered a final administration decision and shall be served upon the ~~insurer~~-entity examined by certified mail. Any hearing conducted under subdivision (c)(3) of this section shall be conducted as a nonadversarial confidential investigatory proceeding as necessary for the resolution of any inconsistencies, discrepancies, or disputed issues apparent on the face of the filed examination report or raised by or as a result of the Commissioner's review of relevant work papers or by the written submission or rebuttal of the ~~insurer~~-entity examined. Within 20 days after the conclusion of any such hearing, the Commissioner shall enter an order under subdivision (c)(1) of this section. The Commissioner may not appoint a member of the Department's examination staff as an authorized representative to conduct the hearing. The hearing shall proceed expeditiously with discovery by the ~~insurer~~-entity examined limited to the examiner's work papers that tend to substantiate any assertions set forth in any written submission or rebuttal. The Commissioner may issue subpoenas for the attendance of any witnesses or the production of any documents the Commissioner considers to be relevant to the investigation, whether they are under the control of the Department, the ~~insurer~~-entity examined, or other persons. The documents produced shall be included in the record, and testimony taken by the Commissioner shall be under oath and preserved for the record. Nothing in this section requires the Department to disclose any information or records that would show the existence or content of any investigation or activity of any federal or state criminal justice agency. In the hearing, the Commissioner shall question the persons subpoenaed. Thereafter the ~~insurer~~-entity examined and the Department may present testimony relevant to the investigation. Cross-examination shall be conducted only by the Commissioner. The ~~insurer~~-entity examined and the Department may make closing statements and may be represented by counsel of their choice.

(e) Upon completion of the examination report under subdivision (c)(1) of this section, the Commissioner shall hold the content of the examination report as private and confidential information for the 30-day period provided for written submissions or rebuttals. If after 30 days after the examination report has been submitted to it, the ~~insurer~~-entity examined has neither notified the Commissioner of its acceptance and approval of the report nor requested to be heard on the report, the report shall then be filed as a public document and shall be open to public inspection, as long as no court of competent jurisdiction has stayed its publication. Nothing in the Examination Law prohibits the Commissioner from disclosing the content of the examination report, preliminary examination report or results, or any related matter, to an insurance regulator or to law enforcement

officials of this or any other state or country or of the United States government at any time, as long as the person or agency receiving the report or related matters agrees in writing and is authorized by law to hold it confidential and in a manner consistent with this section. If the Commissioner determines that further regulatory action is appropriate as a result of any examination, the Commissioner may initiate such proceedings or actions as provided by law.

(f) All working papers, ~~recorded~~ information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person ~~during~~ in connection with an examination or financial analysis shall be given confidential ~~treatment and is treatment,~~ are not subject to ~~subpoena-subpoena,~~ and ~~may shall~~ not be made public by the Commissioner or any other person, ~~except to the extent provided in G.S. 58-2-131(l) or subsection (e) of this section.~~ person. Access may also be granted to the NAIC. Such parties must agree in writing before receiving the information to give it the same confidential treatment as this section requires, unless the prior written consent of the insurer to which it pertains has been obtained. ~~The provisions of this section do not prohibit the Commissioner from taking any action provided for, or from exercising any power conferred by, any provision of this Chapter to suspend or revoke the license of any insurer. The Commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.~~

(g) In order to assist in the performance of the Commissioner's duties, the Commissioner may:

- (1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (f) of this section, with other state, federal, and international regulatory agencies, with the NAIC, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information.
- (2) Receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(3) Enter into agreements governing sharing and use of information consistent with this section.

(h) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (g) of this section.

(i) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section shall be available and enforced in any proceeding in, and in any court of, this State.

(j) In this section, 'department,' 'insurance regulator,' 'law enforcement official or authority,' 'NAIC,' and 'regulatory official or agency' include employees, agents, consultants, and contractors of those entities."

SECTION 5. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:09 p.m. on the 7th day of June, 2001.

S.B. 311

SESSION LAW 2001-181

AN ACT TO AMEND THE PROVISIONS OF THE NORTH CAROLINA HOUSING FINANCE AGENCY ACT TO MAKE TECHNICAL AMENDMENTS AND TO AUTHORIZE THE INVESTMENT OF MONEY HELD BY THE AGENCY IN CERTAIN BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122A-11 reads as rewritten:

"§ 122A-11. *Trust funds.*

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing any obligations or the trust agreement securing the same may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the

purposes hereof, subject to such regulations as this Chapter and such resolution or trust agreement may provide.

Any moneys received pursuant to the authority of this Chapter and any other moneys available to the Agency for investment may be invested:

- (1) As provided in G.S. 159-30, except that for purposes of G.S. 159-30(b) the Agency may deposit moneys at interest in banks or trust companies outside as well as in this State, as long as any moneys at deposit outside this State are collateralized to the same extent and manner as if at deposit in this State;
- (2) In evidences of ownership of, or fractional undivided interests in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States government, which obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state in the capacity of custodian;
- (3) In obligations which are collateralized by mortgage pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association; Fannie Mae;~~
- (4) In a trust certificate or similar instrument evidencing an equity investment in a trust or other similar arrangement which is formed for the purpose of issuing obligations which are collateralized by mortgage pass-through or participation certificates guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation or ~~the Federal National Mortgage Association; Fannie Mae;~~ and
- (5) In repurchase agreements with respect to ~~either (i) direct obligations of the United States government or~~ government, (ii) obligations the principal of and the interest on which are guaranteed by the United States government, or (iii) obligations described in G.S. 159-30(c)(2), (3), (6), or (7), if all of the following conditions are met:
 - a. The repurchase agreement is entered into with an institution whose ability to pay its unsecured long-term obligations (including, if the institution is an insurance company, its claims paying ability) is rated in one of the two highest ratings categories by

a nationally recognized securities rating agency. If the term of the repurchase agreement is for a period of one year or less, however, the repurchase agreement may be entered into with an institution that does not have such a long-term rating if its ability to pay its unsecured short-term obligations is rated in one of the two highest ratings categories by a nationally recognized securities rating agency. If the institution with which the agreement is to be entered does not meet the ratings requirement of this subparagraph, the repurchase agreement may nevertheless be entered into with the institution if the obligations of the institution under the repurchase agreement are fully guaranteed by another institution that does meet the ratings requirement of this subparagraph.

- b. The repurchase agreement provides that it shall be terminated, without penalty, if the institution with which the repurchase agreement is entered or by whom the institution's obligations are guaranteed fails to maintain (i) in the event that the repurchase agreement was entered into in reliance upon the rating of the institution's long-term obligations, a rating of its long-term obligations in one of the three highest ratings categories by at least one nationally recognized securities rating agency, or (ii) in the event that the repurchase agreement was entered into in reliance upon the rating of the institution's short-term obligations, a rating of its short-term obligations in one of the two highest ratings categories by at least one nationally recognized securities rating agency. The repurchase agreement does not have to be terminated, however, if a new guarantor meeting the rating requirement set forth in subparagraph a. as the requirement necessary for the Agency to enter the repurchase agreement agrees to fully guarantee the obligations of the institution under the repurchase agreement.
- c. The obligations that are subject to the repurchase agreement are delivered (in physical or in book entry form) to the Agency, or any financial institution serving either as trustee for obligations issued by the Agency or as fiscal agent for the Agency or the State Treasurer or are supported by a safekeeping receipt issued by a depository

satisfactory to the Agency. The repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the Agency holding the obligations subject to the repurchase agreement hereunder or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement.

- d. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the Agency or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations and satisfactory to the agency have been established for the benefit of the Agency or its assignee.
- e. The securities are free and clear of any adverse third-party claims.
- f. The repurchase agreement is in a form satisfactory to the Agency."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:10 p.m. on the 7th day of June, 2001.

S.B. 259

SESSION LAW 2001-182

AN ACT TO AMEND THE SECURITIES DEALER REGISTRATION STATUTES TO ABOLISH THE CHURCH BOND DEALER RESTRICTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-36(a) reads as rewritten:

"(a) It is unlawful for any person to transact business in this State as a dealer or salesman unless he is registered under this Chapter. No dealer shall be eligible for registration under this Chapter, or for renewal of registration hereunder, unless such dealer is at the time registered as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934; ~~any dealer specializing in church securities may be registered to offer or sell only those securities which are issued by churches located within this State. 1934.~~"

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:10 p.m. on the 7th day of June, 2001.

S.B. 258 SESSION LAW 2001-183

AN ACT TO REQUIRE RESCISSION OFFERS TO BE FILED WITH THE SECRETARY OF STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-56(g)(3) reads as rewritten:

"(3) Offers shall be in the form and contain the information the Administrator by rule prescribes. Every offer under subsection (g) of this section shall be delivered to the offeree or sent by certified mail addressed to ~~him~~ the offeree at ~~his~~the offeree's last known address. The person making the offer shall file a copy of the rescission offer with the Administrator at least 10 days before delivering the offer to the offeree. If an offer is not performed in accordance with its terms, suit by the offeree under this section shall be permitted without regard to this subsection."

SECTION 2. This act becomes effective October 1, 2001, and applies to rescission offers made on or after that date.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:11 p.m. on the 7th day of June, 2001.

H.B. 311 SESSION LAW 2001-184

AN ACT TO AUTHORIZE INDIAN TRIBES TO ELECT TO MAKE UNEMPLOYMENT PAYMENTS, IN LIEU OF CONTRIBUTIONS, TO REIMBURSE ACTUAL COMPENSATION PAID WITH RESPECT TO EMPLOYEES, AS REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-8(5) is amended by adding a new sub-subdivision to read:

"§ 96-8. *Definitions.*

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

...
(5) "Employer" means:

...
s. Any Indian tribe as defined in the Federal Unemployment Tax Act, 26 U.S.C. § 3301 et seq."

SECTION 2. G.S. 96-8(6)i. reads as rewritten:

"i. ~~On and after January 1, 1978, the~~ The term "employment" includes service performed for any State and local governmental employing ~~unit~~. ~~Provided, however, unit or for any Indian tribe,~~ except that employment ~~shall~~ does not include service performed (a) as an elected official; (b) as a member of a legislative body or a member of the judiciary, of a State or political subdivision ~~thereof;~~ thereof or of an Indian tribe; (c) as a member of the State National Guard or Air National Guard; (d) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (e) in a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week. The services to which clause (d) of the preceding sentence applies include but are not limited to temporary emergency services compensated solely by a fixed payment for each emergency call answered whether or not provided for by prior agreement and training in preparation for such temporary emergency service whether or not compensated."

SECTION 3. G.S. 96-8(6)k.15. reads as rewritten:

"k. The term "employment" ~~shall~~ does not include:

...
15. Services performed (i) in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches; or (ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or (iii) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals

whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or (iv) as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or agency, an agency of a state or political subdivision thereof, or an Indian tribe, by an individual receiving ~~such~~ the work relief or work training, unless a federal law, rule or regulation mandates unemployment insurance coverage to individuals in a particular work-relief or work-training program; (v) after December 31, 1971, by an inmate for a hospital in a State prison or other State correctional institution or by a patient in any other State-operated hospital, and services performed by patients in a hospital operated by a nonprofit organization shall be exempt; (vi) after December 31, 1971, in the employ of a hospital, if such service is performed by a patient of such hospital; (vii) after December 31, 1971, by an inmate of a custodial or penal institution."

SECTION 4. G.S. 96-9(a) is amended by adding a new subdivision to read:

"§ 96-9. *Contributions.*

(a) Payment. –

...

(4a) Indian tribes may finance benefits paid to employees either by coming under the experience rating program provided in G.S. 96-9(b) or by coming into the program on a reimbursement basis in accordance with the provisions and conditions of G.S. 96-9(i). Any election made is binding on the tribe so electing for a period of three years."

SECTION 5. G.S. 96-9(g) reads as rewritten:

"(g) Nothing contained in subsections ~~(d) and (f)~~ (d), (f), and (i) of this section ~~shall be construed to prevent~~ prevents the Commission from providing any reimbursing employer with informational bills or lists of charges on a basis more frequent than yearly, if in its sole

discretion, the Commission ~~deems~~ considers such action to be in the best interest of the Commission and the affected employer(s)."

SECTION 6. G.S. 96-9 is amended by adding a new subsection to read:

"(i) Indian Tribes. – Benefits paid to employees of Indian tribe employing units shall be financed in accordance with the provisions of this subsection. For the purposes of this subsection, an 'Indian tribe employing unit' is an Indian tribe, a subdivision or subsidiary of an Indian tribe, or a business enterprise wholly owned by an Indian tribe.

(1) Election. –

- a. An Indian tribe employing unit shall pay contributions under the provisions of this Chapter, unless it elects in accordance with this subsection to pay the Commission for the Unemployment Insurance Fund an amount equal to the amount of benefits paid that is attributable to service in the employ of the unit, to individuals for weeks of unemployment that begin within a benefit year established during the effective period of the election.
- b. An Indian tribe employing unit may elect to become liable for payments in lieu of contributions for a period of not less than three calendar years by filing a written notice of its election with the Commission at least 30 days before the January 1 effective date of the election.
- c. An Indian tribe employing unit that makes an election in accordance with this subsection will continue after the end of the three calendar years to be liable for payments in lieu of contributions until it files with the Commission a written notice terminating its election at least 30 days before the January 1 effective date of the termination.
- d. The account of an Indian tribe employing unit that has been paying contributions under this Chapter for a period of at least three consecutive calendar years and that elects to change to a reimbursement basis shall be closed and shall not be used in any future computation of the unit's contribution rate in any manner except that the unit may be relieved of the requirement to pay one percent (1%) of taxable wages as required by subdivision (2) of this subsection to the following extent and upon the following conditions:

1. An Indian tribe employing unit that has, for the year the election will be effective, an experience rating of 1.7 or less will have transferred from its experience rating account an amount equal to one percent (1%) of its payroll as reported for each of the four calendar quarters that constitute the election year.
 2. An Indian tribe employing unit that has, for the year the election will be effective, an experience rating of less than 2.7 but more than 1.7 will have transferred from its experience rating account an amount equal to one-half of one percent (.5%) of its payroll as reported for each of the four calendar quarters that constitute the election year. These employing units shall make advance payments to the Commission quarterly, computed at one-half of one percent (.5%) of the taxable wages reported as provided in subdivision (2) of this subsection.
 3. An Indian tribe employing unit that has, for the year the election will become effective, an experience rating of 2.7 or more, upon electing to change to a reimbursement basis, will meet all the requirements of subdivision (2) of this subsection, including making advance payments computed at one percent (1%) of taxable wages.
- e. The Commission, in accordance with regulations it adopts, shall notify each Indian tribe employing unit of any determination of the effective date of any election it makes and of any termination of the election. These determinations shall be subject to reconsideration, appeal, and review.
- (2) Procedure. – Indian tribe employing units' payments by reimbursement in lieu of contributions shall be made and processed as provided in this subdivision.
- a. Quarterly contributions and wage reports and advance payments shall be submitted to the Commission quarterly under the same conditions and requirements of G.S. 96-9 and G.S. 96-10, except that the amount of advance payments shall be computed as one percent (1%) of taxable wages and entered on the reports, and except that the wage

base shall be the same as that provided for in G.S. 96-9(a)(5). Collection of these advance payments shall be made as provided for the collection of contributions in G.S. 96-10.

Any Indian tribe employing unit paying by reimbursement having been, prior to July 1, under the reimbursement method of payment for the preceding calendar year, shall continue to file quarterly reports but shall make no payments with those reports.

- b. The Commission shall establish a separate account for each Indian tribe employing unit paying by reimbursement. The account shall be credited and maintained as provided in G.S. 96-9(c)(1), except that advance payments shall be credited in full, and voluntary contributions are not applicable.
- c. Benefits paid shall be allocated to the employer's account in accordance with G.S. 96-9(c)(2)a. but charged to the account without the application of any multiplier, and no benefits shall be noncharged except amounts of benefits paid through error.
- d. As of July 31 of each year, and prior to January 1 of the succeeding year, the Commission shall determine the balance of each Indian tribe employing unit's account and shall furnish the unit with a statement of all charges and credits to the account.

As of August 1 of each year, there shall be refunded any credit balance remaining in the Indian tribe employing unit's account (after all applicable postings) in excess of one percent (1%) of taxable wages for the 12 months ending on June 30 preceding the computation date. The refund must be made before February 1 following the computation date.

If the balance in the account does not equal one percent (1%) of taxable wages, the Indian tribe employing unit must, upon notice and demand for payment mailed to its last known address, pay into the account an amount that will bring the balance to one percent (1%) of taxable wages. This amount becomes due on or before the 25th day after the notice and demand for payment is mailed. Any amount unpaid on the due date shall be collected in

the same manner, including interest, as prescribed in G.S. 96-10.

Upon a change in election as to the method of payment from reimbursement to contributions, or upon termination of coverage and after all applicable benefits paid based on wages paid before the change in election or termination of coverage have been charged, any credit balance in the account shall be refunded to the Indian tribe employing unit.

If there is a debit balance in the account, the Indian tribe employing unit must, upon notice and demand for payment mailed to its last known address, pay into the account an amount necessary to bring the account to one percent (1%) of taxable wages. This amount becomes due on or before the 25th day after the notice and demand for payment is mailed. Any amount unpaid on the due date shall be collected in the same manner, including interest, as prescribed in G.S. 96-10.

- e. Notices to Indian tribe employing units of payment and reporting delinquency must include information that failure to make full payment within the time prescribed will cause the unit to become liable for contributions under subsection (a) of this section, will cause the unit to lose the option of making payment by reimbursement in lieu of contributions, and could cause the unit to lose coverage under this Chapter for services performed for the unit.
- (3) Forfeiture of option. – If an Indian tribe employing unit fails to make payments, including interest and penalties, required under this subsection within 90 days after receipt of the bill, the unit loses the option to make payments by reimbursement in lieu of contributions for the following calendar year unless payment in full is made before contribution rates for the following calendar year are computed. An Indian tribe that has lost the option to make payments by reimbursement in lieu of contributions for a calendar year regains that option for the following calendar year if it makes all contributions timely during the year for which the option was lost, and no payments, penalties, or interest remain outstanding.
- (4) Forfeiture of coverage. – If an Indian tribe employing unit fails to make payments, including interest and penalties, required under this subsection after all

collection activities considered necessary by the Commission have been exhausted, services performed for that employing unit are no longer treated as 'employment' for the purpose of coverage under this Chapter. An Indian tribe employing unit that has lost coverage regains coverage under this Chapter for services performed for the employing unit if the Commission determines that all contributions, payments in lieu of contributions, penalties, and interest have been paid.

The Commission shall notify the Internal Revenue Service and the United States Department of Labor of any termination or reinstatement of coverage pursuant to this subdivision.

- (5) Extended benefits. – Extended benefits paid that are attributable to service in the employ of an Indian tribe employing unit and not reimbursed by the federal government shall be financed in their entirety by the Indian tribe employing unit."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:11 p.m. on the 7th day of June, 2001.

S.B. 236**SESSION LAW 2001-185**

AN ACT TO INCREASE THE CAP ON BONDS OUTSTANDING FOR THE HOUSING FINANCE AGENCY FROM \$1.5 BILLION TO \$3 BILLION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122A-8 reads as rewritten:
"§ 122A-8. *Bonds and notes.*

The Agency is hereby authorized to provide for the issuance, at one time or from time to time, of bonds and notes of the Agency to carry out and effectuate its corporate purposes. The Agency also is hereby authorized to provide for the issuance, at one time or from time to time of (i) bond anticipation notes in anticipation of the issuance of such bonds and (ii) construction loan notes to finance the making or purchase of mortgage loans to sponsors of residential housing for the construction, rehabilitation or improvement of residential housing. The total amount of bonds, bond anticipation notes, and construction loan notes outstanding at any one time shall not exceed ~~one billion five hundred million dollars (\$1,500,000,000)~~

three billion dollars (\$3,000,000,000) excluding therefrom any bond anticipation notes for the payment of which bonds have been issued. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the Agency. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the Agency at such price or prices and under such terms and conditions as may be determined by the Agency. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the Agency. Notes shall mature at such time or times not exceeding 10 years from their date or dates and bonds shall mature at such time or times not exceeding 43 years from their date or dates, as may be determined by the Agency. The Agency shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Agency may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the Agency may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the filing with the Local Government Commission of North Carolina of a resolution of the Agency requesting that its bonds and notes be sold, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the Commission shall determine to be for the best interest of the Agency and best effectuate the purposes of this Chapter, as long as the sale is approved by the Agency.

The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the Agency may provide in the

resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

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

Bonds or notes may be issued under the provisions of this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things which are specifically required by this Chapter and the provisions of the resolution authorizing the issuance of such bonds or notes or the trust agreement securing the same."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:12 p.m. on the 7th day of June, 2001.

H.B. 438**SESSION LAW 2001-186**

AN ACT TO CLARIFY THE PERFORMANCE MEASURES ON WHICH COMMUNITY COLLEGES ARE EVALUATED FOR THE PURPOSE OF PERFORMANCE BUDGETING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-31.3(e) reads as rewritten:

"(e) Mandatory Performance Measures. – The State Board of Community Colleges shall evaluate each college on the following 12 performance standards:

- (1) Progress of basic skills students,
- (2) Passing rate for licensure and certification examinations,
- (3) ~~Goal completion of program completers and noncompleters.~~ The proportion of those who complete their goal.
- (4) Employment status of graduates,
- (5) Performance of students who transfer to the university system,
- (6) Passing rates in developmental courses,
- (7) Success rates of developmental students in subsequent college-level courses,

- (8) The level of satisfaction of students who complete programs and those who do not complete programs,
- (9) Curriculum student retention and graduation,
- (10) Employer satisfaction with graduates,
- (11) Client satisfaction with customized training, and
- (12) Program enrollment."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 31st day of May, 2001.

Became law upon approval of the Governor at 12:12 p.m. on the 7th day of June, 2001.

S.B. 533

SESSION LAW 2001-187

AN ACT ALLOWING THE CHARLOTTE CITY AND MECKLENBURG COUNTY SUBDIVISION ORDINANCES TO CONTROL THE LOCATION OF PERMANENT MARKERS ALONG PROPERTY LINES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.204 of the Charter of the City of Charlotte, being S.L. 2000-26, reads as rewritten:

"Section 6.204. **Approval of Plats.** (a) The City Council may enact an ordinance providing that no plat of a subdivision of land lying within the corporate limits of the City of Charlotte or within the perimeter area shall be filed or recorded until it shall have been submitted to and approved by the Charlotte-Mecklenburg Planning Commission in accordance with regulations adopted under authority of this Article and such approval entered in writing on the plat by the Secretary of the Commission.

(b) Notwithstanding the provisions of G.S. 39-32.1, the City Council may by ordinance designate the location and placement of permanent control markers along property lines in subdivisions."

SECTION 2. Notwithstanding the provisions of G.S. 39-32.1, a county may by ordinance designate the location and placement of permanent control markers along property lines in subdivisions.

SECTION 3. Section 1 of this act applies to the City of Charlotte only. Section 2 of this act applies to Mecklenburg County only.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law on the date it was ratified.

AN ACT TO MODIFY THE DISTRIBUTIONS FROM THE TOWN
OF RUTHERFORDTON BOARD OF ALCOHOLIC
BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1997-98 reads as rewritten:

"Section 1. Section 5.4 of Chapter 350 of the 1979 Session Laws reads as rewritten:

"Section 5.4. Alcoholic Beverage Control Stores. A. The governing body of the Town of Rutherfordton may, on its own motion, and shall, upon receipt of petition signed by qualified voters of the Town equal in number to fifteen percent (15%) of the votes cast for Mayor in the most recent regular town election, call and conduct a special election in the Town upon the question of whether Alcoholic Beverage Control stores shall be established in the Town and/or whether 'off-premises' sales of malt beverages shall be permitted. Such election or elections may be held notwithstanding the provisions of G.S. 18A-52(d)(h) and (i). No new registration of voters shall be necessary for such special election, and all qualified voters of the town who are registered prior to the registration period for such special election, and all who register during such period shall be eligible and entitled to vote in such special election. Except as otherwise provided herein, if a special election is called, the special election authorized shall be conducted under the same statutes, rules and regulations applicable to general elections for the Town of Rutherfordton. The governing body shall cause public notice of any such special election to be posted at the Town Hall and published in a newspaper having general circulation in the town at least 15 days preceding the day of the election.

B. At such special election, ballots shall be provided which contain the words, 'For Town Alcoholic Beverage Control Stores' and 'Against Town Alcoholic Beverage Control Stores' and/or, 'For off-premises sales of malt beverages' and 'Against off-premises sales of malt beverages'. The Town Council shall determine whether both questions are to be included on the same ballot or separate ballots. Appropriate squares shall be printed to the left of each phrase so that each voter may designate with an 'X' his preference. The cost of conducting the election shall be appropriated from the General Fund of the Town of Rutherfordton.

C. If a majority of the votes cast at any such special election authorized under this section shall be cast 'For Town Alcoholic Beverage Control Stores' then it shall thereafter be lawful for such

store or stores to be established and operated within the town, and the Town Council will then immediately create and appoint the Town of Rutherfordton Alcoholic Beverage Control Board, to be composed of a chairman and two other members. The member designated chairman by the Town Council shall serve for a term of three years; one member for a term of two years; and one member for a term of one year. After serving the initial terms, successors shall be appointed for terms of three years. Any vacancy on such board shall be filled by the Town Council for the unexpired term. Compensation of the members of the Board shall be fixed by the Town Council. If a majority of the votes cast in any such election authorized under this section shall be cast 'For off-premises sales of malt beverages' then the off-premises sale of malt beverages shall thereafter be lawful in the Town of Rutherfordton.

D. The Town of Rutherfordton Alcoholic Beverage Control Board shall have all the powers granted to, and duties imposed upon, county alcoholic control boards by G.S. 18A-17, except that G.S. 18A-17 (14) shall not apply to the Rutherfordton Board of Alcoholic Beverage Control, and shall be subject to the powers and authority of the State Board of Alcoholic Beverage Control as granted by G.S. 18A-15; provided, however, that the location of stores and the purchase or lease of real property shall be subject to the approval of the Town Council.

The Rutherfordton Board of Alcoholic Beverage Control on a quarterly basis shall, after retaining a sufficient and proper working capital and making payment of salaries and expenses, distribute the net profits out of the operation of said alcoholic beverage control store(s) in the following manner, and none other:

Five percent (5%) to the Rutherford County Department of Mental Health to be specifically used for alcohol and drug rehabilitation programs.

~~Ten percent (10%)~~ Twelve and one-half percent (12.5%) to the Rutherford County Board of Education for specific use in meeting capital outlay needs at Rutherfordton-Spindale High School.

~~Five percent (5%)~~ Six and one-quarter percent (6.25%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Rutherfordton Elementary School.

~~Five percent (5%)~~ Six and one-quarter percent (6.25%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Rutherfordton-Spindale Middle School.

~~Five percent (5%) to the Rutherford County Board of Education for specific use in meeting the capital outlay needs at Ruth Elementary School.~~

Twenty percent (20%) to the Town of Rutherfordton Parks and Recreation Commission to be used for capital improvements, maintenance and programs in its Recreational activities.

Twenty-five percent (25%) to the Town Council of Rutherfordton for use in law enforcement through the Town Police Department.

Twenty-five percent ~~25%~~ (25%) to the Town Council of Rutherfordton to be used for any lawful purposes the board may deem necessary and essential.

All agencies outside of the government of the Town of Rutherfordton which receive net proceeds from the Town Alcoholic Beverage Control Board, shall be required to file an annual report to the Town Council, specifying how all proceeds were expended.

E. Subsequent elections on Alcoholic Beverage Control stores or off-premises sales of malt beverages shall not be held within two years of any previous election on the question, provided an election on one question shall not prevent an election on the other question.

If a subsequent election is held and the majority of the votes are cast 'Against Town Alcoholic Beverage Control Stores' the Town of Rutherfordton Alcoholic Beverage Control Board shall, within three months of certification of such election, dispose of all alcoholic beverages on hand and all of the assets under the control of said board, and convert the same into cash and turn the same over to the Town Treasurer. If a subsequent election is held and the majority of the votes are cast 'Against off-premises sales of malt beverages' then the off-premises sale of malt beverages shall cease to be lawful in the Town of Rutherfordton."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law on the date it was ratified.

H.B. 817

SESSION LAW 2001-189

AN ACT RELATING TO THE DEFINITION OF SUBDIVISION IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335, as it applies to Richmond County pursuant to S.L. 2000-11, reads as rewritten:

"§ 153A-335. "Subdivision" defined.

(a) For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the

following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations;
- (2) The division of land into parcels greater than five acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets; and
- (4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

(b) Notwithstanding subsection (a) of this section, the definition of "subdivision" may be further classified into subcategories defined as follows:

- (1) Family subdivision. – A division of a tract or parcel to be conveyed in accordance with all of the following:
 - a. All lots have access via a new or existing right-of-way or access easement of at least the State road sizes applicable at the time of the transfer.
 - b. The property is to be conveyed to a member of the grantor's lineal descendants, as defined by G.S. 29-2(4), or the grantor's father, mother, grandfather, grandmother, brother, sister, aunt, uncle, niece, or nephew.
 - c. No more than 10 new lots plus the residual may be created.
- (2) Minor subdivision. – A division of a tract or parcel of land that does not:
 - a. Create more than four lots plus the residual acreage from any one tract or parcel of land in any 24-month period.
 - b. Dedicate or improve any new public street.
 - c. Extend public water and or sanitary sewerage system other than laterals to serve individual lots.
- (3) Major subdivision. – Any subdivision that is not a minor subdivision or a family subdivision."

SECTION 2. This act applies to Richmond County only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law on the date it was ratified.

S.B. 666**SESSION LAW 2001-190**

AN ACT AUTHORIZING THE CITY OF MONROE TO ACQUIRE CERTAIN PROPERTY AND TO CONVEY THE PROPERTY TO UNION COUNTY FOR THE PURPOSE OF CONSTRUCTING A COURTHOUSE THEREON AND TO AUTHORIZE THE CITY OF BURLINGTON TO CONVEY DESCRIBED PROPERTY BY PRIVATE SALE.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Monroe may acquire by purchase or exchange the following described property in Union County, North Carolina, and may convey the property, with or without monetary consideration, under the terms and conditions it deems proper, to Union County for the purpose of constructing a courthouse thereon:

TRACT 1

BEGINNING at an iron in the South margin of the sidewalk along West Franklin Street, said point being located N 89-45 W. 129 feet from the Southwest intersection of Franklin Street and Stewart Street; and running thence S 0-15 W 180 feet to an iron in the North margin of Morgan Street; thence with the North margin of Morgan Street N. 89-45 W 115 feet to an iron, a new corner of said street; thence a new division line N 9-15 E 180 feet to an iron, a new corner on the South margin of the sidewalk along the South side of Franklin Street; thence with the South edge of said sidewalk S 89-45 E 115 feet to the beginning point and being all of Tract 1 described in Book 1310, page 35 Union County Registry.

TRACT 2

BEGINNING at an iron in the South margin of West Franklin Street on the old corporation limits line of the City of Monroe, being the Northeast corner of the lot now or formerly owned by R. Phifer (or J. M. Wiggins), and running thence along the South margin of said Franklin Street, N 88 E 80 feet, to an iron, a new corner; thence a new division line S 1 E 187 feet to an iron, a new corner on the North margin of Morgan Street; thence along the North margin of said Morgan Street S 88 W 80 feet to an iron in the old corporation limits line of the City of Monroe, and on the Southeast corner of the lot now or formerly owned by R. Phifer (or J. M. Wiggins); thence along and with said Phifer or Wiggins property line, being said "old corporation limits line," N 1 W 187 feet to the beginning corner. BEING the same

property conveyed to Estate of A. F. Stevens by Franklin Street Realty Company of Monroe, North Carolina, Incorporated, by deed dated October 2, 1974, and recorded in Deed Book 269 at page 628 in the Office of the Register of Deeds of Union County, North Carolina and being all of Tract 2 described in Book 1310 page 35 Union County Registry.

TRACT 3

BEGINNING at an iron in the South margin of the South sidewalk along West Franklin Street, said point being located North 89 degrees 45 minutes West 104 feet from the Southwest intersection of Franklin Street and Stewart Street and running thence South 0 degrees 15 minutes West 180 feet to an iron in the North margin of Morgan Street; thence with the North margin of Morgan Street North 89 degrees 45 minutes West 25.5 feet to an iron, a new corner on the North margin of said street; thence a new division line North 0 degrees 15 minutes East 180 feet to an iron, a new corner on the South margin of the sidewalk along the South side of Franklin Street; thence with the South edge of the said sidewalk South 89 degrees 45 minutes East 25.5 feet to the Beginning point and being the property described in Deed Book 381, page 872 of Union County Registry.

TRACT 4

BEGINNING at an iron at the Northwest intersection of the intersections of Morgan Street and Stewart Street said iron being on the Western margin of the Stewart Street right-of-way and the Northern margin of the Morgan Street right-of-way and running thence with the right-of-way of Morgan Street S88-29-44 W 99.78 feet to an iron behind curb and retaining wall; thence with the concrete retaining wall and the line of the Lewis R. Fisher property, N1-10-01 W 180.13 feet to a point on the outside of the building line with the building corner being 1.33 feet beyond said point; Running thence with Franklin Street N 88-29-44 E 100.0 feet to an iron set behind a 4 foot sidewalk; the margin of the Stewart Street Right-of-Way; thence with the sidewalk and the Stewart Street Right-of-Way S1-05-54 E 180.13 feet to the point and place of the beginning and containing 17,994 square feet all according to a boundary survey by Carroll L. Rushing, N.C.R.L.S. dated September 4, 1984, and being the same property described in Deed Book 465, page 767 of Union County Registry.

SECTION 2. In acquiring the property described in Section 1 of this act, the City of Monroe shall have the right of eminent domain for public condemnors as provided in Article 3 of Chapter 40A of the General Statutes. With respect to the vesting of title and right of possession, the provisions of G.S. 40A-42(a) shall apply.

SECTION 3. The City of Monroe may convey the following described property in Union County, North Carolina, with or without monetary consideration, under the terms and conditions it deems proper, to Union County for the purpose of constructing a courthouse thereon:

All of that parcel of land in the City of Monroe bounded on the North by Crowell Street and City Hall, on the East by Stewart Street, on the South by Jefferson Street, and on the West by Charlotte Avenue, and being the same property described in instruments filed in the Union County Register of Deeds Office in Book 212, page 28; Book 211, page 390; Book 278, page 329; Book 283, page 780; and Book 251, page 224.

SECTION 4. Notwithstanding Article 12 of Chapter 160A of the General Statutes, the City of Burlington may convey by private negotiation and sale, with or without monetary consideration, any or all of its right, title, and interest in the following described property to Unity Builders', Inc., under the terms and conditions the City Council deems appropriate:

LOT NO.1

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining Rauhut Street, Rosenwald Street, the lands of Alta F. Ray, Lot No. 2 City of Burlington Redevelopment Subdivision and others and being more particularly described as follows:

BEGINNING at an iron stake in the west right-of-way line of Rosenwald Street, said stake being a corner with Lot No. 2, lying North 3 deg. 26' 50" East 117.70 feet from the intersection of the West right-of-way line of Rosenwald Street and the North right-of-way line of Massey Street and running thence from said beginning point with the line of Lot No. 2, North 86 deg. 42' 18" West 169.56 feet to an iron stake in the East right-of-way line of Rauhut Street; thence with the right-of-way line of Rauhut Street, North 22 deg. 45' East 60.0 feet to an iron stake in the line of Alta F. Ray; thence with the line of Alta F. Ray, South 88 deg. 00' 56" East 149.78 feet to an iron stake in the West right-of-way line of Rosenwald Street; thence with the right-of-way of Rosenwald Street, South 3 deg. 26' 50" West 60.0 feet to the point of BEGINNING and containing 0.213 Acres and being all of Lot No. 1, "Property of City of Burlington Redevelopment Subdivision", dated January 16, 1981, as surveyed by John D. Somers, L-1172 and recorded at Plat Book 26, Page 26 in the Alamance County Register of Deeds Office.

LOT NO. 2

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining Rauhut Street, Rosenwald Street, the lands of Lots 1 and 3 of City of Burlington Redevelopment

Subdivision and others and being more particularly described as follows:

BEGINNING at an iron stake in the West right-of-way line of Rosenwald Street, said stake being a corner with Lot No. 3, lying North 3 deg. 26' 50" East 57.70 feet from the intersection of the West right-of-way line of Rosenwald Street and the North right-of-way line of Massey Street and running thence from said beginning point with the line of Lot No. 3, North 85 deg. 40' 07" West 189.42 feet to an iron stake in the East right-of-way line of Rauhut Street; thence with the right-of-way line of Rauhut Street North 22 deg. 45' East 60.0 feet to an iron stake, a corner with Lot No. 1; thence with the line of Lot No. 1, South 86 deg. 42' 18" East 169.56 feet to an iron stake in the West right-of-way line of Rosenwald Street; thence with the right-of-way line of Rosenwald Street South 3 deg. 26' 50" West 60.0 feet to the point of BEGINNING and containing 0.240 Acres and being all of Lot No. 2, as shown on plat entitled "Property of City of Burlington Redevelopment Subdivision", dated January 16, 1981, as surveyed by John D. Somers, L-1172 and recorded at Plat Book 26, page 26 in the Alamance County Register of Deeds Office.

SECTION 5. This act is effective when it becomes law. Sections 1 and 2 of this act expire on January 1, 2002, unless the property described in Section 1 of this act has been voluntarily acquired or condemnation complaints have been filed on or before that date.

In the General Assembly read three times and ratified this the 12th day of June, 2001.

Became law on the date it was ratified.

H.B. 910

SESSION LAW 2001-191

AN ACT AUTHORIZING THE CITY OF DURHAM AND THE TOWNS OF CARY, GARNER, MORRISVILLE, KNIGHTDALE, FUQUAY-VARINA, AND SPENCER TO LIMIT THE CLEAR-CUTTING OF TREES IN BUFFER ZONES PRIOR TO DEVELOPMENT AND ALLOW FOR THE PROTECTION OF SPECIMEN TREES DURING THE DEVELOPMENT PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) A municipality may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 65 feet along roadways and property boundaries adjacent to developed properties and up to 32 feet along property boundaries adjacent to

undeveloped properties. All such buffer zones shall be measured from the outside boundary of any property, including property zoned for residential and nonresidential use. The purpose of such ordinances shall be to protect existing trees and shrubs for use as future buffers.

SECTION 1.(b) Ordinances adopted pursuant to this act shall be limited to situations where undeveloped property is planned or zoned for residential or nonresidential use in accordance with adopted municipal plans and zoning regulations. Such ordinances shall include reasonable provisions for access onto and within the subject property.

SECTION 1.(c) Notwithstanding any limitations contained in Section 1(a), a municipality may adopt ordinances to regulate the preservation and removal of significant specimen or "champion" trees on sites being planned for new development. Specific standards for identifying and designating such trees, including species and size, shall be incorporated as part of any such ordinance.

SECTION 1.(d) Any ordinance adopted pursuant to this act shall exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a municipality may deny a building permit or refuse to approve a site or subdivision plan for a period of five years following harvest if all or substantially all of the perimeter buffer trees which should have been protected were removed from the tract of land for which the permit or plan approval is sought.

SECTION 2. Before adopting an ordinance authorized by Section 1 of this act, the governing board of the municipality shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 160A-364.

SECTION 3. Nothing in this act shall be construed to limit or be limited by any provisions of S.L. 2000-108 or any other existing laws or ordinances.

SECTION 4. This act shall apply only to the City of Durham and the Towns of Cary, Garner, Morrisville, Knightdale, Fuquay-Varina, and Spencer and to property located within the municipality's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of June, 2001.

Became law on the date it was ratified.

S.B. 825**SESSION LAW 2001-192**

AN ACT TO EXEMPT FROM THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT CONTRACT DISPUTES BETWEEN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN AND ENTITIES UNDER CONTRACT WITH THE PLAN; AND TO CLARIFY THAT A STATE AGENCY MAY SEEK RELIEF UNDER THE DECLARATORY JUDGMENT ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-1(e) reads as rewritten:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

- (1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).
- (2) Repealed by Session Laws 1993, c. 501, s. 29.
- (3) The North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.
- (4) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.
- (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.
- (6) The Department of Revenue.
- (7) The Department of Correction.
- (8) The Department of Transportation, except as provided in G.S. 136-29.
- (9) The Occupational Safety and Health Review Board.
- (10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.

(11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7.

(12) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan with respect to disputes involving the performance, terms, or conditions of a contract between the Plan and an entity under contract with the Plan."

SECTION 2. Part 2 of Article 3 of Chapter 135 of the General Statutes is amended by adding the following new section to read:

"§ 135-39.11. Contract disputes.

A dispute involving the performance, terms, or conditions of a contract between the Plan and an entity under contract with the Plan is not a contested case under Article 3 of Chapter 150B of the General Statutes."

SECTION 3. G.S. 1-265 reads as rewritten:

"§ 1-265. Word 'person' construed.

The word 'person' wherever used in this Article, shall be construed to mean any person, State agency, partnership, joint-stock company, unincorporated association, or society, or municipal corporation or other corporation of any character whatsoever."

SECTION 4. This act is effective when it becomes law and applies to cases pending on that date.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 6:46 p.m. on the 12th day of June, 2001.

H.B. 803

SESSION LAW 2001-193

AN ACT TO TRANSFER THE SAVINGS INSTITUTIONS DIVISION TO THE STATE BANKING COMMISSIONER; TO AUTHORIZE ADDITIONAL DEPUTY COMMISSIONERS; TO MERGE THE SAVINGS INSTITUTIONS COMMISSION WITH THE STATE BANKING COMMISSION; TO REQUIRE THE COMMISSIONER TO REPORT TO THE GENERAL ASSEMBLY; AND TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-93.1 reads as rewritten:

"§ 53-93.1. *Deputy ~~commissioner~~ commissioners.*

(a) The Commissioner of Banks shall appoint, with approval of the Governor, and may remove at his discretion a chief deputy commissioner, who, in the event of the absence, death, resignation, disability or disqualification of the Commissioner of Banks, or in case the office of Commissioner shall for any reason become vacant, shall have and exercise all the powers and duties vested by law in the Commissioner of Banks.

Irrespective of the conditions under which the chief deputy commissioner may exercise the powers and perform the duties of the Commissioner of Banks, pursuant to the preceding paragraph, such chief deputy commissioner, in addition thereto, is hereby authorized and empowered at any and all times, at the discretion of the Commissioner of Banks, to perform such duties and exercise such powers of the Commissioner of Banks in the name of and on behalf of the Commissioner as the Commissioner, in his discretion, may direct.

(b) In addition to the chief deputy commissioner authorized by subsection (a) of this section, the Commissioner of Banks may appoint deputy commissioners to serve at the Commissioner's pleasure. The deputy commissioners authorized by this subsection shall perform any duties and exercise any powers directed by the Commissioner."

SECTION 2. G.S. 53-17.1(b) reads as rewritten:

"(b) A State association, as defined in G.S. 54B-4, is an eligible State association if it is insured by a mutual deposit guaranty association, as defined in Article 12, Chapter 54B of the General Statutes, which will provide financial assistance for a transaction authorized by this section, and if the ~~Administrator, as defined in G.S. 54B-4,~~ Commissioner of Banks has found, pursuant to G.S. 54B-44, that such State association is unable to operate in a safe and sound manner."

SECTION 3. G.S. 54B-4(b)(1), 54B-53, and 54B-55(b)(6) are repealed.

SECTION 4. G.S. 54B-4(b) is amended by adding a new subdivision to read:

"(14a) 'Commissioner' means the Commissioner of Banks authorized pursuant to G.S. 53-92."

SECTION 5. G.S. 54B-54 reads as rewritten:

"§ 54B-54. *Deputy ~~administrator~~ commissioner of Savings Institutions Division.*

(a) There shall be a deputy administrator commissioner of the Savings Institutions ~~Division who, in the event of the absence, death, resignation, disability or disqualification of the Administrator, or in case the office of Administrator shall for any reason become vacant,~~

shall have and exercise all the powers and duties vested by law in the Administrator.

~~(b) Division as appointed by the Commissioner in G.S. 53-93.1(b). The deputy administrator is authorized and empowered at any and all times to perform such duties and exercise such powers of the Administrator as the Administrator may direct. The deputy commissioner authorized by this section shall perform any duties and exercise any powers directed by the Commissioner."~~

SECTION 6. G.S. 54B-62 reads as rewritten:

"§ 54B-62. *Relationship of savings and loan associations with the Savings Institutions Division.*

(a) Except as provided by subsection (b) of this section, a savings and loan association or any director, officer, employee, or representative thereof shall not grant or give to ~~the Administrator or to any employee of the Administrator's office,~~ Savings Institutions Division, or to their spouses, any loan or gratuity, directly or indirectly.

(b) ~~Neither the Administrator nor any~~ No person on the staff of the Savings Institutions Division shall:

- (1) Hold an office or position in any State association or exercise any right to vote on any State association matter by reason of being a member of the association;
- (2) Be interested, directly or indirectly in any savings and loan association organized under the laws of this State; or
- (3) Undertake any indebtedness, as a borrower directly or indirectly or endorser, surety or guarantor, or sell or otherwise dispose of any loan or investment to any savings and loan association organized under the laws of this State.

(c) Notwithstanding subsection (b) of this section, ~~the Administrator or any other person employed in or by his office~~ the Savings Institutions Division may be a withdrawable account holder and receive earnings on such account.

~~(d) If the Administrator or other person has any prohibited right or interest in a savings and loan association, either directly or indirectly, at the time of his appointment or employment, he shall dispose of it within 60 days after the date of his appointment, or employment. Any employee of the Savings Institutions Division shall dispose of any right or interest in a savings and loan association, held either directly or indirectly, that is prohibited under subsection (b) of this section, within 60 days after the date of the employee's appointment or employment. If the Administrator or other such that~~ person is indebted as borrower directly or indirectly, or is an endorser, surety or guarantor on a note, at the time of his appointment or

employment, he may continue in such capacity until such loan is paid off.

(e) ~~If the Administrator or any employee of the Division has a loan or other note acquired by a State savings bank and loan association through the secondary market, he may continue with the debt until such loan or note is paid off.~~

SECTION 7. G.S. 54C-4(b)(1) is repealed.

SECTION 8. G.S. 54C-4(b) is amended by adding a new subdivision to read:

"(8a) Commissioner. – The Commissioner of Banks authorized pursuant to G.S. 53-92."

SECTION 9. G.S. 54C-59 reads as rewritten:

"§ 54C-59. Relationship of savings banks with the Savings Institutions Division."

(a) Except as provided by subsection (b) of this section, a savings bank or any director, officer, employee, or representative thereof shall not grant or give ~~to the Administrator or to any employee of the Savings Institutions Division~~ or to their spouses, any loan or gratuity, directly or indirectly.

(b) ~~Neither the Administrator nor any~~ No employee of the Savings Institutions Division shall:

- (1) Hold an office or position in any State savings bank or exercise any right to vote on any State savings bank matter by reason of being a member of the savings bank;
- (2) Be interested, directly or indirectly, in any savings bank organized under the laws of this State; or
- (3) Undertake any indebtedness as a borrower, directly or indirectly, or act as endorser, surety, or guarantor, or sell or otherwise dispose of any loan or investment to any savings bank organized under the laws of this State.

(c) Notwithstanding subsection (b) of this section, ~~the Administrator or any employee of the Savings Institutions Division~~ may be a deposit account holder and receive earnings on a deposit account.

(d) ~~The Administrator or any employee of the Division shall dispose of any prohibited right or interest in a savings bank, either directly or indirectly, within 60 days after the date of the Administrator's or employee's appointment or employment. Any employee of the Savings Institutions Division shall dispose of any right or interest in a savings bank, held either directly or indirectly, that is prohibited under subsection (b) of this section, within 60 days after the date of the employee's appointment or employment. If the Administrator or any employee of the Division is indebted as borrower, directly or indirectly, or is an endorser, surety, or guarantor on a note, at the time of appointment or employment, the~~

~~Administrator~~ or employee may continue in that capacity until the loan is paid off.

(e) If ~~the Administrator~~ or any employee of the Savings Institutions Division has a loan or other note acquired by a State savings bank through the secondary market, the ~~Administrator~~ or employee may continue with the debt until the loan or note is paid off."

SECTION 10. G.S. 143B-431(a)(2) reads as rewritten:

"(2) All functions, powers, duties and obligations heretofore vested in an agency enumerated in Article 15 of Chapter 143A, to wit:

- a. The State Board of Alcoholic Control,
- b. The North Carolina Utilities Commission,
- c. The Employment Security Commission,
- d. The North Carolina Industrial Commission,
- e. State Banking Commission and the Commissioner of Banks,
- f. ~~Savings and Loan Association Division,~~Savings Institutions Division,
- ~~g. The State Savings Institutions Commission,~~
- h. Credit Union Commission,
- i. The North Carolina Milk Commission,
- j. The North Carolina Mutual Burial Association Commission,
- k. The North Carolina Rural Electrification Authority,
- l. The North Carolina State Ports Authority, all of which enumerated agencies are hereby expressly transferred by a Type II transfer, as defined by G.S. 143A-6, to this recreated and reconstituted Department of Commerce; ~~and,~~and".

SECTION 11. G.S. 143B-433 reads as rewritten:

"§ 143B-433. *Department of Commerce – organization.*

The Department of Commerce shall be organized to include:

- (1) The following agencies:
 - a. The North Carolina Alcoholic Beverage Control Commission.
 - b. The North Carolina Utilities Commission.
 - c. The Employment Security Commission.
 - d. The North Carolina Industrial Commission.
 - e. State Banking Commission.
 - f. ~~Savings and Loan Association Division,~~Savings Institutions Division,
 - ~~g. The State Savings Institutions Commission.~~
 - h. Credit Union Commission.
 - i. The North Carolina Milk Commission.

- j. The North Carolina Mutual Burial Association Commission.
 - k. North Carolina Cemetery Commission.
 - l. The North Carolina Rural Electrification Authority.
 - m. Repealed by Session Laws 1985, c. 757, s. 179(d).
 - n. North Carolina Science and Technology Research Center.
 - o. The North Carolina State Ports Authority.
 - p. North Carolina National Park, Parkway and Forests Development Council.
 - q. Economic Development Board.
 - r. Labor Force Development Council.
 - s. Energy Policy Council.
 - t. Energy Division.
 - u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
 - v. Repealed by Session Laws 1993, c. 321, s. 313b.
- (2) Those agencies which are transferred to the Department of Commerce including the:
- a. Community Assistance Division.
 - b. Community Development Council.
 - c. Employment and Training Division.
 - d. Job Training Coordinating Council.
- (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

SECTION 12. G.S. 150B-38(a) reads as rewritten:

"(a) The provisions of this Article shall apply to the following agencies:

- (1) Occupational licensing ~~agencies;~~ agencies.
- (2) The State Banking Commission, the Commissioner of Banks, ~~the Savings Institutions Division of the Department of Commerce,~~ and the Credit Union Division of the Department of ~~Commerce;~~ and Commerce.
- (3) The Department of Insurance and the Commissioner of Insurance.
- (4) The Department of Commerce in the administration of the provisions of Part 16 of Article 10 of Chapter 143B of the General Statutes."

SECTION 13. G.S. 54B-246(a) reads as rewritten:

"(a) In addition to any and all other powers, duties and functions vested in the Secretary of Commerce under the provisions of this Article, and for the protection of member institutions and the general public, the Secretary of Commerce shall have general control and supervision over all mutual deposit guaranty associations doing

business in this State. Mutual deposit guaranty associations shall be subject to the control and supervision of the Secretary of Commerce as to their conduct, organization, management, business practices, reserve requirements and their financial and fiscal matters. The grant of general control and supervision over mutual deposit guaranty associations to the Secretary of Commerce by this Article shall in no way be deemed to affect the existing powers, duties and responsibilities of the Credit Union Commission, the Commissioner of Banks, or the State Banking Commission ~~or the North Carolina Savings Institutions Commission~~ except for the removal herein of general control and supervision over mutual deposit guaranty associations from the Administrator of the Savings Institutions Division to the Secretary of Commerce."

SECTION 14. G.S. 53-92(b) reads as rewritten:

"(b) The State Banking Commission, which has heretofore been created, shall consist of the State Treasurer, who shall serve as an ex officio member thereof, ~~42-19~~ members appointed by the Governor, and two members appointed by the General Assembly under G.S. 120-121, one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate and one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives. The Governor shall appoint five practical ~~bankers and bankers, seven~~ 11 persons selected primarily as representatives of the borrowing ~~public.~~ public, and two chief executive officers of State savings institutions. The person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall be a practical banker. The person appointed by the General Assembly upon the recommendation of the Speaker of the House shall be a person selected primarily as a representative of the borrowing public. The persons selected primarily as representatives of the borrowing public shall not be employees or directors of any financial institution nor shall they have any interest in any regulated financial institution other than as a result of being a depositor or borrower. Under this section, no person shall be considered to have an interest in a financial institution whose interest in any financial institution does not exceed one-half of one percent (1/2 of 1%) of the capital stock of that financial institution. These members of the Commission shall be selected so as to fully represent the consumer, industrial, manufacturing, professional, business and farming interests of the State. No person shall serve on the Commission for more than two complete consecutive terms. As the terms of office of the appointive members of the Commission expire, their successors shall be appointed by the person appointing them, for terms of four years each. Any vacancy occurring in the membership of the Commission shall be filled by the appropriate appointing officer for the unexpired

term, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122. The appointed members of the Commission shall receive as compensation for their services the same per diem and expenses as is paid to the members of the Advisory Budget Commission. This compensation shall be paid from the fees collected from the examination of banks as provided by law."

SECTION 15. All (i) statutory authority, powers, duties, and functions, including rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Savings Institutions Division of the Department of Commerce are transferred to and vested in the Office of Commissioner of Banks authorized by Article 8 of Chapter 53 of the General Statutes. Though transferred to the Office of Commissioner of Banks pursuant to this section, the Savings Institutions Division shall continue to function under that name. All statutory authority, powers, duties, and functions of the Administrator of the Savings Institutions Division are transferred to and vested in the Commissioner of Banks. This transfer has all the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 16. Except for those sections of the General Statutes amended in this act, the Revisor of Statutes shall substitute the term "Commissioner of Banks" for the terms "Administrator of the Savings Institutions Division", "Administrator of Savings Institutions Division", and "Administrator of Savings Institutions" everywhere those terms appear in the General Statutes. In addition, the Revisor of Statutes shall substitute the term "Commissioner of Banks" for the term "Administrator" everywhere that term appears in Chapters 54B and 54C of the General Statutes.

SECTION 17. Except for those sections of the General Statutes amended in this act, the Revisor of Statutes shall substitute the term "State Banking Commission" for the terms "North Carolina Savings Institution Commission", "North Carolina Savings Institutions Commission", "Savings Institution Commission", "Savings Institutions Commission", "State Savings Institutions Commission", and "State Savings Institution Commission" everywhere those terms appear in the General Statutes.

SECTION 18. Those persons who are serving as members of the Savings Institutions Commission as of June 30, 2001, are hereby appointed to the State Banking Commission to serve as the new members of the State Banking Commission pursuant to G.S. 53-92, as amended by Section 18 of this act. Those members whose terms on the Savings Institutions Commission expire June 30, 2001, shall serve on the State Banking Commission until March 31, 2002,

and those members whose terms expire June 30, 2002, shall serve on the State Banking Commission until March 31, 2003. Thereafter, the Governor shall appoint members to fill those vacancies in compliance with the requirements of G.S. 53-92, as amended by Section 18 of this act.

SECTION 19. The Commissioner of Banks shall study the issue of regulation of State-chartered banks and savings institutions and develop a plan to regulate those banks and savings institutions in the most effective, efficient, and equitable manner. The study shall include a consideration of various financial charter options and the feasibility and advisability of reorganizing the banking and savings institutions regulatory agency to a cabinet level status. After the State Banking Commission has approved the plan, the Commissioner shall report the plan and any legislative recommendations or proposals to implement the plan to the General Assembly on or before May 1, 2002.

SECTION 20. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 6:46 p.m. on the 12th day of June, 2001.

H.B. 78 SESSION LAW 2001-194

AN ACT TO PROVIDE THAT GRANDPARENTS MAY ACT AS SUPERVISING DRIVERS FOR DRIVERS HOLDING LIMITED LEARNER'S PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-11(k) reads as rewritten:

"(k) Supervising Driver. – A supervising driver shall be a ~~parent~~ parent, grandparent, or guardian of the permit holder or license holder or a responsible person approved by the parent or guardian or the Division. A supervising driver shall be a licensed driver who has been licensed for at least five years. At least one supervising driver shall sign the application for a permit or license."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 13th day of June, 2001.

H.B. 620 **SESSION LAW 2001-195**AN ACT TO GIVE SCHOOL SUPERINTENDENTS FLEXIBILITY
REGARDING THE EXPUNCTION OF RECORDS OF A
STUDENT'S SUSPENSION OR EXPULSION FROM SCHOOL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-402 reads as rewritten:

"§ 115C-402. *Student records; maintenance; contents; confidentiality.*

(a) The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school unless the local board determines that such files may be filed in the central office or other location designated by the local board for that purpose.

(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any suspension for a period of more than 10 days or of any expulsion under G.S. 115C-391 and the conduct for which the student was suspended or expelled. The notice of suspension or expulsion shall be expunged from the record if the superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

- (1) One of the following persons makes a request for expungement:
 - a. The student's parent, legal guardian, or custodian.
 - b. The student, if the student is at least 16 years old or is emancipated.
- (2) The student (i) either graduates from high school or (ii) is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or ~~suspension~~ suspension.
- (3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.
- (4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child.

(c) Notwithstanding subdivision (b)(1) of this section, a superintendent or the superintendent's designee may expunge from a

student's official record any notice of suspension or expulsion provided all other criteria under subsection (b) are met.

(d) Each local board's policy on student records shall include information on the procedure for expungement under subsection (b) of this section.

(e) The official record of each student is not a public record as the term 'public record' is defined by G.S. 132-1. The official record shall not be subject to inspection and examination as authorized by G.S. 132-6."

SECTION 2. G.S. 115C-391(f) reads as rewritten:

"(f) Local boards of education shall ensure they have clear policies governing the conduct of students. At a minimum, these policies shall state the consequences of violent or assaultive behavior, possessions of weapons, and criminal acts committed on school property or at school-sponsored functions. These policies shall provide that when notice is given to students or parents of a suspension of more than 10 days or expulsion, this notice shall identify what information will be included in the student's official record and the procedure for expungement of this information under G.S. 115C-402. The State Board shall develop guidelines to assist local boards in this process."

SECTION 3. This act is effective when it becomes law and applies beginning with the 2001-2002 school year.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 13th day of June, 2001.

H.B. 114

SESSION LAW 2001-196

AN ACT TO DESIGNATE U.S. HIGHWAY 70 IN NORTH CAROLINA AS THE "BLUE STAR MEMORIAL AND AMERICAN EX-PRISONERS OF WAR HIGHWAY".

Whereas, many patriotic North Carolina citizens have served meritoriously in the armed forces of the United States of America in conflicts necessary to preserve the liberty and independence of this nation and to promote and project the democratic, freedom-loving values championed by this country; and

Whereas, some of these North Carolina soldiers suffered wounds, often with imminent danger to their lives and with grievous pain, while engaged in combat with and being held prisoner by the enemy; and

Whereas, in many cases, these soldiers continued heroic determination and effectiveness, while ignoring their intense physical

pain and the constant threat to their lives; they staunchly refused to divulge information to aid the enemy; and

Whereas, the United States of America reserves a special combat decoration for these held prisoners of war, The Prisoner of War Medal; and

Whereas, many ex-prisoners of war have been awarded The Prisoner of War Medal for their sacrifice in service to America, their fellow citizens, their combat unit and their comrades, and in recognition of their personal suffering and their fierce determination never to capitulate; and

Whereas, North Carolina ex-prisoners of war should be remembered across this great State for their personal endurance without food, without heat, without the essentials of health, and without communication; and

Whereas, these courageous soldiers, who suffered great stress and hardship to their minds and bodies while rendering heroic service to their country, should also be specially honored for their patriotic valor in combat; and

Whereas, other states along United States Highway 70 have designated the highway within their borders as the "American Ex-Prisoners of War Highway"; and

Whereas, currently, United States Highway 70 within the borders of North Carolina is designated as the "Blue Star Memorial Highway" which pays tribute to those killed during World War II; and

Whereas, it is appropriate that this legislative body also recognize with the most profound gratitude the heroic, patriotic service of all North Carolina ex-prisoners of war across this great State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-102.1 reads as rewritten:

"§ 136-102.1. Blue Star Memorial and American Ex-Prisoners of War Highway.

All of the United States Highway #70, wherever located in North Carolina, shall, from enactment and ratification of this section, Carolina shall be known and designated as the "Blue Star Memorial and American Ex-Prisoners of War Highway." The designation shall pay tribute to the many North Carolinians killed during World War II and to all North Carolina's ex-prisoners of war.

~~No State highway funds may be expended for the erection of signs designating the highway as provided in this section."~~

SECTION 2. The Department of Transportation shall, with the assistance of the Division of Veterans Affairs, design and place appropriate signage consistent with State and federal

regulations near U.S. Highway 70 within the borders of North Carolina implementing Section 1 of this act.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 13th day of June, 2001.

S.B. 277

SESSION LAW 2001-197

AN ACT TO CLARIFY THAT THE EXEMPTION FOR THE OFFER AND SALE OF STOCK IS ALLOWED ONLY FOR CORPORATIONS THAT ARE ORGANIZED AND THAT OPERATE TO CONFER A PUBLIC BENEFIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-17(13) reads as rewritten:

"(13) Any offer or sale by a domestic corporation of its own securities if (i) the corporation was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, ~~and~~ (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this ~~State;~~State, and (iv) the corporation is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary profit;".

SECTION 2. This act becomes effective October 1, 2001, and applies to offers or sales of securities occurring on or after that date.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 13th day of June, 2001.

H.B. 1341 SESSION LAW 2001-198

AN ACT AMENDING THE LAWS RELATING TO AUCTIONS AND AUCTIONEERS AND AUTHORIZING THE NORTH CAROLINA AUCTIONEERS COMMISSION TO ADOPT RULES RELATING TO CONTINUING EDUCATION REQUIREMENTS, TO ACQUIRE REAL PROPERTY, AND TO PURCHASE EQUIPMENT AND LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 85B-3.2 is amended by adding a new subsection to read:

"(g) The Commission shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 2. G.S. 85B-4(e1) reads as rewritten:

"(e1) The Commission may require licensees to complete annually not more than six hours of Commission-approved continuing education courses prior to license renewal. The Commission may impose different continuing education requirements, including no such requirements, upon the classes of licensees under this Chapter. The Commission may waive any or all continuing education requirements in cases of hardship, disability, or illness, or under other circumstances as the Commission deems appropriate. The Commission may adopt rules not inconsistent with the provisions of this Chapter to establish continuing education requirements, including rules that govern any of the following:

- (1) The content and subject matter of continuing education courses.
- (2) The curriculum of required continuing education courses.
- (3) The criteria, standards, and procedures for the approval of courses, course sponsors, and course instructors.
- (4) The methods of instruction for continuing education courses.
- (5) The computation of course credit.
- (6) The number of credit hours needed annually.
- (7) The ability to carry forward course credit from one year to another.
- (8) The waiver of the continuing education requirement for hardship or other reasons to be determined by the Commission.
- (9) The procedures for compliance and noncompliance with continuing education requirements."

- (6) The director of the area mental health, developmental disabilities, and substance abuse authority, or that person's designee;
- (7) The director of the county department of social services, or consolidated human services agency, or that person's designee;
- (8) The county manager, or that person's designee;
- (9) A substance abuse professional;
- (10) A member of the faith community;
- (11) A county commissioner;
- (12) ~~A person under the age of 21;~~ Two persons under the age of 18 years, one of whom is a member of the State Youth Council;
- (13) A juvenile defense attorney;
- (14) The chief district court judge, or a judge designated by the chief district court judge;
- (15) A member of the business community;
- (16) The local health director, or that person's designee;
- (17) A representative from the United Way or other nonprofit agency;
- (18) A representative of a local parks and recreation program; and
- (19) Up to seven members of the public to be appointed by the board of commissioners of a county.

The board of commissioners of a county shall modify the County Council's membership as necessary to ensure that the members reflect the racial and socioeconomic diversity of the community and to minimize potential conflicts of interest by members.

(b) Two or more counties may establish a multicounty Juvenile Crime Prevention Council under subsection (a) of this section. The membership shall be representative of each participating county.

(c) The members of the County Council shall elect annually the chair and vice-chair."

SECTION 2. G.S. 143B-545 reads as rewritten:

"§ 143B-545. *Terms of appointment.*

Each member of a County Council shall serve for a term of two years, except for initial terms as provided in this section. Each member's term is a continuation of that member's term under G.S. 147-33.62. Members may be reappointed. The initial terms of appointment began January 1, 1999. In order to provide for staggered terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-544(a) were appointed for an initial term ending on June 30, 2000. The initial term of the second member added to each County Council pursuant to G.S. 143B-544(a)(12) shall begin on July 1, 2001, and end on June 30,

2002. After the initial terms, persons appointed for the positions designated in subdivisions (9), (10), (12), (15), (17), and (18) of G.S. 143B-544(a) shall be appointed for two-year terms, beginning on July 1. All other persons appointed to the Council were appointed for an initial term ending on June 30, 2001, and, after those initial terms, persons shall be appointed for two-year terms beginning on July 1."

SECTION 3. G.S. 143B-556 reads as rewritten:

"§ **143B-556. Creation of Council; purpose; members; duties.**

(a) There is created the State Advisory Council on Juvenile Justice and Delinquency Prevention. The State Council shall be located within the Department for organizational, budgetary, and administrative purposes.

(b) The purpose of the State Council is to review and advise the Department in the development of a comprehensive interagency plan to reduce juvenile delinquency and substance abuse and to coordinate efforts among State agencies providing services and supervision to juveniles who are at risk of delinquency and for juveniles who have been adjudicated of delinquent and undisciplined behavior.

(c) The State Council shall consist of ~~20~~ 23 members as follows:

- (1) The Governor shall appoint ~~five~~ six persons, one of whom is a private citizen who has demonstrated an interest in and commitment to juvenile justice ~~issues~~ issues; and one of whom is a person under the age of 18 years that is a member of the State Youth Council.
- (2) The Chief Justice of the Supreme Court shall appoint ~~four persons~~ five persons, one of whom is a person under the age of 18 years.
- (3) The following persons, or their designees, shall serve ex officio:
 - a. The Governor.
 - b. The Chief Justice of the Supreme Court.
 - c. The President Pro Tempore of the Senate.
 - d. The Speaker of the House of Representatives.
 - e. The Director of the Administrative Office of the Courts.
 - f. The Superintendent of Public Instruction.
 - g. The Secretary of Administration.
 - h. The Secretary of Health and Human Services.
 - i. The Secretary of Correction.
 - j. The Secretary of Crime Control and Public Safety.
 - k. The President of The University of North Carolina.
 - l. The Attorney General.

(d) Initial members, other than ex officio members, who were appointed under former G.S. 147-33.70 and whose terms began January 1, 1999, shall serve for terms as follows:

- (1) Three members appointed by the Governor shall serve for terms of two years and two members for terms of three years.
- (2) Two members appointed by the Chief Justice of the Supreme Court shall serve for terms of two years and two members for terms of three years.

The initial members who are under the age of 18 years shall serve for terms of one year, beginning on January 1, 2002. Thereafter, members, other than ex officio members, shall serve for two-year terms. There is no prohibition against initial members being reappointed.

(e) The Governor and Chief Justice of the Supreme Court shall serve as cochairs of the State Council.

(f) A vacancy on the State Council resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

(g) State Council members shall receive no salary as a result of serving on the Council but shall receive per diem, subsistence, and travel expenses in accordance with G.S. 120-3.1, 138-5, and 138-6, as applicable.

(h) Members may be removed in accordance with G.S. 143B-13 as if that section applied to this Article.

(i) The chairs shall convene the Council. Meetings shall be held as often as necessary but not less than four times a year.

(j) A majority of the members of the Council shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Council is necessary for action to be taken by the Council."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 3:25 p.m. on the 13th day of June, 2001.

S.B. 397

SESSION LAW 2001-200

AN ACT TO AUTHORIZE CREDIT TO MISDEMEANANTS IN LOCAL CONFINEMENT FACILITIES FOR ATTENDING GED CLASSES AND OTHER PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 162 of the General Statutes is amended by adding the following new section:

"§ 162-59.1. Person having custody to approve prisoners for participation in education and other programs.

The person having custody of a prisoner convicted of a misdemeanor offense may approve that prisoner's participation in a general education development diploma program (GED program) or in any other education, rehabilitation, or training program. The person having custody of the prisoner may revoke this approval at any time. For purposes of this section, the person having custody of the prisoner is the sheriff, except that when the prisoner is confined in a district confinement facility the person having custody of the prisoner is the jail administrator."

SECTION 2. G.S. 162-60 reads as rewritten:

"§ 162-60. Reduction in sentence allowed for ~~work~~, work, education, and other programs.

(a) A prisoner who has faithfully performed the duties assigned to ~~him~~ pursuant to the prisoner under G.S. 162-58 is entitled to a reduction in ~~his~~ the prisoner's sentence of four days for each 30 days of work performed.

(b) A prisoner who is convicted of a misdemeanor offense and housed in a local confinement facility and who faithfully participates in a general education development diploma program (GED program) or in any other education, rehabilitation, or training program is entitled to a reduction in the prisoner's sentence of four days for each 30 days of classes attended, up to the maximum credit allowed under G.S. 15A-1340.20(d).

(c) The person having custody of the prisoner, as defined in G.S. 162-59, ~~shall be~~ is the sole judge as to whether the prisoner has faithfully performed ~~his duties~~, the assigned duties under G.S. 162-58 or has faithfully participated in a GED program or other education, rehabilitation, or training program under subsection (b) of this section. A prisoner who escapes or attempts to escape while performing work pursuant to G.S. 162-58 or while participating in a GED program or other education, rehabilitation, or training program shall forfeit any reduction in sentence that ~~he~~ the prisoner would have been entitled to under this section."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 11:45 a.m. on the 14th day of June, 2001.

AMEND CHAPTER 78A OF THE GENERAL STATUTES, THE NORTH CAROLINA SECURITIES ACT; AND TO AMEND CHAPTER 55 OF THE GENERAL STATUTES, THE NORTH CAROLINA BUSINESS CORPORATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 78B of the General Statutes is repealed.

SECTION 2. G.S. 78A-2(2)e. reads as rewritten:

"e. A person who acts as a business broker with respect to a transaction involving the offer or sale of all of the stock or other equity interests in any closely held corporation provided that such stock or other equity interest is sold to no more than one person, as that term is defined herein."

SECTION 3. G.S. 78A-2 is amended by adding a new subdivision to read:

"(2a) 'Entity' includes a corporation, joint-stock company, limited liability company, business trust, limited partnership or other partnership in which the interests of the partners are evidenced by a security, trust in which the interests of the beneficiaries are evidenced by a security, any other unincorporated organization in which two or more persons have a joint or common economic interest evidenced by a security, and government or political subdivision of a government."

SECTION 4. G.S. 78A-2(4) reads as rewritten:

"(4) 'Guaranteed' means guaranteed as to payment of principal, interest, ~~or dividends.~~ dividends, or other distributions."

SECTION 5. G.S. 78A-2(7) reads as rewritten:

"(7) 'Person' means an individual, ~~a corporation, a partnership, an association, a joint stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.~~ an entity, a partnership in which the interests of the partners are not evidenced by a security, a trust in which the interests of the beneficiaries are not evidenced by a security, or an unincorporated organization."

SECTION 6. G.S. 78A-2(8) reads as rewritten:

"(8) a. 'Sale' or 'sell' includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

- b. 'Offer' or 'offer to sell' includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.
- c. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.
- d. A purported gift of assessable stock or other ownership interest obligating the owner to make future payments is considered to involve an offer and sale.
- e. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.
- f. The terms defined in this subdivision and the term 'purchase' as used in this Chapter do not include any of the following:
 1. Any bona fide loan, pledge, or other transaction creating a bona fide security ~~interest; interest.~~
 2. Any stock split and any security ~~dividend; dividend~~ or distribution, whether the ~~corporation; entity~~ distributing the dividend or distribution is the issuer of the security or not, if nothing of value is given by security holders for the dividend or distribution other than the surrender of a right to a cash or property dividend or distribution when each security holder may elect to take the dividend or distribution in cash or property or in ~~securities; securities.~~
 3. ~~Any transaction incident to a class vote by security holders, pursuant to the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or~~

4. ~~Any transaction incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash."~~

SECTION 7. G.S. 78A-16(11) reads as rewritten:

"(11) Any interest in an employees' stock or equity purchase, ~~stock~~ option, savings, pension, profit-sharing or other similar benefit plan;"

SECTION 8. G.S. 78A-17(8) reads as rewritten:

"(8) Any offer or sale to a ~~corporation~~ an entity which has a net worth in excess of one million dollars (\$1,000,000) as determined by generally accepted accounting principles, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;"

SECTION 9. G.S. 78A-17(13) reads as rewritten:

"(13) Any offer or sale by a domestic ~~corporation~~ entity of its own securities if (i) the ~~corporation~~ entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, and (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State;"

SECTION 10. G.S. 78A-17(14) reads as rewritten:

"(14) Any offer, sale or issuance of securities pursuant to ~~an investment contract or stock option plan which an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of G.S. 78A-16(11) of this Chapter;~~ G.S. 78A-16(11);"

SECTION 11. G.S. 78A-17(16) reads as rewritten:

"(16) Any offer to purchase or to sell or any sale or issuance of a security, other than a security covered under federal law, pursuant to a plan approved by the Administrator after a hearing conducted pursuant to the provisions of ~~G.S. 78A-30~~ G.S. 78A-30 or any

transaction incident to any other judicially or governmentally approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly for cash."

SECTION 12. G.S. 78A-17 is amended by adding a new subdivision to read:

"(18) Any transaction incident to a class vote by security holders, pursuant to the articles of incorporation or similar organizational document or the applicable statute governing the internal affairs of the entity, on a merger, conversion, consolidation, share exchange, reclassification of securities, or sale of an entity's assets in consideration of the issuance of securities of another entity."

SECTION 13. G.S. 78A-25(a)(1) reads as rewritten:

- "(1) Any security whose issuer and any predecessors have been in continuous operation for at least five years if
- a. There has been no default during the current fiscal year or within the three preceding fiscal years in the payment of principal, interest, ~~or dividends~~ dividends, or distributions on any security of the issuer (or any predecessor) with a fixed maturity or a fixed interest or dividend or distribution provision, and
 - b. The issuer and any predecessors during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend or distribution provision outstanding at the date the registration statement is filed and equal at least five percent (5%) of the amount of such outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), or (ii) which, if the issuer and any predecessors have not had any security of the type specified in clause (i) outstanding for three full fiscal years, equal at least five percent (5%) of

the amount (as measured in clause (i)) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this State) are issued;"

SECTION 14. G.S. 78A-30(d) reads as rewritten:

"(d) The Administrator's authority under this section shall extend to the issuance or the delivery of securities or other consideration:

- (1) By any ~~corporation~~ entity organized under the laws of this State; or
- (2) In any transaction which is subject to the registration or qualification requirements of this Chapter or which would be so subject except for the availability of an exemption under G.S. 78A-16 or G.S. 78A-17, ~~by reason of G.S. 78A-2(8)f.~~, or by reason that the security is a security covered under federal law."

SECTION 15. G.S. 55-7-02(a) reads as rewritten:

"(a) A corporation shall hold a special meeting of shareholders:

- (1) On call ~~of~~ by its board of directors or by one or more officers of the corporation authorized to do so by the articles of incorporation or bylaws or, in the case of a corporation that is not a public corporation, by any other person or persons authorized to do so by the articles of incorporation or the bylaws; or
- (2) Within 30 days after the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held; except however that, unless otherwise provided in the articles of ~~incorporation or bylaws,~~ incorporation, the call of a special meeting by shareholders is not available to the shareholders of a public corporation."

SECTION 16. G.S. 55-9A-01(b)(3) reads as rewritten:

"(3) 'Control share acquisition' means the acquisition by any person of beneficial ownership of control shares, except that the acquisition of beneficial ownership of any shares of a covered corporation does not constitute a control share acquisition if the acquisition is consummated in any of the following circumstances:

- a. Before April 30, 1987.
- b. Pursuant to a contract existing before April 30, 1987, with either:
 - (i) The covered corporation; or

- (ii) A seller of such shares who owned such shares before April 30, 1987.
- c. Pursuant to the laws of descent and distribution.
- d. Pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this Article.
- e. Pursuant to a ~~merger or share exchange~~ transaction effected in compliance with applicable law, but only if the transaction is pursuant to an agreement ~~of merger or share exchange~~ to which the covered corporation is a party.
- f. Pursuant to the sale of such shares by the covered corporation or its parent or subsidiary corporation.
- g. Pursuant to a written agreement to which the covered corporation is a party that permits the purchasers of shares from the covered corporation or its parent or subsidiary corporation also to purchase in any manner within 90 days before or after the purchase from the covered corporation or its parent or subsidiary up to the same aggregate number of shares as were sold by the covered corporation or its parent or subsidiary corporation.
- h. By an employee benefit plan established by the covered corporation.
- i. Before the corporation became a covered corporation.

For purposes of this definition, shares acquired within any consecutive 90-day period or shares acquired pursuant to a plan to make a control share acquisition are considered to have been acquired in the same acquisition."

SECTION 17. Sections 1 through 14 of this act become effective October 1, 2001. The remaining provisions of this act are effective when it becomes law. Section 15 of this act applies to any meetings of shareholders held or called to be held on or after the date on which this act becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 2:31 p.m. on the 14th day of June, 2001.

H.B. 429**SESSION LAW 2001-202**

AN ACT TO CLARIFY THE APPLICABILITY OF SENATE BILL
25.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-37.2, as rewritten by S.L. 2001-84, is amended by adding a new subsection to read:

"(i) The private for-profit or nonprofit firms authorized to respond to requests for proposal authorized by this section, or entitled to be a Selected Contractor pursuant to any response to such proposal, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to such request for proposal or entering a Construction Contract Agreement or Purchase Agreement shall not be deemed general contracting within the meaning of G.S. 87-1; provided that this subsection shall not be deemed to remove the actual construction of any prison facility from the provisions of G.S. 87-1."

SECTION 2. This act becomes effective May 17, 2001.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 2:31 p.m. on the 14th day of June, 2001.

S.B. 318

SESSION LAW 2001-203

AN ACT TO REVISE THE LAWS ON LICENSING OF INSURANCE AGENTS AND BROKERS TO MAKE THEM CONFORM TO A MODEL UNIFORM INSURANCE PRODUCER LICENSING ACT OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND THEREBY, ALONG WITH THE OTHER STATES, ACHIEVE NATIONAL UNIFORMITY IN LICENSING INSURANCE PRODUCERS, AS PROVIDED BY THE FEDERAL GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-1 reads as rewritten:
"§ 58-33-1. *Scope.*

This Article governs the qualifications and procedures for the licensing of agents, brokers, limited representatives, adjusters, and motor vehicle damage appraisers. This Article applies to any and all kinds of insurance and insurers under ~~Articles 1 through 67 of this Chapter. Except as provided in G.S. 58-33-125, this Article does not apply to the licensing of surplus lines licensees under Article 21 of this Chapter.~~ For purposes of this Article, all references to insurance include annuities, unless the context otherwise requires."

SECTION 2. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-5. *License required.*

A person shall not sell, solicit, or negotiate insurance in this State unless the person is licensed for that kind of insurance in accordance with this Article."

SECTION 3. G.S. 58-33-10 reads as rewritten:

"§ 58-33-10. *Definitions.*

As used in this Article, the following definitions apply:

- (a)(1) 'Agent' means a person licensed to solicit applications for, or to negotiate a policy of, insurance. A person not duly licensed who solicits or negotiates a policy of insurance on behalf of an insurer is an agent within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which an agent of such company is subject, and such company by compensating such person through any of its officers, agents or employees for soliciting policies of insurance shall thereby accept and acknowledge such person as its agent in such transaction.
- (b)(2) 'Adjuster' means any individual who, for salary, fee, commission, or other compensation of any nature, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article. An individual may not simultaneously hold an agent's and an adjuster's license in this State.
- (c)(3) 'Broker' means a person who, being a licensed agent, procures insurance for a party other than himself through a duly authorized agent of an insurer that is licensed to do business in this State but for which the broker is not authorized to act as agent. A person not duly licensed who procures insurance for a party other than himself is a broker within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which such licensed brokers are subject.
- (4) 'Business entity' means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity. 'Business entity' does not mean a sole proprietorship.
- (5) 'Home state' means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

- (6) 'Insurance' means any of the kinds of insurance in G.S. 58-7-15.
- (7) 'Insurance producer' or 'producer' means a person required to be licensed under this Article to sell, solicit, or negotiate insurance. 'Insurance producer' or 'producer' includes an agent, broker, and limited representative.
- (8) 'License' means a document issued by the Commissioner authorizing a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.
- (9) 'Limited line credit insurance' includes any type of credit insurance written under Article 57 of this Chapter, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated a form of limited line credit insurance.
- (10) 'Limited line credit insurance producer' means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.
- (11) 'Limited lines insurance' means motor vehicle physical damage insurance and title insurance, or any other kind of insurance that the Commissioner considers necessary to recognize for the purposes of complying with G.S. 58-33-32(f).
- (12) 'Limited lines producer' means a person authorized by the Commissioner to sell, solicit, or negotiate limited lines insurance.
- (d)(13) 'Limited representative' means a person who is authorized by the Commissioner to solicit or negotiate contracts for the particular kinds of insurance identified in G.S. 58-33-25(e) G.S. 58-33-26(g) and which kinds of insurance are restricted in the scope of coverage afforded.
- (e)(14) 'Motor vehicle damage appraiser' means an individual who, for salary, fee, commission, or other compensation of any nature, regularly investigates or advises relative to the nature and amount of damage to motor vehicles located in this State or the amount of money deemed necessary to effect repairs thereto and who is not:

- (1) a. An adjuster licensed to adjust insurance claims in this State;
 - (2) b. An agent for an insurance company who is not required by law to be licensed as an adjuster;
 - (3) c. An attorney at law who is not required by law to be licensed as an adjuster; or
 - (4) d. An individual who, incident to his regular employment in the business of repairing defective or damaged motor vehicles, investigates and advises relative to the nature and amount of motor vehicle damage or the amount of money deemed necessary to effect repairs thereto.
- (15) 'Negotiate' means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, only if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. 'Negotiate' does not mean a referral to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.
- (16) 'Person' means an individual or a business entity, but does not mean a county, city, or other political subdivision of the State of North Carolina.
- (17) 'Sell' means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. 'Sell' does not mean a referral to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.
- (18) 'Solicit' means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. 'Solicit' does not mean a referral to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.
- (19) 'Terminate' means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.
- (20) 'Uniform Business Entity Application' means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.

(21) 'Uniform Application' means the current version of the NAIC Uniform Application for resident and nonresident producer licensing."

SECTION 4. G.S. 58-33-17(d) reads as rewritten:

"(d) In the event that any provision of this section is violated by a limited licensee, the Commissioner may:

- (1) Revoke or suspend a limited license issued under this section in accordance with the provisions of G.S. 58-33-45; G.S. 58-33-46; or
- (2) After notice and hearing, impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations of this Article have occurred, as the Commissioner deems to be necessary or convenient to carry out the purposes of this section."

SECTION 5. G.S. 58-33-25 is repealed.

SECTION 6. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-26. General license requirements.

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed.

(c) An agent or broker may be licensed for the following kinds of insurance:

(1) Life and health insurance, meaning:

- a. Life-insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
- b. Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities.
- c. Accident and health or sickness-insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Property and liability insurance, meaning:

- a. Coverage for the direct or consequential loss or damage to property of every kind.
- b. Coverage against legal liability, including that for death, injury, or disability or damage to real or personal property.

- (3) Personal lines, meaning property and liability insurance coverage sold to individuals and families for primarily noncommercial purposes.
- (4) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.

(d) A property and liability insurance license does not authorize an agent to sell accident and health insurance. An agent must hold a life and health insurance license to sell accident and health insurance.

(e) A life and health insurance license authorizes a resident agent to sell variable contracts if the agent satisfies the Commissioner that the agent has met the National Association of Securities Dealers requirements of the Secretary of State of North Carolina.

(f) A life and health insurance license authorizes a resident agent to sell Medicare supplement and long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c).

(g) A limited representative may receive qualification for one or more licenses without examination for the following kinds of insurance:

- (1) Dental services.
- (2) Limited line credit insurance.
- (3) Limited lines insurance.
- (4) Motor club.
- (5) Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when offered or sold by a preneed sales licensee licensed under Article 13D of Chapter 90 of the General Statutes.
- (6) Travel accident and baggage.
- (7) Vehicle service agreements and mechanical breakdown insurance.

(h) No licensed agent, broker, or limited representative shall solicit anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not licensed to do business in this State, except as provided in G.S. 58-28-5 and Article 21 of this Chapter.

(i) No agent shall place a policy of insurance with any insurer unless the agent has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or has a valid temporary license issued in accordance with G.S. 58-33-66.

(j) A business entity that sells, negotiates, or solicits insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and

employee of the business entity personally engaged in this State in soliciting or negotiating policies of insurance shall qualify as an individual licensee.

(k) The license shall state the name and social security number, or other identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and any other information as the Commissioner deems to be proper.

(l) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner.

(m) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner may establish for licenses 'staggered' license renewal dates that will apportion renewals throughout each calendar year. If the system of staggered licensing is adopted, the Commissioner may extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are commensurate with extensions.

(n) A license as an insurance producer is not required of the following:

- (1) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this State, except for indirect receipt of proceeds of commissions in the form of salary, benefits, or distributions, and:
 - a. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;
or
 - b. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or
 - c. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

- (2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance; where no commission is paid to the person for the service.
- (3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.
- (4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.
- (5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State.
- (6) A person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

- (7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.
- (8) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the involvement of a licensed agent.
- (9) A person indirectly receiving proceeds of commissions as part of the transfer of insurance business or in the form of retirement or similar benefits.

(o) Nothing in this Article requires an insurer to obtain an insurance producer license. In this subsection, 'insurer' does not include an insurer's officers, directors, employees, subsidiaries, or affiliates."

SECTION 7. G.S. 58-33-30(b) and (c) are repealed.

SECTION 8. G.S. 58-33-30(d)(3) reads as rewritten:

"(3) Each resident applicant for a Medicare supplement and long-term care insurance license shall furnish evidence satisfactory to the Commissioner of successful completion of 10 hours of instruction, which shall in all cases include the principles of Medicare supplement and long-term care insurance and federal and North Carolina law relating to such insurance. ~~An~~ A resident applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of ~~an admitted~~ a licensed life or health insurer or a professional insurance association satisfies the educational requirements of this subdivision."

SECTION 9. G.S. 58-33-30(e) reads as rewritten:

"(e) Examination.

- (1) After completion and filing of the application with the Commissioner, except as provided in G.S. 58-33-35, the Commissioner shall require each applicant for license as an agent or an adjuster to take ~~a written~~ an examination as to ~~his~~ the applicant's competence to be licensed. The applicant must take and pass the examination according to requirements prescribed by the Commissioner.
- (2) The Commissioner may require any licensed agent, adjuster, or motor vehicle damage appraiser to take and successfully pass an examination in writing, testing his competence and qualifications as a condition to the

continuance or renewal of his license, if the licensee has been found guilty of any violation of any provision of ~~Articles 1 through 67 of this Chapter~~. If an individual fails to pass such an examination, the Commissioner shall revoke all licenses issued in his name and no license shall be issued until such individual has passed an examination as provided in this Article.

- (3) Each examination shall be as the Commissioner prescribes and shall be of sufficient scope to test the applicant's knowledge of:
 - a. The terms and provisions of the policies or contracts of insurance ~~he~~ the applicant proposes to effect; or
 - b. The types of claims or losses ~~he~~ the applicant proposes to adjust; and
 - c. The duties and responsibilities of ~~such a~~ the license; and
 - d. The current laws of this State applicable to ~~such a~~ the license.
- (4) The answers of the applicant to ~~any such~~ the examination shall be ~~written~~ provided by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as ~~he deems~~ the Commissioner considers necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner ~~is authorized to~~ may contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner ~~is authorized to~~ may charge a reasonable fee in addition to the registration fee charged under G.S. 58-33-125, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes.
- (5) The Commissioner shall collect in advance the examination and registration fees provided in G.S. 58-33-125 and in subsection (4) of this section. The Commissioner shall make or cause to be made available to all applicants, for a reasonable fee to offset the costs of production, materials that ~~he deems~~ considers necessary for the applicants' proper preparation for ~~such exams~~ examinations. The Commissioner ~~is empowered to~~ may contract directly with publishers and other

suppliers for the production of ~~such~~the preparatory materials, and contracts so let by the Commissioner shall not be subject to Article 3 of Chapter 143 of the General Statutes.

- (6) In addition to the examinations for the kinds of insurance specified in G.S. 58-33-25(c)(1) and (2), before any ~~person~~resident may sell Medicare supplement or long-term care insurance policies defined respectively in Articles 54 and 55 of this Chapter, ~~he~~the resident must take and pass a supplemental written examination according to requirements prescribed by the Commissioner.
- (7) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination."

SECTION 10. G.S. 58-33-30(g) reads as rewritten:

"(g) Denial of License. – If the Commissioner finds that the applicant has not fully met the requirements for licensing, he shall refuse to issue the license and shall notify in writing the applicant and the appointing insurer, if any, of such denial, stating the grounds therefor. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under ~~G.S. 58-33-45(a)~~G.S. 58-33-46. Within 30 days after service of the notification, the applicant may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome."

SECTION 11. G.S. 58-33-30(i) reads as rewritten:

"(i) Retaliatory Provision. – Whenever, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this State who are nonresident applicants or licensees of such other state or jurisdiction in addition to, or in excess of, those imposed on nonresidents under this Article, the same such requirements shall be imposed upon such residents of such other state or jurisdiction. This subsection does not apply to fees charged to insurance producers."

SECTION 12. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-31. Application for license.

(a) A person applying for a resident insurance producer license shall make application to the Commissioner on the Uniform Application and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Commissioner shall find that the individual:

- (1) Is at least 18 years of age.
- (2) Has not committed any act that is a ground for probation, suspension, nonrenewal, or revocation set forth in G.S. 58-33-46.
- (3) Has satisfied any applicable requirements of G.S. 58-33-30(d).
- (4) Has paid the applicable fees set forth in G.S. 58-33-125.
- (5) Has successfully passed any examinations required by G.S. 58-33-30(e).

(b) A business entity selling, soliciting, or negotiating insurance shall obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Commissioner shall find that:

- (1) The business entity has paid the applicable fees set forth in G.S. 58-33-125.
- (2) The business entity has designated a licensed producer, who is a natural person, responsible for the business entity's compliance with the insurance laws and administrative rules of this State and orders of the Commissioner.

(c) The Commissioner may require any documents reasonably necessary to verify the information contained in an application."

SECTION 13. G.S. 58-33-32 reads as rewritten:

"§ 58-33-32. Interstate reciprocity in producer licensing.

(a) The purpose of this section is to make North Carolina insurance producer licensing comply with the reciprocity requirements in the federal Gramm-Leach-Bliley Act, Public Law 106-102.

(b) ~~As used in this section:~~

- ~~(1) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains a principal place of residence or principal place of business and is licensed to act as an insurance producer.~~
- ~~(2) "Insurance producer" or "producer" means a person required to be licensed under this Article to sell, solicit, or negotiate insurance.~~

- (3) ~~"License" means a document issued by the Commissioner authorizing a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurance carrier.~~
 - (4) ~~"Limited line credit insurance" includes any type of credit insurance written under Article 57 of this Chapter, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated a form of limited line credit insurance.~~
 - (5) ~~"Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.~~
 - (6) ~~"Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.~~
 - (7) ~~"Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.~~
 - (8) ~~"Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.~~
 - (9) ~~"Uniform Application" means the most recent version of the NAIC Uniform Application for resident and nonresident producer licensing.~~
 - (10) ~~"Uniform Business Entity Application" means the most recent version of the NAIC Uniform Business Entity Application for a resident and a nonresident corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.~~
- (c) Unless denied licensure under G.S. 58-33-30 or G.S. 58-33-50, a nonresident person shall receive a nonresident producer license if:
- (1) The person is currently licensed as a resident and in good standing in that person's home state;

- (2) The person has submitted the ~~proper~~ request for licensure in the form prescribed by the Commissioner and has paid the applicable fees required by G.S. 58-33-125;
- (3) The person has submitted or transmitted to the Commissioner a copy of the application for licensure that the person submitted to that person's home state, or in lieu of the same, a completed Uniform Application or Uniform Business Entity Application; and
- (4) The person's home state awards nonresident producer licenses to residents of this State on ~~the same~~ a reciprocal basis.

The Commissioner may verify the producer's licensing status through the producer database maintained by the NAIC or affiliates or subsidiaries of the NAIC.

(d) ~~Notwithstanding any other provision of this section, a~~ A person licensed as a surplus lines producer in that person's home state shall receive a nonresident surplus lines license ~~pursuant to the provisions under subsection (c)~~ pursuant to the provisions under subsection (c) of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of Article 21 of this Chapter.

(e) ~~Notwithstanding any other provision of this section, a~~ A person licensed or registered as a viatical settlement broker, viatical settlement provider, or viatical settlement representative, as defined in G.S. 58-58-42(a), in that person's home state shall receive a nonresident viatical settlement broker, viatical settlement provider, or viatical settlement representative license ~~pursuant to~~ under subsection (c) of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of G.S. 58-58-42.

(f) ~~Notwithstanding any other provision of this section, a~~ A person licensed as a limited line credit insurance producer or other type of ~~insurance-limited lines~~ limited lines producer in that person's home state ~~shall may, under subsection (c) of this section, receive a nonresident limited lines producer license pursuant to the provisions of this section, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines under G.S. 58-33-26(c)(1), 58-33-26(c)(2), 58-33-26(c)(3), and 58-33-26(c)(4).~~

(g) An individual who applies for an insurance producer license in this State who was previously licensed for the same kinds of insurance in that individual's home state shall not be required to

complete any preclicensing education or examination. This exemption is available only if:

- (1) The applicant is currently licensed in the applicant's home state; or
- (2) The application is received within 90 days after the cancellation of the applicant's previous license and the applicant's home state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or
- (3) The home state's producer database records, maintained by the NAIC or affiliates or subsidiaries of the NAIC, indicate that the producer is or was licensed in good standing for the kind of insurance requested.

A person licensed as an insurance producer in another state who moves to this State and who wants to be licensed as a resident under G.S. 58-33-31 shall apply within 90 days after establishing legal residence.

(h) The Commissioner shall not assess a greater fee for an insurance license or related service to a nonresident producer based solely on the fact that the producer does not reside in this State.

(i) The Commissioner shall waive any license application requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by subsection (c) of this section, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

(j) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. This report shall include a copy of the order or consent order and other relevant legal documents, information or documents filed in the proceeding necessary to describe the action.

(l) Within 30 days after the initial pretrial hearing date, date or similar proceeding, a producer shall report to the Commissioner any criminal prosecution of the producer taken in any state, producer. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, hearing or similar proceeding, and any other relevant legal documents, information or documents filed in the proceeding necessary to describe the prosecution."

SECTION 14. G.S. 58-33-40(e) reads as rewritten:

"(e) An appointment shall continue in effect as long as the appointed agent is properly licensed and the appointing insurer is authorized to transact business in this State, unless the appointment is cancelled. ~~Upon the cancellation of an appointment the insurer shall, within 30 days, file written notice of cancellation with the Commissioner in a form prescribed by him indicating the date of cancellation. A copy shall be provided to the agent by the insurer.~~"

SECTION 15. G.S. 58-33-45 is repealed.

SECTION 16. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

- (1) Providing materially incorrect, misleading, incomplete, or materially untrue information in the license application.
- (2) Violating any insurance laws, or violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Having been convicted of a felony or of a misdemeanor involving dishonesty or a breach of trust.
- (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud.
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.
- (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other jurisdiction for reasons substantially similar to those listed in this subsection.
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

- (11) Willfully failing to provide the notification required by subsection (c) of this section.
- (12) Knowingly accepting brokered insurance business from an individual who is not licensed to broker that kind of insurance.
- (13) Failing to comply with an administrative or court order imposing a child support obligation, after entry of a final judgment or order finding the violation to have been willful.
- (14) Failing to pay State income tax or comply with any administrative or court order directing payment of State income tax, after entry of a final judgment or order finding the violation to have been willful.
- (15) Cheating on an examination for an insurance license or for a prelicensing or continuing education course, including improperly using notes or any other reference material to complete an examination for an insurance license or for a prelicensing or continuing education course.
- (16) Willfully overinsuring property.
- (17) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.

(b) G.S. 58-2-50 applies to any investigation under this section. G.S. 58-2-70 applies to any person subject to licensure under this Article.

(c) Any person licensed under this Article shall notify the Commissioner of the commencement of any bankruptcy, insolvency, or receivership proceeding affecting the person licensed, or upon making an assignment for the benefit of creditors of the person licensed. Each owner, manager, or officer of a business entity that is a licensed person shall be responsible for providing this notification. Any person responsible for notifying the Commissioner shall provide the notice within three business days after the commencement of the proceeding or the making of the assignment.

(d) If the Commissioner refuses to grant a license, or suspends or revokes a license, any appointment of the applicant or licensee shall likewise be revoked. No individual whose license is revoked shall be issued another license without first complying with all requirements of this Article.

(e) No person shall be issued a license or appointment to enter the employment of any other person, which other person is at that time found by the Commissioner to be in violation of any of the insurance laws of this State, or which other person has been in any

manner disqualified under any state or federal law to engage in the insurance business.

(f) The Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, this Chapter against any person who is under investigation for or charged with a violation of this Chapter even if the person's license or registration has been surrendered or has lapsed by operation of law."

SECTION 17. G.S. 58-33-55 is repealed.

SECTION 18. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-56. Notification to Commissioner of termination.

(a) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the Commissioner within 30 days after the effective date of the termination, using a form prescribed by the Commissioner, if the reason for termination is for or related to one of the causes listed in G.S. 58-33-46(a) or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in G.S. 58-33-46(a). Upon the written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.

(b) An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason that is not for or related to one of the causes listed in G.S. 58-33-46(a) shall notify the Commissioner within 30 days after the effective date of the termination, using a form prescribed by the Commissioner. Upon written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(c) The insurer or the authorized representative of the insurer shall promptly notify the Commissioner in a form acceptable to the Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Commissioner in accordance with subsection (a) of this section had the insurer then known of its existence.

(d) Within 15 days after making the notification required by subsections (a), (b), and (c) of this section, the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons listed in G.S. 58-33-46(a), the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(e) Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the Commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the Commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (h) of this section.

(f) In the absence of actual malice, neither an insurer, the authorized representative of the insurer, a producer, the Commissioner, an organization of which the Commissioner is a member, nor the respective employees and agents of such persons acting on behalf of such persons shall be subject to civil liability as a result of any statement or information provided pursuant to this section.

(g) In any action brought against a person that may have immunity under subsection (f) of this section for making any statement required by this section or for providing any information relating to any statement that may be requested by the Commissioner, the party bringing the action shall plead specifically in any allegation that subsection (f) of this section does not apply because the person making the statement or providing the information did so with actual malice. Subsections (f) and (g) of this section do not abrogate or modify any existing statutory or common law privileges or immunities.

(h) Notwithstanding any other provision of this Chapter, any documents, materials, or other information in the control or possession of the Commissioner or any organization of which the Commissioner is a member that is (i) furnished by an insurer, producer, or an employee or agent thereof acting on behalf of the insurer or producer under this section, or (ii) obtained by the Commissioner in an investigation under this section shall be confidential by law and privileged, shall not be subject to or public records under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery in any civil action other than a proceeding brought by the Commissioner against a person to whom such documents, materials, or other information relate. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties. Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any civil action other than a proceeding brought by the Commissioner against a person to whom such documents,

materials, or other information relate concerning any such documents, materials, or information.

(i) In order to assist in the performance of the Commissioner's duties under this Article, the Commissioner may:

- (1) Share documents, materials, or other information, including the confidential documents, materials, or information described in this section, with other state, federal, and international regulatory agencies, with the NAIC, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities. The Commissioner may condition such sharing on an agreement by the recipient to maintain the confidentiality and privileged status of the document, material, or other information;
- (2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from other state, federal, and international regulatory agencies, from the NAIC, its affiliates or subsidiaries, and from state, federal, and international law enforcement authorities, and may agree to maintain the confidential and privileged status of the document, material, or other information received under the laws of the jurisdiction that is the source of the document, material, or information; and
- (3) Enter into agreements governing sharing and use of information consistent with this subsection.

(j) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (i) of this section.

(k) Nothing in this Article prohibits the Commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection under G.S. 58-2-100, to a database or other clearinghouse service maintained by the NAIC, its affiliates, or subsidiaries of the NAIC.

(l) An insurer, the authorized representative of the insurer, or producer that fails to report as required under this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license suspended or revoked and may be fined in accordance with G.S. 58-2-70."

SECTION 19. G.S. 58-33-65 is repealed.

SECTION 20. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-33-66. Temporary licensing.

(a) The Commissioner may issue a temporary insurance producer license for a period not to exceed 180 days or longer, for good cause, without requiring an examination if the Commissioner deems that the temporary license is necessary for the servicing of an insurance business in any of the following cases:

- (1) To the spouse or surviving spouse or court-appointed personal representative or guardian of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the transfer of the insurance business owned by the producer, for the recovery or return of the producer to the business, or for the training and licensing of new personnel to operate the producer's business.
- (2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.
- (3) To the designee of a licensed insurance producer entering active service in the armed forces of the United States of America.
- (4) In any other circumstance where the Commissioner deems that the public interest will be served best by the issuance of this license.

(b) The Commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The Commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The Commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license terminates upon the transfer of the business.

(c) An individual requesting a temporary license on account of death or disability of an agent or broker shall be licensed to represent only those insurers that had appointed such agent at the time of death or commencement of disability."

SECTION 21. G.S. 58-33-75 reads as rewritten:

"§ 58-33-75. *Twisting with respect to insurance policies; penalties.*

No licensee shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person

who violates this section is subject to the provisions of G.S. 58-2-70 and ~~58-33-45~~.G.S. 58-33-46."

SECTION 22. G.S. 58-33-76(c) reads as rewritten:

"(c) Any person who violates this section is subject to the provisions of G.S. 58-2-70 and ~~G.S. 58-33-45~~.G.S. 58-33-46."

SECTION 23. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ ~~58-33-82~~. *Commissions*.

(a) An insurance company or insurance producer shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(b) A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this State if the person was required to be licensed under this Article at the time of the sale, solicitation, or negotiation and was so licensed at that time.

(d) Except as provided in subsection (e) of this section, only agents who are duly licensed with appropriate company appointments, licensed brokers, licensed limited lines producers, or licensed limited representatives may accept, directly or indirectly, any commission, fee, or other valuable consideration for the sale, solicitation, or negotiation of insurance.

(e) Commissions, fees, or other valuable consideration for the sale, solicitation, or negotiation of insurance may be assigned or directed to be paid in the following circumstances:

- (1) To a business entity by a person who is an owner, shareholder, member, partner, director, employee, or agent of that business entity.
- (2) To a producer in connection with renewals of insurance business originally sold by or through the licensed person or for other deferred commissions.
- (3) In connection with the indirect receipt of commissions in circumstances in which a license is not required under G.S. 58-33-26(m)."

SECTION 24. Article 33 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ ~~58-33-83~~. *Assumed names*.

An insurance producer doing business under any name other than the producer's legal name shall notify the Commission before using the assumed name."

SECTION 25. G.S. 58-33-85(b) reads as rewritten:

"(b) No insurer, agent, broker, or limited representative shall knowingly charge to or demand or receive from an applicant for insurance any money or other consideration in return for the processing of applications or other forms or for the rendering of services associated with a contract of insurance, which money or other consideration is in addition to the premium for such contract, unless the applicant consents in writing before any services are rendered. This subsection does not apply to the charging or collection of any fees otherwise provided for by law."

SECTION 26. G.S. 58-3-180(c) reads as rewritten:

"(c) Any person who violates this section is subject to the applicable provisions of G.S. 58-2-70 and ~~G.S. 58-33-45~~, G.S. 58-33-46, provided that the maximum civil penalty that can be assessed under G.S. 58-2-70(d) for a violation of this section is two thousand dollars (\$2,000)."

SECTION 27. G.S. 58-9-2(5) reads as rewritten:

"(5) "Intermediary" means any person who acts as a broker, as defined in ~~G.S. 58-33-10(e)~~, G.S. 58-33-10(3), in soliciting, negotiating, or procuring the making of any reinsurance contract or binder on behalf of a ceding insurer; or acts as a broker, as defined in ~~G.S. 58-33-10(e)~~, G.S. 58-33-10(3), in accepting any reinsurance contract on behalf of an assuming insurer. "Intermediary" includes a broker or a manager, as those terms are defined in this section."

SECTION 28. G.S. 58-21-40 reads as rewritten:

~~"§ 58-21-40. Surplus lines advisory organizations-regulatory support organization.~~

(a) A surplus lines ~~advisory-regulatory support~~ organization of surplus lines licensees ~~may~~ shall be formed to:

- (1) Facilitate and encourage compliance by ~~its members~~ resident and nonresident surplus lines licensees with the laws of this State and the rules and regulations of the Commissioner relative to surplus lines insurance;
- (2) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market; ~~and~~
- (3) Receive and disseminate to ~~its members~~ surplus lines licensees information ~~relative to~~ about surplus lines ~~coverages~~, insurance, including, without limitation, new electronic filing procedures approved by the Commissioner, changes in the list of eligible surplus lines insurers, and modifications in coverages,

procedures, and requirements as may be requested by the Commissioner; and

- (4) Certify satisfactory evidence of current nonresident surplus lines licensure in this State by countersigning nonresident produced surplus lines coverages by means satisfactory to the Commissioner; and charge the nonresident surplus lines licensee a fee for the certification and countersignature as approved by the Commissioner.

(b) ~~Every such advisory~~ The regulatory support organization shall file with the Commissioner:

- (1) A copy of its constitution, articles of agreement or association, or certificate of incorporation;
- (2) A copy of its bylaws and rules governing its activities;
- (3) ~~A current~~ An annually updated list of its members; resident and nonresident licensees;
- (4) The name and address of a resident of this State upon whom notices or orders of the Commissioner or processes issued at his direction may be served; and
- (5) An agreement that the Commissioner may examine the advisory regulatory support organization in accordance with ~~the provisions of~~ subsection (c) of this section.

(c) The Commissioner may, at times deemed appropriate, make or cause to be made an examination of each advisory regulatory support organization; in which case the provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the advisory regulatory support organization or any ~~member thereof~~ surplus lines licensee, whether resident or nonresident, to be in violation of this Article, the Commissioner may issue an order requiring the discontinuance of the violation.

(d) Each resident surplus lines licensee shall maintain active membership in ~~an advisory~~ a regulatory support organization as a condition of continued licensure under this Article."

SECTION 29. G.S. 58-33-30(a) reads as rewritten:

"(a) Application. ~~Application shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner.~~ The applicable license application requirements of G.S. 58-33-31 shall be satisfied."

SECTION 30. G.S. 58-39-15(3) reads as rewritten:

- "(3) 'Agent' ~~shall have~~ has the meaning as set forth in ~~Article 33 of this Chapter~~ G.S. 58-33-10, and ~~shall include~~ includes limited representatives, limited line credit insurance producers, limited lines producers, insurance producers, and surplus lines licensees, salesmen, or

~~representatives of a medical, surgical, hospital, dental, or optometric service plan, and salesmen or representatives of a health maintenance organization. licensees.~~

SECTION 31. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 32. Section 28 of this act becomes effective October 1, 2001. Sections 25, 30, and this section are effective when they become law. The remaining sections of this act become effective July 1, 2002.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 15th day of June, 2001.

S.B. 299**SESSION LAW 2001-204**

AN ACT TO PROVIDE THAT PICKUP FIREFIGHTERS OF THE DIVISION OF FOREST RESOURCES, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ARE ELIGIBLE FOR COMPENSATION UNDER THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-2(2) reads as rewritten:

"(2) Employee. – The term 'employee' means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, ~~profession~~profession, or occupation of his employer, and as relating to those so employed by the State, the term 'employee' shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term 'employee' shall include all officers and employees thereof, including such as are elected by the people. The term 'employee' shall include members of the North

Carolina national guard while on State active duty under orders of the Governor and members of the North Carolina State Defense Militia while on State active duty under orders of the Governor. The term 'employee' shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their ~~appointment~~appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any ~~employee~~employee, as herein ~~defined~~defined, of a municipality, county, or of the State of North ~~Carolina~~Carolina, while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such ~~corporation~~corporation's specifically excluding such executive officer in such contract of ~~insurance~~insurance, and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus

exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State ~~University~~University, and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term ~~employee~~employee shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a ~~State-approved~~State-approved mission pursuant to Article 11 of Chapter ~~143B~~143B of the General Statutes.

~~Employee~~Employee shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article.

'Employee' shall include an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources. As used in this section, 'authorized pickup

firefighter' means an individual who has completed required fire suppression training as a wildland firefighter and who is available as needed by the Division of Forest Resources for emergency fire suppression activities, including immediate dispatch to wildfires and standby for initial attack on fires during periods of high fire danger."

SECTION 1.1. G.S. 97-2(3) reads as rewritten:

"(3) Employer. – The term 'employer' means the State and all political subdivisions thereof, all public and quasi-public corporations therein, every person carrying on any ~~employment~~employment, and the legal representative of a deceased person or the receiver or trustee of any person. The board of commissioners of each county of the State, for the purposes of this law, shall be considered as 'employer' of all deputy sheriffs serving within such county, or persons serving or performing the duties of a deputy sheriff, whether such persons are appointed by the sheriff or by the board of commissioners and whether serving on a fee basis or salary basis. Each county is authorized to insure its compensation liability for deputy sheriffs to the same extent it is authorized to insure other compensation liability for employees thereof. For purposes of this Chapter, when an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources is engaged in emergency fire suppression activities for the Division of Forest Resources, that individual's employer is the Division of Forest Resources."

SECTION 2. G.S. 97-2(5) reads as rewritten:

"(5) Average Weekly Wages. – 'Average weekly wages' shall mean the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to his employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted.

Where the employment prior to the injury extended over a period of ~~less~~fewer than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage ~~contract~~contract, they shall be deemed a part of his earnings.

Where a minor employee, under the age of 18 years, sustains a permanent disability or dies leaving dependents surviving, the compensation payable for permanent disability or death shall be calculated, first, upon the average weekly wage paid to adult employees employed by the same employer at the time of the accident in a similar or like class of work which the injured minor employee would probably have been promoted to if not injured, or, second, upon a wage sufficient to yield the maximum weekly compensation benefit. Compensation for temporary total disability or for the death of a minor without dependents shall be computed upon the average weekly wage at the time of the accident, unless the total disability extends more than 52 ~~weeks~~weeks, and then the compensation may be increased in proportion to his expected earnings.

In case of disabling injury or death to a volunteer ~~fireman or fireman~~fireman or fireman; member of an organized rescue ~~squad or squad~~squad or squad; an authorized pickup firefighter, as defined in subdivision (2) of this section, when that

individual is engaged in emergency fire suppression activities for the Division of Forest Resources; a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282; G.S. 160A-282; or senior members of the State Civil Air Patrol functioning under Article 41, Chapter 143B, 11 of Chapter 143B of the General Statutes, under compensable circumstances, compensation payable shall be calculated upon the average weekly wage the volunteer fireman or fireman, member of an organized rescue squad or squad, authorized pickup firefighter of the Division of Forest Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, member of an auxiliary police department or department, or senior member of the State Civil Air Patrol was earning in the employment wherein he principally earned his livelihood as of the date of injury. Provided, however, that the minimum compensation payable to a volunteer fireman, member of an organized rescue squad or squad, an authorized pickup firefighter of the Division of Forest Resources of the Department of Environment and Natural Resources, when that individual is engaged in emergency fire suppression activities for the Division of Forest Resources, a sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or senior members of the State Civil Air Patrol shall be sixty-six and two-thirds two-thirds percent (66 2/3%) of the maximum weekly benefit established in G.S. 97-29."

SECTION 3. This act is effective when it becomes law and applies to claims filed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 15th day of June, 2001.

S.B. 967**SESSION LAW 2001-205**

AN ACT TO MAKE TECHNICAL AND ADMINISTRATIVE CHANGES TO THE MOTOR FUELS TAX LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(7a) To furnish the name and identifying information of motor carriers whose licenses have been revoked to the administrator of a national criminal justice system database that makes the information available only to criminal justice agencies and public safety organizations."

SECTION 2. G.S. 105-449.38 reads as rewritten:

"§ 105-449.38. *Tax levied.*

A road tax for the privilege of using the streets and highways of this State is imposed upon every motor carrier on the amount of motor fuel or alternative fuel used by the carrier in its operations within this State. The tax shall be at the rate established by the Secretary pursuant to G.S. 105-449.80 or G.S. ~~105-449.134~~, 105-449.136, as appropriate. This tax is in addition to any other taxes imposed on motor carriers."

SECTION 3. G.S. 105-449.105 reads as rewritten:

"§ 105-449.105. *Refunds upon application for tax paid on exempt fuel, lost fuel, and fuel unsalable for highway use.*

(a) Exempt Fuel. – ~~A person may obtain a refund of tax paid by the person on motor fuel sold to a governmental unit whose use of motor fuel is exempt from the motor fuel excise tax. A governmental unit whose use of motor fuel is exempt from the motor fuel excise tax may obtain a refund of tax paid by it on motor fuel. An entity whose use of motor fuel is exempt from tax may obtain a refund of any motor fuel excise tax the entity pays on its motor fuel. A person who sells motor fuel to an entity whose use of motor fuel is exempt from tax may obtain a refund of any motor fuel excise tax the person pays on motor fuel it sells to the entity. A credit card company that issues a credit card to an entity whose use of motor fuel is exempt from tax may obtain a refund of any motor fuel excise tax the company pays on motor fuel the entity purchases using the credit card.~~

A person may obtain a refund of tax paid by the person on exported fuel, including fuel whose shipping document shows this State as the destination state but was diverted to another state in accordance with the diversion procedures established by the Secretary.

(b) Lost Fuel. – A supplier, an importer, or a distributor that loses tax-paid motor fuel due to damage to a conveyance transporting the motor fuel, fire, a natural disaster, an act of war, or an accident may obtain a refund for the tax paid on the fuel.

(c) Accidental Mixes. – A person that accidentally combines any of the following may obtain a refund for the amount of tax paid on the fuel:

- (1) Dyed diesel fuel with tax-paid motor fuel.
- (2) Gasoline with diesel fuel.

(3) Undyed diesel fuel with dyed kerosene.

(d) Repealed by Session Laws 1998-98, s. 29, effective August 14, 1998.

(e) Refund Amount. – The amount of a refund allowed under this section is the amount of excise tax paid, less the amount of any discount allowed on the fuel under G.S. 105-449.93."

SECTION 4. G.S. 105-449.88A reads as rewritten:

"§ 105-449.88A. *Liability for tax due on motor fuel designated as exempt by the use of cards or codes.*

(a) Exempt Cards at Rack. – When a licensed distributor or licensed importer removes motor fuel from a terminal by means of an exempt card or exempt access code issued by the supplier, the distributor or importer represents that the fuel removed will be resold to a governmental unit that is exempt from the tax. A supplier may rely on this representation. A licensed distributor or licensed importer that does not resell motor fuel removed from a terminal by means of an exempt card or exempt access code to an exempt governmental unit is liable for any tax due on the fuel.

(b) Exempt Cards at Retail. – ~~A supplier that issues to, or authorizes another person to issue to, another person a credit card or an access code that enables the person to buy motor fuel at retail without paying the tax on the fuel has a duty to determine if the person is exempt from the tax. A supplier is liable for tax due on motor fuel purchased at retail by use of a credit card or an access code issued to a person who is not exempt from the tax. An 'exempt card or code' is a credit card or an access code that enables the person to whom the card or code is issued to buy motor fuel at retail without paying the motor fuel excise tax on the fuel. An entity that issues an exempt card or code has a duty to determine if the person to whom it is issued is exempt from the motor fuel excise tax. An entity that issues an exempt card or code to a person who is not exempt from tax is liable for tax due on motor fuel the person purchases at retail by use of the exempt card or code. If a supplier authorizes another entity to issue an exempt card or code to a person who is not exempt from tax, the supplier and the entity that issued the card are jointly and severally liable for tax due on motor fuel the person purchases at retail by use of the exempt card or code.~~

(c) Card Holder. – A person to whom an exempt card or exempt access card is issued for use at a terminal or at retail is liable for any tax due on fuel purchased with the card for a purpose that is not exempt. A person who misuses an exempt card or code by purchasing fuel with the card or code for a purpose that is not exempt is liable for the tax due on the fuel."

SECTION 5. G.S. 105-449.72 reads as rewritten:

"§ 105-449.72. *Bond or letter of credit required as a condition of obtaining and keeping certain ~~licenses~~ licenses or of applying for certain refunds.*

(a) **Initial Bond.** – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

- (1) For an applicant for a license as any of the following, the amount is two million dollars (\$2,000,000):
 - a. A refiner.
 - b. A terminal operator.
 - c. A supplier that is a position holder or a person that receives motor fuel pursuant to a two-party exchange.
 - d. A bonded importer.
 - e. A permissive supplier.
- (2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be less than two thousand dollars (\$2,000) and may not be more than two hundred fifty thousand dollars (\$250,000):
 - a. A supplier that is a fuel alcohol provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.
 - b. An occasional importer.
 - c. A tank wagon importer.
 - d. A distributor.
 - e. Repealed by Session Laws 1997-60, s. 5.
- (3) For an applicant for a license as a blender, a bond is required only if the applicant's average expected annual tax liability under this Article, as determined by the Secretary, is at least two thousand dollars (\$2,000). When a bond is required, the bond amount is the same as under subdivision (2) of this subsection.

(b) **Multiple Activity.** – An applicant for a license as a distributor and as a bonded importer must file only the bond required of a bonded importer. An applicant for two or more of the licenses listed in subdivision (a)(2) or (a)(3) of this section may file one bond that covers the combined liabilities of the applicant under all the activities. A bond for these combined activities may not exceed the maximum amount set in subdivision (a)(2) of this subsection.

(c) Adjustment to Bond. – When notified to do so by the Secretary, a person that has filed a bond or an irrevocable letter of credit and that holds a license listed in subdivision (a)(2) of this section must file an additional bond or irrevocable letter of credit in the amount requested by the Secretary. The person must file the additional bond or irrevocable letter of credit within 30 days after receiving the notice from the Secretary. The amount of the initial bond or irrevocable letter of credit and any additional bond or irrevocable letter of credit filed by the license holder, however, may not exceed the limits set in subdivision (a)(2) of this section.

(d) Replacements. – When a license holder files a bond or an irrevocable letter of credit as a replacement for a previously filed bond or letter of credit and the license holder has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions:

- (1) Return the previously filed bond or letter of credit.
- (2) Notify the person liable on the previously filed bond and the license holder that the person is released from liability on the bond.

(e) Credit Card Companies. – The Secretary may require a credit card company to file with the Secretary a bond if the company applies for a refund under G.S. 105-449.105(a) and the Secretary determines after an audit that a bond is needed to protect the State from loss in collecting any additional tax due pursuant to the audit. The bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of a bond required under this subsection is two times the average monthly refund due, subject to the minimum and maximum amounts provided in subdivision (a)(2) of this section."

SECTION 6. G.S. 105-449.105A reads as rewritten:

"§ 105-449.105A. *Monthly refunds for kerosene.*

(a) Refund. – A distributor who sells kerosene to any of the following may obtain a refund for the excise tax the distributor paid on the kerosene, less the amount of any discount allowed on the kerosene under G.S. 105-449.93:

- (1) The end user of the kerosene, if the distributor dispenses the kerosene into a storage facility of the end user that contains fuel used only for heating, one of the following purposes and the storage facility is installed in a manner that makes use of the fuel for any other purpose improbable:
 - a. Heating.
 - b. Drying crops.
 - c. A manufacturing process.

- (2) A retailer of kerosene, if the distributor dispenses the kerosene into a storage facility that meets both of the following conditions:
- a. It is marked with the phrase 'Undyed, Untaxed Kerosene, Nontaxable Use Only' or a similar phrase that clearly indicates that the fuel is not to be used to operate a highway vehicle.
 - b. It ~~and~~ either has a dispensing device that is not suitable for use in fueling a highway vehicle or is kept locked by the retailer and must be unlocked by the retailer for each sale of kerosene.

(b) Liability. – If the Secretary determines that the Department overpaid a distributor by refunding more tax to the distributor than is due under this section, the distributor is liable for the amount of the overpayment. This liability applies regardless of whether the actions of a retailer of kerosene contributed to the overpayment."

SECTION 7. G.S. 105-449.123 reads as rewritten:

"§ 105-449.123. *Marking requirements for dyed diesel fuel storage facilities.*

(a) Requirements. – A person who is a retailer of dyed diesel fuel or who stores both dyed and undyed diesel fuel for use by that person or another person must mark the storage facility for the dyed diesel fuel as follows with the phrase 'Dyed Diesel', 'For Nonhighway Use', or a similar phrase that clearly indicates the diesel fuel is not to be used to operate a highway vehicle:

- (1) The storage tank of the storage facility must be marked if the storage tank is visible.
- (2) The fillcap or spill containment box of the storage facility must be marked.
- (3) The dispensing device that serves the storage facility must be marked.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only in heating, drying crops, or a manufacturing process, for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 8. Sections 3 through 7 of this act become effective October 1, 2001. Section 6 of this act applies to sales made on or after October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 15th day of June, 2001.

S.B. 1056

SESSION LAW 2001-206

AN ACT TO AMEND THE APPLICABILITY OF THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT TO HOUSING AUTHORITIES UNDER CHAPTER 157 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 159 of the General Statutes is amended by adding a new Part to read:

"Part 7. Public Housing Authorities.

"§ 159-42. *Special regulations pertaining to public housing authorities.*

(a) Definition. – As used in this Part, the term 'housing authority' means any entity as defined in G.S. 157-3(1) that is not subject to G.S. 157-4.2.

(b) Applicability. – Except as provided in this Part, none of the provisions of Parts 1, 2, or 3 of this Article apply to housing authorities in compliance with this Part.

(c) Annual Budget. – Each housing authority shall operate under an annual budget. The budget shall take the form of estimated revenues plus fund balances available for the program, as defined by the U.S. Department of Housing and Urban Development regulations or their successors, that are equal to or greater than estimated expenditures. The proposed budget shall be available for public inspection in a manner consistent with G.S. 159-12(a). Before adopting the budget, the housing authority governing board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear. The governing board shall cause notice of the public hearing to be published in a newspaper of general circulation in the area once a week for two consecutive weeks prior to the public hearing.

(d) Project Ordinances. – The annual budget shall not include those estimated revenues and expenditures accounted for in a project ordinance. A housing authority shall adopt a project ordinance, as defined by G.S. 159-13.2, for those programs which span two or more fiscal years. The form of the project ordinance shall be in accordance with the relevant funding agency guidelines for that project. The estimated revenues plus fund balances available for a project shall be equal to or greater than the estimated expenditures. The estimated revenues and expenditures related to approved projects for a fiscal year may be included in the annual budget on an informational basis.

(e) Finance Officer. – The housing authority governing board shall appoint or designate a finance officer with the following powers and duties:

- (1) Preparation of the annual budget for presentation to the governing board.
- (2) Administration of the approved budget.
- (3) Maintenance of the accounts and other financial records in accordance with generally accepted principles of accounting.
- (4) Preparation and filing of statements of the financial condition, at least annually and at other times as requested by the governing board.
- (5) Receipt and deposit, or supervision of the receipt and deposit, of all moneys accruing to the housing authority.
- (6) Supervision of the investment of the idle funds of the housing authority.
- (7) Maintenance of all records concerning the bonded debt of the housing authority, if any.
- (8) Maintenance of any sinking funds of the housing authority.

(f) Accounting Procedures. – A housing authority must comply with federal rules and regulations issued by the U.S. Department of Housing and Urban Development pertaining to procedures for the receipt, deposit, investment, transfer, and disbursement of money and other assets. The Commission may inquire into and investigate, with reasonable cause, the internal control procedures of a housing authority. The Commission may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlement, mishandling of funds, or continued operating deficits.

(g) Audits. – The accounting system of a housing authority shall be so designed that the true financial condition of the housing authority can be determined at any time. As soon as possible after the close of each fiscal year, the accounts shall be independently audited by a certified public accountant. The auditor shall be selected by the housing authority governing board and shall report directly to that body. The audit contract or agreement shall be in writing and shall include all its terms and conditions. The terms and conditions of the audit shall include the scope of the audit and the requirement that upon completion of the examination the auditor shall prepare a written report embodying the financial statements and the auditor's opinion and comments relating thereto. The finance officer shall file a copy of the audit with the Secretary of the Commission.

(h) Bonding of Employees. – The bonding requirements of G.S. 159-29 shall apply to the finance officer and those employees of the housing authority handling or having custody of more than one hundred dollars (\$100.00) at any one time or those employees who have access to the inventories of the housing authority.

(i) Investments. – A housing authority may deposit or invest, at interest, all or part of its cash balance pursuant to U.S. Department of Housing and Urban Development regulations.

(j) Official Depository. – Housing authorities shall comply with G.S. 159-31, except in those circumstances where the statute is in conflict with U.S. Department of Housing and Urban Development guidance, which shall control.

(k) Deposits and Payments. – Housing authorities shall comply with G.S. 159-32, 159-32.1, and 159-33."

SECTION 2. G.S. 159-148(a) reads as rewritten:

"(a) Except as provided in subsection (b) of this section, this Article applies to any contract, agreement, memorandum of understanding, and any other transaction having the force and effect of a contract (other than agreements made in connection with the issuance of revenue bonds, special obligation bonds issued pursuant to Chapter 159I of the General Statutes, or of general obligation bonds additionally secured by a pledge of revenues) made or entered into by a unit of local government (as defined by G.S. 159-7(b) or, in the case of a special obligation bond, as defined in Chapter 159I of the General Statutes), relating to the lease, acquisition, or construction of capital assets, which contract does all of the following:

- (1) Extends for five or more years from the date of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, and extend.
- (2) Obligates the unit to pay sums of money to another, without regard to whether the payee is a party to the contract, and contract.
- (3) Obligates the unit over the full term of the contract, including periods that may be added to the original term through the exercise of options to renew or extend, to the extent of at least five hundred thousand dollars (\$500,000) for baseball park districts and, for other units, to the extent of five hundred thousand dollars (\$500,000) or a sum equal to one tenth of one percent (1/10 of 1%) of the assessed value of property subject to taxation by the contracting unit, whichever is less, and extend:
 - a. For baseball park districts, to at least five hundred thousand dollars (\$500,000).
 - b. For housing authorities, to at least five hundred thousand dollars (\$500,000) or a sum equal to two thousand dollars (\$2,000) per housing unit owned and under active management by the housing authority, whichever is less.

c. For other units, to at least five hundred thousand dollars (\$500,000) or a sum equal to one-tenth of one percent (1/10 of 1%) of the assessed value of property subject to taxation by the contracting unit, whichever is less.

- (4) Obligates the unit, expressly or by implication, to exercise its power to levy taxes either to make payments falling due under the contract, or to pay any judgment entered against the unit as a result of the unit's breach of the contract.

Contingent obligation shall be included in calculating the value of the contract. Several contracts that are all related to the same undertaking shall be deemed a single contract for the purposes of this Article. When several contracts are considered as a single contract, the term shall be that of the contract having the longest term, and the sums to fall due shall be the total of all sums to fall due under all single contracts in the group."

SECTION 3. Section 1 of this act is effective when it becomes law and applies to the fiscal years of housing authorities beginning on or after October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 15th day of June, 2001.

H.B. 344

SESSION LAW 2001-207

AN ACT RELATING TO THE ANNUAL FILING OF WAGE REPORTS BY DOMESTIC SERVICE EMPLOYERS AND TO THE LATE FILING AND PAYMENT PENALTIES UNDER THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-9 (a)(8) reads as rewritten:

"(8) An employer of domestic service employees as defined by the Internal Revenue Code who has filed reports with the Commission for at least three consecutive years and has not been liable for quarterly contributions under subdivision (6) of this subsection during the preceding calendar year may be given permission by the Chair of the Commission to file reports once a year on or before the last day of the month following the close of the calendar year in which the wages are paid. Permission to

file a report annually may be revoked if the employer is found liable to the Commission for quarterly contributions under subdivision (6) of this subsection.

~~An employer who is granted permission to file annual reports must comply with 20 C.F.R. § 603.21 so that reporting of wages and employment status are as effective and timely as the quarterly wage reporting system. This compliance includes the reporting of all changes in employment status and in wages of an employee to the Commission within 14 days of the occurrence and responding to all inquiries from the Commission as to wages paid to an employee in a year in which the employer is reporting on an annual basis within 14 days of the postmark of the inquiry. If an employer does not report or respond to an inquiry within 14 days, then the Commission will estimate wages paid to an employee based on the last report the employer filed with the Commission, and the employer will be liable for any charge based on the Commission's estimation of the wages paid to the employee."~~

SECTION 2. G.S. 96-10(a) reads as rewritten:

"(a) Interest on Past-Due Contributions. – Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall bear interest at the rate set under G.S. 105-241.1(i) per month from and after that date until payment plus accrued interest is received by the Commission. An additional penalty in the amount of ten percent (10%) of the taxes due shall be added, ~~but that penalty shall in no event be less than five dollars (\$5.00).~~ added. Penalties and interest collected pursuant to this subsection shall be paid into the Special Employment Security Administration Fund. If any employer, in good faith, pays contributions to another state or to the United States under the Federal Unemployment Tax Act, prior to a determination of liability by this Commission, and the contributions were legally payable to this State, the contributions, when paid to this State, shall be deemed to have been paid by the due date under the law of this State if they were paid by the due date of the other state or the United States."

SECTION 3. G.S. 96-10(g) reads as rewritten:

"(g) Upon the motion of the Commission, any employer refusing to submit any report required under this Chapter, after 10 days' written notice sent by the Commission by registered or certified mail to the employer's last known address, may be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such report is properly submitted. When an execution has been returned to the Commission unsatisfied, and the

employer, after 10 days' written notice sent by the Commission by registered mail to the employer's last known address, refuses to pay the contributions covered by the execution, such employer shall upon the motion of the Commission be enjoined by any court of competent jurisdiction from hiring and continuing in employment any employees until such contributions have been paid.

An employer who fails to file a report within the required time shall be assessed a late filing penalty of five percent (5%) of the amount of contributions due with the report for each month or fraction of a month the failure continues. The penalty may not exceed twenty-five percent (25%) of the amount of contributions ~~due or five dollars (\$5.00), whichever is greater.~~ due. An employer who fails to file a report within the required time but owes no contributions shall not be assessed a penalty unless the employer's failure to file continues for more than 30 days."

SECTION 4. Sections 2 and 3 of this act become effective when they become law and apply to penalties assessed for reports and contributions due for quarters beginning on or after April 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 15th day of June, 2001.

H.B. 375**SESSION LAW 2001-208**

**AN ACT TO MAKE CLARIFYING AND OTHER CHANGES TO
THE GENERAL STATUTES PERTAINING TO CHILD
WELFARE.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-406(a) reads as rewritten:

"(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor."

SECTION 2. G.S. 7B-602 reads as rewritten:

"§ 7B-602. (Effective July 1, 2001) Parent's right to ~~counsel.~~ counsel; guardian ad litem.

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel

and to appointed counsel in cases of indigency unless that person waives the right.

(b) In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent in the following cases:

(1) Where it is alleged that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101 in that the parent is incapable as the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition of providing for the proper care and supervision of the juvenile; or

(2) Where the parent is under the age of 18 years."

SECTION 3. G.S. 7B-904 reads as rewritten:

"§ 7B-904. Authority over parents of juvenile adjudicated as abused, neglected, or dependent.

(a) If the court orders medical, surgical, psychiatric, psychological, or other treatment pursuant to G.S. 7B-903, the court may order the parent or other responsible parties to pay the cost of the treatment or care ordered.

(b) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile who has been adjudicated abused, neglected, or dependent,~~ if the court finds that it is in the best interests of the juvenile for the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to be directly involved in the juvenile's treatment, the court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to participate in medical, psychiatric, psychological, or other treatment of the juvenile. The cost of the treatment shall be paid pursuant to G.S. 7B-903.

(c) At the dispositional hearing or a subsequent hearing ~~in the case of a juvenile who has been adjudicated abused, neglected, or dependent,~~ the court may determine whether the best interests of the juvenile require that the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo psychiatric, psychological, or other treatment or counseling directed toward remediating or remedying behaviors or conditions that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care. If the court finds that the best interests of the juvenile require the parent, guardian, custodian, stepparent, adult

member of the juvenile's household, or adult relative entrusted with the juvenile's care undergo treatment, it may order that individual to comply with a plan of treatment approved by the court or condition legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon that individual's compliance with the plan of treatment. The court may order the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care to pay the cost of treatment ordered pursuant to this subsection. In cases in which the court has conditioned legal custody or physical placement of the juvenile with the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care upon compliance with a plan of treatment, the court may charge the cost of the treatment to the county of the juvenile's residence if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment. In all other cases, if the court finds the parent, guardian, custodian, stepparent, adult member of the juvenile's household, or adult relative entrusted with the juvenile's care is unable to pay the cost of the treatment ordered pursuant to this subsection, the court may order that individual to receive treatment currently available from the area mental health program that serves the parent's catchment area.

(d) ~~Whenever~~ At the dispositional hearing or a subsequent hearing, when legal custody of a juvenile is vested in someone other than the juvenile's parent, ~~after due notice to the parent and after a hearing,~~if the court finds that the parent is able to do so, the court may order that the parent pay a reasonable sum that will cover, in whole or in part, the support of the juvenile after the order is entered. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c). If the court places a juvenile in the custody of a county department of social services and if the court finds that the parent is unable to pay the cost of the support required by the juvenile, the cost shall be paid by the county department of social services in whose custody the juvenile is placed, provided the juvenile is not receiving care in an institution owned or operated by the State or federal government or any subdivision thereof.

(d1) At the dispositional hearing or a subsequent hearing, the court may order the parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S. 7B-407 to do any of the following:

- (1) Attend and participate in parental responsibility classes if those classes are available in the judicial district in which the parent, guardian, custodian, or caretaker resides.
- (2) Provide, to the extent that person is able to do so, transportation for the juvenile to keep appointments for medical, psychiatric, psychological, or other treatment ordered by the court if the juvenile remains in or is returned to the home.
- (3) Take appropriate steps to remedy conditions in the home that led to or contributed to the juvenile's adjudication or to the court's decision to remove custody of the juvenile from the parent, guardian, custodian, or caretaker.

(e) Failure of a parent who is personally served to participate in or comply with this section may result in a proceeding for civil contempt. Upon motion of a party or upon the court's own motion, the court may issue an order directing the parent, guardian, custodian, or caretaker served with a copy of the summons pursuant to G.S. 7B-407 to appear and show cause why the parent, guardian, custodian, or caretaker should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this section."

SECTION 4. G.S. 7B-905(c) reads as rewritten:

"(c) Any dispositional order shall comply with the requirements of G.S. 7B-507. Any dispositional order under which a juvenile is removed from the custody of a parent, guardian, custodian, or caretaker, or under which the juvenile's placement is continued outside the home shall provide for appropriate visitation as may be in the best interests of the juvenile and consistent with the juvenile's health and safety. If the juvenile is placed in the custody or placement responsibility of a county department of social services, the court may order the director to arrange, facilitate, and supervise a visitation plan expressly approved by the court. If the director subsequently makes a good faith determination that the visitation plan may not be in the best interests of the juvenile or consistent with the juvenile's health and safety, the director may temporarily suspend all or part of the visitation plan. The director shall not be subjected to any motion to show cause for this suspension, but shall expeditiously file a motion for review."

SECTION 5. G.S. 7B-907(d) reads as rewritten:

"(d) In the case of a juvenile who is in the custody or placement responsibility of a county department of social services, and has been in placement outside the home for ~~15~~12 of the most recent 22 months; or a court of competent jurisdiction has determined that the parent has

abandoned the child; or has committed murder or voluntary manslaughter of another child of the parent; or has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child or another child of the parent, ~~the court shall order~~ the director of the department of social services ~~to~~shall initiate a proceeding to terminate the parental rights of the parent unless the court finds:

- (1) The permanent plan for the juvenile is guardianship or custody with a relative or some other suitable person;
- (2) The court makes specific findings why the filing of a petition for termination of parental rights is not in the best interests of the child; or
- (3) The department of social services has not provided the juvenile's family with such services as the department deems necessary, when reasonable efforts are still required to enable the juvenile's return to a safe home."

SECTION 6. G.S. 7B-1111(a) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

- (1) The parent has abused or neglected the juvenile. The juvenile shall be deemed to be abused or neglected if the court finds the juvenile to be an abused juvenile within the meaning of G.S. 7B-101 or a neglected juvenile within the meaning of G.S. 7B-101.
- (2) The parent has willfully left the juvenile in foster care or placement outside the home for more than 12 months without showing to the satisfaction of the court that reasonable progress under the circumstances has been made ~~within 12 months~~ in correcting those conditions which led to the removal of the juvenile. Provided, however, that no parental rights shall be terminated for the sole reason that the parents are unable to care for the juvenile on account of their poverty.
- (3) The juvenile has been placed in the custody of a county department of social services, a licensed child-placing agency, a child-caring institution, or a foster home, and the parent, for a continuous period of six months next preceding the filing of the petition or motion, has willfully failed for such period to pay a reasonable portion of the cost of care for the juvenile although physically and financially able to do so.
- (4) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or

more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.

- (5) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights:
 - a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or
 - b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or
 - c. Legitimated the juvenile by marriage to the mother of the juvenile; or
 - d. Provided substantial financial support or consistent care with respect to the juvenile and mother.
- (6) That the parent is incapable of providing for the proper care and supervision of the juvenile, such that the juvenile is a dependent juvenile within the meaning of G.S. 7B-101, and that there is a reasonable probability that such incapability will continue for the foreseeable future. Incapability under this subdivision may be the result of substance abuse, mental retardation, mental illness, organic brain syndrome, or any other similar cause or condition.
- (7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion.
- (8) The parent has committed murder or voluntary manslaughter of another child of the parent or other child residing in the home; has aided, abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of the child, another child of the parent, or other child residing in the home; or has committed a felony assault that results in serious bodily injury to the child, another child of the parent, or other child residing in the home. The petitioner has the burden of proving any of these offenses in the termination of parental rights hearing by (i) proving the elements of the offense or (ii)

offering proof that a court of competent jurisdiction has convicted the parent of the offense, whether or not the conviction was by way of a jury verdict or any kind of plea.

- (9) The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home."

SECTION 7. G.S. 7B-1109(a) reads as rewritten:

"(a) The hearing on the termination of parental rights shall be conducted by the court sitting without a jury and shall be held in the district at such time and place as the chief district court judge shall designate, but no later than 90 days from the filing of the petition or motion unless the judge pursuant to subsection (d) of this section orders that it be held at a later time. Reporting of the hearing shall be as provided by G.S. 7A-198 for reporting civil trials."

SECTION 8. G.S. 7B-2503(1) reads as rewritten:

"(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
- b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
- c. Place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The

director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

SECTION 9. G.S. 7B-2506(1) reads as rewritten:

"(1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
- b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
- c. Place the juvenile in the custody of the department of social services in the county of his residence, or

in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d)."

SECTION 10. G.S. 7B-2901(a) reads as rewritten:

"(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order,

court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court.

The following persons may examine the juvenile's record maintained pursuant to this subsection and obtain copies of written parts of the record without an order of the court:

- (1) The person named in the petition as the juvenile;
- (2) The guardian ad litem;
- (3) The county department of social services; and
- (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian."

SECTION 11. G.S. 48-9-102(d) reads as rewritten:

~~"(d) Records must be sent by the clerk of superior court to the Division in the following order:~~

- ~~(1) Within 10 days after the petition is filed with the clerk of the superior court, a copy of the petition giving the date of the filing of the original petition and the original of each consent and relinquishment must be filed by the clerk with the Division.~~
- ~~(2) Within 10 days after the decree of adoption is entered, the clerk must file with the Division the additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered, and a copy of the final order.~~

(d) All records filed in connection with an adoption, including a copy of the petition giving the date of the filing of the original petition, the original of each consent and relinquishment, additional documents filed pursuant to G.S. 48-2-305, any report to the court, any additional documents submitted and orders entered and a copy of the final decree, shall be sent by the clerk of superior court to the Division within 10 days after the decree of adoption is entered or 10 days following the final disposition of an appeal pursuant to G.S. 48-2-607(b). The original petition and final decree shall be retained by the clerk."

SECTION 12. G.S. 48-2-401(d) reads as rewritten:

"(d) In the adoption of an adult, the petitioner shall also serve notice of the filing on any adult children of the prospective adoptive parent and any parent, spouse, or adult child of the adoptee who are listed in the petition to ~~adopt~~, adopt; provided the court for cause may waive the requirement of notice to a parent of an adult adoptee."

SECTION 13. G.S. 130A-108 reads as rewritten:

"§ 130A-108. *Certificate of identification for individual of foreign birth.*

(a) In the case of an adopted individual born in a foreign country and residing in this State at the time of application, the State Registrar shall, upon the presentation of a certified copy of the original birth certificate from the country of birth and a certified copy of the final order of adoption signed by the clerk of court or other appropriate official, prepare a certificate of identification for the individual. The certificate shall contain the same information required by G.S. 48-9-107(a) for individuals adopted in this State, except that the country of birth shall be specified in lieu of the state of birth.

(b) In the case of an adopted individual born in a foreign country and readopted in this State, the State Registrar shall, upon receipt of a report of that adoption from the Division of Social Services pursuant to G.S. 48-9-102(f), prepare a certificate of identification for that individual. The certificate shall contain the same information required by G.S. 48-9-107(a) for individuals adopted in this State, except the country of birth shall be specified in lieu of the state of birth."

SECTION 14. G.S. 48-3-206 reads as rewritten:

"§ 48-3-206. *Affidavit of parentage.*

(a) To assist the court in determining that a direct placement was valid and all necessary consents have been obtained, the parent or guardian who placed the minor shall execute an affidavit setting out names, last known addresses, and marital status of the minor's parents or possible parents. If the placing parent or guardian is unavailable to execute the affidavit, the affidavit may be prepared by a knowledgeable individual who shall sign the affidavit and indicate the source of the individual's knowledge.

(b) In an agency placement, the agency shall obtain from at least one individual who relinquishes a minor to the agency an affidavit setting out the information required in subsection (a) of this section. This affidavit is not necessary when the agency acquires legal and physical custody of a minor for purposes of adoptive placement by a court order terminating the parental rights of a parent or guardian."

SECTION 15. G.S. 48-3-704 reads as rewritten:

"§ 48-3-704. *Content of relinquishment; optional provisions.*

In addition to the mandatory provisions listed in G.S. 48-3-703, a relinquishment may also state that the relinquishment may be revoked upon notice by the agency that an adoption by a specific prospective adoptive parent, named or described in the relinquishment is not completed. In this event the parent's time to revoke a relinquishment is 10 days, inclusive of weekends and holidays, from the date the parent receives such notice from the agency. The revocation shall be in writing and delivered in a manner specified in G.S. 48-3-706(a) for revocation of relinquishments. An agency, which after the exercise of

due diligence cannot personally locate the parent entitled to this notice, may deposit a copy of the notice in the United States mail, return receipt requested, addressed to the address of the parent given in the relinquishment, and the date of receipt by the parent is deemed to be the date of delivery or last attempted delivery. If a parent does not revoke the relinquishment in the time and manner provided in this section, the relinquishment is deemed a general relinquishment to the agency, and the agency may place the child for adoption with a prospective adoptive parent selected by the agency."

SECTION 16. G.S. 7B-506(d) reads as rewritten:

"(d) If the court determines that the juvenile meets the criteria in G.S. 7B-503 and should continue in custody, the court shall issue an order to that effect. The order shall be in writing with appropriate findings of ~~fact~~ fact and signed and entered within 30 days of the completion of the hearing. The findings of fact shall include the evidence relied upon in reaching the decision and the purposes which continued custody is to achieve."

SECTION 17. G.S. 7B-807 reads as rewritten:

"§ 7B-807. *Adjudication.*

(a) If the court finds that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in nonsecure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.

(b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the adjudicatory hearing."

SECTION 18. G.S. 7B-905(a) reads as rewritten:

"(a) The dispositional order shall be in ~~writing~~ writing, signed, and entered no later than 30 days from the completion of the hearing, and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested."

SECTION 19. G.S. 7B-906(d) reads as rewritten:

"(d) The court, after making findings of fact, may appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600 or may make any disposition authorized by G.S. 7B-903, including the authority to place the juvenile in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interests of the juvenile. The court may enter an order continuing the placement under review or providing for a different

placement as is deemed to be in the best interests of the juvenile. The order must be reduced to writing, signed, and entered within 30 days of the completion of the hearing. If at any time custody is restored to a parent, guardian, custodian, or caretaker the court shall be relieved of the duty to conduct periodic judicial reviews of the placement."

SECTION 20. G.S. 7B-907(c) reads as rewritten:

"(c) At the conclusion of the hearing, the judge shall make specific findings as to the best plan of care to achieve a safe, permanent home for the juvenile within a reasonable period of time. The judge may appoint a guardian of the person for the juvenile pursuant to G.S. 7B-600 or make any disposition authorized by G.S. 7B-903 including the authority to place the child in the custody of either parent or any relative found by the court to be suitable and found by the court to be in the best interest of the juvenile. If the juvenile is not returned home, the court shall enter an order consistent with its findings that directs the department of social services to make reasonable efforts to place the juvenile in a timely manner in accordance with the permanent plan, to complete whatever steps are necessary to finalize the permanent placement of the juvenile, and to document such steps in the juvenile's case plan. Any order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing. If at any time custody is restored to a parent, or findings are made in accordance with G.S. 7B-906(b), the court shall be relieved of the duty to conduct periodic judicial reviews of the placement.

If the court continues the juvenile's placement in the custody or placement responsibility of a county department of social services, the provisions of G.S. 7B-507 shall apply to any order entered under this section."

SECTION 21. G.S. 7B-910(c) reads as rewritten:

"(c) An initial review hearing shall be held not more than ~~18~~90 days after the juvenile's placement and shall be calendared by the clerk for hearing within such period upon timely request by the director of social services. ~~Additional~~An additional ~~review hearings~~ hearing shall be held 90 days thereafter and any review hearings at such times as the court shall deem appropriate and shall direct, either upon its own motion or upon written request of the parents, guardian, foster parents, or director of social services. A juvenile placed under a voluntary agreement between the juvenile's parent or guardian and the county department of social services shall not remain in placement more than ~~12~~six months without the filing of a petition alleging abuse, neglect, or dependency."

SECTION 22. G.S. 7B-1109(e) reads as rewritten:

"(e) The court shall take evidence, find the facts, and shall adjudicate the existence or nonexistence of any of the circumstances

set forth in G.S. 7B-1111 which authorize the termination of parental rights of the respondent. The adjudicatory order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing."

SECTION 23. G.S. 7B-1110(a) reads as rewritten:

"(a) Should the court determine that any one or more of the conditions authorizing a termination of the parental rights of a parent exist, the court shall issue an order terminating the parental rights of such parent with respect to the juvenile unless the court shall further determine that the best interests of the juvenile require that the parental rights of the parent not be terminated. Any order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing."

SECTION 24. G.S. 7B-506(h) reads as rewritten:

"(h) At each hearing to determine the need for continued custody, the court shall:

- (1) Inquire as to the identity and location of any missing ~~parent~~parent and as to whether paternity is at issue. The court shall include findings as to the efforts undertaken to locate the missing parent and to serve that ~~parent~~parent, as well as efforts undertaken to establish paternity when paternity is an issue. The order may provide for specific efforts aimed at determining the identity and location of any missing ~~parent~~parent, as well as specific efforts aimed at establishing paternity.
- (2) Inquire as to whether a relative of the juvenile is willing and able to provide proper care and supervision of the juvenile in a safe home. If the court finds that the relative is willing and able to provide proper care and supervision in a safe home, then the court shall order temporary placement of the juvenile with the relative unless the court finds that placement with the relative would be contrary to the best interests of the juvenile. In placing a juvenile in nonsecure custody under this section, the court shall consider the Indian Child Welfare Act, Pub. L. No. 95-608, 25 U.S.C. §§ 1901, et seq., as amended, and the Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056, as amended, as they may apply. Placement of a juvenile with a relative outside of this State must be in accordance with the Interstate Compact on the Placement of Children set forth in Article 38 of this Chapter; and

- (3) Inquire as to whether there are other juveniles remaining in the home from which the juvenile was removed and, if there are, inquire as to the specific findings of the investigation conducted under G.S. 7B-302 and any actions taken or services provided by the director for the protection of the other juveniles."

SECTION 25. G.S. 7B-1001 reads as rewritten:

"§ 7B-1001. *Right to appeal.*

Upon motion of a proper party as defined in G.S. 7B-1002, review of any final order of the court in a juvenile matter under this Article shall be before the Court of Appeals. Notice of appeal shall be given ~~in open court at the time of the hearing or~~ in writing within 10 days after entry of the order. However, if no disposition is made within 60 days after entry of the order, written notice of appeal may be given within 70 days after such entry. A final order shall include:

- (1) Any order finding absence of jurisdiction;
- (2) Any order which in effect determines the action and prevents a judgment from which appeal might be taken;
- (3) Any order of disposition after an adjudication that a juvenile is abused, neglected, or dependent; or
- (4) Any order modifying custodial rights."

SECTION 26. G.S. 7B-1113 reads as rewritten:

"§ 7B-1113. *Appeals; modification of order after affirmation.*

Any ~~juvenile, juvenile, juvenile~~ juvenile acting through the juvenile's guardian ad litem if one is appointed, parent, guardian, custodian, or agency who is a party to a proceeding under this Article may appeal from an adjudication or any order of disposition to the Court of Appeals, provided that notice of appeal is given ~~in open court at the time of the hearing or~~ in writing within 10 days after entry of the order. Entry of an order shall be treated in the same manner as entry of a judgment under G.S. 1A-1, Rule 58 of the North Carolina Rules of Civil Procedure. Pending disposition of an appeal, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the best interests of the State. Upon the affirmation of the order of adjudication or disposition of the court in a juvenile case by the Court of Appeals, or by the Supreme Court in the event of an appeal, the court shall have authority to modify or alter its original order of adjudication or disposition as the court finds to be in the best interests of the juvenile to reflect any adjustment made by the juvenile or change in circumstances during the period of time the case on appeal was pending, provided that if the modifying order be entered ex parte, the court shall give notice to interested parties to show cause, if any there be, within 10 days thereafter, as to why the modifying order should be vacated or altered."

SECTION 27. G.S. 7B-1003 reads as rewritten:

"§ 7B-1003. *Disposition pending appeal.*

Pending disposition of an appeal, the return of the juvenile to the custody of the parent or guardian of the juvenile, with or without conditions, ~~should~~may ~~issue in every case~~ unless the court orders otherwise. When the court has found that a juvenile has suffered physical abuse and that the individual responsible for the abuse has a history of violent behavior, the court shall consider the opinion of the mental health professional who performed the evaluation under G.S. 7B-503(b) before returning the juvenile to the custody of that individual. For compelling reasons which must be stated in writing, the court may enter a temporary order affecting the custody or placement of the juvenile as the court finds to be in the best interests of the juvenile or the State. The provisions of subsections (b), (c), and (d) of G.S. 7B-905 shall apply to any order entered under this section which provides for the placement or continued placement of a juvenile in foster care."

SECTION 28. G.S. 7B-1106(a) reads as rewritten:

"(a) Except as provided in G.S. 7B-1105, upon the filing of the petition, the court shall cause a summons to be issued. The summons shall be directed to the following persons or agency, not otherwise a party petitioner, who shall be named as respondents:

- (1) The parents of the juvenile;
- (2) Any person who has been judicially appointed as guardian of the person of the juvenile;
- (3) The custodian of the juvenile appointed by a court of competent jurisdiction;
- (4) Any county department of social services or licensed child-placing agency to whom a juvenile has been released by one parent pursuant to Part 7 of Article 3 of Chapter 48 of the General Statutes or any county department of social services to whom placement responsibility for the child has been given by a court of competent jurisdiction; and
- (5) ~~The juvenile, if the juvenile is 12 years of age or older at the time the petition is filed,~~ juvenile.

Provided, no summons need be directed to or served upon any parent who, under Chapter 48 of the General Statutes, has irrevocably relinquished the juvenile to a county department of social services or licensed child-placing agency nor to any parent who has consented to the adoption of the juvenile by the petitioner. The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition. Except that the summons and other pleadings or papers directed to the juvenile shall be served upon the juvenile's guardian ad litem if one has been appointed, service

~~Service~~ of the summons shall be completed as provided under the procedures established by ~~G.S. 1A-1, Rule 4(j)~~; but G.S. 1A-1, Rule 4(j). But the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor."

SECTION 29. This act becomes effective January 1, 2002, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:52 p.m. on the 15th day of June, 2001.

H.B. 387 SESSION LAW 2001-209

AN ACT TO CLARIFY THE LICENSURE AND DEFINITION OF GROUP HOMES FOR DEVELOPMENTALLY DISABLED ADULTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 131D-2(a)(2) is repealed.

SECTION 1.(b) G.S. 131D-2(a)(6) is repealed.

SECTION 1.(c) G.S. 131D-20(6) is repealed.

SECTION 2. The licensure of a group home for developmentally disabled adults pursuant to Article 1 of Chapter 131D of the General Statutes shall be transferred to licensure as a supervised living facility for developmentally disabled adults under G.S. 122C-3(14)e. A supervised living facility for developmentally disabled adults licensed under this section shall:

- (1) Except as otherwise provided in this section, comply with licensure requirements of Article 2 of Chapter 122C of the General Statutes;
- (2) Within 12 months of the effective date of this act, comply with building code requirements for smoke detectors;
- (3) Comply either with categories of existing rules applicable to group homes for developmentally disabled adults adopted under Article 1 of Chapter 131D of the General Statutes, or with categories of existing rules applicable under G.S. 122C-3(14)e., at the option of the supervised living facility; and
- (4) Be subject to adverse action on a license under G.S. 122C-24 for failure to comply with applicable statutes or rules.

A group home for developmentally disabled adults licensed under Article 1 of Chapter 131D of the General Statutes and transferred to licensure under G.S. 122C-3(14)e. shall be deemed to

have met the building code requirements for licensure as a supervised living facility.

The Department of Health and Human Services' Division of Facility Services and Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall designate the categories of existing rules applicable to the supervised living facility option under this section.

SECTION 3. G.S. 108A-41(a) reads as rewritten:

"(a) Assistance shall be granted under this Part to all persons in adult care homes for care found to be essential in accordance with the rules and regulations adopted by the Social Services Commission and prescribed by G.S. 108A-42(b). As used in this Part, the term 'adult care home' includes a supervised living facility for developmentally disabled adults licensed under Article 2 of Chapter 122C of the General Statutes."

SECTION 4. G.S. 58-55-35(a)(6) reads as rewritten:

"(6) ~~'Group home for developmentally disabled adults' shall be defined in accordance with the terms of G.S. 131D-2(a)(6). 'Supervised living facility for developmentally disabled adults' means a residential facility, as defined in G.S. 122C-3(14), which has two to nine developmentally disabled adult residents.~~"

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:52 p.m. on the 15th day of June, 2001.

H.B. 453

SESSION LAW 2001-210

AN ACT TO PROVIDE FOR THE REGULATION OF EMERGENCY MEDICAL SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 131E of the General Statutes reads as rewritten:

"Article 7.

"Regulation of ~~Ambulance~~ Emergency Medical Services.

"§ 131E-155. *Definitions.*

As used in this Article, unless otherwise specified:

- (1) "Ambulance" means any privately or publicly owned motor vehicle, aircraft, or vessel that is specially designed, constructed, or modified and equipped and is intended to be used for and is maintained or operated for the transportation of patients on the streets or highways,

waterways or airways of this State ~~of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.~~

- (2) Repealed by Session Laws 1997-443, s. 11A.129C.
- (3) "Ambulance EMS provider" means an individual, a firm, corporation or association ~~who~~ which engages in or professes to ~~engage in the business or service of transporting patients in an ambulance.~~ provide emergency medical services.
- (4) "Commission" means the North Carolina Medical Care Commission.
- (5) "Emergency medical dispatcher" means an emergency telecommunicator who has completed an educational program approved by the Department and has been credentialed as an emergency medical dispatcher by the Department.
- (6) "Emergency medical services" means services rendered by emergency medical services personnel in responding to improve the health and wellness of the community and to address the individual's need for emergency medical care within the scope of practice as defined by the North Carolina Medical Board in accordance with G.S. 143-514 in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.
- (7) "Emergency medical services personnel" means all the personnel defined in subdivisions (5), (8), (9), (10), (11), (12), (13), (14), and (15) of this section.
- (8) "Emergency medical services-nurse practitioner" means a registered nurse who is licensed to practice nursing in North Carolina and approved to perform medical acts by the North Carolina Medical Board and the North Carolina Board of Nursing and credentialed by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital and under the direction of the medical director.
- (9) "Emergency medical services-physician assistant" means a physician assistant who has been licensed by the North Carolina Medical Board and approved by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital and under the direction of the medical director.

- (5)(10) "Emergency medical technician" means an individual who has completed an educational program in emergency medical care approved by the Department and has been ~~certified~~ credentialed as an emergency medical technician by the Department.
- (11) "Emergency medical technician-defibrillation" means an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-defibrillation by the Department.
- (12) "Emergency medical technician-intermediate" means an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-intermediate by the Department.
- (13) "Emergency medical technician-paramedic" means an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-paramedic by the Department.
- (5a)(14) "Medical responder" means an individual who has completed an educational program in emergency medical care and first aid approved by the Department and has been ~~certified~~ credentialed as a medical responder by the Department.
- (15) "Mobile intensive care nurse" means a registered nurse who is licensed to practice nursing in North Carolina and who has completed an educational program in emergency medical care approved by the Department and has been credentialed as a mobile intensive care nurse by the Department.
- (6)(16) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless such that the need for some medical assistance might be ~~anticipated while being transported to or from a medical facility.~~ anticipated.
- (7)(17) "Practical examination" means a test where an applicant for ~~certification or recertification~~ credentialing as an emergency medical ~~technician or technician,~~ medical responder responder, emergency medical technician-defibrillation, emergency medical technician-intermediate, or emergency medical technician-paramedic demonstrates the ability to perform specified emergency medical care skills.

"§ 131E-155.1. ~~Ambulance~~ EMS Provider License required.

(a) No ~~person~~, firm, corporation, or association shall furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to ~~be engaged in the business or service of treating provide emergency medical services~~ or ~~transporting transport~~ patients upon the streets or highways, waterways, or airways in North Carolina unless a valid ~~Ambulance~~ EMS Provider License has been issued by the Department.

(b) Before an ~~Ambulance~~ EMS Provider License may be issued, the ~~person~~, firm, corporation, or association seeking the license shall apply to the Department for this license. Application shall be made upon forms and according to procedures established by the Department. Prior to issuing an original or renewal ~~Ambulance~~ EMS Provider License, the Department shall determine that the applicant meets all requirements for this license as set forth in this Article and in the rules adopted under this Article. ~~Ambulance~~ EMS Provider Licenses shall be valid for a period specified by the Department, provided that the period shall be a minimum of four years unless action is taken under subsection (d) of this section.

(c) The Commission shall adopt rules setting forth the qualifications required for obtaining or renewing an ~~Ambulance~~ EMS Provider License.

(d) The Department may deny, suspend, amend, or revoke an ~~Ambulance~~ EMS Provider License in any case ~~in which~~ where the Department finds that there has been a substantial failure to comply with the provisions of this Article or the rules adopted under this Article. The Department's decision to deny, suspend, amend, or revoke an ~~Ambulance~~ EMS Provider License may be appealed by the applicant or licensee pursuant to the provisions of Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

(e) Operating as an ~~ambulance~~ EMS provider without a valid ~~Ambulance~~ EMS Provider License is a Class 3 misdemeanor. Each day's operation as an ~~ambulance~~ EMS provider without a license is a separate offense.

"§ 131E-156. Permit required to operate ambulance.

(a) No person, firm, corporation, or association, either as owner, agent, provider, or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise engage in or profess to be engaged in the business or service of transporting patients upon the streets or highways, waterways or airways in North Carolina unless a valid permit from the Department has been issued for each ambulance used in the business or service.

(b) Before a permit may be issued for a vehicle to be operated as an ambulance, the ~~ambulance~~ EMS provider ~~must shall~~ apply to the Department for an ambulance permit. Application shall be made upon

forms and according to procedures established by the Department. Prior to issuing an original or renewal permit for an ambulance, the Department shall determine that the vehicle for which the permit is issued meets all requirements as to equipment, design, supplies and sanitation as set forth in this Article and in the rules of the Commission and that the ~~ambulance~~ EMS provider has the ~~certified~~ credentialed personnel necessary to operate the ambulance in accordance with this Article. Permits issued for ambulances shall be valid for a period specified by the Department, not to exceed ~~one year.~~ four years.

(c) Duly authorized representatives of the Department may issue temporary permits for vehicles not meeting required standards for a period not to exceed 60 days, when it determines the public interest will be served.

(d) When a permit has been issued for an ambulance as specified by this Article, the vehicle and records relating to the maintenance and operation of the vehicle shall be open to inspection by duly authorized representatives of the Department at all reasonable times.

"§ 131E-157. Standards for equipment; inspection of equipment and supplies required for ambulances.

(a) The Commission shall adopt rules specifying equipment, sanitation, supply and design requirements for ambulances.

(b) The Department shall inspect each ambulance for compliance with the requirements set forth by the Commission and this Article when it deems an inspection is necessary. The Department shall maintain a record of the inspection.

(c) Upon a determination, based upon an inspection, that an ambulance fails to meet the requirements of this Article or rules adopted under this Article, the Department may ~~suspend~~ deny, suspend, or revoke the permit for the ambulance concerned until these requirements are met.

"§ 131E-158. ~~Certified~~ Credentialed personnel required.

(a) Every ambulance when transporting a patient shall be occupied at a minimum by all of the following:

- (1) At least one emergency medical technician who shall be responsible for the medical aspects of the mission prior to arrival at the medical facility, assuming no other individual ~~of with higher certification or license credentials is available; and available.~~
- (2) One medical responder who is responsible for the operation of the vehicle and rendering assistance to the emergency medical technician.

An ambulance owned and operated by a licensed health care facility that is used solely to transport sick or infirm patients with known nonemergency medical conditions between facilities or

between a residence and a facility for scheduled medical appointments is exempt from the requirements of this subsection.

(b) The Commission shall adopt rules setting forth exemptions to the requirements stated in (a) of this section applicable to situations where exemptions are considered by the Commission to be in the public interest.

"§ 131E-159. ~~Requirements for certification.~~ Credentialing requirements.

(a) An individual seeking ~~certification~~ credentials as an emergency medical ~~technician or technician, emergency medical technician-defibrillation, emergency medical technician-intermediate, emergency medical technician-paramedic, mobile intensive care nurse, emergency medical services-physician assistant, or emergency medical services-nurse practitioner~~ medical responder shall apply to the Department using forms prescribed by that agency. The Department's representatives shall examine the applicant ~~for emergency medical technician by written and practical examination and the applicant for medical responder by either written and practical written, practical, or written and practical examination.~~ for appropriate credentials. The Department shall issue a ~~certificate~~ appropriate credentials to the applicant who meets all the requirements set forth in this Article and the rules adopted for this Article and who successfully completes the examinations required for ~~certification~~ credentialing. Emergency medical ~~technician and technician, medical responder responder, emergency medical dispatcher, emergency medical technician-defibrillation, emergency medical technician-intermediate, emergency medical technician-paramedic, mobile intensive care nurse, emergency medical services-physician assistant, and emergency medical services-nurse practitioner~~ certificates credentials shall be valid for a period not to exceed four years and may be renewed ~~after reexamination~~ if the holder meets the requirements set forth in the rules of the Commission. The Department is authorized to revoke or suspend a ~~certificate~~ these credentials at any time it determines that the holder no longer meets the qualifications ~~prescribed~~ prescribed ~~for emergency medical technicians or for medical responders.~~

(b) The Commission shall adopt rules setting forth the qualifications required for ~~certification~~ credentialing of medical ~~responders and responders, emergency medical technicians, technicians, emergency medical technician-defibrillation, emergency medical technician-intermediate, emergency medical technician-paramedic, emergency medical dispatcher, mobile intensive care nurse, emergency medical services-physician assistant, and emergency medical services-nurse practitioner.~~

~~(b)(c)~~ (c) An individual currently ~~certified~~ credentialed as an emergency medical ~~technician~~ technician, emergency medical

technician-defibrillation, emergency medical technician-intermediate, and emergency medical technician-paramedic by the National Registry of Emergency Medical Technicians or by another state where the ~~education/certification~~ education/credentialing requirements have been approved for legal recognition by the Department of Health and Human Services, in accordance with rules promulgated by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with a permitted ~~ambulance~~ EMS provider offering service within North Carolina, may be eligible for ~~certification~~ credentialing as an emergency medical technician without examination. This ~~certification~~ credentialing shall be valid for a period not to exceed the length of the emergency medical technician-defibrillation, emergency medical technician-intermediate, and emergency medical technician-paramedic applicant's original ~~certification~~ credentialing or four years, whichever is less.

(d) An individual currently credentialed as an emergency medical dispatcher by a national credentialing agency, or by another state where the education/credentialing requirements have been approved for legal recognition by the Department of Health and Human Services, in accordance with rules issued by the Medical Care Commission, and who is either currently residing in North Carolina or affiliated with an emergency medical dispatcher program approved by the Department of Health and Human Services offering service within North Carolina, may be eligible for credentialing as an emergency medical dispatcher without examination. This credentialing shall be valid for a period not to exceed the length of the applicant's original credentialing or four years, whichever is less.

~~(e)~~(e) Duly authorized representatives of the Department may issue temporary ~~certificates~~ credentials with or without examination upon finding that this action will be in the public interest. Temporary ~~certificates~~ credentials shall be valid for a period not exceeding 90 days.

(f) The Department may deny, suspend, amend, or revoke the credentials of a medical responder, emergency medical technician, emergency medical technician-defibrillation, emergency medical technician-intermediate, emergency medical technician-paramedic, emergency medical dispatcher, emergency medical services-physician assistant, emergency medical services-nurse practitioner, or mobile intensive care nurse in any case in which the Department finds that there has been a substantial failure to comply with the provisions of this Article or the rules issued under this Article. Prior to implementation of any of the above disciplinary actions, the Department shall consider the recommendations of the EMS Disciplinary Committee pursuant to G.S. 143-519. The Department's

decision to deny, suspend, amend, or revoke credentials may be appealed by the applicant or credentialed personnel pursuant to the provisions of Article 3 of Chapter 150B of the General Statutes, the Administrative Procedure Act.

"§ 131E-160. *Exemptions.*

~~The~~ All of the following vehicles are exempt from the provisions of this Article:

- (1) Privately owned vehicles not ~~regularly~~ used in the business of transporting ~~patients;~~ patients.
- (2) A vehicle rendering service as an ambulance in case of a major catastrophe or emergency, when the permitted ambulances based in the locality of the catastrophe or emergency are insufficient to render the services ~~required;~~ required.
- (3) Any ambulance based outside this State, except that an ambulance which receives a patient within this State for transportation to a location within this State shall comply with the provisions of this ~~Article;~~ Article.
- (4) Ambulances owned and operated by an agency of the United States ~~government;~~ and government.
- (5) Vehicles owned and operated by rescue squads chartered by the State of North Carolina as nonprofit corporations or associations which are not regularly used to transport sick, injured, wounded or otherwise incapacitated or helpless persons except as a part of rescue operations.

"§ 131E-161. *Violation declared misdemeanor.*

It shall be the responsibility of the ~~ambulance~~ EMS provider to ensure that the ambulance operation complies with the provisions of this Article and all rules adopted for this Article. Upon the violation of any part of this Article or any rule adopted under authority of this Article, the Department shall have the power to ~~revoke~~ deny, revoke, or suspend the permits of all vehicles owned or operated by the violator. The operation of an ambulance without a valid permit or after a permit has been ~~suspended~~ denied, suspended, or revoked or without ~~an emergency medical technician and medical responder aboard~~ appropriate credentialed staffing as required by G.S. 131E-158, shall constitute a Class 1 misdemeanor."

SECTION 2. Article 7A of Chapter 131E reads as rewritten:

"Article 7A.

"Statewide Trauma System Act of 1993.

"§ 131E-162. *Statewide trauma system.*

The Department shall establish and maintain a program for the development of a statewide trauma system. The Department shall

consolidate all State functions relating to trauma systems, both regulatory and developmental, under the auspices of this program.

The Commission shall adopt rules to carry out the purpose of this Article. These rules shall be adopted with the advice of the State Emergency Medical Services Advisory Council and shall include the operation of a statewide trauma registry, statewide educational requirements fundamental to the implementation of the trauma system, system, and The rules adopted by the Commission shall establish guidelines for monitoring and evaluating the system including standards and criteria for the denial, suspension, voluntary withdrawal, or revocation of credentials for trauma center designation. The rules adopted by the Commission shall avoid duplication of reporting and minimize the cost to hospitals or other persons reporting under this act. The Office of Emergency Medical Services shall be the agency responsible for monitoring system development, ensuring compliance with rules, and overseeing system effectiveness.

With respect to collection of data and educational requirements regarding trauma, rules adopted by the Medical Care Commission shall limit the authority of the Department to hospitals and prehospital Emergency Medical Services providers. Nothing in this Article shall be interpreted so as to grant the Department authority to require private physicians, schools, or universities, except those voluntarily participating in the trauma system, to provide information or data or to conduct educational programs regarding trauma.

"§§ 131E-163, 131E-164: Reserved for future codification purposes."

SECTION 3. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:52 p.m. on the 15th day of June, 2001.

H.B. 938

SESSION LAW 2001-211

AN ACT TO PERMIT COMMUNITY COLLEGES TO GRANT SECURITY INTERESTS TO FEDERAL AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-58.1 reads as rewritten:

"§ 115D-58.1. *Federal contracts and grants.*

The board of trustees of any institution may apply for and accept grants from the federal government or any agency thereof, in order to carry out the institution's mission. In exercising this authority, the board of trustees may enter into and carry out contracts with the federal government or any agency thereof, may agree to and comply

with any lawful and reasonable condition attached to such a grant, grant including, in the case of a grant from the Economic Development Administration, the granting of a security interest to the Economic Development Administration in any real property or equipment purchased with the grant, limiting the sale or use of the real property or equipment as prescribed by regulations of the Economic Development Administration, and may make expenditures from any funds so granted. The State Board of Community Colleges shall adopt rules and regulations governing the application for and the acceptance of grants under this section."

SECTION 2. S.L. 1988-907 is repealed.

SECTION 3. S.L. 1991-616 is repealed.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of June, 2001.

Became law upon approval of the Governor at 1:52 p.m. on the 15th day of June, 2001.

S.B. 91 SESSION LAW 2001-212

AN ACT TO AUTHORIZE THE ISSUANCE OF ADDITIONAL DEALER PLATES TO BUSINESSES ENGAGED IN THE ALTERATION AND SALE OF SPECIALTY VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79(b) reads as rewritten:

"(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending April 30 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

<u>Vehicles Sold In Relevant</u> <u>Number of Plates</u> <u>12-Month Period</u>	<u>Maximum</u>
Fewer than 12	1
At least 12 but less than 25	4
At least 25 but less than 37	5
At least 37 but less than 49	6
49 or more	At least 6, but no more than 4 times the average number

of qualifying
sales
representatives
employed by
the dealer
during the
relevant
12-month
period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending April 30 may obtain the number of dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending April 30 but has sold at least that number since May 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending April 30.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section."

SECTION 2. G.S. 20-4.01 is amended by adding a new subsection to read:

"(44a) Specialty Vehicles. – Vehicles of a type required to be registered under this Chapter that are modified from their original construction for an educational, emergency services, or public safety use."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 1:53 p.m. on the 15th day of June, 2001.

S.B. 202**SESSION LAW 2001-213**

AN ACT TO AMEND THE PROCESS BY WHICH FISHERY MANAGEMENT PLANS ARE REVISED, TO REPEAL THE SUNSETS ON THE LICENSING PROVISIONS OF THE FISHERIES REFORM ACT OF 1997 AND THE MARINE FISHERIES AMENDMENTS OF 1998, TO EXTEND THE MORATORIUM ON ISSUING NEW SHELLFISH LEASES IN CORE SOUND, AND TO STAGGER THE TERMS OF THE MEMBERS OF THE MARINE FISHERIES COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-182.1(d) reads as rewritten:

"(d) Each Fishery Management Plan shall be ~~revised~~ reviewed at least once every ~~three~~ five years. The Marine Fisheries Commission may revise the Priority List and guidance criteria whenever it determines that a revision of the Priority List or guidance criteria will facilitate or improve the development of Fishery Management Plans or is necessary to restore, conserve, or protect the marine and estuarine resources of the State. The Marine Fisheries Commission may not revise the Schedule for the development of a Fishery Management Plan, once adopted, without the approval of the Secretary of Environment and Natural Resources."

SECTION 2. Section 6.15 of S.L. 1997-400 reads as rewritten:

"Section 6.15. Sections 1.1, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 5.5, 5.6, 5.8, 6.2, 6.7, 6.10, 6.11, 6.12, 6.13, and 6.15 of this act are effective when this act becomes law. Sections 2.1, 4.4, 5.3, 6.3, 6.4, 6.5, 6.6, and 6.8 of this act become effective 1 September 1997. Sections 4.1, 4.2, and 4.3 of this act become effective 1 September 1997 and apply to violations and offenses on or after 1 September 1997. Section 1.2 of this act is effective retroactively as of 1 March 1997. Sections 6.1 and 6.14 of this act become effective 15 August 1997. Sections 3.1, 3.2, 3.3, 3.4, 3.5, and 6.9 of this act become effective 1 July 1998. Sections 2.2, 5.1, 5.2, 5.4, and 5.7 of this act become effective 1 July 1999. Section 4.5 of this act becomes effective 1 July 1999 and applies to violations and offenses on or after 1 July 1999. ~~Sections 5.1 and 5.2 of this act expire 1 September 2003.~~"

SECTION 3. Section 5.6 of S.L. 1998-225 reads as rewritten:

"Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective

December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6, 4.7, and 4.8 are effective retroactively to September 1, 1997. ~~Section 4.15 expires September 1, 2003.~~"

SECTION 4. Section 3 of Chapter 547 of the 1995 Session Laws, Regular Session 1996, as amended by subsection (b) of Section 1 of Chapter 633 of the 1995 Session Laws, Regular Session 1996; Section 27.33 of Chapter 18 of the 1996 Session Laws, Second Extra Session; Section 12 of S.L. 1997-256; Section 8 of S.L. 1997-347; Section 6.14 of S.L. 1997-400; Section 15 of S.L. 1998-23; Section 1 of S.L. 1998-56; and Section 1 of S.L. 1999-209, reads as rewritten:

"Sec. 3. Notwithstanding G.S. 113-202, a moratorium on new shellfish cultivation leases shall be imposed in the remaining area of Core Sound not described in Section 1 of this act. During the moratorium, a comprehensive study of the shellfish lease program shall be conducted. The moratorium established under this section covers that part of Core Sound bounded by a line beginning at a point on Cedar Island at 35°00'39"N - 76°17'48"W, thence 109°(M) to a point in Core Sound 35°00'00"N - 76°12'42"W, thence 229°(M) to Marker No. 37 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W, thence 207°(M) to the Cape Lookout Lighthouse at 34°37'24"N - 76°31'30"W, thence 12°(M) to a point at Marshallberg at 34°43'07"N - 76°31'12"W, thence following the shoreline in a northerly direction to the point of beginning except that the highway bridges at Salters Creek, Thorofare Bay, and the Rumley Bay ditch shall be considered shoreline. The moratorium shall expire ~~October 1, 2001~~, October 1, 2002."

SECTION 5. G.S. 143B-289.54(d) reads as rewritten:

"(d) Terms. – The term of office of members of the Commission is three years. A member may be reappointed to any number of successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under subdivisions (1), ~~(2), and (3)~~ (4), and (7) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The term of members appointed under subdivisions ~~(4), (5), and (6)~~ (2), (5), and (8) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. The term of members appointed under subdivisions ~~(7), (8), (3), (6),~~ and (9) of subsection (a) of this section

shall expire on 30 June of years that follow by one year those years that are evenly divisible by three."

SECTION 6. In order to alter the schedule of staggered terms of three years for the Marine Fisheries Commission and to provide for an orderly transition in membership of the Commission as specified in G.S. 143B-289.54, as amended by Section 1 of this act, notwithstanding G.S. 143B-289.54(d), the following provisions apply:

- (1) Willy Phillips shall serve in the position established by G.S. 143B-289.54(a)(1) through June 30, 2001.
- (2) Robert Southerland shall serve in the position established by G.S. 143B-289.54(a)(2) through June 30, 2001. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2003.
- (3) Jimmy Johnson shall serve in the position established by G.S. 143B-289.54(a)(3) for a term of four years through June 30, 2002.
- (4) Norman F. Bradford, Jr., shall serve in the position established by G.S. 143B-289.54(a)(4) for a term of four years through June 30, 2004.
- (5) William T. Russ, Jr., shall serve in the position established by G.S. 143B-289.54(a)(5) through June 30, 2003.
- (6) Benjamin Currin shall serve in the position established by G.S. 143B-289.54(a)(6) through June 30, 2003. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2005.
- (7) Barbara Garrity-Blake shall serve in the position established by G.S. 143B-289.54(a)(7) through June 30, 2002. The term of the individual next appointed to fill this position shall be for two years and shall expire June 30, 2004.
- (8) Bryan Gillikin shall serve in the position established by G.S. 143B-289.54(a)(8) for a term of four years through June 30, 2003.
- (9) B.J. Copeland shall serve in the position established by G.S. 143B-289.54(a)(9) through June 30, 2002.

SECTION 7. Sections 1 and 7 of this act are effective when it becomes law. Sections 2 through 4 of this act become effective July 1, 2001. Sections 5 and 6 of this act become effective June 30, 2001.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 1:53 p.m. on the 15th day of June, 2001.

S.B. 300 SESSION LAW 2001-214

AN ACT TO AMEND THE LAWS REGARDING EMERGENCY MANAGEMENT AS RECOMMENDED BY THE LEGISLATIVE DISASTER RESPONSE AND RECOVERY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-4 reads as rewritten:

"§ 166A-4. *Definitions.*

The following definitions apply in this Article:

- (1) ~~"Emergency Management." – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which include the never ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance and recovery.~~
- (2) ~~"Emergency Management Agency." – A State or local governmental agency charged with coordination of all emergency management activities for its jurisdiction.~~
- ~~(3)~~(1) "Disaster." – An occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made accidental, military or paramilitary cause.
- (2) "Disaster Area." – The geographical area covered by a proclamation made by the Governor pursuant to G.S. 166A-6(a1).
- (3) "Eligible Entity." – Any political subdivision. The term also includes an owner or operator of a private nonprofit utility that meets the eligibility criteria set out in this Article.
- (4) "Emergency Management." – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery.
- (5) "Emergency Management Agency." – A State or local governmental agency charged with coordination

- of all emergency management activities for its jurisdiction.
- (4)(6) "Political Subdivision." – Counties and incorporated cities, towns and villages.
- (7) "Preliminary Damage Assessment." – The (initial estimate prepared) process used by State, local, or federal emergency management workers to determine the severity and magnitude of damage caused by a disaster event.
- (8) "Private Nonprofit Utilities." – A utility that would be eligible for federal public assistance disaster funds pursuant to 44 C.F.R. Part 206.
- (9) "Stafford Act." – The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, 88 Stat. 143, codified generally at 42 U.S.C. § 5121, et seq., as amended.
- (10) "State Acquisition and Relocation Fund." – State funding for supplemental grants to homeowners participating in a Hazard Mitigation Grant Program Acquisition and Relocation Program. These grants are used to acquire safe, decent, and sanitary housing by paying the difference between the cost of the home acquired under the Hazard Mitigation Grant Program Acquisition and Relocation Program and the cost of a comparable home located outside the 100-year floodplain."

SECTION 2. G.S. 166A-5 reads as rewritten:

"§ 166A-5. *State emergency management.*

The State emergency management program includes all aspects of preparations for, response to and recovery from war or peacetime disasters.

- (1) Governor. – The Governor shall have general direction and control of the State emergency management program and shall be responsible for carrying out the provisions of this Article.
- a. The Governor is authorized and empowered:
1. To make, amend or rescind the necessary orders, rules and regulations within the limits of the authority conferred upon him herein, with due consideration of the policies of the federal government.
 2. To delegate any authority vested in him under this Article and to provide for the subdelegation of any such authority.

3. To cooperate and coordinate with the President and the heads of the departments and agencies of the federal government, and with other appropriate federal officers and agencies, and with the officers and agencies of other states and local units of government in matters pertaining to the emergency management of the State and nation.
4. To enter into agreements with the American National Red Cross, Salvation Army, Mennonite Disaster Service and other disaster relief organizations.
5. To make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.
6. To utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the State and of the political subdivisions thereof. The officers and personnel of all such departments, offices and agencies are required to cooperate with and extend such services and facilities to the Governor upon request. This authority shall extend to a state of disaster, imminent threat of disaster or emergency management planning and training purposes.
7. To agree, when required to obtain federal assistance in debris removal, that the State will indemnify the federal government against any claim arising from the ~~removal~~ removal of the debris.
8. To sell, lend, lease, give, transfer or deliver materials or perform services for disaster purposes on such terms and conditions as may be prescribed by any existing law, and to account to the State Treasurer for any funds received for such property.
9. To use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate.

- b. In the threat of or event of a disaster, or when requested by the governing body of any political subdivision in the State, the Governor may assume operational control over all or any part of the emergency management functions within this State.
- (2) Secretary of Crime Control and Public Safety. – The Secretary of Crime Control and Public Safety shall be responsible to the Governor for State emergency management ~~activities and shall have:~~ activities. The Secretary shall have the following powers and duties as delegated by the Governor:
- a. ~~The power, as delegated by the Governor, to~~ To activate the State and local plans applicable to the areas in question and ~~he shall be empowered~~ to authorize and direct the deployment and use of any personnel and forces to which the plan or plans apply, and the use or distribution of any supplies, equipment, materials and facilities available pursuant to this Article or any other provision of law.
 - b. To adopt the rules to implement this Article.
 - c. To develop a system of damage assessment through which the Secretary will recommend the appropriate level of disaster declaration to the Governor. The system shall, at a minimum, consider whether the damage involved and its effects are of such a severity and magnitude as to be beyond the response capabilities of the local government or political subdivision.
 - ~~b.d.~~ Additional authority, duties, and responsibilities as may be prescribed by the Governor, and he may ~~Governor. The Secretary may~~ subdelegate his authority to the appropriate member of his department.
- (3) Functions of State Emergency Management. – The functions of the State emergency management program include:
- a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.
 - b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into

- department regulations and into executive orders of the Governor.
- c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.
 - d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.
 - e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.
 - f. Coordination of the use of any private facilities, services, and property.
 - g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.
 - h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.
 - i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.
 - j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network."

SECTION 3. G.S. 166A-6 reads as rewritten:

"§ 166A-6. *State of disaster.*

(a) The existence of a state of disaster may be proclaimed by the Governor, or by a resolution of the General Assembly if either of these finds that a disaster threatens or exists.

(a1) If a state of disaster is proclaimed, the Secretary shall provide the Governor and the General Assembly with a preliminary damage

assessment as soon as the assessment is available. Upon receipt of the preliminary damage assessment, the Governor shall issue a proclamation defining the area subject to the state of disaster and proclaiming the disaster as a Type I, Type II, or Type III disaster. In determining whether the disaster shall be proclaimed as a Type I, Type II, or Type III disaster, the Governor shall follow the standards set forth below.

- (1) A Type I disaster may be declared if all of the following criteria are met:
 - a. A local state of emergency has been declared pursuant to G.S. 166A-8, and a written copy of the declaration has been forwarded to the Governor;
 - b. The preliminary damage assessment meets or exceeds the criteria established for the Small Business Administration Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. 166A-6A(b)(2)a.; and
 - c. A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

A Type I disaster declaration may be made by the Governor prior to, and independently of, any action taken by the Small Business Administration, the Federal Emergency Management Agency, or any other federal agency. A Type I disaster declaration shall expire 30 days after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

- (2) A Type II disaster may be declared if the President of the United States has issued a major disaster declaration pursuant to the Stafford Act. The Governor may request federal disaster assistance under the Stafford Act without making a Type II disaster declaration. A Type II disaster declaration shall expire six months after its issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of three months each, not to exceed a total of 12 months from the date of first issuance. The Joint Legislative Commission on Governmental Operations shall be

notified prior to the issuance of any renewal of a Type II disaster declaration.

(3) A Type III disaster may be declared if the President of the United States has issued a major disaster declaration under the Stafford Act and:

a. The preliminary damage assessment indicates that the extent of damage is reasonably expected to meet the threshold established for an increased federal share of disaster assistance under applicable federal law and regulations; or

b. The preliminary damage assessment prompts the Governor to call a special session of the General Assembly to establish programs to meet the unmet needs of individuals or political subdivisions affected by the disaster.

A Type III disaster declaration shall expire 12 months after its issuance unless renewed by the General Assembly.

(b) Any state of disaster declared before July 1, 2001, shall terminate by a proclamation of the Governor or resolution of the General Assembly. A proclamation or resolution declaring or terminating a state of disaster shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State and the clerks of superior court in the area to which it applies.

~~(b)~~(c) In addition to any other powers conferred upon the Governor by law, during the state of disaster, he a state of disaster, the Governor shall have the following: following powers:

- (1) To utilize all available State resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of State agencies or units thereof for the purpose of performing or facilitating emergency services;
- (2) To take such action and give such directions to State and local law-enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this Article and with the orders, rules and regulations made pursuant thereto;
- (3) To take steps to assure that measures, including the installation of public utilities, are taken when necessary to qualify for temporary housing assistance from the federal government when that assistance is required to protect the public health, welfare, and safety;

- (4) Subject to the provisions of the State Constitution to relieve any public official having administrative responsibilities under this Article of such responsibilities for willful failure to obey an order, rule or regulation adopted pursuant to this Article.

~~(e)~~(d) In addition, during a state of disaster, with the concurrence of the Council of State, the Governor has the following powers:

- (1) To direct and compel the evacuation of all or part of the population from any stricken or threatened area within the State, to prescribe routes, modes of transportation, and destinations in connection with evacuation; and to control ingress and egress of a disaster area, the movement of persons within the area, and the occupancy of premises therein;
- (2) To establish a system of economic controls over all resources, materials and services to include food, clothing, shelter, fuel, rents and wages, including the administration and enforcement of any rationing, price freezing or similar federal order or regulation;
- (3) To regulate and control the flow of vehicular and pedestrian traffic, the congregation of persons in public places or buildings, lights and noises of all kinds and the maintenance, extension and operation of public utility and transportation services and facilities;
- (4) To waive a provision of any regulation or ordinance of a State agency or a ~~local governmental unit~~ political subdivision which restricts the immediate relief of human suffering;
- ~~(5) To use contingency and emergency funds as necessary and appropriate to provide relief and assistance from the effects of a disaster, and to reallocate such other funds as may reasonably be available within the appropriations of the various departments when the severity and magnitude of such disaster so requires and the contingency and emergency funds are insufficient or inappropriate;~~
- (6) To perform and exercise such other functions, powers and duties as are necessary to promote and secure the safety and protection of the civilian population;
- (7) To appoint or remove an executive head of any State agency or institution the executive head of which is regularly selected by a State board or commission.
 - a. Such an acting executive head will serve during:
 1. The physical or mental incapacity of the regular office holder, as determined by the

Governor after such inquiry as the Governor deems appropriate;

2. The continued absence of the regular holder of the office; or
 3. A vacancy in the office pending selection of a new executive head.
- b. An acting executive head of a State agency or institution appointed in accordance with this subdivision may perform any act and exercise any power which a regularly selected holder of such office could lawfully perform and exercise.
- c. All powers granted to an acting executive head of a State agency or institution under this section shall expire immediately:
1. Upon the termination of the incapacity as determined by the Governor of the officer in whose stead he acts;
 2. Upon the return of the officer in whose stead he acts; or
 3. Upon the selection and qualification of a person to serve for the unexpired term, or the selection of an acting executive head of the agency or institution by the board or commission authorized to make such selection, and his qualification.
- (8) To procure, by purchase, condemnation, seizure or by other means to construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency management without regard to the limitation of any existing law.

~~(d)~~(e) In preparation for a state of disaster, with the concurrence of the Council of State, the Governor may use contingency and emergency funds as necessary and appropriate for National Guard training in preparation for disasters."

SECTION 4. Article 1 of Chapter 166A of the General Statutes is amended by adding a new section to read:

"§ 166A-6A. *State disaster assistance funds; programs.*

(a) If a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance as authorized by this section. Any State funds made available by the Governor for disaster assistance may be administered through State disaster assistance programs which may be established by the Governor upon the proclamation of a state of disaster. It is the intent of the General Assembly in authorizing the Governor to make State funds available for disaster assistance and in authorizing the Governor to establish

State disaster assistance programs to provide State assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

(b) Disaster Assistance Programs – Type I Disaster. – In the event that a Type I disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster area in the form of individual assistance and public assistance as provided in this subsection.

- (1) Individual assistance. – State disaster assistance in the form of grants to individuals and families may be made available when damage meets or exceeds the criteria set out in 13 C.F.R. Part 123 for the Small Business Administration Disaster Loan Program. Individual assistance grants shall include benefits comparable to those provided by the Stafford Act and may be provided for the following:
 - a. Provision of temporary housing and rental assistance.
 - b. Repair or replacement of dwellings. Grants for repair or replacement of housing may include amounts necessary to locate the individual or family in safe, decent, and sanitary housing.
 - c. Replacement of personal property (including clothing, tools, and equipment).
 - d. Repair or replacement of privately owned vehicles.
 - e. Medical or dental expenses.
 - f. Funeral or burial expenses resulting from the disaster.
 - g. Funding for the cost of the first year’s flood insurance premium to meet the requirements of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. § 4001, et seq.
- (2) Public Assistance. – State disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster area on the following terms and conditions:
 - a. Eligible entities shall meet the following qualifications:
 1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses;
 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one-half percent (0.5%) of the annual operating budget;

3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and
4. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
- b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
- c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:
 1. Debris clearance.
 2. Emergency protective measures.
 3. Roads and bridges.
 4. Crisis counseling.
 5. Assistance with public transportation needs.
- (c) If a Type II disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster area in the form of the following types of grants:
 - (1) State Acquisition and Relocation Funds.
 - (2) Supplemental repair and replacement housing grants available to the individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing not to exceed twenty-five thousand dollars (\$25,000) per family.
- (d) If a Type III disaster is proclaimed, the Governor may make State funds available for disaster assistance in the disaster area in the form of the following types of grants:
 - (1) State Acquisition and Relocation Funds.
 - (2) Supplemental repair and replacement housing grants available to the individuals or families in an amount necessary to locate the individual or family in safe, decent, and sanitary housing not to exceed twenty-five thousand dollars (\$25,000) per family.
 - (3) Any programs authorized by the General Assembly."

SECTION 5. This act becomes effective July 1, 2001, and applies to any state of disaster proclaimed on or after that date.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

Became law upon approval of the Governor at 1:58 p.m. on the 15th day of June, 2001.

H.B. 350 SESSION LAW 2001-215

AN ACT TO AUTHORIZE THE COMMISSIONER OF INSURANCE TO SHARE WITH THE FEDERAL AND STATE FINANCIAL INSTITUTION REGULATORS INFORMATION ABOUT INSURANCE COMPANIES THAT ARE AFFILIATES OF DEPOSITORY INSTITUTIONS OR OF FINANCIAL HOLDING COMPANIES; TO AMEND THE INSURANCE HOLDING COMPANY ACT AND AN INSURANCE COMPANY INVESTMENT STATUTE TO COMPLY WITH FEDERAL LAW, IN ACCORDANCE WITH THE FEDERAL GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-128. Interagency consultation.

(a) Purpose. – It is the stated intention of the Congress in P.L. 106-102, the Gramm-Leach-Bliley Act, that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the Commissioner, as the functional regulator of persons engaged in insurance activities, coordinate efforts to supervise persons that control both a depository institution and a person engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the Commissioner should share, on a confidential basis, information relevant to the supervision of persons that control both a depository institution and a person engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between persons engaged in insurance activities and affiliated depository institutions. The purpose of this section is to encourage this coordination and confidential sharing of information and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and persons engaged in insurance activities.

(b) Commissioner's Authority. – Upon the request of the Board or the appropriate federal banking agency, the North Carolina Secretary of State, or the North Carolina Commissioner of Banks, the Commissioner may provide any examination or other reports, records, or other information to which the Commissioner has access with respect to a person that:

- (1) Is engaged in insurance activities and regulated by the Commissioner.
- (2) Is an affiliate of a depository institution or financial holding company.

Upon the request of the Board or the appropriate federal banking agency, the North Carolina Secretary of State, or the North Carolina Commissioner of Banks, the Commissioner may provide any examination or other reports, records, or other information to which the Commissioner has access with respect to any insurance producer.

(c) Privilege. – The provision of information or material under this section by the Commissioner does not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(d) Definitions. – As used in this section, the terms:

- (1) "Appropriate federal banking agency" and "depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813.
- (2) "Board" and "financial holding company" have the same meanings as in section 2 of the Bank Holding Company Act of 1956, 12 U.S.C. § 1841, et seq.
- (3) "Insurance producer" or "producer" means a person required to be licensed under this Article to sell, solicit, or negotiate insurance. "Insurance producer" or "producer" includes an agent, a broker, and a limited representative."

SECTION 2. Article 19 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-19-2. Compliance with federal law.

(a) As used in this section, "depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813, and includes any foreign bank that maintains a branch, an agency, or a commercial lending company in the United States.

(b) With respect to affiliations between a depository institution or any affiliate of a depository institution and any insurer, the provisions of section 104(c) of the Gramm-Leach-Bliley Act, P.L. 106-102, shall apply to this Article."

SECTION 3. G.S. 58-7-170(b)(1) reads as rewritten:

- "(1) The cost of investments made by insurers in stock authorized by G.S. 58-7-173 shall not exceed twenty-five percent (25%) of the insurer's admitted assets, provided that no more than twenty percent (20%) of the insurer's admitted assets shall be invested in common stock; and the cost of an investment in stock of any one corporation shall not exceed three percent (3%) of the insurer's admitted assets. Notwithstanding any

other provision in this Chapter, the financial statement carrying value of all stock investments shall be used for the purpose of determining the asset value against which the percentage limitations are to be applied. Investments in the voting securities of a depository institution, or any company that controls a depository institution, shall not exceed five percent (5%) of the insurer's admitted assets. As used in this subdivision, "depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813; and includes any foreign bank that maintains a branch, an agency, or a commercial lending company in the United States."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 4:30 p.m. on the 15th day of June, 2001.

H.B. 1045

SESSION LAW 2001-216

AN ACT TO RESTORE STABILITY UNDER THE WORKERS' COMPENSATION ACT BY OVERTURNING THE CASE DECIDED BY THE 2000 COURT OF APPEALS OF NORTH CAROLINA ENTITLED HANSEN V. CRYSTAL FORD-MERCURY, INC., BY PROVIDING THAT INSURERS THAT PROVIDE HEALTH BENEFIT PLANS, DISABILITY INCOME PLANS, OR ANY OTHER HEALTH INSURANCE ARE NOT REAL PARTIES IN INTEREST IN ANY PROCEEDING OR SETTLEMENT UNDER THE WORKERS' COMPENSATION ACT AND PROHIBITING INSURERS THAT PROVIDE HEALTH BENEFIT PLANS FROM OFFSETTING AGAINST PROVIDER REIMBURSEMENT ANY CHARGE FOR MEDICAL SERVICES UNLESS THE SPECIFIC MEDICAL CHARGES WERE FOUND TO BE COMPENSABLE ACCORDING TO A FINAL ADJUDICATION UNDER THE WORKERS' COMPENSATION ACT OR A SETTLEMENT AGREEMENT UNDER THE ACT APPROVED BY THE NORTH CAROLINA INDUSTRIAL COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"§ 97-90.1. Insurers that provide employee's health benefit plans, disability income plans, or any other health insurance plans.

An insurer that covers an employee under a health benefit plan as defined in G.S. 58-3-167, a disability income plan, or any other health insurance plan is not a real party in interest and shall not intervene or participate in any proceeding or settlement agreement under this Article to determine whether a claim is compensable under this Article or to seek reimbursement for medical payments under its plan. The insurer that covers an employee under a health benefit plan as defined in G.S. 58-3-167 or any other health insurance plan may seek reimbursement from the employee, employer, or carrier that is liable or responsible for the specific medical charge according to a final adjudication of the claim under this Article or an order of the Commission approving a settlement agreement entered into under this Article for health plan payments for that specific medical charge. Upon the admission or adjudication that a claim is compensable, the party or parties liable shall notify in writing any known health benefit plan covering the employee of the admission or adjudication."

SECTION 2. G.S. 97-17 reads as rewritten:

"§ 97-17. *Settlements allowed in accordance with Article.*

(a) ~~Nothing herein contained shall be construed so as to~~ This Article does not prevent settlements made by and between the employee and employer so long as the amount of compensation and the time and manner of payment are in accordance with the provisions of this Article. A copy of ~~such a~~ settlement agreement shall be filed by ~~the~~ employer with and approved by the ~~Industrial Commission~~. ~~Provided, however, that no~~ Commission. No party to any agreement for compensation approved by the ~~Industrial~~ Commission shall ~~thereafter be heard to deny~~ the truth of the matters ~~therein set forth, contained in the settlement agreement, unless it shall be made to appear~~ the party is able to show to the satisfaction of the Commission that there has been error due to fraud, misrepresentation, undue influence or mutual mistake, in which event the ~~Industrial~~ Commission may set aside ~~such~~ the agreement. Except as provided in this subsection, the decision of the Commission to approve a settlement agreement is final and is not subject to review or collateral attack.

(b) The Commission shall not approve a settlement agreement under this section, unless all of the following conditions are satisfied:

- (1) The settlement agreement is deemed by the Commission to be fair and just, and that the interests of all of the parties and of any person, including a health benefit plan, that paid medical expenses of the employee have been considered.
- (2) The settlement agreement contains a list of all of the known medical expenses of the employee related to the injury to the date of the settlement agreement, including

medical expenses that the employer or carrier disputes, and a list of medical expenses, if any, that will be paid by the employer under the settlement agreement.

- (3) The settlement agreement contains a finding that the positions of all of the parties to the agreement are reasonable as to the payment of medical expenses.

(c) In determining whether the positions of all of the parties to the agreement are reasonable as to the payment of medical expenses under subdivision (3) of subsection (b) of this section, the Commission shall consider all of the following:

- (1) Whether the employer admitted or reasonably denied the employee's claim for compensation.
 (2) The amount of all of the known medical expenses of the employee related to the injury to the date of the settlement agreement, including medical expenses that the employer or carrier disputes.
 (3) The need for finality in the litigation.

(d) Nothing in this section shall be construed to limit the application of G.S. 44-49 and G.S. 44-50 to funds in compensation for settlement under this section."

SECTION 3. G.S. 97-92(b) reads as rewritten:

"(b) The records of the ~~Commission~~, Commission that are not awards under G.S. 97-84 and that are not reviews of awards under G.S. 97-85, insofar as they refer to accidents, injuries, and settlements are not public records under G.S. 132-1 and shall not be open to the public, but only to the parties satisfying the Commission of their interest in such records and the right to inspect them, and to State and federal agencies pursuant to G.S. 97-81."

SECTION 4. G.S. 58-51-5(a) is amended by adding a new subdivision to read:

"(8) It contains no provision excluding from coverage claims that are subject to the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, unless the exclusion extends to only specific medical charges for which the employee, employer, or carrier is liable or responsible according to a final adjudication of the claim under that Article or an order of the North Carolina Industrial Commission approving a settlement agreement entered into under that Article."

SECTION 5. Article 50 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-50-57. Offsets against provider reimbursement for workers' compensation payments forbidden.

(a) An insurer that provides a health benefit plan as defined in G.S. 58-3-167 shall not offset or reverse a health plan payment

against a provider reimbursement for other medical charges unless the health plan payment was for a specific medical charge for which the employee, employer, or carrier is liable or responsible according to a final adjudication of the claim under the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes or an order of the North Carolina Industrial Commission approving a settlement agreement entered into under that Article.

(b) No contract between an insurer that provides a health benefit plan as defined in G.S. 58-3-167 and a medical provider shall contain a provision that authorizes the insurer to offset or reverse a health plan payment against a provider reimbursement for other medical charges unless the health plan payment was for a specific medical charge for which the employee, employer, or carrier is liable or responsible according to a final adjudication of the claim under the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes or an order of the North Carolina Industrial Commission approving a settlement agreement entered into under that Article."

SECTION 6. The North Carolina Industrial Commission shall adopt any rules needed to implement this act.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 4:31 p.m. on the 15th day of June, 2001.

S.B. 854

SESSION LAW 2001-217

AN ACT TO CODIFY THE JOINT RESOLUTION ACCEPTING PROPERTIES AS PART OF THE STATE NATURE AND HISTORIC PRESERVE, TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, TO CODIFY THESE REMOVALS, TO DELETE CERTAIN LANDS FROM THE STATE PARKS SYSTEM, AND TO PROVIDE THAT A TECHNICAL AMENDMENT TO THE STATE CONSTITUTION RELATING TO ACCEPTANCE AND DEDICATION OF PROPERTY INTO THE STATE NATURE AND HISTORIC PRESERVE SHALL BE SUBMITTED TO A VOTE OF THE PEOPLE AT THE NEXT STATEWIDE PRIMARY ELECTION.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and removal of

properties from the State Nature and Historic Preserve by law adopted by three-fifths of the members of each house of the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The following tracts of land are removed from the State Nature and Historic Preserve pursuant to Article XIV, Section 5 of the North Carolina Constitution:

(a) The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the survey prepared by Lewis G. Paschal, Professional Land Surveyor, entitled "Recombination Survey for State of North Carolina" dated April 1989 and December 2000, and filed in the State Property Office.

(b) The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(c) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

(d) The portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. G.S. 143-260.10 reads as rewritten:

"§ 143-260.10. *Components of State Nature and Historic Preserve.*

The following are components of the State Nature and Historic Preserve accepted by the North Carolina General Assembly pursuant to G.S. 143-260.8:

- (1) All lands and waters within the boundaries of the following units of the State Parks System as of ~~April 6, 1999~~ April 3, 2001: Baldhead Island State Natural Area, Bay Tree Lake State Park, ~~Boones~~ Boone's Cave State Park, ~~Natural Area~~, Bullhead Mountain State Natural Area, ~~Bushy Lake State Natural Area~~, Carolina Beach State Park, Cliffs of the Neuse State Park, Chowan Swamp State Natural Area, Dismal Swamp State Natural

Area, ~~Duke Power State Park~~, Eno River State Park, Fort Fisher State Recreation Area, Fort Macon State Park, Goose Creek State Park, Gorges State Park, Hammocks Beach State Park, Hemlock Bluffs State Natural Area, ~~Jockey's Ridge State Park~~, Jones Lake State Park, Lake James State Park, Lake Norman State Park, Lake Waccamaw State Park, Lumber River State Park, Medoc Mountain State Park, Merchants Millpond State Park, Mitchells Millpond State Natural Area, Mount Jefferson State Natural Area, Mount Mitchell State Park, Occoneechee Mountain State Natural Area, Pettigrew State Park, Pilot Mountain State Park, Raven Rock State Park, Run Hill State Natural Area, Singletary Lake State Park, Theodore Roosevelt State Natural Area, and Weymouth Woods-Sandhills Nature Preserve.

- (2) All lands and waters within the boundaries of William B. Umstead State Park as of ~~April 6, 1999~~, April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977 and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of William B. Umstead State Park or sell and use the proceeds for that purpose. The State of North Carolina may not otherwise sell or exchange this land.
- (3) Repealed by Session Laws 1999-268, s. 2.
- (4) All lands within the boundaries of Morrow Mountain State Park as of ~~April 6, 1999~~, April 3, 2001, with the exception of the following tract: That certain tract or parcel of land at Morrow Mountain State Park in Stanly County, North Albemarle Township, containing 0.303 acres, more or less, as surveyed and platted by Thomas W. Harris R.L.S., on a map dated August 27, 1988, and filed in the State Property Office, reference to which is hereby made for a more complete description.
- (5) Repealed by Session Laws 1999-268, s. 2.
- (6) All land within the boundaries of Crowders Mountain State Park as of ~~April 6, 1999~~, April 3, 2001, with the

exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A. dated July 22, 1988 and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Crowders Mountain State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- (7) ~~All lands owned in fee simple by the State at the New River Scenic River as of April 6, 1999, with the exception of the following tract: That certain tract or parcel of land at the New River Scenic River in Alleghany County, Piney Creek Township, described in Deed Book 112, page 610, containing 16.54 acres, and consisting of lots #12 through #19 on the survey by Dudley and Zeh, R.L.S. dated September 21, 1979, recorded in Plat Book 4, Page 94, and filed in the State Property Office, within the boundaries of New River State Park as of April 3, 2001.~~
- (8) All lands and waters within the boundaries of Stone Mountain State Park as of April 6, 1999, April 3, 2001, with the exception of the following tract: tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981 and filed in the State Property Office, containing approximately 72 acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled 'Property Exchange Agreement for State of North Carolina & the United States of America', and

filed in the State Property Office. The ~~tract~~-tracts excluded from the State Nature and Historic Preserve under this subdivision ~~is~~-are deleted from the State Parks System in accordance with G.S. 113-44.14.

- (9) All lands and waters located within the boundaries of the following State Historic Sites as of ~~January 1, 1999~~: April 3, 2001: Alamance Battleground, Charles B. Aycock Birthplace, Historic Bath, Bennett Place, Bentonville Battleground, Brunswick Town/Fort Anderson, C.S.S. Neuse and Governor Caswell Memorial, Charlotte Hawkins Brown Memorial, Duke Homestead, Historic Edenton, Fort Dobbs, Fort Fisher, Historic Halifax, Horne Creek Living Historical Farm, House in the Horseshoe, North Carolina Transportation Museum, James K. Polk Memorial, Reed Gold Mine, Somerset Place, Stagville, State Capitol, Town Creek Indian Mound, Tryon Palace Historic Sites & Gardens, Zebulon B. Vance Birthplace, and Thomas Wolfe Memorial.
- (10) ~~All lands and waters within the boundaries of Gorges State Park as shown on the map entitled "Boundaries of Gorges State Park" prepared by the Division of Parks and Recreation, dated May 27, 1999, and filed in the State Property Office, which lands and waters are a portion of the lands and waters acquired by the State of North Carolina on April 29, 1999, the purchase of which was approved by the Council of State at its meeting on March 2, 1999.~~
- (11) ~~All lands and waters located within the boundaries of Eno River State Park as of April 6, 1999, with the exception of the following tracts: The portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1626, Page 854, required for the right of way and easements for the expansion of Guess Road and more particularly described in a Department of Transportation drawing entitled "Sketch Showing a Portion of the Property of State of North Carolina, North Carolina Parks and Recreation, Durham County", for TIP U 2102, Project 8.1351302, parcel 155, dated June 8, 1999 and filed in the State Property Office; and the portion of that tract or parcel of land at Eno River State Park in Durham County, Lebanon Township, described in Deed Book 1945, Page 773, required for the right of way and easements for the expansion of Guess Road and more~~

particularly described in a Department of Transportation drawing entitled "~~Sketch Showing Proposed Right of Way, Property of State of North Carolina (Formerly Association for the Preservation of the Eno), Durham County~~" for TIP U 2102, Project 8.1351302, parcels 159 and 163, dated June 1, 1999 and filed in the State Property Office. These two tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14.

- (12) All lands and waters located within the boundaries of Hanging Rock State Park as of ~~April 6, 1999~~, April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled, 'J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C.', by Grinski Surveying Company, dated June 1985, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System in accordance with G.S. 113-44.14.
- (13) All lands and waters located within the boundaries of South Mountains State Park as of ~~April 6, 1999~~, April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled 'Survey for State of North Carolina', dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled 'Land Trade between South Mountains State Park and

Adjacent Game Lands along CCC Road' prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640. The tracts excluded from the State Nature and Historic Preserve under this subdivision are deleted from the State Parks System in accordance with G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of South Mountains State Park or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.

- (14) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the survey prepared by Lewis G. Paschal, Professional Land Surveyor, entitled 'Recombination Survey for State of North Carolina' dated April 1989 and December 2000, and filed in the State Property Office. The tract excluded from the State Nature and Historic Preserve under this subdivision is deleted from the State Parks System pursuant to G.S. 113-44.14. The State of North Carolina may only exchange this land for other land for the expansion of Bushy Lake State Natural Area or sell this land and use the proceeds for that purpose. The State may not otherwise sell or exchange this land.
- (15) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 13 Jockey's Ridge State Park' dated

March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 14 Jockey's Ridge State Park' dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled 'Raw Water Well Site 15 Jockey's Ridge State Park' dated March 7, 2001, and filed in the State Property Office."

SECTION 3. Section 4 of S.L. 1999-268 reads as rewritten:

"Section 4. The amendment set out in Section 3 of this act shall be submitted to the qualified voters of the State at the next ~~election at which another amendment to the Constitution is submitted to the voters, statewide primary election,~~ which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

[] FOR [] AGAINST

Constitutional amendment making a technical correction to allow dedication and acceptance of property into the State Nature and Historic Preserve by the General Assembly by enactment of a bill rather than a joint resolution.' "

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 4:31 p.m. on the 15th day of June, 2001.

S.B. 829

SESSION LAW 2001-218

AN ACT TO CLARIFY TREATMENT OF CERTAIN SECURITY INTERESTS CREATED BY THE STATE OR GOVERNMENTAL UNITS OF THE STATE UNDER ARTICLE 9 OF THE NORTH CAROLINA UNIFORM COMMERCIAL CODE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 25-9-102(45) reads as rewritten:

"(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization (i) is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States, States, or (ii) was created to facilitate the issuance of notes, bonds, other evidences of indebtedness or payment obligations for borrowed money by, or in conjunction with, installment or lease purchase financings for, this State or any county, municipality, or other agency or political subdivision thereof as evidenced by the documents creating the organization."

SECTION 2. G.S. 25-9-109 reads as rewritten:

"§ 25-9-109. *Scope.*

(a) General scope of Article. – Except as otherwise provided in subsections (c) and (d) of this section, this Article applies to:

- (1) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) An agricultural lien;
- (3) A sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) A consignment;
- (5) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3), or 25-2A-508(5), as provided in G.S. 25-9-110; and
- (6) A security interest arising under G.S. 25-4-208 or G.S. 25-5-118.

(b) Security interest in secured obligation. – The application of this Article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this Article does not apply.

(c) Extent to which Article does not apply. – This Article does not apply to the extent that:

- (1) A statute, regulation, or treaty of the United States preempts this Article;
- (2) ~~Another statute of this State expressly governs the creation, perfection, priority, or enforcement of a security interest created by this State or a governmental unit of this State;~~

- ~~(3)~~(2) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
- ~~(4)~~(3) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under G.S. 25-5-114.
- (d) Inapplicability of Article. – This Article does not apply to:
- (1) A landlord's lien, other than an agricultural lien;
 - (2) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but G.S. 25-9-333 applies with respect to priority of the lien;
 - (3) An assignment of a claim for wages, salary, or other compensation of an employee;
 - (4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
 - (5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;
 - (6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
 - (7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
 - (8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds;
 - (9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
 - (10) A right of recoupment or setoff, but:
 - a. G.S. 25-9-340 applies with respect to the effectiveness of rights of recoupment or setoff against deposit accounts; and
 - b. G.S. 25-9-404 applies with respect to defenses or claims of an account debtor;

- (11) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
 - a. Liens on real property in G.S. 25-9-203 and G.S. 25-9-308;
 - b. Fixtures in G.S. 25-9-334;
 - c. Fixture filings in G.S. 25-9-501, 25-9-502, 25-9-512, 25-9-516, and 25-9-519; and
 - d. Security agreements covering personal and real property in G.S. 25-9-604;
- (12) An assignment of a claim arising in tort, other than a commercial tort claim, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in proceeds; ~~or~~
- (13) An assignment of a deposit account in a consumer transaction, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and priorities in ~~proceeds~~ proceeds; ~~or~~
- (14) The creation, perfection, priority, or enforcement of any lien on, assignment of, pledge of, or security in, any revenues, rights, funds, or other tangible or intangible assets created, made, or granted by this State or a governmental unit in this State, including the assignment of rights as secured party in security interests granted by any party subject to the provisions of this Article to this State or a governmental unit in this State, to secure, directly or indirectly, any bond, note, other evidence of indebtedness, or other payment obligations for borrowed money issued by, or in connection with, installment or lease purchase financings by, this State or a governmental unit in this State. However, notwithstanding this subdivision, this Article does apply to the creation, perfection, priority, and enforcement of security interests created by this State or a governmental unit in this State in equipment or fixtures."

SECTION 3. G.S. 25-9-310(b)(11) is repealed.

SECTION 4. G.S. 25-9-702 reads as rewritten:

"§ 25-9-702. *Savings clause.*

(a) Pre-effective-date transactions or liens. – Except as otherwise provided in this Part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2001.

(b) Continuing validity. – Except as otherwise provided in subsection (c) of this section and G.S. 25-9-703 through G.S. 25-9-709:

- (1) Transactions and liens that were not governed by former Article 9, were validly entered into or created before July 1, 2001, and would be subject to this act if they had been entered into or created after July 1, 2001, and the rights, duties, and interests flowing from those transactions and liens remain valid after July 1, 2001; and
- (2) The transactions and liens described in subdivision (1) of this subsection may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) Pre-effective-date proceedings. – This act does not affect an action, case, or proceeding commenced before July 1, 2001.

(d) Special rule for certain governmental transactions. – Notwithstanding any other provision of this act, security interests that were excluded under former Article 9 pursuant to former G.S. 25-9-104(e) or as to which the filing requirements of former Article 9 did not apply pursuant to former G.S. 25-9-302(6), and which are effective prior to July 1, 2001, but for which the applicable requirements for creation, perfection, or enforceability under this act are not satisfied on July 1, 2001, shall nonetheless be treated as valid, enforceable, and perfected security interests under this act for the duration of those security interests."

SECTION 5. G.S. 63A-11(e), 143B-456.1(f), 159C-28, and 159D-23 are repealed.

SECTION 6. The Revisor of Statutes shall cause to be printed along with the portions of this act amending Article 9 of Chapter 25 of the General Statutes, such North Carolina official comments explaining the amendments made by this act as the Revisor deems appropriate.

SECTION 7. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 4:31 p.m. on the 15th day of June, 2001.

S.B. 342

SESSION LAW 2001-219

AN ACT AUTHORIZING COUNTIES TO ADOPT ORDINANCES REGARDING THE NUMBER OF TOILETS TO BE PLACED IN CERTAIN BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any provision of the State Building Code or any public or local law to the contrary, including Chapter 143 of the General Statutes, counties may establish by ordinance the requirements for bathroom facilities, including the number of toilets required, in buildings that are used primarily for outdoor school sporting events.

SECTION 2. This act is effective when it becomes law, and only applies to counties that (i) have a population of 190,000 or more according to the most recent decennial federal census and (ii) border both another state and county with a population of 650,000 or more according to the most recent decennial federal census.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

Became law upon approval of the Governor at 4:33 p.m. on the 15th day of June, 2001.

H.B. 452 SESSION LAW 2001-220

AN ACT TO REVISE AND UPDATE THE EMERGENCY MEDICAL SERVICES ACT OF 1973.

The General Assembly of North Carolina enacts:

SECTION 1. Article 56 of Chapter 143 of the General Statutes reads as rewritten:

"Article 56.

"Emergency Medical Services Act of 1973.

"§ 143-507. ~~Establishment of emergency medical services program.~~
Statewide Emergency Medical Services System.

(a) There is ~~hereby~~ established a comprehensive ~~emergency medical services program~~ Statewide Emergency Medical Services System in the Department of Health and Human Services. All responsibility for this ~~program~~ System shall be vested in the Secretary of the Department of Health and Human Services and other ~~such~~ officers, boards, and commissions specified by law or regulation.

(b) ~~This Article is to enable and assist providers of emergency medical services in the delivery of adequate emergency medical services for all the people of North Carolina and the provision of medical care during a disaster. The Statewide Medical Services System includes Emergency Medical Services and also includes first aid by members of the community; public knowledge and easy access into the system; prompt emergency medical dispatch of well-designed, equipped, and staffed ambulances; effective care by trained and credentialed personnel with appropriate disposition at the scene of the emergency and while in transit; communications with the~~

treatment center while at the scene and while in transit; routing and referral to the appropriate treatment facility; injury prevention initiatives; wellness initiatives within the community and the public health system; and follow-up lifesaving and restorative care.

(c) ~~Emergency medical services referred to in this Article include all services rendered in responding to the individual's need for immediate medical care in order to prevent loss of life or further aggravation of physiological or psychological illness or injury. Emergency medical care is further described as first aid by members of the community; public knowledge and easy access into the system; prompt dispatch of well designed, equipped, and staffed ambulances; effective care by trained attendants at the scene of the emergency and while in transit; communications with the treatment center while at the scene and while in transit; routing and referral to the appropriate treatment facility; immediate definitive care at the emergency treatment facility; and follow up lifesaving and restorative care. The purpose of this Article is to enable and assist providers of Emergency Medical Services in the delivery of adequate emergency medical services for all people of North Carolina and the provision of medical care during a disaster.~~

(d) Emergency Medical Services as referred to in this Article include all services rendered by emergency medical services personnel as defined in G.S. 131E-155(7) in responding to improve the health and wellness of the community and to address the individual's need for immediate emergency medical care in order to prevent loss of life or further aggravation of physiological or psychological illness or injury.

"§ 143-508. Department of Health and Human Services to establish program; rules and regulations of North Carolina Medical Care Commission.

(a) The State Department of Health and Human Services shall establish and maintain a program for the improvement and upgrading of emergency medical services throughout the State. The Department shall consolidate all State functions relating to emergency medical services, both regulatory and developmental, under the auspices of this program.

~~(b) The North Carolina Medical Care Commission is authorized and directed to adopt~~shall adopt, amend, and rescind rules and regulations to carry out the purpose of this Article and Article 26 Articles 7 and 7A of Chapter 130131E of the General Statutes of North Carolina regardless of other provisions of rule or law. Such ~~These rules and regulations shall be adopted with the advice of the Emergency Medical Services Advisory Council. The Department of Health and Human Services shall enforce all rules adopted by the Commission. Nothing in this Chapter shall be construed to authorize~~

the North Carolina Medical Care Commission to establish or modify the scope of practice of emergency medical personnel.

(c) The North Carolina Medical Care Commission may adopt rules with regard to emergency medical services, not inconsistent with the laws of this State, that may be required by the federal government for grants-in-aid for emergency medical services and licensure which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(d) The North Carolina Medical Care Commission shall adopt rules to do all of the following:

- (1) Establish standards and criteria for the credentialing of emergency medical services agencies to carry out the purpose of Article 7 of Chapter 131E of the General Statutes.
- (2) Establish standards and criteria for the credentialing of trauma centers to carry out the purpose of Article 7A of Chapter 131E of the General Statutes.
- (3) Establish standards and criteria for the education and credentialing of emergency medical services personnel to carry out the purpose of Article 7 of Chapter 131E of the General Statutes.
- (4) Establish standards and criteria for the credentialing of EMS educational institutions to carry out the purpose of Article 7 of Chapter 131E of the General Statutes.
- (5) Establish standards and criteria for data collection as part of the statewide emergency medical services information system to carry out the purpose of G.S. 143-509(5).
- (6) Implement the scope of practice of credentialed emergency medical services personnel as determined by the North Carolina Medical Board.
- (7) Define the practice settings of credentialed emergency medical services personnel.
- (8) Establish standards for vehicles and equipment used within the emergency medical services system.
- (9) Establish standards for a statewide EMS communications system.
- (10) Establish standards and criteria for the denial, suspension, or revocation of emergency medical services credentials for emergency medical services agencies, educational institutions, and personnel including the establishment of fines for credentialing violations.
- (11) Establish standards and criteria for the education and credentialing of persons trained to administer lifesaving

treatment to a person who suffers a severe adverse reaction to insect stings.

- (12) Establish standards for the voluntary submission of hospital emergency medical care data.

~~All rules and regulations not inconsistent with the provisions of this Article heretofore adopted by the State Board of Health or the Commission for Health Services shall remain in full force and effect until repealed or superseded by action of the North Carolina Medical Care Commission.~~

"§ 143-509. Powers and duties of Secretary.

The Secretary of the Department of Health and Human Services has full responsibilities for supervision and direction of the emergency medical services program and, to that end, ~~shall~~shall accomplish all of the following:

- (1) After consulting with the Emergency Medical Services Advisory Council and with ~~such~~any local governments as ~~that~~ may be involved, seek the establishment of a statewide, regional and local emergency medical services operations; Statewide Emergency Medical Services System, integrated with other health care providers and networks including, but not limited to, public health, community health monitoring activities, and special needs populations.
- (2) Repealed by Session Laws 1989, c. 74.
- (3) ~~Encourage and assist in the development of appropriately located comprehensive emergency treatment centers;~~Establish and maintain a comprehensive statewide trauma system in accordance with the provisions of Article 7A of Chapter 131E of the General Statutes and the rules of the North Carolina Medical Care Commission.
- (4) ~~Encourage and assist in the development of~~Establish and maintain a statewide emergency medical services communications system including designation of EMS radio frequencies and coordination of EMS radio communications networks within FCC rules and regulations, which will enable transport vehicles to communicate with treatment facilities;
- (5) ~~Establish and maintain a State~~statewide emergency medical services ~~records system;~~information system that provides information linkage between various public safety services and other health care providers.
- (6) ~~Inspect ambulances, issue permits for operation of ambulance vehicles, train and license ambulance~~Credential emergency medical services providers,

vehicles, EMS educational institutions, and personnel after documenting that the requirements of the North Carolina Medical Care Commission are met, and shall be responsible for the enforcement of all other quality control provisions of the Ambulance Act of 1967, Article 26 of Chapter 130 of the General Statutes of North Carolina;

- (7) ~~Designate emergency medical services radio frequencies and coordinate emergency medical services radio communications networks within FCC rules and regulations; and~~
- (8) ~~Promote the development of an air ambulance support system to supplement ground vehicle operations.~~
- (9) Promote a means of training individuals to administer life-saving treatment to persons who suffer a severe adverse reaction to insect stings. Individuals, upon successful completion of this training program, may be approved by the North Carolina Medical Board Care Commission to administer epinephrine to these persons, in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment. This training may also be offered as part of the emergency medical ~~technician services~~ training program.
- (10) Establish and maintain a collaborative effort with other community resources and agencies to educate the public regarding EMS systems and issues.
- (11) Collaborate with community agencies and other health care providers to integrate the principles of injury prevention into the Statewide EMS System to improve community health.
- (12) Establish and maintain a means of medical direction and control for the Statewide EMS System.

"§ 143-510. North Carolina Emergency Medical Services Advisory Council.

(a) There is ~~hereby created an~~ the North Carolina Emergency Medical Services Advisory Council composed of 21 members to consult with the Secretary of the Department of Health and Human Services in the administration of this Article. ~~The Secretary of the Department of Health and Human Services shall appoint 17 members with at least one member representing each of the following categories:~~

- (1) ~~Physicians licensed to practice medicine versed in treatment of trauma and suddenly occurring illnesses;~~
- (2) ~~Emergency room nurses;~~

- (3) Hospitals;
- (4) Providers of ambulance service (including rescue squads);
- (5) Local government, and
- (6) The general public.

~~The President Pro Tempore of the Senate shall appoint two members from the Senate, and the Speaker of the House of Representatives shall appoint two members from the House of Representatives.~~

~~(b) Members appointed by the Secretary of the Department of Health and Human Services shall hold office for a term of four years beginning July 1, 1973, and quadrennially thereafter, except the terms of the members first taking office shall expire, as designated at the time of appointment, six at the end of the second year, six at the end of the third year, and five at the end of the fourth year. Members appointed by the President Pro Tempore and the Speaker shall serve for two years coinciding with the term for which they were elected to the General Assembly. Vacancies shall be filled by the office making the initial appointment and for the remainder of the unexpired term only.~~

~~(c) The Council shall meet at least once each quarter and at the call of the Secretary of the Department of Health and Human Services. The Council shall elect its chairman annually.~~

~~(d) Council members who are not members of the General Assembly or State employees or officers shall receive per diem, travel, and subsistence as provided by G.S. 138-5 while engaged in Council business or attending Council meetings. Council members who are members of the General Assembly shall receive travel and subsistence allowances as provided by G.S. 120-3.1. Council members who are State employees or officers shall receive travel and subsistence as provided by G.S. 138-6.~~

The North Carolina Emergency Medical Services Advisory Council shall consist of 25 members.

- (1) Twenty-one of the members shall be appointed by the Secretary of the Department of Health and Human Services as follows:
 - a. Three of the members shall represent the North Carolina Medical Society and include one licensed pediatrician, one surgeon, and one public health physician.
 - b. Three members shall represent the North Carolina College of Emergency Physicians, two of whom shall be current local EMS Medical Directors.

- c. One member shall represent the North Carolina Chapter of the American College of Surgeons Committee on Trauma.
 - d. One member shall represent the North Carolina Association of Rescue and Emergency Medical Services.
 - e. One member shall represent the North Carolina Association of EMS Administrators.
 - f. One member shall represent the North Carolina Hospital Association.
 - g. One member shall represent the North Carolina Nurses Association.
 - h. One member shall represent the North Carolina Association of County Commissioners.
 - i. One member shall represent the North Carolina Medical Board.
 - j. One member shall represent the American Heart Association, North Carolina Council.
 - k. One member shall represent the American Red Cross.
 - l. The remaining six members shall be appointed so as to fairly represent the general public, credentialed and practicing EMS personnel, EMS educators, local public health officials, and other EMS interest groups in North Carolina.
- (2) Two members shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
 - (3) Two members shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The membership of the Council shall, to the extent possible, reflect the gender and racial makeup of the population of the State.

(b) The members of the Council appointed pursuant to subsection (a) of this section shall serve initial terms as follows:

- (1) The members appointed by the Secretary of the Department of Health and Human Services shall serve initial terms as follows:
 - a. Five members shall serve initial terms of one year;
 - b. Five members shall serve initial terms of two years;
 - c. Five members shall serve initial terms of three years; and
 - d. Six members shall serve initial terms of four years.

- (2) The members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate shall serve initial terms as follows:
- a. One member shall serve an initial term of two years; and
 - b. One member shall serve an initial term of four years.
- (3) The members appointed by the General Assembly upon the recommendation of the Speaker of the House of the Representatives shall serve initial terms as follows:
- a. One member shall serve an initial term of two years; and
 - b. One member shall serve an initial term of four years.

Thereafter, all terms shall be four years.

(c) Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. Vacancies on the Council among the membership nominated by a society, association, or foundation as provided in subsection (a) of this section shall be filled by appointment of the Secretary upon consideration of a nomination by the executive committee or other authorized agent of the society, association, or foundation until the next meeting of the society, association, or foundation at which time the society, association, or foundation shall nominate a member to fill the vacancy for the unexpired term.

(d) The members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(e) A majority of the Council shall constitute a quorum for the transaction of business. All clerical and other services required by the Council shall be supplied by the Department of Health and Human Services, Division of Facility Services, Office of Emergency Medical Services.

"§ 143-511. Powers and duties of the Council.

The North Carolina Emergency Medical Services Advisory Council shall may advise the Secretary of the Department of Health and Human Services on policy issues regarding the Statewide Emergency Medical Services System, including all rules proposed to be adopted by the North Carolina Medical Care Commission.

- (1) ~~Advise the Secretary of the Department of Health and Human Services on recommendation to the commission or commissions as to designation of multicounty emergency medical services regions;~~

- (2) Give their advice as to all rules and regulations proposed to be adopted by the commission or commissions, and
- (3) Advise the Secretary on all other matters pertaining to this Article.

"§ 143-512. *Regional demonstration plans.*

The Secretary of the Department of Health and Human Services is authorized to may develop and implement, in conjunction with such any local sponsors as that may agree to participate, regional emergency medical services systems in order to demonstrate the desirability of comprehensive regional emergency medical services systems and to determine the optimum characteristics of such plans. The Secretary may make special grants-in-aid to participants.

"§ 143-513. *Regional emergency medical services councils.*

The Secretary of the Department of Health and Human Services may establish emergency medical services regional councils to implement and coordinate emergency medical services programs within regions.

"§ 143-514. *Training programs; utilization of emergency services personnel.Scope of practice for credentialed emergency medical services personnel.*

~~The Department of Health and Human Services in cooperation with educational institutions shall develop training programs for emergency medical service personnel. Upon successful completion of such training programs and other programs approved by the North Carolina Medical Board, emergency medical services personnel may, in the course of their emergency medical services duties, perform such acts, tasks and functions as they have been trained to perform and as provided in rules and regulations of such Board, regardless of other provisions of law.~~

The North Carolina Medical Board shall determine the scope of practice for credentialed emergency medical services personnel regardless of other provisions of law by establishing the medical skills and medications that may be used by credentialed emergency medical services personnel at each level of patient care. No provision of Article 56 of Chapter 143 or Article 7 of Chapter 131E of the General Statutes shall be interpreted to require the North Carolina Medical Board to include any service within the scope of practice of any Emergency Medical Services provider, unless the North Carolina Medical Board determines that the emergency medical service personnel in question have the experience and training necessary to ensure the service can be provided in a safe manner.

"§ 143-515. *Establishment of regions.*

The Secretary is ~~authorized to~~ may establish an appropriate number of multicounty emergency medical services regions.

"§ 143-516. *Single State agency.*

The Department of Health and Human Services is hereby designated as the single agency for North Carolina for the purposes of all federal emergency medical services legislation as has or may be hereafter enacted to assist in development of emergency medical services plans and programs.

"§ 143-517. Ambulance support; free enterprise.

Each county shall ensure that emergency medical services are provided to its citizens. Nothing in this Article affects the power of local governments to finance ambulance operations or to support rescue squads. Nothing in this Article shall be construed to allow infringement on the private practice of medicine or the lawful operation of health care facilities.

"§ 143-518. Confidentiality of patient information.

(a) Medical records compiled and maintained by the Department or EMS providers in connection with dispatch, response, treatment, or transport of individual patients or in connection with the statewide trauma system pursuant to Article 7 of Chapter 131E of the General Statutes may contain patient identifiable data which will allow linkage to other health care-based data systems for the purposes of quality management, peer review, and public health initiatives.

These medical records and data shall be strictly confidential and shall not be considered public records within the meaning of G.S. 132-1 and shall not be released or made public except under any of the following conditions:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified.
- (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardians.
- (3) Release is made to health care personnel providing medical care to the patient.
- (4) Release is made pursuant to a court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties, and those engaged in the trial of the case.
- (5) Release is made to a Medical Review Committee as defined in G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as defined in G.S. 131E-108, 122C-30, or 131D-21.1.
- (6) Release is made for use in a health research project under rules adopted by the North Carolina Medical Care

Commission. The Commission shall adopt rules that allow release of information when an institutional review board, as defined by the Commission, has determined that the health research project:

- a. Is of sufficient scientific importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;
- b. Is impracticable without the use or disclosure of identifying health information;
- c. Contains safeguards to protect the information from redisclosure;
- d. Contains safeguards against identifying, directly or indirectly, any patient in any report of the research project; and
- e. Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project.

- (7) Release is made to a statewide data processor, as defined in Article 11A of Chapter 131E of the General Statutes, in which case the data is deemed to have been submitted as if it were required to have been submitted under that Article.

(b) Charges, accounts, credit histories, and other personal financial records compiled and maintained by the Department or EMS providers in connection with the admission, treatment, and discharge of individual patients are strictly confidential and shall not be released.

"§ 143-519. Emergency Medical Services Disciplinary Committee.

(a) There is created an Emergency Medical Services Disciplinary Committee which shall review and make recommendations to the Department regarding all disciplinary matters relating to credentialing of emergency medical services personnel.

(b) The Emergency Medical Services Disciplinary Committee shall consist of five members appointed by the Secretary of the Department of Health and Human Services to serve four-year terms. Two of the members shall be currently practicing local EMS physician medical directors. One member each shall be a current physician member of the North Carolina Medical Board, a current EMS administrator, and a currently practicing and credentialed emergency medical technician-paramedic.

(c) In order to stagger the terms of the membership of the Committee, the initial appointment for one of the local EMS physician medical directors and the currently practicing and credentialed emergency medical technician-paramedic shall be for a three-year term. The other three initial appointments and all future appointments shall be for four-year terms.

(d) Any appointment to fill a vacancy on the Committee created by a resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(e) A majority of the Committee shall constitute a quorum for the transaction of business. The Department of Health and Human Services, Division of Facilities Services, Office of Emergency Medical Services, shall supply all clerical and other services required by the Committee.

~~"§§ 143-518 through 143-520; § 143-520: Reserved for future codification purposes."~~

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:33 p.m. on the 15th day of June, 2001.

H.B. 235

SESSION LAW 2001-221

AN ACT TO ALLOW SANITARY DISTRICTS TO ENTER INTO AGREEMENTS WITH OTHER MUNICIPAL CORPORATIONS OR SANITARY DISTRICTS FOR THE PURPOSE OF DEVELOPING AND IMPLEMENTING AN ECONOMIC DEVELOPMENT PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-55 is amended by adding a new subdivision to read:

"(25) To negotiate and enter into agreements with other municipal corporations or sanitary districts for the purpose of developing and implementing an economic development plan. The agreement may provide for the establishment of a special fund, in which monies not expended at the end of a fiscal year shall remain in the fund. The lead agency designated under the agreement shall be responsible for examination of the fund and compliance with sound accounting principles, including the annual independent audit under G.S. 159-34. The audit responsibilities of the other municipal corporations and sanitary districts extend only to the

verification of the contribution to the fund created under the agreement. The procedural requirements of G.S. 158-7.1(c) shall apply to actions of a sanitary district under this subdivision as if it were a city."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:33 p.m. on the 15th day of June, 2001.

S.B. 801 SESSION LAW 2001-222

AN ACT TO STREAMLINE THE FIREMEN REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-86-25 reads as rewritten:

"§ 58-86-25. *"Eligible firemen" defined; determination and certification of volunteers meeting qualifications.*

"Eligible firemen" shall mean all firemen of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through fire fighting within a county or city governmental unit and so certified to the Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire department which, as determined by the Commissioner, is classified as not less than class "9" or class "A" and "AA" departments in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to ~~Articles~~Article 36 or 40 of this Chapter or by such other reasonable methods as the Commissioner may determine, and which operates fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said fire department holds drills and meetings not less than four hours monthly and said firemen attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as fire marshal of the county, provided the board of county commissioners of that county certifies the fire marshal's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Each department shall annually determine and report the names of those firemen meeting the eligibility

qualifications of this section to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the ~~board~~North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this section to the State Treasurer by July 1 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board."

SECTION 2. This act becomes effective January 1, 2002, and applies to reports issued on or after that date.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:34 p.m. on the 15th day of June, 2001.

S.B. 459**SESSION LAW 2001-223**

AN ACT TO AMEND NORTH CAROLINA'S INSURANCE LAWS CONCERNING INSURANCE COMPANY RESERVING METHODS, LICENSING PROVISIONS, REINSURANCE FOR DOMESTIC COMPANIES, DOMESTIC COMPANY FORMATION, SOLVENCY PROTECTION, LIFE INSURANCE COMPANY VARIABLE ACCOUNTS, CONSOLIDATIONS, INVESTMENTS, MUTUAL INSURANCE COMPANIES, REINSURANCE INTERMEDIARIES, MORTGAGE GUARANTY INSURANCE, RISK-BASED CAPITAL REQUIREMENTS, ASSET PROTECTION, FOREIGN INSURANCE COMPANIES, PROMOTING AND HOLDING COMPANIES, HOLDING COMPANY SYSTEMS, SURPLUS LINES INSURANCE, RISK RETENTION GROUPS, INSURANCE COMPANY RECEIVERSHIPS, MANAGING GENERAL AGENTS, SELF-INSURED WORKERS' COMPENSATION, AND CONTINUING CARE RETIREMENT COMMUNITIES; AND TO ALLOW NORTH CAROLINA DOMESTIC INSURANCE COMPANIES TO FORM PROTECTED CELLS TO ACCESS ALTERNATIVE SOURCES OF CAPITAL AND ACHIEVE THE BENEFITS OF SECURITIZATION.

The General Assembly of North Carolina enacts:

PART I. INSURANCE COMPANY RESERVING METHODS.

SECTION 1.1. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-72. Premium deficiency reserves.

(a) In determining the financial condition of any casualty, fidelity, and surety company and any fire and marine company referred to in G.S. 58-7-75, and in any financial statement or report of the company, there shall be included in the liabilities of the company premium deficiency reserves at least equal to the amounts required under this section. The date as of which the determination, statement, or report is made is known as the 'date of determination.'

(b) For all recorded unearned premium reserves, a premium deficiency reserve shall be calculated to include the amount by which the anticipated losses, loss adjustment expenses, commissions and other acquisition costs, and maintenance costs exceed the sum of those unearned premium reserves and any related expected future installment premiums as of the date of determination.

(c) Except as provided in subsection (f) of this section, commissions, other acquisition costs, and premium taxes do not have to be considered in the determination of the premium deficiency reserve, to the extent that they have previously been incurred.

(d) Except as provided in subsection (f) of this section, no reduction shall be taken for anticipated investment income in the determination of the premium deficiency reserve.

(e) For purposes of determining if a premium deficiency exists, insurance contracts shall be grouped in a manner consistent with the way in which such policies are marketed or serviced.

(f) If the Commissioner determines that the premium deficiency reserves of any company that have been calculated in accordance with this section are inadequate or excessive, the Commissioner may prescribe any other basis that will produce adequate and reasonable reserves."

SECTION 1.2. G.S. 58-3-81 reads as rewritten:

"§ 58-3-81. Loss and loss expense reserves of casualty insurance and surety companies.

(a) In determining the financial condition of any casualty insurance or surety company and in any financial statement or report of any such company, there shall be included in the liabilities of ~~such~~ that company loss reserves and loss expense reserves at least equal to the amounts required under ~~the provisions of this section, and the section.~~ The amount of ~~such~~ those reserves shall be diminished by an allowance or credit for reinsurance recoverable from assuming ~~insurers-reinsurers~~ insurers-reinsurers in accordance with ~~G.S. 58-7-21-G.S. 58-7-21 or G.S. 58-7-26.~~ The date as of which ~~such~~ the determination, statement, or report is made is ~~hereinafter referred to~~ known as the date of determination.

(b) For all outstanding losses and loss expenses, the reserves shall be valued as of the date of determination and shall include the following:

- (1) The aggregate estimated amounts due or to become due on account of all known losses and claims and loss expenses incurred but not paid, including the estimated liability on any notice received by the company of the occurrence of any event which may result in a loss; and The aggregate estimated amounts due for losses and loss adjustment expenses on account of all known claims.
- (2) The aggregate amounts of liability for all losses and loss expenses incurred but on which no notice has been received, estimated in accordance with the company's prior experience, if any, otherwise in accordance with the experience of similar companies under similar contracts of insurance. The estimated liabilities for such losses under all its bonds, policies, or contracts of fidelity insurance, shall be not less than ten percent (10%) of the net premiums in force thereon, and the estimated liabilities for all such losses under all its surety contracts shall be not less than five percent (5%) of the net premium in force thereon. The aggregate estimated amounts due for losses and loss adjustment expenses on account of all unknown, incurred but not reported claims.

(c) Except as provided in subsection (e) of this section, the minimum reserves for outstanding losses and loss expenses under policies of personal injury liability insurance and under policies of employers' liability insurance, where the losses were incurred during the three years immediately preceding the date of determination, shall be calculated in accordance with any method adopted or approved by the NAIC and shall be not less than the aggregate of the estimated unpaid losses and loss expenses for claims incurred computed in accordance with subsection (b) of this section. Except as provided in subsection (e) of this section, the minimum loss and loss expense reserves for workers' compensation insurance shall be determined as follows:

- (1) In the case of indemnity benefits where tabular reserves are prescribed for the reporting of such benefits under the Workers' Compensation Statistical Plan (WCSP) of the National Council on Compensation Insurance, the minimum reserve shall be the result obtained by the application of the appropriate pension table in the WCSP, unless the reserve required by any method

adopted or approved by the NAIC is greater, in which case that greater reserve shall be used.

- (2) In all other cases, including other indemnity benefits, medical benefits, and loss adjustment expense, the reserve shall be determined by subsection (b) of this section, unless the reserve required by any method adopted or approved by the NAIC is greater, in which case that greater reserve shall be used.

~~(d) The minimum reserves for outstanding losses and loss expenses under policies of workers' compensation insurance, except as provided in subsection (e) of this section, shall be computed as follows:~~

- ~~(1) For all such compensation policies where losses were incurred more than three years prior to the date of determination, such reserves shall be the sum of the present values, at three and one half percent (3 1/2%) interest per annum, of the determined and estimated unpaid losses computed on an individual case basis plus the estimated unpaid loss expenses computed in accordance with subsection (b) of this section.~~
- ~~(2) Where losses were incurred during the three years immediately preceding the date of determination, such reserves shall be the sum of the reserves for each year, which shall be calculated in accordance with any method adopted or approved by the NAIC and shall be not less than the sum of the present values, at three and one half percent (3 1/2%) interest per annum, of the determined and estimated unpaid losses computed on an individual case basis plus the estimated unpaid loss expenses computed in accordance with subsection (b) of this section.~~

~~(e) Whenever in the judgment of the Commissioner the loss and loss expense reserves of any casualty or surety company doing business in this State calculated in accordance with the foregoing provisions are inadequate or excessive, he may prescribe any other basis that will produce adequate and reasonable reserves.~~

~~(f) Every casualty insurance and every surety company doing business in this State shall keep a complete and itemized record showing all losses and claims on which it has received notices, including all notices received by it of the occurrence of any event that may result in a loss."~~

PART II. INSURANCE COMPANY LICENSING PROVISIONS.

SECTION 2.1. G.S. 58-3-90 is repealed.

SECTION 2.2. G.S. 58-3-100 reads as rewritten:

"§ 58-3-100. ~~Revocation, suspension and refusal to renew license.~~
Insurance company licensing provisions.

(a) ~~The Commissioner may revoke, suspend, or refuse to renew the license of any insurer if:~~ The Commissioner may, after notice and opportunity for a hearing, revoke, suspend, restrict, or refuse to renew the license of any insurer if:

- (1) The insurer fails or refuses to comply with any law, order or rule applicable to the insurer.
- (2) The insurer's financial condition is unsound, or its assets above its liabilities, exclusive of capital, are less than the amount of its capital or required minimum surplus.
- (3) The insurer has published or made to the Department or to the public any false statement or report.
- (4) The insurer or any of the insurer's officers, directors, employees, or other representatives ~~refuses~~ refuse to submit to any examination authorized by ~~law~~ law or refuse to perform any legal obligation in relation to an examination.
- (5) The insurer is found to make a practice of unduly engaging in litigation or of delaying the investigation of claims or the adjustment or payment of valid claims.

(b) Any suspension, revocation or refusal to renew an insurer's license under this section may also be made applicable to the license or registration of any ~~natural person~~ individual regulated under this Chapter who is a party to any of the causes for licensing sanctions listed in subsection (a) of this section.

(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an HMO, service corporation, MEWA, or insurer fails to acknowledge a claim within 30 days after receiving written or electronic notice of the claim, but only if the notice contains sufficient information for the insurer to identify the specific coverage involved. Acknowledgement of the claim shall be ~~made to the claimant or his legal representative advising that the claim is being investigated; or shall be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be a written denial of the claim.~~ one of the following:

- (1) A statement made to the claimant or to the claimant's legal representative advising that the claim is being investigated.
- (2) Payment of the claim.
- (3) A bona fide written offer of settlement.
- (4) A written denial of the claim.

A claimant includes an insured, a health care provider, or a health care facility that is responsible for directly making the claim with an

~~insurer.~~ insurer, HMO, service corporation, or MEWA. This subsection does not apply to HMOs, service corporations, MEWAs or insurers subject to G.S. 58-3-225.

(d) If a foreign insurance company's license is suspended or revoked, the Commissioner shall cause written notification of the suspension or revocation to be given to all of the company's agents in this State. Until the Commissioner restores the company's license, the company shall not write any new business in this State.

(e) The Commissioner may, after considering the standards under G.S. 58-30-60(b), restrict an insurer's license by prohibiting or limiting the kind or amount of insurance written by that insurer. For a foreign insurer, this restriction relates to the insurer's business conducted in this State. The Commissioner shall remove any restriction under this subsection once the Commissioner determines that the operations of the insurer are no longer hazardous to the public or the insurer's policyholders or creditors. As used in this subsection, 'insurer' includes an HMO, service corporation, and MEWA."

SECTION 2.3. This Part becomes effective July 1, 2001.

PART III. REINSURANCE FOR DOMESTIC COMPANIES.

SECTION 3.1. G.S. 58-7-21 reads as rewritten:

"§ 58-7-21. *Credit allowed a domestic ceding insurer.*

(a) ~~As used in this section and in G.S. 58-7-26, 58-7-30, and 58-7-31:~~

- (1) ~~"Reinsurance" means a transfer of insurance risk from a ceding insurer to an assuming insurer.~~
- (2) ~~"Insurance risk" means an uncertainty regarding the ultimate amount of any claim payment (underwriting risk) or an uncertainty regarding the timing of the payments (timing risk), or both.~~

The purpose of this section and G.S. 58-7-26 is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that interest, the General Assembly provides a mandate that upon the insolvency of an alien insurer or reinsurer that provides security to fund its United States obligations in accordance with this section and G.S. 58-7-26, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall be distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The General Assembly declares that the matters contained in this section and G.S. 58-7-26

are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011-1012.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a ~~deduction~~-reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1), (2), (3), (4), or (5) of this subsection. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection only with regard to cessions of those kinds or classes of business in which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. If meeting the requirements of subdivisions (3) or (4) of this subsection, the reinsurer must also meet the requirements of subdivision (6) of this subsection. Credit shall be allowed under subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (6) of this section have been satisfied.

- (1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this State.
- (2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this State. An accredited reinsurer is one that:
 - a. Files with the Commissioner evidence of its submission to this State's jurisdiction;
 - b. Submits to this State's authority to examine its books and records;
 - c. Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;
 - d. Files annually with the Commissioner a copy of its annual statement filed with the insurance regulator of its state of domicile, a copy of its most recent audited financial statement, and a fee of five hundred dollars (\$500.00); and either
 1. Maintains a policyholders' surplus in an amount that is not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the Commissioner within 90 days after its submission; or
 2. Maintains a policyholders' surplus in an amount less than twenty million dollars

(\$20,000,000) and whose accreditation has been approved by the Commissioner.

~~No credit~~ Credit shall not be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and opportunity for a hearing.

- (3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled ~~and licensed~~ in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that uses standards regarding credit for reinsurance substantially similar to those applicable under this section and the assuming insurer or United States branch of an alien assuming insurer:
- a. Maintains a policyholders' surplus in an amount not less than twenty million dollars (\$20,000,000); and
 - b. Submits to the authority of this State to examine its books and records.

~~However, the~~ The requirement in sub-subdivision (3)a. of this subsection does not apply to reinsurance ceded and assumed under pooling arrangements among insurers in the same holding company system.

- (4) a. Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in G.S. 58-7-26(b), for the payment of the valid claims of its United States ~~policyholders and~~ ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. The assuming insurer shall submit to examination of its books and records by the Commissioner and bear the expense of examination. ~~In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000). In the case of a group of insurers, which includes~~

~~individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group; and the group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent certified public accountants.~~

- b. ~~In the case of a group of incorporated insurers under common administration which (i) complies with the filing requirements contained in the previous paragraph, (ii) has continuously transacted an insurance business outside the United States for at least three years immediately before making application for accreditation, (iii) submits to this State's authority to examine its books and records, and (iv) has aggregate policyholders' surplus of ten billion dollars (\$10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group under reinsurance contracts issued in the name of the group. In addition, the group shall maintain a joint trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.~~

- b1. Credit for reinsurance shall not be granted under this subdivision unless the form of the trust and any amendments to the trust have been approved by:
1. The insurance regulator of the state where the trust is domiciled; or
 2. The insurance regulator of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

- b2. The form of the trust and any trust amendments also shall be filed with the insurance regulator of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner.
- b3. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February 28 of each year, the trustees of the trust shall report to the Commissioner in writing the balance of the trust, shall list the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or shall certify that the trust will not expire before the following December 31.
- c. ~~The trust shall be established in a form approved by the Commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the Commissioner. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.~~
The following requirements apply to the following categories of assuming insurer:
1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the

assuming insurer shall maintain a surplus in trust of not less than twenty million dollars (\$20,000,000).

2. In the case of a group including incorporated and individual unincorporated underwriters:

I. For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after August 1, 1995, the trust shall consist of an account in trust in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group.

II. For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section and G.S. 58-7-26, the trust shall consist of an account in trust in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States.

In addition to these trusts, the group shall maintain in trust a surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account. Each incorporated member of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary insurance regulator as are the unincorporated members. Within 90 days after its financial statements are due to be filed with the group's domiciliary insurance regulator, the group shall provide to the Commissioner an annual certification by the group's domiciliary insurance regulator of the solvency of each

underwriter member or, if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member of the group.

- d. ~~No later than February 28 of each year the trustees of the trust shall report to the Commissioner in writing, setting forth the balance of the trust and listing the trust's investments at the end of the preceding year, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire before the next following December 31.~~
- (5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivisions (1), (2), (3), or (4) of this subsection, but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.
- (6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this State, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:
- a. That if the assuming insurer fails to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the ceding insurer's request, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court if there is an appeal; and
 - b. To designate the Commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding begun by or on behalf of the ceding company.

This subdivision does not affect the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if ~~such an~~ the obligation is created in the agreement.

- (7) If the assuming insurer does not meet the requirements of subdivision (1), (2), or (3) of this subsection, the

credit permitted by subdivision (4) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

- a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by sub-subdivision (4)c. of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the public official with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the public official with regulatory oversight all of the assets of the trust fund.
- b. The assets shall be distributed by, and claims shall be filed with and valued by, the public official with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.
- c. If the public official with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, those assets shall be returned by the public official with regulatory oversight to the trustee for distribution in accordance with the trust agreement.
- d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

(c) This section applies to all reinsurance cessions made on or after January 1, 1992, under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 1992."

SECTION 3.2. G.S. 58-7-26 reads as rewritten:

"§ 58-7-26. ~~Reduction—Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer.~~ insurer not meeting the requirements of G.S. 58-7-21.

(a) ~~A~~ An asset or a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of G.S. 58-7-21 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer; and such insurer. The reduction shall be in the amount of funds held by or on

behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution as defined in subsection (c) of this section. This security may be in the form of:

- (1) Cash;
- (2) Securities that are listed by the Securities Valuation Office of the NAIC and qualifying as admitted assets;
- (3) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in subsection (b) of this section, no later than December 31 of the year for which the filing is being made, and in the possession ~~of~~ of, or in trust for, the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever occurs first; or
- (4) Any other form of security acceptable to the Commissioner.

(b) For purposes of subdivision (a)(3) of this section, a "qualified United States financial institution" means an institution that:

- (1) Is organized, or in the case of a United States office of a foreign banking organization licensed, under the laws of the United States or any of its states;
- (2) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and
- (3) Has been determined by either the Commissioner or the Securities Valuation Office of the NAIC to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commissioner.

(c) A "qualified United States financial institution" means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

- (1) Is organized, or in the case of a United States branch or agency office of a foreign banking organization licensed, under the laws of the United States or any of its states and has been granted authority to operate with fiduciary powers; and
- (2) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(d) This section applies to all reinsurance cessions made on or after January 1, 1992, under reinsurance agreements that have an inception, anniversary, or renewal date on or after January 1, 1992."

SECTION 3.3. G.S. 58-7-30 reads as rewritten:

"§ 58-7-30. ~~Insolvency of Insolvent ceding insurer; exceptions; written reinsurance agreements-insurer.~~

(a) Notwithstanding any other provision of this Article, no credit shall be allowed, as an admitted asset or as a ~~deduction-reduction~~ from liability, to any ceding insurer for reinsurance, unless the reinsurance is payable by the assuming insurer, on the basis of reported claims allowed by the court overseeing the liquidation against the ceding insurer under the contract or contracts reinsured without diminution because of the insolvency of the ceding insurer, directly to the ceding insurer or to its domiciliary receiver except (1) where the contract or other written agreement specifically provides for another payee of the reinsurance in the event of the insolvency of the ceding insurer or (2) where the assuming insurer, with the consent of the direct insured or insureds, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under the policies and in substitution of the obligations of the ceding insurer to the payees.

(b) No credit shall be allowed, as an admitted asset or as a ~~deduction-reduction~~ from liability, to any ceding insurer for reinsurance, unless the reinsurance is documented by a policy, certificate, treaty, or other form of agreement that is properly executed by an authorized officer of the assuming insurer. If the reinsurance is ceded through an underwriting manager or agent, the manager or agent shall provide to the domestic ceding insurer evidence of the manager or agent's authority to assume reinsurance for and on behalf of the assuming insurer. The evidence shall consist of either an acceptable letter of authority executed by an authorized officer of the assuming insurer or a copy of the actual agency agreement between the underwriting manager or agent and the assuming insurer; and the evidence shall be specific as to the classes of business within the authority and as to the term of the authority. If there is any conflict between this subsection and Article 9 of this Chapter, the provisions of Article 9 govern.

(c) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose at its own expense in the proceeding where the claim is to be adjudicated, any defenses which it deems available to the ceding insurer or its liquidator. The expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer."

SECTION 3.4. G.S. 58-7-31(c) reads as rewritten:

"(c) Notwithstanding subsection ~~(a)~~(b) of this section, an insurer may, with the prior approval of the Commissioner, take such reserve credit or establish such asset as the Commissioner deems to be consistent with the insurance laws or rules of this State, including actuarial interpretations or standards adopted by the Commissioner."

SECTION 3.5. G.S. 58-7-31(d)(1) reads as rewritten:

"(1) Reinsurance agreements entered into after October 1, 1993, that involve the reinsurance of business issued prior to the effective date of the reinsurance agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the Commissioner within 30 days after its date of execution. Each filing shall include data detailing the ~~final~~-financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this statute and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Commissioner. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this statute."

SECTION 3.6. G.S. 58-57-85 is repealed.

SECTION 3.7. Sections 3.1 and 3.2 of this act apply to all reinsurance cessions made on or after January 1, 2002, under reinsurance agreements that have an inception, anniversary, or

renewal date on or after January 1, 2002. The remainder of this part is effective when it becomes law.

PART IV. DOMESTIC COMPANY FORMATION AND RELOCATION.

SECTION 4.1. Article 7 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-7-37. Background of incorporators and proposed management personnel.

(a) Before a license is issued to a new domestic insurance company, each key person must furnish the Commissioner a complete set of the applicant's fingerprints and a recent passport size full-face photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. An applicant shall pay the cost of the State and any national criminal history record check of the applicant.

(b) As used in this section, 'key person' means a proposed officer, director, or any other individual who will be in a position to influence the operating decisions of a domestic insurance company.

(c) The Commissioner may refuse to approve the formation or initial license of a new domestic insurance company under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds as to the incorporators or other key person any one or more of the following conditions:

- (1) Any untrue material statement regarding the background or experience of any incorporator or other key person;
- (2) Violation of, or noncompliance with, any insurance laws, or of any rule or order of the Commissioner or of a commissioner of another state by any incorporator or other key person;
- (3) Obtaining or attempting to obtain the license through misrepresentation or fraud;
- (4) An incorporator or other key person has been convicted of a felony;
- (5) An incorporator or other key person has been found to have committed any unfair trade practice or fraud;
- (6) An incorporator or other key person has used fraudulent, coercive, or dishonest practices, or has acted in a manner that is incompetent, untrustworthy, or financially irresponsible; or

(7) An incorporator or other key person has held such a position in another insurance company that has had its license suspended or revoked by any state.

(d) If the Commissioner disapproves of the formation or initial license, the Commissioner shall notify the applicant and advise the applicant in writing of the reasons for the disapproval. Within 30 days after receipt of notification, the applicant may make written demand upon the Commissioner for a hearing to determine the reasonableness of the Commissioner's action. The hearing shall be scheduled within 30 days after the date of receipt of the written demand.

(e) For the purposes of investigation under this section, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(f) The Commissioner may adopt rules to set standards for obtaining background information on each incorporator or other key person of a proposed new domestic insurance company."

SECTION 4.2. G.S. 58-7-70 reads as rewritten:

"§ 58-7-70. Effects of redomestication.

The license, agent appointments and licenses, rates, and other items that the Commissioner authorizes or grants, in his discretion, that are in existence at the time any insurer licensed to ~~transact the business of insurance in this State by the Commissioner~~ transfers its corporate domicile to this or any other state by merger, consolidation, or any other lawful method, shall continue in full force and effect upon ~~such the~~ transfer if ~~such the~~ insurer remains duly licensed to ~~transact the business of insurance in this State by the Commissioner~~. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to any new name of the insurer or its new location unless so ordered by the Commissioner. Every transferring insurer shall file new policy forms with the Commissioner on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the Commissioner: Provided, however, every such transferring insurer shall (i) notify the Commissioner of the details of the proposed transfer and (ii) promptly file any resulting amendments to corporate documents filed or required to be filed with the Commissioner."

PART V. INSURANCE COMPANY SOLVENCY PROTECTION.

SECTION 5.1. G.S. 58-7-75(10) reads as rewritten:

"(10) Impairment of Capital and/or Surplus. – Whenever the Commissioner finds from a financial statement made by any company, or from a report of examination of any company, that its admitted assets are less than the

aggregate amount of its liabilities and its outstanding capital ~~stock and/or stock~~, required minimum surplus, or both, the Commissioner shall ~~determine~~ determine, in accordance with G.S. 58-2-165 and other applicable provisions of this Chapter, the amount of the impairment of ~~capital and/or surplus capital~~, surplus, or both and issue an order in writing requiring the company to eliminate the impairment within such period of not more than 90 days as the Commissioner shall designate. The Commissioner may, by order served upon the company, prohibit the company from issuing any new policies while the impairment exists. If at the expiration of the designated period the company has not satisfied the Commissioner that the impairment has been eliminated, an order for the rehabilitation or liquidation of the company may be entered as provided in Article 30 of this Chapter."

SECTION 5.2. G.S. 58-7-130 reads as rewritten:

"§ 58-7-130. Payment of dividends impairing financial soundness of company or detrimental to policyholders. Dividends and distributions to stockholders.

(a) Each domestic insurance company in North Carolina shall be restricted by the Commissioner from the payment of any dividends or other distributions to its stockholders whenever the Commissioner determines from examination of ~~such the~~ such the company's financial condition that the payment of future dividends or other distributions would cause a hazardous financial condition, impair the financial soundness of the company or be detrimental to its policyholders, and ~~such those~~ such those restrictions shall continue in force until ~~such future date~~ when the Commissioner may specifically permit permits the payment of dividends or other distributions to stockholders by the company through a written authorization. ~~Nothing contained in this section and no action taken by the Commissioner shall in any way restrict the liability of stockholders under G.S. 58-7-125.~~

(b) No domestic stock insurance company shall declare dividends to its stockholders except from the unassigned surplus of the company as reflected in the company's most recent financial statement filed with the Commissioner under G.S. 58-2-165.

(c) A transfer out of paid-in and contributed surplus to common or preferred capital stock will be permitted on a case-by-case basis, with the Commissioner's prior approval, depending on the necessity for a company to make the transfer.

(d) Nothing in this section and no action taken by the Commissioner in any way restricts the liability of stockholders under G.S. 58-7-125.

(e) Dividends and other distributions paid to stockholders are subject to the requirements and limitations of G.S. 58-19-25(d) and G.S. 58-19-30(c)."

PART VI. LIFE INSURANCE COMPANY VARIABLE ACCOUNTS.

SECTION 6.1. G.S. 58-7-95(b) reads as rewritten:

"(b) Any domestic life insurance company may, pursuant to resolution of its board of directors, establish one or more separate accounts and may allocate to such account or accounts amounts ~~received or retained in connection with variable contracts~~ (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life ~~insurance~~ insurance, guaranteed investment contracts, or annuities (and benefits incidental thereto) payable in fixed or variable amounts or both."

SECTION 6.2. G.S. 58-7-95(c) reads as rewritten:

"(c) In addition to the amounts allocated under subsection (b), such company may allocate from its general accounts to such separate account or accounts additional amounts, which may include an initial allocation to establish such account; provided, ~~that the aggregate amount so allocated shall not exceed one per centum (1%) of its admitted assets as of the preceding December 31, or one million dollars (\$1,000,000), whichever is less, and, provided further,~~ that such company shall be entitled to withdraw at any time, in whole or in part, its participation in any separate account to which funds have been allocated as provided in this subsection (c), and to receive, upon withdrawal, its proportionate share of the value of the assets of the separate account at the time of withdrawal."

SECTION 6.3. G.S. 58-7-95(e) and G.S. 58-7-95(f) are repealed.

SECTION 6.4. G.S. 58-7-95(g) reads as rewritten:

"(g) ~~The limitations provided in subsections (e) and (f) above shall not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with subsections (e) and (f) hereof.~~The life insurance company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as may otherwise be approved by the Commissioner."

PART VII. INSURANCE COMPANY CONSOLIDATION.

SECTION 7.1. G.S. 58-7-150(a) reads as rewritten:

"(a) A domestic insurer may consolidate with another insurer, subject to the following conditions:

- (1) The plan of consolidation must be submitted to and be approved by the Commissioner ~~in advance of~~ before the consolidation.
- (2) The Commissioner shall not approve ~~any such plan unless, after a hearing, he~~ the plan unless the Commissioner finds that it is fair, equitable to policyholders, consistent with law, and will not conflict with the public interest. If the Commissioner ~~fails to approve~~ disapproves the plan, ~~he~~ the Commissioner shall state ~~his~~ the reasons for ~~such failure in his order made on such hearing.~~ the disapproval and call for a hearing.
- (3) No director, officer, member or subscriber of any such insurer, except as is expressly provided by the plan of consolidation, shall receive any fee, commission, other compensation or valuable consideration whatever, for in any manner aiding, promoting or assisting in the consolidation.
- (4) Any consolidation as to an incorporated domestic insurer shall in other respects be governed by the general laws of this State relating to business ~~corporations, except that~~ the corporations. The consolidation of a domestic mutual insurer may be effected by vote of two thirds of the members voting thereon pursuant to such notice and procedure as the Commissioner may prescribe."

SECTION 7.2. G.S. 58-7-150(b) reads as rewritten:

"(b) Reinsurance of all or substantially all of the insurance ~~in force obligations or risks of existing or in-force policies~~ of a domestic insurer by another insurer under an ~~agreement whereby the reinsuring company succeeds to all of the liabilities of and supplants the domestic insurance company thereon~~ assumption reinsurance agreement, as defined in G.S. 58-10-25(a)(2), shall be deemed a consolidation for the purposes of this section. This section does not apply to consolidations to the extent regulated by Article 19 or other Articles of this Chapter."

PART VIII. INSURANCE COMPANY INVESTMENTS.

SECTION 8.1. G.S. 58-7-170(b) reads as rewritten:

"(b) Investments eligible under subsection (a), except investments acquired under G.S. 58-7-183, are subject to the following ~~limitations:~~ limitations, other limitations of this section, and any other limitations that are expressly provided for in any provision under which the investment is authorized:

- (1) The cost of investments made by insurers in stock authorized by G.S. 58-7-173 shall not exceed twenty-five percent (25%) of the insurer's admitted

assets, provided that no more than twenty percent (20%) of the insurer's admitted assets shall be invested in common stock; and the cost of an investment in stock of any one corporation shall not exceed three percent (3%) of the insurer's admitted assets. Notwithstanding any other provision in this Chapter, the financial statement carrying value of all stock investments shall be used for the purpose of determining the asset value against which the percentage limitations are to be applied.

- (2) ~~Other limitations, if any, that are expressly provided for in any provision under which the investment is authorized.~~The cost of Canadian investments authorized by G.S. 58-7-173 shall not exceed forty percent (40%) of the insurer's admitted assets in the aggregate, provided that no more than twenty-five percent (25%) of the insurer's admitted assets shall be invested in Canadian investments authorized by G.S. 58-7-173(11)."

SECTION 8.2. G.S. 58-7-170(d) reads as rewritten:

"(d) Without the Commissioner's prior written approval, the cost of investments ~~in bonds, debentures, notes, commercial paper, or other debt obligations issued, assumed, or guaranteed by any solvent United States institution, any state, Canada, or any Canadian province, permitted under G.S. 58-7-173 and G.S. 58-7-178, and that are classified as medium to lower quality obligations, other than obligations of subsidiaries or affiliated corporations as that term is defined in G.S. 58-7-177, G.S. 58-19-5,~~ shall be limited to:

- (1) No more than twenty percent (20%) of an insurer's admitted assets;
 - (2) No more than ten percent (10%) of an insurer's admitted assets in obligations that have been given a rating of 4, 5, or 6 by the Securities Valuation Office of the NAIC;
 - (3) No more than three percent (3%) of an insurer's admitted assets in obligations that have been given a rating of 5 or 6 by the Securities Valuation Office of the NAIC; and
 - (4) No more than one percent (1%) of an insurer's admitted assets in obligations that have been given a rating of 6 by the Securities Valuation Office of the NAIC.
- (5), (6) Repealed by Session Laws 1993, c. 452, s. 11."

SECTION 8.3. G.S. 58-7-173(9) reads as rewritten:

"(9) Bonds, debentures, or other securities of public housing authorities, issued under the Housing Act, of 1949, the Municipal Housing Commission Act, or the Rural Housing Commission Act, or issued by any public housing authority or agency in the United States, if the bonds, debentures, or other securities are secured by a

pledge of annual contributions to be paid by the United States or any United States agency; and ~~the cost of investments made under this subdivision shall not exceed the lesser of three percent (3%) of the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus.~~agency."

SECTION 8.4. G.S. 58-7-173(10) reads as rewritten:

"(10) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank; and the cost of investments made under this subdivision in any one institution shall not exceed ~~the lesser of~~ three percent (3%) of the insurer admitted assets ~~or ten percent (10%) of the insurer's capital and surplus.~~assets."

SECTION 8.5. G.S. 58-7-173(11) reads as rewritten:

"(11) Bonds, notes, or other interest-bearing or interest-accruing obligations of any solvent institution organized under the laws of the United States, of any state, Canada or any Canadian province; provided such instruments are rated and valued by the Securities Valuation Office of the NAIC. The cost of investments made under this subdivision ~~in issuers from any one industry shall not exceed ten percent (10%) of an insurer's admitted assets, and the cost of investments made in any one issuer shall not exceed three percent (3%) of an insurer's admitted assets or ten percent (10%) of an insurer's capital and surplus, whichever is greater. As used in this subdivision, "industry" means a distinct and recognized area of economic activity that consists of the production, manufacture, or distribution of common goods, products, commodities, or services.~~assets."

SECTION 8.6. G.S. 58-7-173(12) reads as rewritten:

"(12) Secured obligations of duly constituted churches and of church-holding companies; and the cost of investments made under this subdivision shall not exceed ~~the lesser of one percent (1%)~~ three percent (3%) of the insurer's admitted assets ~~or five percent (5%) of the insurer's capital and surplus.~~assets."

SECTION 8.7. G.S. 58-7-173(14) reads as rewritten:

"(14) Share or savings accounts of savings and loan associations or building and loan ~~associations; and the~~

~~cost of investments made under this subdivision shall not exceed the lesser of three percent (3%) of the insurer's admitted assets or five percent (5%) of the insurer's capital and surplus associations."~~

SECTION 8.8. G.S. 58-7-173(16) reads as rewritten:

"(16) Stocks, common or preferred, of any corporation created or existing under the laws of the United States, any U.S. territory, Canada or any Canadian province, or of any state. An insurer may invest in stocks, common or preferred, of any corporation created or existing under the laws of any foreign country other than Canada if the stocks are listed and traded on a national securities exchange in the United States or if the investment in stocks of any corporation created or existing under the laws of any foreign country are first approved by the Commissioner. Nothing in this section applies to qualifying investments made by an insurer in a foreign country under authority of G.S. 58-7-178.~~subject to the provisions of G.S. 58-7-178.~~"

SECTION 8.9. G.S. 58-7-177 is repealed.

SECTION 8.10. G.S. 58-23-26(c) reads as rewritten:

"(c) Each pool is subject to G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-165, 58-2-180, 58-2-185, 58-2-190, 58-2-200, 58-3-71, 58-3-75, 58-3-81, 58-3-105, 58-6-5, 58-7-21, 58-7-26, 58-7-30, 58-7-31, 58-7-50, 58-7-55, 58-7-140, 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, 58-7-175, ~~58-7-177~~, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-195, 58-7-197, 58-7-200, and Articles 13, 19, and 34 of this Chapter. Annual financial statements required by G.S. 58-2-165 shall be filed by each pool within 60 days after the end of the pool's fiscal year, subject to extension by the Commissioner."

SECTION 8.11. G.S. 58-7-178 reads as rewritten:

"§ 58-7-178. *Foreign or territorial investments.*

(a) An insurer authorized to transact insurance in a foreign country or any U.S. territory may have funds invested in securities that may be required for that authority and for the transaction of that ~~business.~~business, provided the funds and securities are substantially of the same kinds, classes, and investment grades as those otherwise eligible for investment under this Chapter. Canadian securities eligible for investment under other provisions of this Chapter are not subject to this section. Unless disapproved by the Commissioner:

(1) ~~An insurer may invest in Eurodollar certificates of deposit issued by foreign branches of United States commercial banks.~~

- (2) ~~In addition to Canadian securities eligible for investment and to investments in countries in which an insurer transacts insurance, an insurer may invest in bonds, notes, or stocks of any foreign country or alien corporation if the security meets the general requirements of G.S. 58-7-167 and does not exceed, in total, five percent (5%) of admitted assets.~~

The aggregate amount of investments under this subsection shall not exceed the amount that the insurer is required by law to invest in the foreign country or United States territory, or one and one-half times the amount of reserves and other obligations under the contracts, whichever is greater.

(b) An insurer, whether or not it is authorized to do business or has outstanding insurance contracts on lives or risks in any foreign country, may invest in bonds, notes, or stocks of any foreign country or alien corporation that are substantially of the same kinds, classes, and investment grades as those otherwise eligible for investment under this Chapter. The aggregate amount of investments under this subsection shall not exceed ten percent (10%) of the insurer's admitted assets, provided that the cost of investments in any foreign country under this subsection shall not exceed three percent (3%) of the insurer's admitted assets.

(c) Canadian securities eligible for investment under other provisions of this Chapter are not subject to this section."

SECTION 8.12. G.S. 58-7-185(a)(2) reads as rewritten:

"(2) Except with the Commissioner's consent, securities issued by any corporation or enterprise, the controlling interest of which is or will after acquisition by the insurer be held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, parent corporation, subsidiaries, or controlling stockholders. Investments in subsidiaries under ~~G.S. 58-7-177~~ G.S. 58-19-10 are not subject to this provision."

SECTION 8.13. G.S. 58-7-185(a)(3) is repealed.

SECTION 8.14. G.S. 58-7-192(d) reads as rewritten:

"(d) No valuations under this section shall be greater than any applicable valuation or method contained in the latest edition of the NAIC ~~publication~~ publications entitled 'Valuations of ~~Securities~~, Securities' or the 'Accounting Practices and Procedures Manual', unless the Commissioner determines that another valuation method is appropriate when it results in a more conservative valuation."

SECTION 8.15. G.S. 58-7-200(b) reads as rewritten:

~~"(b) Notwithstanding any expressed or implied prohibitions, an insurer may effect or maintain bona fide hedging transactions~~

~~pertaining to securities otherwise eligible for investment under this section, including, but not limited to (i) financial futures contracts, warrants, options, calls and other rights to purchase; and (ii) puts and other rights to require another person to purchase the securities. The contracts, options, calls, puts and rights shall be traded on a securities exchange or board of trade regulated under the laws of the United States. For the purposes of this subsection, "bona fide hedging transaction" means a purchase or sale of such a contract, warrant, option, call, put or right, entered into for the purpose of offsetting changes in the market value of a security held by the company. An insurer may engage in derivative transactions under the provisions and limitations of G.S. 58-7-205."~~

SECTION 8.16. G.S. 58-7-200(c) reads as rewritten:

~~"(c) No insurer shall make any direct or indirect loan to any of its directors, officers, or controlling stockholders; nor shall the insurer make any loan to any other person in which the officer, director, or stockholder is substantially interested; nor shall any such director, officer, or stockholder directly or indirectly accept any such loan. No insurer shall directly or indirectly invest in, or lend its funds to, any of its directors, officers, controlling stockholders, or any other person in which an officer, director, or controlling stockholder is substantially interested, nor shall any director, officer, or controlling stockholder directly or indirectly accept the funds."~~

SECTION 8.17. Article 7 of Chapter 58 of the General Statutes is amended by adding the following new section to read:
"§ 58-7-205. Derivative transactions.

(a) As used in this section, the following terms have the following meanings:

- (1) 'Business entity' includes a sole proprietorship, corporation, limited liability company, association, partnership, joint stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether for-profit or not-for-profit.
- (2) 'Counterparty exposure' amount means:
 - a. The amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange, qualified foreign exchange, or cleared through a qualified clearinghouse ('over-the-counter derivative instrument'). The amount of credit risk equals:
 1. The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or

2. Zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.
 - b. If over-the-counter derivative instruments are entered into under a written master agreement which provides for netting of payments owed by the respective parties and the domicile of the counterparty is either within the United States or, if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures of the Securities Valuation Office of the NAIC as eligible for netting, the net amount of credit risk shall be the greater of zero or the net sum of:
 1. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment to the insurer; and
 2. The market value of the over-the-counter derivative instruments entered into under the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.
 - c. For open transactions, market value shall be determined at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one or both parties.
- (3) 'Derivative instrument' means an agreement, option, instrument, or a series or combination thereof:
- a. To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or
 - b. That has a price, performance, value, or cash flow based primarily upon the actual or expected price level, performance, value, or cash flow of one or more underlying interests.
- Derivative instruments include options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures, and any other agreements, options, or instruments substantially similar thereto or any series or combination thereof. Derivative instruments shall additionally include any agreements, options, or

instruments permitted under rules adopted under subsection (c) of this section. Derivative instruments shall not include an investment authorized by G.S. 58-7-173, 58-7-175, 58-7-178, 58-7-179, 58-7-180, and 58-7-187.

- (4) 'Derivative transaction' means any transaction involving the use of one or more derivative instruments.
- (5) 'Qualified clearinghouse' means a clearinghouse for, and subject to the rules of, a qualified exchange or a qualified foreign exchange. The clearinghouse provides clearing services, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risk as to each other.
- (6) 'Qualified exchange' means:
 - a. A securities exchange registered as a national securities exchange, or a securities market regulated under the Securities Exchange Act of 1934 (15 U.S.C. §§ 78, et seq.), as amended;
 - b. A board of trade or commodities exchange designated as a contract market by the Commodity Futures Trading Commission, or any successor thereof;
 - c. Private Offerings, Resales and Trading through Automated Linkages (PORTAL);
 - d. A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or
 - e. A qualified foreign exchange.
- (7) 'Qualified foreign exchange' means a foreign exchange, board of trade, or contract market located outside the United States, its territories or possessions:
 - a. That has received regulatory comparability relief under Commodity Futures Trading Commission Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30);
 - b. That is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief under Commodity Futures Trading Commission Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC's Regulations, 17 C.F.R. Part 30) as to futures transactions in the jurisdiction where the exchange, board of trade, or contract market is located; or

- c. Upon which foreign stock index futures contracts are listed that are the subject of no-action relief issued by the CFTC's Office of General Counsel, but an exchange, board of trade, or contract market that qualifies as a 'qualified foreign exchange' only under this paragraph shall only be a 'qualified foreign exchange' as to foreign stock index futures contracts that are the subject of the no-action relief under this paragraph.
- (8) 'Replication transaction' means a derivative transaction that is intended to replicate the investment in one or more assets that an insurer is authorized to acquire or sell under this section or G.S. 58-7-165. A derivative transaction that is entered into as a hedging transaction shall not be considered a replication transaction.
- (b) An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions under this section under the following conditions:
- (1) An insurer may use derivative instruments under this section to engage in hedging transactions and certain income generation transactions as may be further defined by rules adopted by the Commissioner.
- (2) An insurer shall be able to demonstrate to the Commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses.
- (c) The Commissioner may adopt reasonable rules for investments and transactions under this section including, but not limited to, rules which impose financial solvency standards, valuation standards, and reporting requirements.
- (d) An insurer may enter into hedging transactions under this section if, as a result of and after giving effect to the transaction:
- (1) The aggregate statement value of options, caps, floors, and warrants not attached to another financial instrument purchased and used in hedging transactions then engaged in by the insurer does not exceed seven and one-half percent (7.5%) of its admitted assets;
- (2) The aggregate statement value of options, caps, and floors written in hedging transactions then engaged in by the insurer does not exceed three percent (3%) of its admitted assets; and
- (3) The aggregate potential exposure of collars, swaps, forwards, and futures used in hedging transactions then

engaged in by the insurer does not exceed six and one-half percent (6.5%) of its admitted assets.

(e) An insurer may enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call or that generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed ten percent (10%) of its admitted assets:

- (1) Sales of covered call options on noncallable fixed-income securities, callable fixed-income securities if the option expires by its terms before the end of the noncallable period, or derivative instruments based on fixed income securities;
- (2) Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants, or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;
- (3) Sales of covered puts on investments that the insurer is permitted to acquire under this Chapter, if the insurer has escrowed or entered into a custodian agreement segregating cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or
- (4) Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

(f) An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of G.S. 58-7-170.

(g) Under rules that may be adopted by the Commissioner, additional transactions involving the use of derivative instruments in excess of the limits of subsection (d) of this section or for other risk management purposes may be approved by the Commissioner.

(h) An insurer shall establish guidelines and internal procedures as follows:

- (1) Before engaging in a derivative transaction, an insurer shall establish written guidelines that shall be used for effecting and maintaining the transactions. The guidelines shall:

- a. Address investment or, if applicable, underwriting objectives, and risk constraints such as credit risk limits;
 - b. Address permissible transactions and the relationship of those transactions to its operations, such as a precise identification of the risks being hedged by a derivative transaction; and
 - c. Require compliance with internal control procedures.
- (2) An insurer shall have a system for determining whether a derivative instrument used for hedging has been effective.
- (3) An insurer shall have a credit risk management system for over-the-counter derivative transactions that measures credit risk exposure using the counterparty exposure amount.
- (4) An insurer's board of directors shall, in accordance with G.S. 58-7-168:
- a. Approve the guidelines required by subdivision (1) of this subsection and the systems required by subdivisions (2) and (3) of this subsection; and
 - b. Determine whether the insurer has adequate professional personnel, technical expertise and systems to implement investment practices involving derivatives.
- (i) An insurer shall maintain documentation and records relating to each derivative transaction, such as:
- (1) The purpose or purposes of the transaction;
 - (2) The assets or liabilities to which the transaction relates;
 - (3) The specific derivative instrument used in the transaction;
 - (4) For over-the-counter derivative instrument transactions, the name of the counterparty and counterparty exposure amount; and
 - (5) For exchange-traded derivative instruments, the name of the exchange and the name of the firm that handled the trade.
- (j) Each derivative instrument shall be:
- (1) Traded on a qualified exchange;
 - (2) Entered into with, or guaranteed by, a business entity;
 - (3) Issued or written by or entered into with the issuer of the underlying interest on which the derivative instrument is based; or
 - (4) Entered into with a qualified foreign exchange."
- SECTION 8.18.** G.S. 58-67-60 reads as rewritten:

"§ 58-67-60. *Investments.*

With the exception of investments made in accordance with G.S. 58-67-35(a)(1) and (2) and G.S. 58-67-35(b), the ~~investable~~ funds of a health maintenance organization shall be invested or maintained only in ~~securities or securities~~, ~~other investments~~ investments, or ~~other assets~~ permitted by the laws of this State for the investment of assets constituting the legal reserves of life insurance companies or such other securities or investments as the Commissioner may permit."

PART IX. MUTUAL INSURANCE COMPANIES.

SECTION 9.1. G.S. 58-8-5(a)(3) reads as rewritten:

~~"(3) Said officers shall cause said certificate to be published once a week for two consecutive weeks in a newspaper in Raleigh and in the county where the company's principal office is located, or posted at the courthouse door if no newspaper be published within the county. Said printed or posted notices shall be in such form and of such size as the Commissioner may approve, and in addition to setting forth in full the certificate required in subdivision (2) shall state that application for amending the company's charter in the manner specified has been proposed by the board of directors, and shall also state the time set for a meeting of policyholders thereby called to be held at the principal office of the company to take action on the proposed amendment. A true copy of such notice shall be filed with the Commissioner, and also with that official who performs the functions of Commissioner in each state where the company is licensed to do business. Such publication and filing of notices shall be completed at least 30 days prior to the date set therein for the meeting of policyholders and due proof thereof shall be filed with the Commissioner at least 15 days prior to the date of such meeting. If the meeting at which the proposed amendment is to be considered is a special meeting, rather than a regular annual meeting of policyholders, such special meeting can be called only after the Commissioner has given his approval in writing, and the published notice shall show the fact of such approval; writing;"~~

SECTION 9.2. G.S. 58-8-25 reads as rewritten:

"§ 58-8-25. *Dividends to policyholders.*

(a) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes other than life insurance or workers' compensation insurance and employers' liability insurance in connection therewith, may declare and pay a dividend to

policyholders from its ~~surplus~~, unassigned surplus, as reflected in the company's most recent annual or quarterly statement filed with the Commissioner under G.S. 58-2-165, which shall include only its surplus in excess of any required minimum surplus. No such dividend shall be paid unless it is fair and equitable and for the best interest of the company and its policyholders. In declaring any dividend to its policyholders, any such company may make reasonable classifications of policies expiring during a fixed period, upon the basis of each general kind of insurance covered by ~~such~~ those policies and by territorial divisions of the location of risks by states, except that in fixing the amount of dividends to be paid on each general kind of insurance, ~~which~~ the dividends shall be uniform in rate and applicable to the majority of risks within ~~such~~ that general kind of insurance, and exceptions may be made as to any class or classes of risk and a different rate or amount of dividends paid on ~~such~~ the class or classes if the conditions applicable to ~~such~~ the class or classes differ substantially from the condition applicable to the kind of insurance as a whole. Every such company shall have an equal rate of dividend for the same term on all policies insuring risks in the same classification. The payment of dividends to policyholders shall not be contingent upon the maintenance or renewal of the policy. All dividends shall be paid to the policyholder unless a written assignment ~~thereof~~ be of those dividends is executed. Neither the payment of dividends nor the rate ~~thereof~~ of the dividends may be guaranteed by any company, or its agent, ~~prior to~~ before the declaration of the dividend by the board of directors of ~~such~~ the company. The holders of policies of insurance issued by a company in compliance with the orders of any public official, bureau or committee, in conformity with any statutory requirement or voluntary arrangement, for the issuance of insurance to risks not otherwise acceptable to the company, may be established as a separate class of risks.

(b) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes workers' compensation insurance and employers' liability insurance in connection therewith may declare and pay a dividend to policyholders from its ~~surplus~~, unassigned surplus, as reflected in the company's most recent statement filed with the Commissioner under G.S. 58-2-165, which shall include only its surplus in excess of any required minimum surplus. No such dividend shall be paid unless it is fair and equitable and for the best interest of the company and its policyholders. In declaring any dividend to its policyholders, any such company may make reasonable classifications of policies expiring during a fixed period. The payment of dividends to policyholders shall not be contingent upon the maintenance or renewal of the policy. All

dividends shall be paid to the policyholder unless a written assignment ~~thereof be of those dividends is~~ executed. Neither the payment of dividends nor the rate ~~thereof of the dividends~~ may be guaranteed by any company, or its agent, ~~prior to before~~ the declaration of the dividend by the board of directors of ~~such the~~ company. The holders of policies of insurance issued by a company in compliance with the orders of any public official, bureau, or committee, in conformity with any statutory requirement or voluntary arrangement, for the issuance of insurance to risks not otherwise acceptable to the company, may be established as a separate class of risks."

SECTION 9.3. The title of G.S. 58-10-1 reads as rewritten:
 "§ 58-10-1. *Domestic stock life insurance corporations authorized to convert into mutual corporations; procedure. Stock to mutual insurer conversion.*"

SECTION 9.4. The title of Part 1 of Article 10 of Chapter 58 of the General Statutes reads as rewritten:

"Article 10.

Miscellaneous Insurer Financial Provisions.

Part 1. Conversion ~~from of~~ Stock ~~to and~~ Mutual Corporation-Insurers."

SECTION 9.5. The title of G.S. 58-10-10 reads as rewritten:

"§ 58-10-10. *Mutual conversion to stock insurer-insurer conversion.*"

SECTION 9.6. Part 1 of Article 10 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-10-12. *Conversion plan requirements.*

(a) As used in this section:

- (1) 'Closed block' means an allocation of assets for a defined group of in- force policies which, together with the premiums of those policies and related investment earnings, are expected to be sufficient to maintain the payments of guaranteed benefits, certain expenses, and continuation of the current dividend scale on the closed block, if experience does not change.
- (2) 'Converting mutual' means a domestic mutual insurance company that has adopted a plan of conversion and an amendment to its articles of incorporation under this section that will, upon consummation, result in the domestic mutual insurance company converting into a domestic stock insurance company.
- (3) 'Eligible member' means a person who:
 - a. Is a member of the converting mutual on the date the converting mutual's board of directors adopts a

- resolution proposing a plan of conversion and an amendment to the articles of incorporation; and
- b. Continues to be a member of the converting mutual on the effective date of the conversion.
- (4) 'Former mutual' means the domestic stock insurance company resulting from the conversion of a converting mutual to a stock insurance company under a plan of conversion and an amendment to its articles of incorporation under this section.
- (5) 'Member' means a person that, according to the records, articles of incorporation, and bylaws of a converting mutual, is a member of the converting mutual.
- (6) 'Membership interests' means:
- a. The voting rights of members of a domestic mutual insurance company as provided by law and by the company's articles of incorporation and bylaws; and
- b. The rights of members of a domestic mutual insurance company to receive cash, stock, or other consideration in the event of a conversion to a stock insurance company under this section or a dissolution as provided by the company's articles of incorporation and bylaws.
- (7) 'Parent company' means a corporation that, upon the effective date of a conversion, owns all of the stock of the former mutual.
- (8) 'Plan of conversion' means the plan of conversion described in subsection (b) of this section.
- (b) The plan of conversion under G.S. 58-10-10 shall:
- (1) Describe the manner in which the proposed conversion will occur and the insurance and any other companies that will result from or be directly affected by the conversion, including the former mutual and any parent company.
- (2) Provide that the membership interests in the converting mutual will be extinguished as of the effective date of the conversion.
- (3) Require the distribution to the eligible members, upon the extinguishing of their membership interests, of aggregate consideration equal to the fair value of the converting mutual.
- (4) Describe the manner in which the fair value of the converting mutual has been or will be determined.
- (5) Describe the form or forms and amount, if known, of consideration to be distributed to the eligible members.

- (6) Specify relevant classes, categories, or groups of eligible members and describe and explain any differences in the form or forms and amount of consideration to be distributed to or among the eligible members.
- (7) Require and describe the method or formula for the fair and equitable allocation of the consideration among the eligible members.
- (8) Provide for the determination and preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends, through establishment of a closed block or other method acceptable to the Commissioner.
- (9) Provide that each member and other policyholder of the converting mutual will receive notification of the address and telephone number of the converting mutual and the former mutual, if different, along with the notice of hearing as approved by the Commissioner.
- (10) Include other provisions as the converting mutual determines to be necessary.

(c) After the adoption by the board of directors of the resolution proposing the plan of conversion under G.S. 58-10-10 and the amendment to its articles of incorporation, the converting mutual shall file with the Commissioner an application for approval of the plan and amendment. The application must contain the following information, together with any additional information as the Commissioner may require:

- (1) The plan of conversion and a certificate of the secretary of the converting mutual certifying the adoption of the plan by the board of directors.
- (2) A statement of the reasons for the proposed conversion and why the conversion is in the best interests of the converting mutual, the eligible members, and the other policyholders. The statement must include an analysis of the risks and benefits to the converting mutual and its members of the proposed conversion and a comparison of the risks and benefits of the conversion with the risks and benefits of reasonable alternatives to a conversion.
- (3) A five-year business plan and at least two years of financial forecasts of the former mutual and any parent company.
- (4) Any plans that the former mutual or any parent company may have to:
 - a. Raise additional capital through the issuance of stock or otherwise;

- b. Sell or issue stock to any person, including any compensation or benefit plan for directors, officers, or employees under which stock may be issued;
 - c. Liquidate or dissolve any company or sell any material assets;
 - d. Merge or consolidate or pursue any other form of reorganization with any person; or
 - e. Make any other material change in investment policy, business, corporate structure, or management.
- (5) Any plans for a delayed distribution of consideration to eligible members or restrictions on sale or transfer of stock or other securities.
- (6) A copy of the form of trust agreement, if a distribution of consideration is to be delayed by more than six months after the effective date of the conversion.
- (7) A plan of operation for a closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.
- (8) Copies of the amendment to the articles of incorporation proposed by the board of directors and proposed bylaws of the former mutual and copies of the existing and any proposed articles of incorporation and bylaws of any parent company.
- (9) A list of all individuals who are or have been selected to become directors or officers of the former mutual and any parent company, or the individuals who perform or will perform duties customarily performed by a director or officer, and the following information concerning each individual on the list unless the information is already on file with the Commissioner:
- a. The individual's principal occupation.
 - b. All offices and positions the individual has held in the preceding five years.
 - c. Any crime of which the individual has been convicted (other than traffic violations) in the preceding 10 years.
 - d. Information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven years.
 - e. Information concerning the bankruptcy of any corporation or other entity of which the individual

- was an officer or director during the previous seven years.
- f. Information concerning allegations of state or federal securities law violations made against the individual that within the previous 10 years resulted in (i) a determination that the individual violated state or federal securities laws; (ii) a plea of nolo contendere; or (iii) a consent decree.
 - g. Information concerning the suspension, revocation, or other disciplinary action during the previous 10 years of any state or federal license issued to the individual.
 - h. Information as to whether the individual was refused a bond during the previous 10 years.
- (10) A fairness opinion addressed to the board of directors of the converting mutual from a qualified, independent financial adviser asserting:
- a. That the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of incorporation is fair to the eligible members, as a group, from a financial point of view; and
 - b. Whether the total consideration under sub-subdivision a. of this subdivision is equal to or greater than the surplus of the converting mutual.
- The Commissioner may waive the fairness opinion in situations involving a straightforward issuance of stock to members of the former mutual.
- (11) An actuarial opinion as to the following:
- a. The reasonableness and appropriateness of the methodology or formulas used to allocate consideration among eligible members, consistent with this Article.
 - b. The reasonableness of the plan of operation and sufficiency of the assets allocated to the closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.
- (12) If any of the consideration to be distributed to eligible members consists of stock or other securities, subject to the limitations of G.S. 58-10-10(b)(6), a description of the plans made by the former mutual or its parent

company to assure that an active public trading market for the stock or other securities will develop within a reasonable amount of time after the effective date of the plan of conversion and that eligible members who receive stock or other securities will be able to sell their stock or other securities, subject to any delayed distribution or transfer restrictions, at reasonable cost and effort.

(13) Any additional information, documents, or materials that the converting mutual determines to be necessary.

(d) Distribution of all or part of the consideration to some or all of the eligible members may be delayed, or restrictions on sale or transfer of any stock or other securities to be distributed to eligible members may be required, for a reasonable period of time following the effective date of the conversion. However, the period of time shall not exceed six months unless otherwise approved by the Commissioner.

(e) Except as specifically provided in a plan of conversion, for five years following the effective date of the conversion, no person or persons acting in concert (other than the former mutual, any parent company, or any employee benefit plans or trusts sponsored by the former mutual or a parent company) shall directly or indirectly acquire, or agree or offer to acquire, in any manner the beneficial ownership of five percent (5%) or more of the outstanding shares of any class of a voting security of the former mutual or any parent company without the prior approval of the Commissioner of a statement filed by that person with the Commissioner. The statement shall contain the information required by G.S. 58-19-15(b) and any other information required by the Commissioner. The Commissioner shall not approve an acquisition under this subsection unless the Commissioner finds that:

- (1) The requirements of G.S. 58-19-15(e) will be satisfied.
- (2) The acquisition will not frustrate the plan of conversion or the amendment to the articles of incorporation as approved by the members and the Commissioner.
- (3) The boards of directors of the former mutual and any parent company have approved the acquisition.
- (4) The acquisition would be in the best interest of the present and future policyholders of the former mutual without regard to any interest of policyholders as shareholders of the former mutual or any parent company."

PART X. REINSURANCE INTERMEDIARIES.

SECTION 10.1. G.S. 58-9-6(a) reads as rewritten:

"(a) The Commissioner shall issue an intermediary license or an exemption from the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has complied with the requirements of this Article. A license issued to a non corporate entity authorizes all of the members of the entity and any designated employees to act as intermediaries under the license, and those persons shall be named in the application and any supplements. A license issued to a corporation authorizes all of the officers and any designated employees and directors of the corporation to act as intermediaries on behalf of the corporation, and those persons shall be named in the application and any supplements."

SECTION 10.2. G.S. 58-9-11(b) reads as rewritten:

"(b) An insurer shall not engage the services of any person to act as a broker on its behalf unless the person is licensed under ~~G.S. 58-9-6~~G.S. 58-9-6 or exempted under this Article. An insurer shall not employ an individual who is employed by a broker with which it transacts business, unless the broker is under common control with the insurer under Article 19 of this Chapter."

SECTION 10.3. G.S. 58-9-21(a) reads as rewritten:

"(a) A reinsurer shall not engage the services of any person to act as a manager on its behalf unless the person is licensed under ~~G.S. 58-9-6~~G.S. 58-9-6 or exempted under this Article."

PART XI. MORTGAGE GUARANTY INSURANCE.

SECTION 11. Article 10 of Chapter 58 of the General Statutes is amended by adding the following new Part to read:

"Part 5. Mortgage Guaranty Insurance.

"§ 58-10-120. Definitions.

As used in this Part:

- (1) 'Mortgage guaranty insurers report of policyholders position' means the annual supplementary report required by the Commissioner.
- (2) 'Policyholders position' means the contingency reserve established under G.S. 58-10-135 and policyholders' surplus. 'Minimum policyholders position' is calculated as described in G.S. 58-10-125.
- (3) 'Policyholders surplus' means an insurer's net worth; the difference between its assets and liabilities, as reported in its annual statement.

"§ 58-10-125. Minimum policyholders position.

(a) For the purpose of complying with G.S. 58-7-75, a mortgage guaranty insurer shall maintain at all times a minimum policyholders position in the amount required by this section. The policyholders position shall be net of reinsurance ceded but shall include reinsurance assumed.

(b) If a mortgage guaranty insurer does not have the minimum amount of policyholders position required by this section it shall cease transacting new business until the time that its policyholders position is in compliance with this section.

(c) If a policy of mortgage guaranty insurance insures individual loans with a percentage claim settlement option on those loans, a mortgage guaranty insurer shall maintain a policyholders position based on each one hundred dollars (\$100.00) of the face amount of the mortgage, the percentage coverage, and the loan-to-value category. The minimum amount of policyholders position shall be calculated in the following manner:

(1) If the loan-to-value is greater than seventy-five percent (75%), the minimum policyholders position per one hundred dollars (\$100.00) of the face amount of the mortgage for the specific percent coverage shall be as shown in the schedule below:

<u>Percent Coverage</u>	<u>Policyholders Position Per \$100 of the Face Amount of the Mortgage</u>	<u>Percent Coverage</u>	<u>Policyholders Position Per \$100 of the Face Amount of the Mortgage</u>
<u>5</u>	<u>\$0.20</u>	<u>55</u>	<u>\$1.50</u>
<u>10</u>	<u>0.40</u>	<u>60</u>	<u>1.55</u>
<u>15</u>	<u>0.60</u>	<u>65</u>	<u>1.60</u>
<u>20</u>	<u>0.80</u>	<u>70</u>	<u>1.65</u>
<u>25</u>	<u>1.00</u>	<u>75</u>	<u>1.75</u>
<u>30</u>	<u>1.10</u>	<u>80</u>	<u>1.80</u>
<u>35</u>	<u>1.20</u>	<u>85</u>	<u>1.85</u>
<u>40</u>	<u>1.30</u>	<u>90</u>	<u>1.90</u>
<u>45</u>	<u>1.35</u>	<u>95</u>	<u>1.95</u>
<u>50</u>	<u>1.40</u>	<u>100</u>	<u>2.00</u>

(2) If the loan-to-value is at least fifty percent (50%) and not more than seventy-five percent (75%), the minimum amount of the policyholders position shall be fifty percent (50%) of the minimum of the amount calculated under subdivision (c)(1) of this section.

(3) If the loan-to-value is less than fifty percent (50%), the minimum amount of policyholders position shall be twenty-five percent (25%) of the amount calculated under subdivision (c)(1) of this section.

(d) If a policy of mortgage guaranty insurance provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be:

- (1) If the equity is not more than fifty percent (50%) and is at least twenty percent (20%), or equity plus prior insurance or a deductible is at least twenty-five percent (25%) and not more than fifty-five percent (55%), the minimum amount of policyholders position shall be calculated as follows:

<u>Percent Coverage</u>	<u>Policyholders Position Per \$100 of the Face Amount of the Mortgage</u>	<u>Percent Coverage</u>	<u>Policyholders Position Per \$100 of the Face Amount of the Mortgage</u>
<u>1</u>	<u>\$0.30</u>	<u>50</u>	<u>\$0.825</u>
<u>5</u>	<u>0.50</u>	<u>60</u>	<u>0.85</u>
<u>10</u>	<u>0.60</u>	<u>70</u>	<u>0.875</u>
<u>15</u>	<u>0.65</u>	<u>75</u>	<u>0.90</u>
<u>20</u>	<u>0.70</u>	<u>80</u>	<u>0.925</u>
<u>25</u>	<u>0.75</u>	<u>90</u>	<u>0.95</u>
<u>30</u>	<u>0.775</u>	<u>100</u>	<u>1.00</u>
<u>40</u>	<u>0.80</u>		

- (2) If the equity is less than twenty percent (20%), or the equity plus prior insurance or a deductible is less than twenty-five percent (25%), the minimum amount of policyholders position shall be two hundred percent (200%) of the amount required by subdivision (d)(1) of this section.
- (3) If the equity is more than fifty percent (50%), or the equity plus prior insurance or a deductible is more than fifty-five percent (55%), the minimum amount of policyholders position shall be fifty percent (50%) of the amount required by subdivision (d)(1) of this section.

(e) If a policy of mortgage guaranty insurance provides for layers of coverage, deductibles, or excess reinsurance, the minimum amount of policyholders position shall be computed by subtraction of the minimum position for the lower percentage coverage limit from the minimum position for the upper or greater coverage limit.

(f) If a policy of mortgage guaranty insurance provides for coverage on loans secured by junior liens, the policyholders position shall be:

- (1) If the policy provides coverage on individual loans, the minimum amount of policyholders position shall be calculated as in subsection (c) of this section as follows:

- a. The loan-to-value percent is the entire loan indebtedness on the property divided by the value of the property;
 - b. The percent coverage is the insured portion of the junior loan divided by the entire loan indebtedness on the collateral property; and
 - c. The face amount of the insured mortgage is the entire loan indebtedness on the property.
- (2) If the policy provides coverage on a group of loans subject to an aggregate loss limit, the policyholders position shall be calculated according to subsection (d) of this section as follows:
- a. The equity is the complement of the loan-to-value percent calculated as in subdivision (d)(1) of this section;
 - b. The percent coverage is calculated as in subdivision (d)(1) of this section; and
 - c. The face amount of the insured mortgage is the entire loan indebtedness on the property.
- (g) If a policy of mortgage guaranty insurance provides for coverage on leases, the policyholders position shall be four dollars (\$4.00) for each one hundred dollars (\$100.00) of the insured amount of the lease.
- (h) If a policy of mortgage guaranty insurance insures loans with a percentage loss settlement option coverage between any of the entries in the schedules in this section, then the factor for policyholders position per one hundred dollars (\$100.00) of the face amount of the mortgage shall be prorated between the factors for the nearest percent coverage listed.
- "§ 58-10-130. Unearned premium reserve.
- (a) The unearned premium reserve shall be computed as follows:
 - (1) The unearned premium reserve for premiums paid in advance annually shall be calculated on the monthly pro rata fractional basis.
 - (2) Premiums paid in advance for 10-year coverage shall be placed in the unearned premium reserve and shall be released from this reserve as follows:
 - a. 1st month - 1/132;
 - b. 2nd through 12th month - 2/132 each month;
 - c. 13th month - 3/264;
 - d. 14th through 120th month - 1/132 per month;
 - e. 121st month - 1/264.
 - (3) Premiums paid in advance for periods in excess of 10 years. During the first 10 years of coverage the unearned portion of the premium shall be the premium collected

minus an amount equal to the premium that would have been earned had the applicable premium for 10 years of coverage been received. The premium remaining after 10 years shall be released from the unearned premium reserve monthly pro rata over the remaining term of coverage.

(b) Fifty percent (50%) of the premium remaining after establishment of the premium reserve specified in subsection (a) of this section shall be maintained as a special contingency reservation of premium and reported in the financial statement as a liability.

(c) The case basis method shall be used to determine the loss reserve which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported.

"§ 58-10-135. Contingency reserve.

(a) Subject to G.S. 58-7-21, a mortgage guaranty insurer shall make an annual contribution to the contingency reserve which in the aggregate shall be the greater of:

- (1) Fifty percent (50%) of the net earned premium reported in the annual statement; or
- (2) The sum of:
 - a. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by not more than four families divided by seven;
 - b. The policyholders position established under G.S. 58-10-125 on residential buildings designed for occupancy by five or more families divided by five;
 - c. The policyholders position established under G.S. 58-10-125 on buildings occupied for industrial or commercial purposes divided by three; and
 - d. The policyholders position established under G.S. 58-10-125 for leases divided by 10.

(b) If the mortgage guaranty coverage is not expressly provided for in this section, the Commissioner may establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed.

(c) The contingency reserve established by this section shall be maintained for 120 months. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(d) With the approval of the Commissioner, withdrawals may be made from the contingency reserve when incurred losses and incurred loss expenses exceed the greater of either thirty-five percent (35%) of the net earned premium or seventy percent (70%) of the amount

which subsection (a) of this section requires to be contributed to the contingency reserve in such year. On a quarterly basis, provisional withdrawals may be made from the contingency reserve in an amount not to exceed seventy-five percent (75%) of the withdrawal calculated in accordance with subdivision (d)(1) of G.S. 58-10-125.

(e) With the approval of the Commissioner, a mortgage guaranty insurer may withdraw from the contingency reserve any amounts which are in excess of the minimum policyholders position as filed with the most recently filed annual statement. In reviewing a request for withdrawal pursuant to this subsection, the Commissioner may consider loss development and trends. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained by a reinsurer, the Commissioner may also consider the financial condition of the reinsurer. If any portion of the contingency reserve for which withdrawal is requested pursuant to this subsection is maintained in a segregated account or segregated trust and such withdrawal would result in funds being removed from the segregated account or segregated trust, the Commissioner may also consider the financial condition of the reinsurer.

(f) Releases and withdrawals from the contingency reserve shall be accounted for on a first-in-first-out basis as prescribed by the Commissioner.

(g) The calculations to develop the contingency reserve shall be made in the following sequence:

- (1) The additions required by subsections (a) and (b) of this section;
- (2) The releases permitted by subsection (c) of this section;
- (3) The withdrawals permitted by subsection (d) of this section; and
- (4) The withdrawals permitted by subsection (e) of this section.

(h) Whenever the laws or regulations of another jurisdiction in which a mortgage guaranty insurer, subject to the requirements of this Part is licensed, require a larger unearned premium reserve or a larger contingency reserve in the aggregate than that set forth in this Part, the establishment and maintenance of the larger unearned premium reserve or contingency reserve shall be deemed to be in compliance with this Part."

PART XII. RISK-BASED CAPITAL REQUIREMENTS.

SECTION 12.1. G.S. 58-12-2(3) reads as rewritten:

"(3) Domestic insurer. – Any insurance company or health organization organized in this State under Article 77 7, 15, 65, or 67 of this Chapter."

SECTION 12.2. G.S. 58-12-2(4) reads as rewritten:

"(4) Foreign insurer. – Any insurance company or health organization that is admitted to do business in this State under Article 16 or 67 of this Chapter but is not domiciled in this State."

SECTION 12.3. G.S. 58-12-2 is amended by adding the following new subdivision to read:

"(4b) Health organization. – Any health maintenance organization, limited health service organization, dental or vision plan, hospital, medical, or dental indemnity or service corporation, or other organization licensed under Article 65 or 67 of this Chapter. 'Health organization' does not include an insurer that is licensed as either a life or health insurer or a property or casualty insurer under this Chapter and that is otherwise subject to either the life or property and casualty risk-based capital requirements."

SECTION 12.4. G.S. 58-12-6(d) reads as rewritten:

"(d) A property or casualty insurer's risk-based capital and a health organization's risk-based capital shall be determined in accordance with the formula set forth in the risk-based capital instructions. The formula shall take into account (and may adjust for the covariance between):

- (1) Asset risk;
- (2) Credit risk;
- (3) Underwriting risk; and
- (4) All business and other relevant risks set forth in the risk-based capital instructions, determined in each case by applying the factors in the manner set forth in the risk-based capital instructions."

SECTION 12.5. G.S. 58-12-11(a)(1)a. reads as rewritten:

"a. The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based ~~capital; capital,~~ capital, if the insurer is a property or casualty insurer or a health organization; or".

SECTION 12.6. G.S. 58-12-11(b)(3) reads as rewritten:

"(3) Provides forecasts of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including forecasts of statutory operating income, net income, capital, or surplus (the forecasts for both new and renewal business should include separate forecasts for each major line of business and separately identify each significant income, expense, and benefit component).

For a health organization, the forecasted financial results shall be for the current year and at least two succeeding years and shall include statutory balance sheets, operating income, net income, capital and surplus, and risk-based capital levels."

SECTION 12.7. G.S. 58-12-25(b) reads as rewritten:

"(b) In the event of a mandatory control level event, event with respect to a life insurer or a health organization, the Commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under Article 30 of this Chapter. The mandatory control level event is sufficient grounds for the Commissioner to take action under Article 30 of this Chapter, and the Commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in Article 30 of this Chapter. If the Commissioner takes actions pursuant to an adjusted risk-based capital report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of Article 30 of this Chapter pertaining to summary proceedings. Notwithstanding any of the foregoing, the Commissioner may forego action for up to 90 days after the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period."

SECTION 12.8. G.S. 58-12-25 is amended by adding the following new subsection to read:

"(c) In the event of a mandatory control level event with respect to a property and casualty insurer, the Commissioner shall take actions as are necessary to cause the insurer to be placed under regulatory control under Article 30 of this Chapter, or, in the case of an insurer which is writing no business and which is running off its existing business, may allow the insurer to continue its runoff under the supervision of the Commissioner. In either event, the mandatory control level event is sufficient grounds for the Commissioner to take action under Article 30 of this Chapter, and the Commissioner shall have the rights, powers, and duties with respect to the insurer as are set forth in Article 30 of this Chapter. If the Commissioner takes actions under an adjusted risk-based capital report, the insurer shall be entitled to such protections as are afforded to insurers under the provisions of Article 30 of this Chapter pertaining to summary proceedings. Notwithstanding any of the foregoing, the Commissioner may forego action for up to 90 days after the mandatory control level event if the Commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period."

SECTION 12.9. Article 12 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-12-65. Health organization phase-in provision.

For risk-based capital reports required to be filed by health organizations with respect to calendar year 2001, the following requirements apply in lieu of the provisions of G.S. 58-12-11, 58-12-16, 58-12-21, and 58-12-25:

- (1) In the event of a company action level event with respect to a domestic insurer, the Commissioner shall take no regulatory action under this Article.
- (2) In the event of a regulatory action level event under G.S. 58-12-16(a)(1), (2), or (3), the Commissioner shall take the actions required under G.S. 58-12-11.
- (3) In the event of a regulatory action level event under G.S. 58-12-16(a)(4), (5), (6), (7), (8), or (9), or an authorized control level event, the Commissioner shall take the actions required under G.S. 58-12-16 with respect to the insurer.
- (4) In the event of a mandatory control level event with respect to an insurer, the Commissioner shall take the actions required under G.S. 58-12-21 with respect to the insurer."

SECTION 12.10. Article 12 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-12-70. HMO net worth requirements.

The Commissioner may require an HMO to have and maintain a larger amount of net worth than prescribed in G.S. 58-67-110, based upon the principles of risk-based capital as determined by the NAIC or the Commissioner."

PART XIII. INSURANCE COMPANY ASSET PROTECTION.

SECTION 13.1. G.S. 58-13-10 reads as rewritten:

"§ 58-13-10. Scope.

This Article applies to all domestic insurers and to all kinds of insurance written by those insurers under Articles 1 through 68 of this Chapter. Foreign insurers shall comply in substance with the requirements and limitations of this Article. ~~This Article does not apply to variable contracts for which separate accounts are required to be maintained nor to statutory deposits that are required to be maintained by insurance regulatory agencies as a requirement for doing business in such jurisdictions.~~ This Article does not apply to the following:

- (1) Variable contracts or guaranteed investment contracts for which separate accounts are required to be maintained.

(2) Statutory deposits that are required by insurance regulatory agencies to be maintained as a requirement for doing business in such jurisdictions.

(3) Real estate, authorized under G.S. 58-7-187, encumbered by a mortgage loan with a first lien."

SECTION 13.2. G.S. 58-13-15(3) reads as rewritten:

"(3) "Reserve assets" means those assets of an insurer that are authorized investments for policy reserves in accordance with ~~Articles 1 through 64 of this Chapter and G.S. 58-65-95~~this Chapter."

SECTION 13.3. G.S. 58-13-15(4) reads as rewritten:

"(4) "Policyholder-related liabilities" means those liabilities that are required to be established by an insurer for all of its outstanding insurance policies in accordance with ~~Articles 1 through 64 of this Chapter and G.S. 58-65-95~~this Chapter."

SECTION 13.4. G.S. 58-13-20(b) reads as rewritten:

"(b) The Commissioner has the right to examine any of such assets, reinsurance agreements, or deposit arrangements at any time in accordance with his authority to make examinations of insurers as conferred by other provisions of ~~Articles 1 through 64 of this Chapter.~~"

PART XIV. FOREIGN INSURANCE COMPANIES.

SECTION 14.1. G.S. 58-16-5 reads as rewritten:

"§ 58-16-5. *Conditions of ~~admission-licensure.~~*

A foreign or alien insurance company may be ~~admitted and authorized-licensed~~ to do business when it:

- (1) Deposits with the Commissioner a certified copy of its charter or certificate of organization and a statement of its financial condition and business, in ~~such the~~ form and detail ~~as he that the Commissioner~~ requires, signed and sworn to by its president and secretary or other proper officer, and pays for the filing of this statement the sum required by law.
- (2) Satisfies the Commissioner that it is fully and legally organized under the laws of its state or government to do the business it proposes to ~~transact, transact as direct insurance or assumed reinsurance,~~ and that it has been successful in the conduct of ~~such the~~ business; that it has, if a stock company, a free surplus and a fully paid-up and unimpaired capital, exclusive of stockholders' obligations of any description of an amount not less than that required for the organization of a domestic company writing the same kinds of business;

and if a mutual company that its free surplus is not less than that required for the organization of a domestic company writing the same kind of business, and that ~~such the~~ capital, surplus, and other funds are invested ~~in~~ substantial—substantially in accordance with the requirements of ~~Articles 1 through 64~~ of this Chapter.

- (3) Repealed by Session Laws 1995, c. 517, s. 6.
- (4) Repealed by Session Laws 1987, c. 629, s. 20.
- (5) Files with the Commissioner a certificate that it has complied with the laws of the state or government under which it was organized and is authorized to make contracts of insurance.
- (6) Satisfies the Commissioner that it is in substantial compliance with ~~the provisions of~~ G.S. 58-7-21, 58-7-26, 58-7-30, and 58-7-31 and Article 13 of this Chapter.
- (7) Satisfies the Commissioner that it is in compliance with the company name requirements of G.S. 58-7-35.
- (8) Satisfies the Commissioner that the operation of the company in this State would not be hazardous to prospective policyholders, creditors, or the general public.
- (9) Satisfies the Commissioner that it is in substantial compliance with the requirements of G.S. 58-7-37 pertaining to the background of its officers and directors.
- (10) Files with the Commissioner an instrument appointing the Commissioner as the company's agent on whom any legal process under G.S. 58-16-30 may be served. This appointment is irrevocable as long as any liability of the company remains outstanding in this State. A copy of this instrument, certified by the Commissioner, is sufficient evidence of this appointment; and service upon the Commissioner is sufficient service upon the company."

SECTION 14.2. G.S. 58-16-6 reads as rewritten:

"§ 58-16-6. *Conditions of continued licensure.*

In order for a foreign insurance company to continue to be licensed, it shall report any changes in the documents filed under G.S. 58-16-5(1) or G.S. 58-16-5(5), maintain the amounts of capital and surplus specified in G.S. 58-16-5(2), and remain in substantial compliance with the statutes listed in ~~G.S. 58-16-5(6) and G.S. 58-16-5(7).~~ G.S. 58-16-5(6), (7), and (8)."

PART XV. PROMOTING AND HOLDING COMPANIES.

SECTION 15. Article 18 of Chapter 58 of the General Statutes, comprising G.S. 58-18-1 through G.S. 58-18-25 is repealed.

PART XVI. INSURANCE HOLDING COMPANY SYSTEMS.

SECTION 16.1. G.S. 58-19-5(5) reads as rewritten:

"(5) "Person" means an individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, or any similar entity or any combination of the foregoing acting in concert."

SECTION 16.2. The introductory paragraph of G.S. 58-19-10(b) reads as rewritten:

"(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under ~~all other sections of Articles 1 through 64~~ of this Chapter, a domestic insurer may also:".

SECTION 16.3. G.S. 58-19-10(b)(1) reads as rewritten:

"(1) Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts that do not exceed the lesser of ten percent (10%) of ~~such the~~ insurer's admitted assets or fifty percent (50%) of ~~such the~~ insurer's ~~surplus as regards policyholders, policyholders' surplus,~~ provided that after ~~such those~~ investments, the insurer's ~~surplus as regards policyholders, policyholders' surplus~~ will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of ~~such the~~ investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there shall be included: (i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of ~~such the~~ subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;".

SECTION 16.4. G.S. 58-19-10(b)(3) reads as rewritten:

"(3) With the approval of the Commissioner, invest any greater amount in common stock, preferred stock, debt

obligations, or other securities of one or more subsidiaries; provided that after such investment the insurer's ~~surplus as regards policyholders~~ policyholders' surplus will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs."

SECTION 16.5. G.S. 58-19-15(h) reads as rewritten:

"(h) The provisions of this section do not apply to any offer, request, invitation, agreement, or acquisition that the Commissioner by order exempts therefrom as (i) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (ii) as otherwise not comprehended within the purposes of this section. Any acquisition of stock of a former domestic mutual insurer by a parent company that occurs in connection with the conversion of a mutual insurer to a stock insurer under G.S. 58-10-10 is not subject to this section, provided that no person acquires control of the parent company."

SECTION 16.6. G.S. 58-19-25(a) reads as rewritten:

"(a) Every insurer that is licensed to do business in this State and that is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to the registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained ~~in this section and G.S. 58-19-30 or a provision such as the following:~~ Each registered insurer shall keep ~~current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each change or addition. The insurer shall also file a copy of its registration statement and any amendments to the statement in each state in which that insurer is authorized to do business if requested by the insurance regulator of that state.~~ in:

- (1) This section.
- (2) G.S. 58-19-30(a), G.S. 58-19-30(c), and G.S. 58-19-30(d).
- (3) G.S. 58-19-30(b) or a statutory or regulatory provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each change or addition. The insurer shall also file a copy of its registration statement and any amendments to the statement in each state in which that insurer is authorized to do business, if requested by the insurance regulator of that state.

Any insurer that is subject to registration under this section shall register within 30 days after it becomes subject to registration, and an amendment to the registration statement shall be filed by ~~March 1~~ April 1 of each year for the previous calendar year; unless the Commissioner for good cause shown extends the time for registration or filing, and then within the extended time. All registration statements shall contain a summary, on a form prescribed by the Commissioner, outlining all items in the current registration statement representing changes from the prior registration statement. The Commissioner may require any insurer that is a member of a holding company system that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulator of its domiciliary jurisdiction."

SECTION 16.7. G.S. 58-19-30(b)(4) reads as rewritten:

"(4) All management agreements, service contracts, guarantees, or cost-sharing arrangements."

PART XVII. SURPLUS LINES INSURANCE.

SECTION 17.1. G.S. 58-21-20(a)(2) reads as rewritten:

"(2) Qualifies under one of the following subdivisions:

- a. Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals either:
 1. This State's minimum capital and surplus requirements under G.S. 58-7-75, or
 2. Fifteen million dollars (\$15,000,000),
 whichever is greater, except that nonadmitted insurers already qualified under this Article must have ten million dollars (\$10,000,000) by December 31, 1991, twelve million five hundred thousand dollars (\$12,500,000) by December 31, 1992, and fifteen million dollars (\$15,000,000) by December 31, 1993. The requirements of this sub-subdivision may be satisfied by an insurer possessing less than the commitment capital and surplus upon an affirmative finding of acceptability by the Commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, and the insurer's record and reputation within the industry. In no event shall the Commissioner make an affirmative finding of acceptability when the

insurer's capital and surplus is less than four million five hundred thousand dollars (\$4,500,000).

In addition, an alien insurer qualifies under this subdivision if it complies with the capital and surplus requirements of this subdivision and maintains in the United States an irrevocable trust fund in either a national bank or a member of the Federal Reserve System, in an amount not less than ~~two million five hundred thousand dollars (\$2,500,000)~~ five million four hundred thousand dollars (\$5,400,000) for the protection of all of its policyholders in the United States, and the trust fund consists of cash, securities, letters of credit, or of investment of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this State. The trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall have an expiration date which at no time shall be less than five years; or

- b. In the case of any Lloyd's plans or other similar ~~unincorporated~~ group of insurers, which ~~includes individual insurers,~~ consists of unincorporated individual insurers, or a combination of both unincorporated and incorporated insurers, maintains a trust fund in an amount of not less than ~~fifty million dollars (\$50,000,000)~~ one hundred million dollars (\$100,000,000) as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and the trust shall likewise comply with the terms and conditions established in subdivision (2)a. of this section for alien insurers; and
- c. In the case of an "insurance exchange" created by the laws of individual states, maintain capital and surplus, or the substantial equivalent thereof, of not less than ~~fifty million dollars (\$50,000,000)~~ seventy-five million dollars (\$75,000,000) in the aggregate. For insurance exchanges which maintain funds in an amount of not less than fifteen million dollars (\$15,000,000) for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not

less than ~~three million dollars (\$3,000,000)~~ five million dollars (\$5,000,000). If the insurance exchange does not maintain funds in an amount of not less than fifteen million dollars (\$15,000,000) for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of subdivision (2)a. of this section.

- d. In the case of a group of incorporated insurers under common administration, which has continuously transacted an insurance business outside the United States for at least three years immediately before this time, and which submits to this State's authority to examine its books and records and bears the expense of the examination, and maintains an aggregate policyholders' surplus of not less than ten billion dollars (\$10,000,000,000), and maintains in trust a surplus of not less than one hundred million dollars (\$100,000,000) for the benefit of United States surplus lines policyholders of any member of the group, and each insurer maintains capital and surplus of not less than twenty-five million dollars (\$25,000,000) per company."

SECTION 17.2. G.S. 58-21-30 reads as rewritten:

"§ 58-21-30. *Withdrawal of eligibility from a surplus lines insurer.*

If at any time the Commissioner has reason to believe that an eligible surplus lines insurer:

- (1) Is in ~~unsound financial condition~~ condition or has acted in an untrustworthy manner,
- (2) Is no longer eligible under G.S. 58-21-20,
- (3) Has willfully violated the laws of this State, or
- (4) Does not make reasonably prompt payment of just losses and claims in this State or elsewhere, the Commissioner may declare it ineligible. The Commissioner shall promptly mail notice of all such declarations to each surplus lines licensee."

PART XVIII. RISK RETENTION GROUPS.

SECTION 18. G.S. 58-22-10(3) reads as rewritten:

- "(3) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention ~~group~~ group is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able:

- a. To meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
- b. To pay other obligations in the normal course of business."

PART XIX. INSURANCE COMPANY RECEIVERSHIPS.

SECTION 19. G.S. 58-30-75(7) reads as rewritten:

"(7) Without first obtaining the written consent of the ~~Commissioner pursuant to G.S. 58-7-150,~~ Commissioner, the insurer has (i) transferred, or attempted to transfer, in a manner contrary to Article 19 of this Chapter, substantially its entire property or business, or (ii) has entered into any transaction, the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person."

PART XX. MANAGING GENERAL AGENTS.

SECTION 20.1. G.S. 58-34-2(a) reads as rewritten:

"(a) As used in this Article:

- (1) "Control", including the terms "controlling", "controlled by", and "under common control", means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.
- (1a) "Custodial agreement" means any agreement or contract under which any person is delegated authority to safekeep assets of the insurer.
- (2) "Insurer" means a domestic insurer but does not mean a reciprocal regulated under Article 15 of this Chapter.
- (2a) "Management contract" means any agreement or contract under which any person is delegated management duties or control of an insurer or transfers a substantial part of any major function of an insurer, such as adjustment of losses, production of business, investment of assets, or general servicing of the insurer's business.
- (3) "Managing general agent" or "MGA" means any person who manages all or part of the insurance business of an insurer (including the management of a separate division, department, or underwriting office) and acts as

an agent for the insurer, whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with persons under common control, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent (5%) of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following activities related to the business produced: (i) adjusts or pays any claims, or (ii) negotiates reinsurance on behalf of the insurer. "MGA" does not mean an employee of the insurer; an underwriting manager who, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, is subject to Article 19 of this Chapter, and whose compensation is not based on the volume of premiums written; a person who, under Article 15 of this Chapter, is designated and authorized by subscribers as the attorney-in-fact for a reciprocal having authority to obligate them on reciprocal and other insurance contracts; or a U.S. Manager of the United States branch of an alien insurer.

- (4) "Qualified actuary" means a person who meets the standards of a qualified actuary as specified in the NAIC Annual Statement Instructions, as amended or clarified by rule, order, directive, or bulletin of the Department, for the type of insurer for which the MGA is establishing loss reserves.
- (5) "Underwrite" means the authority to accept or reject risk on behalf of the insurer."

SECTION 20.2. G.S. 58-34-2(j) reads as rewritten:

- "(j) The Commissioner shall disapprove any such contract that:
 - (1) Does not contain the required contract provisions specified in subsection (d) of this section;
 - (2) Subjects the insurer to excessive charges for expenses or commission;
 - (3) Vests in the MGA any control over the management of the affairs of the insurer to the exclusion of the board of directors of the insurer;
 - (4) Is entered into with any person if the person or its officers and directors are of known bad character or have been affiliated directly or indirectly through ownership, control, management, reinsurance transactions, or other insurance or business relationships with any person

known to have been involved in the improper manipulation of assets, accounts, or reinsurance; or

- (5) Is determined by the Commissioner to contain provisions that are not fair and reasonable to the insurer.

Failure of the Commissioner to disapprove any such contract within 30 days after the contract has been filed with the Commissioner constitutes the Commissioner's approval of the contract. An insurer may continue to accept business from ~~such~~the person until the Commissioner disapproves the contract. Any disapproval shall be in writing. The Commissioner ~~may, after a hearing held under G.S. 58-2-50,~~ may withdraw approval of any contract the Commissioner has previously approved ~~upon finding if the Commissioner determines~~ that the basis of the original approval no longer exists or that the contract has, in actual operation, shown itself to be subject to disapproval on any of the grounds in this subsection. If the Commissioner withdraws approval of a contract, the Commissioner shall give the insurer notice of, and written reasons for, the withdrawal of approval. The Commissioner shall grant any party to the contract a hearing upon request."

SECTION 20.3. G.S. 58-34-10 reads as rewritten:

"§ 58-34-10. *Management contracts.*

(a) Subject to G.S. 58-19-30(b)(4), any domestic insurer that enters into a management contract or custodial agreement must file that contract or agreement with the Commissioner on or before its effective date. ~~As used in this section, "management contract" means any agreement or contract under which any person is delegated management duties or control of an insurer, or transfers a substantial part of any major function of an insurer, such as adjustment of losses, production of business, investment of assets, or general servicing of the insurer's business.~~

(b) Any domestic insurer that has a management contract or custodial agreement shall file a statement with the initial filing of that contract that discloses (i) criteria on which charges to the insurer are based for that contract; (ii) whether management personnel or other employees of the insurer are to be performing management functions and receiving any remuneration therefor through that contract in addition to the compensation by way of salary received directly from the insurer for their services; (iii) whether the contract transfers substantial control of the insurer or any of the powers vested in the board of directors, by statute, articles of incorporation, or bylaws, or substantially all of the basic functions of the insurer's management; (iv) biographical information for each officer and director of the management firm; and (v) other information concerning the contract or the management or custodian firm as may be included from time to time in any registration forms adopted or approved by the

Commissioner. ~~Such~~The statement shall be filed on a form prescribed by the Commissioner.

(c) Any domestic insurer that amends or cancels a management contract or custodial agreement filed ~~pursuant to~~under subsection (a) of this section shall notify the Commissioner ~~thereof~~ within 15 business days after the amendment or cancellation. If the contract is amended, the notice shall provide a copy of the amended contract and shall disclose if the amendment affects any of the items in subsection (b) of this section. The Commissioner may prescribe a form to be used to provide notice under this subsection.

(d) Any domestic insurer that has a management contract or custodial agreement shall file a statement on or before March 1 of each year, for the preceding calendar year, disclosing (i) total charges incurred by the insurer under the contract; (ii) any salaries, commissions, or other valuable consideration paid by the insurer directly to any officer, director, or shareholder of the management or custodian firm; and (iii) other information concerning the contract or the management or custodian firm as may be included from time to time in any registration forms adopted or approved by the Commissioner. The Commissioner may prescribe a form to be used to provide the information required by this subsection.

(e) Any domestic insurer that has a management contract may request an exemption from the filing requirements of this section if the contract is for a group of affiliated insurers on a pooled funds basis or service company management basis, where costs to the individual member insurers are charged on an actually incurred or closely estimated basis. The request for an exemption must be in writing, must explain the basis for the exemption, and must be received by the Commissioner on or before the effective date of the contract. As used in this subsection, "affiliated" has the same meaning as in G.S. 58-19-5(1). Management contracts exempted under this subsection must still be reduced to written form."

SECTION 20.4. G.S. 58-34-15 reads as rewritten:

"§ 58-34-15. *Grounds for disapproval.*

(a) The Commissioner must disapprove any management contract or custodial agreement filed under G.S. 58-34-10 if, at any time, the Commissioner finds:

- (1) That the service or management charges are based upon criteria unrelated either to the managed insurer's profits or to the reasonable customary and usual charges for ~~such the~~ services or are based on factors unrelated to the value of ~~such the~~ services to the insurer; or
- (2) That management personnel or other employees of the insurer are to be performing management functions and receiving any remuneration ~~therefor~~for those functions

- through the management or service contract in addition to the compensation by way of salary received directly from the insurer for their services; or
- (3) That the contract would transfer substantial control of the insurer or any of the powers vested in the board of directors, by statute, articles of incorporation, or bylaws, or substantially all of the basic functions of the insurance company management; or
 - (4) That the contract contains provisions that would be clearly detrimental to the best interest of policyholders, stockholders, or members of the insurer; or
 - (5) That the officers and directors of the management or custodial firm are of known bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person known to have been involved in the improper manipulation of assets, accounts, or reinsurance.
 - (6) That the custodial agreement is not substantially the same as the form adopted by the Commissioner.

(b) If the Commissioner disapproves any management ~~contract,~~ contract or custodial agreement, notice of ~~such action~~ the disapproval shall be given to the insurer ~~assigning~~ stating the reasons ~~therefor~~ for the disapproval in writing. The Commissioner shall grant any party to the contract a ~~hearing upon request according to G.S. 58-2-50.~~ hearing if the party requests a hearing. "

SECTION 20.5. G.S. 58-67-30 reads as rewritten:

"§ 58-67-30. *Management and ~~exclusive contracts.~~exclusive agreements; custodial agreements.*

(a) No health maintenance organization shall enter into an ~~exclusive agency contract or management contract.~~ agency, management, or custodial agreement unless the ~~contract~~ agreement is first filed with the Commissioner and approved under this section within 45 days after filing or such reasonable extended period as the Commissioner shall specify by notice that is given within the 45 day period.

(b) The Commissioner shall disapprove ~~a contract~~ an agreement submitted under subsection (a) of this section if ~~he finds that~~ the Commissioner determines that the agreement:

- (1) ~~It subjects~~ Subjects the health maintenance organization to excessive charges;
- (2) ~~The contract extends~~ Extends for an unreasonable period of time;
- (3) ~~The contract does~~ Does not contain fair and adequate standards of performance;

- (4) ~~The persons empowered~~ Enables persons under the contract to manage the health maintenance organization ~~are not who are not~~ sufficiently trustworthy, competent, experienced, and free from conflict of interest to manage the health maintenance organization with due regard for the interests of its enrollees, creditors, or the public; or
- (5) ~~The contract contains~~ Contains provisions that impair the interests of the organization's enrollees, creditors, or the public."

PART XXI. SELF-INSURED WORKERS' COMPENSATION.

SECTION 21.1. G.S. 58-47-60(9) reads as rewritten:

"(9) "Hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not financially impaired or insolvent, is unlikely to be ~~able to meet obligations for known claims and reasonably anticipated claims or to pay other obligations in the normal course of business.~~ able:

- a. To meet obligations for known claims and reasonably anticipated claims; or
- b. To pay other obligations in the normal course of business."

SECTION 21.2. G.S. 58-47-80 reads as rewritten:

"§ 58-47-80. *Assets and invested assets.*

Funds shall be held and invested by the board under G.S. 58-7-160, 58-7-162, 58-7-163, 58-7-165, 58-7-167, 58-7-168, 58-7-170, 58-7-172, 58-7-173, ~~58-7-177,~~ 58-7-178, 58-7-179, 58-7-180, 58-7-183, 58-7-185, 58-7-187, 58-7-188, 58-7-192, 58-7-193, 58-7-195, 58-7-197, ~~and 58-7-200.~~ 58-7-200, and 58-19-10."

SECTION 21.3. Part 3 of Article 47 of Chapter 58 of the General Statutes, comprising G.S. 58-47-210 through G.S. 58-47-220, is repealed.

PART XXII. CONTINUING CARE RETIREMENT COMMUNITIES.

SECTION 22.1. G.S. 58-64-005(a) reads as rewritten:

"(a) No provider shall engage in the business of offering or providing continuing care in this State without a license to do so obtained from the Commissioner as provided in this Article. It is a Class 1 misdemeanor for any person, other than a provider licensed under this Article, to advertise or market to the general public any product similar to continuing care through the use of such terms as 'life care', 'continuing care', or 'guaranteed care for life', or similar

terms, words, or phrases. The licensing process may involve a series of steps pursuant to rules adopted by the Commissioner under this Article."

SECTION 22.2. G.S. 58-64-20 is amended by adding the following new subsections:

"(e) The disclosure statement shall be in plain English and in language understandable by a layperson and combine simplicity and accuracy to fully advise residents of the items required by this section.

(f) The Department may require a provider to alter or amend its disclosure statement in order to provide full and fair disclosure to prospective residents. The Department may also require the revision of a disclosure statement which it finds to be unnecessarily complex, confusing or illegible."

SECTION 22.3 G.S. 58-64-40(b) reads as rewritten:

"(b) The board of directors or other governing body of a facility or its designated representative shall hold ~~annual~~ semiannual meetings with the residents of the facility for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility and discussions of proposed changes in policies, programs, and services. Upon request of the most representative residents' organization, a member of the governing body of the provider, such as a board member, a general partner, or a principal owner shall attend such meetings. Residents shall be entitled to at least seven days advance notice of each meeting. An agenda and any materials that will be distributed by the governing body at the meetings shall remain available upon request to residents."

PART XXIII. MISCELLANEOUS TECHNICAL AMENDMENTS.

SECTION 23.1. The title of Article 4 of Chapter 58 of the General Statutes reads as rewritten:

"Article 4.

NAIC ~~Insurance~~ ~~Regulatory~~ ~~Information~~ ~~System~~ Filing Requirements."

SECTION 23.2. G.S. 58-5-63(a) reads as rewritten:

"(a) All insurance companies making deposits under this Article are entitled to interest on those ~~deposits, which shall remain in the deposit accounts.~~ deposits. The right to interest is subject to a company paying its insurance policy liabilities. If any company fails to pay those liabilities, interest accruing after the failure is payable to the Commissioner for the payment of those liabilities under subsection (b) of this section."

PART XXIV. INSURER INSOLVENCY REFUND THRESHOLDS.

SECTION 24.1. G.S. 58-5-70 reads as rewritten:

"§ 58-5-70. *Lien of policyholders; action to enforce.*

Upon the securities deposited with the Commissioner by any foreign or alien insurance company, the holders of all contracts of the company who are citizens or residents of this State at the time, or who hold policies issued upon property in the State, shall have a lien for ~~the~~ amounts in excess of fifty dollars (\$50.00) due them, respectively, under or in consequence of the contracts for losses, equitable values, return premiums, or otherwise, and shall be entitled to be paid ratably out of the proceeds of the securities, if the proceeds are not sufficient to pay all of the contract holders. When any foreign or alien insurance company depositing securities under this Article becomes insolvent or bankrupt or makes an assignment for the benefit of its creditors, any holder of the contract may begin an action in the Superior Court of the County of Wake to enforce the lien for the benefit of all the holders of the contracts. The Commissioner shall be a party to the suit, and the funds shall be distributed by the court, but the cost of the action shall not be adjudged against the Commissioner."

SECTION 24.2. G.S. 58-30-10(12) reads as rewritten:

"(12) 'General assets' means all real, personal, or other property that is not specifically mortgaged, pledged, hypothecated, deposited, or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, 'general assets' includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets that are held in trust and on deposit for the security or benefit of all policyholders in more than one state or all policyholders and creditors in more than one state shall be treated as 'general assets'. No person shall have a claim against general assets unless that claim is in an amount in excess of fifty dollars (\$50.00)."

SECTION 24.3. G.S. 58-30-10(19) reads as rewritten:

"(19) 'Special deposit claim' means any claim in excess of fifty dollars (\$50.00) secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but does not include any claim secured by general assets."

SECTION 24.4. G.S. 58-48-95(c) reads as rewritten:

"(c) The Association shall account to the Commissioner and the insolvent insurer for all deposits received from the Commissioner under this section, ~~and shall repay to the Commissioner a portion of the deposits received, which shall be equal to the total amount of the claims against the insolvent insurer that are not covered claims under~~

~~this Article solely by reason that the amount of the claim is fifty dollars (\$50.00) or less. This repayment does not prejudice the rights of the Association with regard to the portion of the deposit repaid to the Commissioner, section.~~ After the deposits of the insolvent insurer received by the Association under this section have been expended by the Association for the purposes set out in this section, the member insurers shall be assessed as provided by this Article to pay any remaining liabilities of the Association arising under this Article."

SECTION 24.5. This section applies to estates that are pending.

PART XXV. DOMESTIC COMPANY PROTECTED CELLS.

SECTION 25. Article 10 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 4. Protected Cell Companies.

"§ 58-10-75. Purpose and legislative intent.

This Part provides a basis for the creation of protected cells by a domestic insurer as one means of accessing alternative sources of capital and achieving the benefits of insurance securitization. Investors in fully funded insurance securitization transactions provide funds that are available to pay the insurer's insurance obligations or to repay the investors or both. The creation of protected cells is intended to be a means to achieve more efficiencies in conducting insurance securitizations.

"§ 58-10-80. Definitions.

As used in this Part, unless the context requires otherwise, the following terms have the following meanings:

- (1) 'Domestic insurer' means an insurer domiciled in the State of North Carolina.
- (2) 'Fully funded' means that, with respect to any exposure attributed to a protected cell, the market value of the protected cell assets, on the date on which the insurance securitization is effected, equals or exceeds the maximum possible exposure attributable to the protected cell with respect to the exposures.
- (3) 'General account' means the assets and liabilities of a protected cell company other than protected cell assets and protected cell liabilities.
- (4) 'Indemnity trigger' means a transaction term by which relief of the issuer's obligation to repay investors is triggered by its incurring a specified level of losses under its insurance or reinsurance contracts.
- (5) 'Fair value' means the amount at which that asset (or liability) could be bought (or incurred) or sold (or settled) in a current transaction between willing parties,

that is, other than in a forced or liquidation sale. Quoted marked prices in active markets are the best evidence of fair value and shall be used as the basis for the measurement, if available. If a quoted market price is available, the fair value is the product of the number of trading units times market price. If quoted market prices are not available, the estimate of fair value shall be based on the best information available. The estimate of fair value shall consider prices for similar assets and liabilities and the results of valuation techniques to the extent available in the circumstances. Examples of valuation techniques include the present value of estimated expected future cash flows using a discount rate commensurate with the risks involved, option-pricing models, matrix pricing, option-adjusted spread models, and fundamental analysis. Valuation techniques for measuring financial assets and liabilities and servicing assets and liabilities shall be consistent with the objective of measuring fair value. Those techniques shall incorporate assumptions that market participants would use in their estimates of values, future revenues, and future expenses, including assumptions about interest rates, default, prepayment, and volatility. In measuring financial liabilities and servicing liabilities at fair value by discounting estimated future cash flows, an objective is to use discount rates at which those liabilities could be settled in an arm's-length transaction. Estimates of expected future cash flows, if used to estimate fair value, shall be the best estimate based on reasonable and supportable assumptions and projections. All available evidence shall be considered in developing estimates of expected future cash flows. The weight given to the evidence shall be commensurate with the extent to which the evidence can be verified objectively. If a range is estimated for either the amount or timing of possible cash flows, the likelihood of possible outcomes shall be considered in determining the best estimate of future cash flows.

- (6) 'Nonindemnity trigger' means a transaction term by which relief of the issuer's obligation to repay investors is triggered solely by some event or condition other than the individual protected cell company incurring a specified level of losses under its insurance or reinsurance contracts.

- (7) 'Protected cell' means an identified pool of assets and liabilities of a protected cell company segregated and insulated by means of this Chapter from the remainder of the protected cell company's assets and liabilities.
- (8) 'Protected cell account' means a specifically identified bank or custodial account established by a protected cell company for the purpose of segregating the protected cell assets of one protected cell from the protected cell assets of other protected cells and from the assets of the protected cell company's general account.
- (9) 'Protected cell assets' means all assets, contract rights, and general intangibles, identified with and attributable to a specific protected cell of a protected cell company.
- (10) 'Protected cell company' means a domestic insurer that has one or more protected cells.
- (11) 'Protected cell company insurance securitization' means the issuance of debt instruments, the proceeds from which support the exposures attributed to the protected cell, by a protected cell company where repayment of principal or interest, or both, to investors under the transaction terms is contingent upon the occurrence or nonoccurrence of an event with respect to which the protected cell company is exposed to loss under insurance or reinsurance contracts it has issued.
- (12) 'Protected cell liabilities' means all liabilities and other obligations identified with and attributable to a specific protected cell of a protected cell company.

"§ 58-10-85. Establishment of protected cells.

(a) A protected cell company may establish one or more protected cells with the prior written approval of the Commissioner of a plan of operation or amendments submitted by the protected cell company with respect to each protected cell in connection with an insurance securitization. Upon the Commissioner's written approval of the plan of operation, which plan shall include the specific business objectives and investment guidelines of the protected cell, the protected cell company, in accordance with the approved plan of operation, may attribute to the protected cell insurance obligations with respect to its insurance business and obligations relating to the insurance securitization and assets to fund the obligations. A protected cell shall have its own distinct name or designation, which shall include the words 'protected cell.' The protected cell company shall transfer all assets attributable to a protected cell to one or more separately established and identified protected cell accounts bearing the name or designation of that protected cell. Protected cell assets must be held in

the protected cell accounts for the purpose of satisfying the obligations of that protected cell.

(b) All attributions of assets and liabilities between a protected cell and the general account must be in accordance with the plan of operation approved by the Commissioner. A protected cell company may make no other attribution of assets or liabilities between the protected cell company's general account and its protected cells. Any attribution of assets and liabilities between the general account and a protected cell, or from investors in the form of principal on a debt instrument issued by a protected cell company in connection with a protected cell company securitization, must be in cash or in readily marketable securities with established market values.

(c) The creation of a protected cell does not create, with respect to that protected cell, a legal person separate from the protected cell company. Amounts attributed to a protected cell under this Chapter, including assets transferred to a protected cell account, are owned by the protected cell company, and the protected cell company may not be, or may not hold itself out to be, a trustee with respect to those protected cell assets of that protected cell account. Notwithstanding the provisions of this subsection, the protected cell company may allow for a security interest to attach to protected cell assets or a protected cell account when in favor of a creditor of the protected cell and otherwise allowed under applicable law.

(d) This Part does not prohibit the protected cell company from contracting with or arranging for an investment advisor, commodity trading advisor, or other third party to manage the protected cell assets of a protected cell, if all remuneration, expenses, and other compensation of the third-party advisor or manager are payable from the protected cell assets of that protected cell and not from the protected cell assets of other protected cells or the assets of the protected cell company's general account.

(e) A protected cell company shall establish administrative and accounting procedures necessary to properly identify the one or more protected cells of the protected cell company and the protected cell assets and protected cell liabilities attributable to the protected cells. It shall be the duty of the directors of a protected cell company to keep protected cell assets and protected cell liabilities;

- (1) Separate and separately identifiable from the assets and liabilities of the protected cell company's general account; and
- (2) Attributable to one protected cell separate and separately identifiable from protected cell assets and protected cell liabilities attributable to other protected cells.

Notwithstanding the provisions of this subsection, if this subsection is violated, the remedy of tracing is applicable to protected cell assets

when commingled with protected cell assets of other protected cells or the assets of the protected cell company's general account. The remedy of tracing is not an exclusive remedy.

(f) When establishing a protected cell, the protected cell company shall attribute to the protected cell assets a value at least equal to the reserves and other insurance liabilities attributed to that protected cell.
"§ 58-10-90. Use and operation of protected cells.

(a) The protected cell assets of a protected cell may not be charged with liabilities arising out of any other business the protected cell company may conduct. All contracts or other documentation reflecting protected cell liabilities shall clearly indicate that only the protected cell assets are available for the satisfaction of those protected cell liabilities.

(b) The income, gains and losses, realized or unrealized, from protected cell assets and protected cell liabilities must be credited to or charged against the protected cell without regard to other income, gains or losses of the protected cell company, including income, gains or losses of other protected cells. Amounts attributed to any protected cell and accumulations on the attributed amounts may be invested and reinvested without regard to any requirements or limitations of this Chapter and the investments in a protected cell or cells may not be taken into account in applying the investment limitations otherwise applicable to the investments of the protected cell company.

(c) Assets attributed to a protected cell must be valued at their fair value on the date of valuation.

(d) A protected cell company, with respect to any of its protected cells, shall engage in fully funded indemnity triggered insurance securitization to support in full the protected cell exposures attributable to that protected cell. A protected cell company insurance securitization that is nonindemnity triggered shall qualify as an insurance securitization under the terms of this Chapter only after the Commissioner adopts rules addressing the methods of funding of the portion of this risk that is not indemnity based and addressing accounting, disclosure, risk-based capital treatment, and assessing risks associated with the securitizations. A protected cell company insurance securitization that is not fully funded, whether indemnity triggered or nonindemnity triggered, is prohibited. Protected cell assets may be used to pay interest or other consideration on any outstanding debt or other obligation attributable to that protected cell, and nothing in this subsection may be construed or interpreted to prevent a protected cell company from entering into a swap agreement or other transaction for the account of the protected cell that has the effect of guaranteeing interest or other consideration.

(e) In all protected cell company insurance securitizations, the contracts or other documentation effecting the transaction shall

contain provisions identifying the protected cell to which the transaction will be attributed. In addition, the contracts or other documentation shall clearly disclose that the assets of that protected cell, and only those assets, are available to pay the obligations of that protected cell. Notwithstanding the provisions of this subsection and subject to the provisions of this Chapter and any other applicable law or rule, the failure to include such language in the contracts or other documentation may not be used as the sole basis by creditors, reinsurers, or other claimants to circumvent the provisions of this Part.

(f) A protected cell company shall only be authorized to attribute to a protected cell account the insurance obligations relating to the protected cell company's general account. Under no circumstances may a protected cell be authorized to issue insurance or reinsurance contracts directly to policyholders or reinsureds or have any obligation to the policyholders or reinsureds of the protected cell company's general account.

(g) At the cessation of business of a protected cell in accordance with the plan approved by the Commissioner, the protected cell company voluntarily shall close out the protected cell account.

"§ 58-10-95. Reach of creditors and other claimants.

(a) Protected cell assets shall only be available to the creditors of the protected cell company that are creditors with respect to that protected cell and, accordingly, are entitled, in conformity with this Chapter, to have recourse to the protected cell assets attributable to that protected cell and are absolutely protected from the creditors of the protected cell company that are not creditors with respect to that protected cell and who, accordingly, are not entitled to have recourse to the protected cell assets attributable to that protected cell. Creditors with respect to a protected cell are not entitled to have recourse against the protected cell assets of other protected cells or the assets or the protected cell company's general account. Protected cell assets are only available to creditors of a protected cell company after all protected cell liabilities have been extinguished or otherwise provided for in accordance with the plan of operation relating to that protected cell.

(b) When an obligation of a protected cell company to a person arises from a transaction, or is otherwise imposed, with respect to a protected cell:

- (1) That obligation of the protected cell company extends only to the protected cell assets attributable to that protected cell, and the person, with respect to that obligation, is entitled to have recourse only to the protected cell assets attributable to that protected cell; and

(2) That obligation of the protected cell company does not extend to the protected cell assets of any other protected cell or the assets of the protected cell company's general account, and that person, with respect to that obligation, is not entitled to have recourse to the protected cell assets of any other protected cell or the assets of the protected cell company's general account.

(c) When an obligation of a protected cell company relates solely to the general account, the obligation of the protected cell company extends only to, and that creditor, with respect to that obligation, is entitled to have recourse only to the assets of the protected cell company's general account.

(d) The activities, assets, and obligations relating to a protected cell are not subject to the provisions of Articles 48 and 62 of this Chapter, and neither a protected cell nor a protected cell company may be assessed by, or otherwise be required to contribute to, any guaranty fund or guaranty association in this State with respect to the activities, assets, or obligations of a protected cell. Nothing in this subsection affects the activities or obligations of an insurer's general account.

(e) The establishment of one or more protected cells alone does not constitute a fraudulent conveyance, an intent by the protected cell company to defraud creditors, or the carrying out of business by the protected cell company for any other fraudulent purpose.

"§ 58-10-100. *Conservation, rehabilitation, or liquidation of protected cell companies.*

(a) Notwithstanding any other provision of law or rule, upon an order of conservation, rehabilitation, or liquidation of a protected cell company, the receiver shall deal with the protected cell company's assets and liabilities, including protected cell assets and protected cell liabilities, in accordance with the requirements set forth in this Part.

(b) With respect to amounts recoverable under a protected cell company insurance securitization, the amount recoverable by the receiver may not be reduced or diminished as a result of the entry of an order of conservation, rehabilitation, or liquidation with respect to the protected cell company, notwithstanding any provisions to the contrary in the contracts or other documentation governing the protected cell company insurance securitization.

"§ 58-10-105. *No transaction of an insurance business.*

A protected cell company insurance securitization may not be deemed to be an insurance or reinsurance contract. An investor in a protected cell company insurance securitization, by sole means of this investment, may not be deemed to be conducting an insurance business in this State. The underwriters or selling agents and their partners, directors, officers, members, managers, employees, agents,

representatives, and advisors involved in a protected cell company insurance securitization may not be deemed to be conducting an insurance or reinsurance agency, brokerage, intermediary, advisory, or consulting business by virtue of their activities in connection with that business.

"§ 58-10-110. Authority to adopt rules.

The Commissioner may adopt rules necessary to effectuate the purposes of this Part."

PART XXVI. EFFECT OF HEADINGS.

SECTION 26. The headings to the parts of this act are a convenience to the reader and for reference only. The headings do not expand, limit, or define the text of this act.

PART XXVII. SEVERABILITY.

SECTION 27. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

PART XXVIII. EFFECTIVE DATES.

SECTION 28. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:34 p.m. on the 15th day of June, 2001.

S.B. 432

SESSION LAW 2001-224

AN ACT TO ALLOW NONPROFIT WATER CORPORATIONS AND THE STATE OF NORTH CAROLINA TO JOIN CERTAIN WATER AND SEWER AUTHORITIES AND CONCERNING THE RIGHT OF SUBSEQUENTLY JOINING MUNICIPALITIES TO HAVE VOTING MEMBERSHIP.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 162A-3 is amended by adding two new subsections to read:

"(a1) If an authority is organized by three or more political subdivisions, it may include in its organization up to two nonprofit water corporations. The board of directors of a nonprofit water corporation must signify the corporation's determination to participate in the organization of the authority by adopting a resolution that

meets the requirements of subsection (b) of this section. The nonprofit water corporation is not subject to the notice and public hearing requirements of subsection (a) of this section. For all other purposes of this Article, the nonprofit water corporation shall be considered to be a political subdivision.

(a2) If an authority is organized by three or more political subdivisions, it may include in its organization the State of North Carolina. The State of North Carolina is not subject to the notice and public hearing requirements of subsection (a) of this section. For purposes of this Article, the State of North Carolina shall be a political subdivision and its governing body shall be the Council of State."

SECTION 2. G.S. 162A-3.1 is amended by adding two new subsections to read:

"(a1) If an authority is organized by three or more political subdivisions, it may include in its organization up to two nonprofit water corporations. The board of directors of a nonprofit water corporation must signify the corporation's determination to participate in the organization of the authority by adopting a resolution that meets the requirements of subsection (b) of this section. The nonprofit water corporation is not subject to the notice and public hearing requirements of subsection (a) of this section. For all other purposes of this Article, the nonprofit water corporation shall be considered to be a political subdivision.

(a2) If an authority is organized by three or more political subdivisions, it may include in its organization the State of North Carolina. The State of North Carolina is not subject to the notice and public hearing requirements of subsection (a) of this section. For purposes of this Article, the State of North Carolina shall be a political subdivision and its governing body shall be the Council of State."

SECTION 2.1. G.S. 162A-5(a) reads as rewritten:

"(a) Each authority organized under this Article shall consist of the number of members as may be agreed upon by the participating political subdivisions, such members to be selected by the respective political subdivision. A proportionate number (as nearly as can be) of members of the authority first appointed shall have terms expiring one year, two years and three years respectively from the date on which the creation of the authority becomes effective. Successor members and members appointed by a political subdivision subsequently joining the authority shall each be appointed for a term of three years, but any person appointed to fill the vacancy shall be appointed to serve only for the unexpired term and any member may be reappointed; provided, however, that a political subdivision subsequently joining an authority created under G.S. 162A-3.1-G.S. 162A-3.1, or under the provisions of G.S. 162A-3 other than subsection (a1), shall not have the right to appoint any members to

such authority. Appointments of successor members shall, in each instance, be made by the governing body of the political subdivision appointing the member whose successor is to be appointed. Any member of the authority may be removed, with or without cause, by the governing body appointing said member. This subsection does not apply in the case of an authority that a city joins under G.S. 162A-5.1."

SECTION 3. The creation of any Water and Sewer Authority under Article 1 of Chapter 162A of the General Statutes on or after July 1, 2000, but before this act became law, that would have been permitted under that Article, as amended by Sections 1 and 2 of this act, is validated and confirmed as to the membership of nonprofit water corporations.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:35 p.m. on the 15th day of June, 2001.

S.B. 275 SESSION LAW 2001-225

**AN ACT TO PROVIDE A LIMITED REGISTRATION
PROCEDURE FOR CANADIAN SECURITIES DEALERS AND
SALESMEN.**

The General Assembly of North Carolina enacts:

SECTION 1. Article 5 of Chapter 78A of the General Statutes is amended by adding a new section to read:

"§ 78A-36.1. *Limited registration of Canadian dealers and salesmen.*

(a) A dealer that is a resident of Canada and that has no office or other physical presence in this State may effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by:

(1) A person from Canada who is residing in this State temporarily and with whom the Canadian dealer had a bona fide dealer-client relationship before the person entered the United States; or

(2) A person from Canada who is a resident of this State and whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.

This subsection only applies to dealers that are registered in accordance with this section.

(b) A salesman who will be representing a Canadian dealer registered under this section may effect transactions in securities in

this State as permitted for the dealer in subsection (a) of this section, only if the salesman is registered in accordance with this section.

(c) A Canadian dealer may register under this section provided that it meets all of the following conditions:

- (1) The dealer files an application in the form required by the jurisdiction in which it has its head office.
- (2) The dealer files a consent to service of process.
- (3) The dealer is registered as a dealer in good standing in the jurisdiction from which it is effecting transactions into this State and files evidence thereof.
- (4) The dealer is a member of a self-regulatory organization, the Bureau des services financiers or a stock exchange in Canada.

(d) A salesman who will be representing a Canadian dealer registered under this section in effecting transactions in securities in this State may register under this section provided that the salesman meets all of the following conditions:

- (1) The salesman files an application in the form required by the jurisdiction in which the dealer has its head office.
- (2) The salesman files a consent to service of process.
- (3) The salesman is registered in good standing in the jurisdiction from which the salesman is effecting transactions into this State and files evidence thereof.

(e) If no denial order is in effect and no proceeding is pending under G.S. 78A-39, registration becomes effective on the thirtieth day after an application is filed, unless the registration is made effective earlier.

(f) A Canadian dealer registered under this section shall meet all of the following conditions:

- (1) The dealer maintains its provincial or territorial registration and its membership in a self-regulatory organization, the Bureau des services financiers or a stock exchange in good standing.
- (2) The dealer provides the Administrator, upon request, with its books and records relating to its business in this State as a dealer.
- (3) The dealer informs the Administrator forthwith of any criminal action taken against it or of any finding or sanction imposed on the dealer as a result of any self-regulatory or regulatory action involving fraud, theft, deceit, misrepresentation, or similar conduct.
- (4) The dealer discloses to its clients in this State that the dealer and its agents are not subject to the full regulatory requirements under this Article.

(g) A salesman of a Canadian dealer registered under this section shall meet all of the following conditions:

- (1) The salesman maintains the salesman's provincial or territorial registration in good standing.
- (2) The salesman informs the Administrator forthwith of any criminal action taken against the salesman or of any finding or sanction imposed on the salesman as a result of any self-regulatory or regulatory action involving fraud, theft, deceit, misrepresentation, or similar conduct.

(h) Renewal applications for Canadian dealers and salesmen under this section shall be filed before December 31 of each year and may be made by filing the most recent renewal application, if any, filed in the jurisdiction in which the dealer has its head office, or if no such renewal application is required, the most recent application filed pursuant to subdivision (c)(1) of this section or subdivision (d)(1) of this section, as applicable.

(i) Every applicant for registration or renewal of registration under this section shall pay the fee for dealers and salesmen as required in this Chapter.

(j) Every Canadian dealer or salesman registered under this section may effect transactions in this State only:

- (1) As permitted in subsection (a) or (b) of this section, and
- (2) With or through:
 - a. The issuers of the securities involved in the transactions;
 - b. Other dealers; and
 - c. Banks, savings institutions, trust companies, insurance companies, investment companies, as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees.

(k) Article 2 of this Chapter applies to Canadian dealers and salesmen registered under this section.

(l) Except as otherwise provided in this section, Canadian dealers or salesmen registered under this section and acting in accordance with the limitations set out in subsection (j) of this section are exempt from all of the requirements of this Chapter. A registration under this section may be denied, suspended, or revoked pursuant to G.S. 78A-39 only for a breach of Article 2 of this Chapter or this section."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:35 p.m. on the 15th day of June, 2001.

S.B. 220 SESSION LAW 2001-226

AN ACT TO AMEND THE LAW DEFINING THE TIME STOCK AND OTHER EQUITY INTERESTS IN BUSINESS ASSOCIATIONS ARE PRESUMED ABANDONED FOR PURPOSES OF THE NORTH CAROLINA UNCLAIMED PROPERTY ACT AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-53(c)(4) reads as rewritten:

"(c) Property is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

...

(4) Stock or other equity interest in a business association, including a security entitlement under Article 8 of the Uniform Commercial Code, Chapter 25 of the General Statutes, five years after the earlier of:

- a. The date of a cash dividend or other cash distribution unclaimed by the apparent owner, or
- b. ~~The date of the second mailing of a stock certificate or other evidence of ownership, a statement of account, or other notification or communication which second mailing was returned as undeliverable or the date the holder discontinued mailings, notifications, or communications to the apparent owner;~~
The date a second consecutive mailing, notification, or communication from the holder to the apparent owner is returned to the holder as unclaimed by or undeliverable to the apparent owner;

...."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

Became law upon approval of the Governor at 4:35 p.m. on the 15th day of June, 2001.

H.B. 636**SESSION LAW 2001-227**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF ELIZABETH CITY AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Elizabeth City is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF ELIZABETH CITY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Elizabeth City, North Carolina, in Pasquotank and Camden Counties and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Elizabeth City', hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Elizabeth City specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the city, showing the current municipal boundaries and the boundaries of the wards therein, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits or wards pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the appropriate office of the Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Governing Body.** The City Council, hereinafter referred to as the 'Council', and the Mayor shall be the governing body of the City.

"Section 2.2. **City Council; Composition; Terms of Office.** The Council shall be composed of eight members who shall serve terms of two years or until their successors are elected and qualified. Two seats of the eight City Council members shall be apportioned and assigned to each ward. The qualified voters of each ward shall vote for and elect candidates to the two 'ward seats' of the Council so assigned and apportioned to the respective ward. No person may be a candidate for a 'ward seat' unless that person is a resident and

qualified voter of the ward for which 'ward seat' that person desires to be elected.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of two years or until his or her successor is elected and qualified. The Mayor shall be the official head of the City government and shall preside at meetings of the Council; shall have the right to vote only when there is an equal division on any question or matter before the Council; and shall exercise the powers and duties conferred by general law or directed by the Council.

"Section 2.4. **Mayor Pro Tempore.** The Council shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Council.

"Section 2.5. **Meetings.** In accordance with general law, the Council shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Council and all votes shall be taken in accordance with the applicable provisions of general law, including G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office.** The compensation and qualifications of the Mayor and members of the Council shall be as provided in general law and in this Charter.

"Section 2.8. **Vacancies.** Notwithstanding G.S. 160A-63, vacancies that occur in any elective office of the City shall be filled by election as herein provided:

(a) If the vacancy occurs within 90 days before the first date for filing notices of candidacy pursuant to G.S. 163-294.2 for the next regular City election, a successor shall be elected at the next regular City election. The elected successor shall serve the remainder of the unexpired term of the office in which the vacancy occurs.

(b) If the vacancy occurs more than 90 days before the first date for filing notices of candidacy pursuant to G.S. 163-294.2 for the next regular City election, a successor shall be elected in a special election to fill the vacancy. In such event, the Council shall meet within 10 days of the event creating the vacancy and shall, by resolution, fix the date on which an election to fill the vacancy shall be held. The date of the special election shall be not less than 45 days and not more than 60 days from the date of the adoption of the resolution. Not less than two legal notices of the special election and the filing period for receipt of notices of candidacy shall be published in a qualified newspaper of general circulation in the City with the period between

the first date of publication and the second date of publication to be seven days, excluding the first date of publication but including the second date of publication. The resolution shall set the filing period for notices of candidacy, but same shall not be less than 10 days from, but excluding, the first date of publication of the legal notice of the special election and filing period for receipt of notices of candidacy. The resolution shall also set the runoff date, if necessary, and same shall be not less than 15 days and not more than 21 days from the election. The elected successor in the special election shall serve the remainder of the unexpired term of the office in which the vacancy occurs.

(c) If by reason of a vacancy there shall be two seats within any ward to be filled in the same election, the candidates shall declare for the specific seat or office that the candidate is seeking in the notice of candidacy. Each seat shall be a single office and the successor elected as provided in G.S. 163-293(a)(1) and (b)(1).

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined using the nonpartisan election and runoff method as provided in G.S. 163-293.

"Section 3.2. **Wards.** The City shall be divided into four wards, and two seats of the eight Council members shall be apportioned and assigned to each ward. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with general law.

"Section 3.3. **Election of Mayor.** A Mayor shall be elected in each regular municipal election by the qualified voters of the City voting at large.

"Section 3.4. **Election of Council.** Eight Council members shall be elected in each regular municipal election. Two Council members shall be elected from each ward by the qualified voters of that ward to fill the offices of the Council members whose terms will expire following the election.

"Section 3.5. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by this Charter, general law, or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Council shall appoint a City Manager who shall be responsible for the administration of all departments of the City government. The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Council, so far as authorized by general law.

"Section 4.3. **City Attorney.** The Council shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as the Council may prescribe.

"Section 4.4. **City Clerk.** The Manager shall appoint a City Clerk, subject to the confirmation of the Council, to keep a journal of the proceedings of the Council, to maintain official records and documents, to give notice of meetings, and to perform other duties as required by general law or prescribed by the Council.

"Section 4.5. **Tax Collector.** Notwithstanding G.S. 105-349, the Manager shall appoint a Tax Collector and any Assistant Tax Collectors, subject to the confirmation of the Council, to collect all taxes owed to the City and to perform those duties specified in G.S. 105-350 and such other duties as required by general law or prescribed by the Council.

"Section 4.6. **Other Administrative Officers and Employees.** The Council may authorize other positions to be filled by appointment by the City Manager, subject to the confirmation of the Council, and may organize the City government as deemed appropriate, subject to the requirements of general law.

"Section 4.7. **Council-Manager Relationship.** The Council shall hold the City Manager responsible for the proper management of the affairs of the City, and the City Manager shall keep the Council informed of the conditions and needs of the City and shall make reports and recommendations as may be requested by the Council or deemed necessary by the City Manager. The City Manager shall have the authority to appoint, subject to the confirmation of the Council, and remove all officers, department heads, and employees in the administrative service of the City, except the City Attorney. The City Manager shall have direct supervisory authority over all officers, department heads, and employees in the administrative service of the City. Neither the Mayor, the City Council, nor any member of the City Council shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.

"Section 4.8. **Settlement of Claims by City Manager.** The Council may authorize the City Manager to settle claims against the City for: (1) personal injuries or damages to property when the

amount involved does not exceed the sum of five thousand dollars (\$5,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (2) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets, when the amount involved in any such settlement does not exceed five thousand dollars (\$5,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this Section shall constitute a complete release of the City from any and all damages sustained by the person involved in such settlement in any manner arising out of the incident, occasion, or taking complained of. All settlements and releases shall be approved in advance by the City Attorney.

"ARTICLE V. BIDDING AND PROCUREMENT.

"Section 5.1. **Simplified Bid Process.** In addition to any authority granted by general law, the authority of the City to proceed with a simplified competitive bidding process when the entire cost of construction or repairs is five hundred thousand dollars (\$500,000) or less shall continue as provided in S.L. 1999-93 and any subsequent acts.

"ARTICLE VI. DISPOSITION OF PROPERTY.

"Section 6.1. **Sale or Lease of Real Estate.** In addition to any authority granted by general law, the authority of the City to proceed with the sale or lease of real property owned for the use and benefit of the Industrial Development Commission shall continue as provided in Chapter 129 of the 1979 Session Laws and any subsequent acts.

"Section 6.2. **Redevelopment Commission.** In addition to any authority granted by general law, the authority to dispose of redevelopment property at private sale shall continue as authorized in Chapter 427 of the 1979 Session Laws and any subsequent acts.

"ARTICLE VII. FINANCE AND TAXATION.

"Section 7.1. **Occupancy Tax Authorized.** The City shall be authorized to levy a room occupancy tax as provided in Chapter 175 of the 1987 Session Laws and any subsequent acts.

"ARTICLE VIII. AIRPORT AUTHORITY.

"Section 8.1. **Airport Authority.** The Elizabeth City-Pasquotank Airport Authority shall continue to be governed by the provisions of Chapter 198 of the 1987 Session Laws, Chapter 860 of the 1989 Session Laws, Chapter 26 of the 1991 Session Laws, and any subsequent acts.

"ARTICLE IX. MISCELLANEOUS.

"Section 9.1. **Regulation of Waterways.** The City may adopt ordinances to regulate and control the speed of vessels in waterways within its boundaries or within its extraterritorial jurisdiction, as that term is used in Article 19 of Chapter 160A of the General Statutes. If

the City adopts ordinances to regulate and control the speed of vessels as herein authorized, the City or its designee shall place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for the system adopted by the Wildlife Resources Commission. All markers regulating and controlling the speed of vessels shall be buoys or floating signs placed in the water and must be sufficient in number and size as to give adequate warning of the speed limit to the vessels approaching from various directions. This section is enforceable after markers complying with its provisions are placed in the water."

SECTION 2. The purpose of this act is to review the Charter of the City of Elizabeth City and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act, so that all rights and liabilities which have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs of government of public schools, or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, having served the purposes for which they were enacted or having been consolidated into this act, are expressly repealed:

Chapter 131, Private Laws of 1868-69.

Chapter 189, Public Laws of 1874-75.

Chapter 135, Private Laws of 1895.

Chapter 115, Public Laws of 1899.

Chapter 111, Private Laws of 1901.

Chapter 170, Private Laws of 1901.

Chapter 278, Private Laws of 1901.

Chapter 46, Private Laws of 1903.

Chapter 99, Private Laws of 1903.

Chapter 262, Private Laws of 1903.

Chapter 350, Private Laws of 1905.

Chapter 81, Private Laws of 1907.

Chapter 117, Private Laws of 1907.

Chapter 379, Private Laws of 1907.

Chapter 319, Private Laws of 1909.

Chapter 330, Private Laws of 1909.

Chapter 120, Private Laws of 1911.

Chapter 257, Private Laws of 1913.

Chapter 262, Private Laws of 1913.

Chapter 487, Private Laws of 1913.

Chapter 127, Private Laws of 1913 (Ex. Sess.).

Chapter 341, Private Laws of 1915.

Chapter 299, Public-Local Laws of 1921, as to Elizabeth City only.

Chapter 50, Private Laws of 1921, except section 1.

Chapter 202, Private Laws of 1921.

Chapter 248, Private Laws of 1921.

Chapter 45, Private Laws of 1921 (Ex. Sess.).

Chapter 90, Private Laws of 1921 (Ex. Sess.).

Chapter 240, Public-Local Laws of 1923, as to Elizabeth City only.

Chapter 461, Public-Local Laws of 1923, as to Elizabeth City only.

Chapter 217, Private Laws of 1923.

Chapter 246, Private Laws of 1923.

Chapter 263, Public Laws of 1933, as to Elizabeth City only.

Chapter 232, Private Laws of 1933, as to Elizabeth City only.

Chapter 481, Public-Local Laws of 1939, except section 2.

Chapter 301, Session Laws of 1945.

Chapter 508, Session Laws of 1949.

Chapter 997, Session Laws of 1953.

Chapter 427, Session Laws of 1955.

Chapter 268, Session Laws of 1957.

Chapter 1450, Session Laws of 1957.

Chapter 84, Session Laws of 1959.

Chapter 24, Session Laws of 1963.

Chapter 158, Session Laws of 1963, except section 36.

Chapter 694, Session Laws of 1965.

Chapter 35, Session Laws of 1967.

Chapter 107, Session Laws of 1967.

Chapter 159, Session Laws of 1973.

Chapter 930, Session Laws of 1983 (Reg. Sess. 1984).

Chapter 844, Session Laws of 1985 (Reg. Sess. 1986).

Chapter 295, Session Laws of 1989.

Chapter 174, Session Laws of 1999.

SECTION 5. The Mayor and Council members serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified. Thereafter, those offices shall be filled as provided in Articles II and III of the Charter of the City of Elizabeth City as contained in Section 1 of this act.

SECTION 6. This act does not affect any rights or interests that arose under any provisions repealed by this act.

SECTION 7. All existing ordinances, resolutions, and other provisions of the City of Elizabeth City not inconsistent with the provisions of this act shall continue in effect until repealed or amended.

SECTION 8. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 9. If any provision of this act or application thereof is held invalid, the invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and the provision is later amended, suspended, or recodified, the reference shall be deemed amended to refer to the amended General Statutes, or to the General Statutes which most clearly correspond to the statutory provision that is amended, suspended, or recodified.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of June, 2001.

Became law on the date it was ratified.

S.B. 535**SESSION LAW 2001-228**

AN ACT TO AUTHORIZE THE CITY OF CHARLOTTE TO EXERCISE EXTRATERRITORIAL JURISDICTION IN THE CITY'S SPHERE OF INFLUENCE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Section 12 of Chapter 860 of the 1971 Session Laws, as amended by Chapter 966 of the 1983 Session Laws (Regular Session 1984), and Chapter 161 of the 1991 Session Laws, the City of Charlotte may exercise the powers granted by Article 19 of Chapter 160A of the General Statutes within certain extraterritorial areas in Mecklenburg County. This act authorizes the City of Charlotte to exercise extraterritorial jurisdiction only in those areas, commonly referred to as the "Sphere of Influence," that the City of Charlotte may annex, as set forth in the City of Charlotte's annexation agreements, and amendments thereto, with the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville. The area in which the extraterritorial jurisdiction authorized by this act is to be exercised shall be specifically identified in an ordinance as required by G.S. 160A-360, and may be changed from time to time in the same manner, in accordance with the above referenced agreement, modifications thereto, or future agreements or changed circumstances delineating areas in which the towns may annex.

SECTION 2. Any exercise of authority granted by this act shall be accomplished in accordance with G.S. 160A-360, except that no approval for Mecklenburg County is required prior to such exercise.

SECTION 3. The authority granted by this act shall not be exercised with respect to the property acquired by Mecklenburg County from Hazeline Massey, tax parcel number 215-231-02; the property acquired by Mecklenburg County from National Facilities Corporation, tax parcel number 215-081-15; or the property acquired by Mecklenburg County from Lester H. Yandle, Jr., tax parcel number 215-231-01. As owner and user of the property exempted in this section, Mecklenburg County shall not cause the elevation of the property to be increased more than 25 feet above the highest point existing on the property on the date of ratification of this act, unless the increase is approved in a resolution adopted by the Board of Commissioners of the Town of Matthews.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2001.

Became law on the date it was ratified.

H.B. 431 SESSION LAW 2001-229

AN ACT TO CODIFY THE NEED-BASED SCHOLARSHIP PROGRAM FOR COMMUNITY COLLEGE STUDENTS, TO AMEND THE APPLICATION REQUIREMENTS, AND TO ALLOW THE STATE BOARD OF COMMUNITY COLLEGES TO TARGET A PORTION OF THE FUNDS TO STUDENTS ENROLLED IN HIGH-DEMAND OCCUPATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9.4(a) and Section 9.4(b) of S.L. 1999-237 are codified as G.S. 115D-40.1(a) and G.S. 115D-40.1(b), respectively.

SECTION 2. G.S. 115D-40.1, as codified by Section 1 of this act, reads as rewritten:

"§ 115D-40.1. Financial Assistance for Community College Students.

(a) Need-Based Assistance Program. – ~~Of the funds appropriated to the Community Colleges System Office for the 1999-2001 fiscal biennium, the sum of five million dollars (\$5,000,000) for the 1999-2000 fiscal year and the sum of five million dollars (\$5,000,000) for the 2000-2001 fiscal year shall be used to provide the largest financial need-based student assistance program in the history of the North Carolina Community College System. Students must apply for federal Pell Grants to be eligible for this program. It is the intent of the~~

General Assembly that the Community College System make these financial aid funds available to the neediest students who are not eligible for other financial aid programs that fully cover the required educational expenses of these students. The State Board may use some of these funds as short-term loans to students who anticipate receiving the federal HOPE or Lifetime Learning Tax Credits.

(b) Targeted Assistance. – Notwithstanding subsection (a) of this section, the State Board may allocate no more than ten percent (10%) of the funds appropriated for Financial Assistance for Community College Students to students who do not qualify for need-based assistance but who enroll in low-enrollment programs that prepare students for high-demand occupations.

(c) Administration of Program. – The State Board of Community Colleges shall adopt rules and policies for the disbursement of the financial assistance provided in this section. Students must apply for either federal Pell Grants or complete a Free Application for Federal Student Aid (FAFSA) to be eligible for consideration for financial assistance. The State Board may contract with the State Education Assistance Authority for administration of these financial assistance funds. These funds shall not revert at the end of each fiscal year but shall remain available until expended for need-based financial assistance.

~~(b) The State Board of Community Colleges shall ensure that at least one counselor is available at each college to inform students about federal programs and funds available to assist community college students including, but not limited to, Pell Grants and HOPE and Lifetime Learning Tax Credits and to actively encourage students to utilize these federal programs and funds."~~

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:21 p.m. on the 21st day of June, 2001.

S.B. 160

SESSION LAW 2001-230

AN ACT TO APPLY THE LIABILITY LIMITATIONS OF THE GOOD SAMARITAN LAW TO CERTAIN MEDICAL CARE PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 90-21.14(a1) is recodified as G.S. 90-21.16.

SECTION 1.(b) G.S. 90-21.16, as enacted in Section 1(a) of this act, reads as rewritten:

"§ 90-21.16. Volunteer health care professionals; liability limitation.

(a) This section applies as follows:

- (1) Any volunteer medical or health care provider at a facility of a local health department or at a nonprofit community health center,
- (2) Any volunteer medical or health care provider rendering services to a patient referred by a local health department as defined in G.S. 130A-2(5) or nonprofit community health center at the provider's place of employment,
- (3) Any volunteer medical or health care provider serving as medical director of an emergency medical services (EMS) agency, ~~or~~
- (4) Any retired physician holding a 'Limited Volunteer License' under G.S. 90-12(d), or
- (5) Any volunteer medical or health care provider licensed or certified in this State who provides services within the scope of the provider's license or certification at a free clinic facility, who receives no compensation for medical services or other related services rendered at the facility, center, agency, or clinic, or who neither charges nor receives a fee for medical services rendered to the patient referred by a local health department or nonprofit community health center at the provider's place of employment shall not be liable for damages for injuries or death alleged to have occurred by reason of an act or omission in the rendering of the services unless it is established that the injuries or death were caused by gross negligence, wanton conduct, or intentional wrongdoing on the part of the person rendering the services. The free clinic, local health department facility, nonprofit community health center, or agency shall use due care in the selection of volunteer medical or health care providers, and this subsection shall not excuse the free clinic, health department facility, community health center, or agency for the failure of the volunteer medical or health care provider to use ordinary care in the provision of medical services to its patients.

(b) Nothing in this section shall be deemed or construed to relieve any person from liability for damages for injury or death caused by an act or omission on the part of such person while rendering health care services in the normal and ordinary course of his or her business or profession. Services provided by a medical or health care provider who receives no compensation for his or her services and who voluntarily renders such services at facilities of free clinics, local health departments as defined in G.S. 130A-2, nonprofit

community health centers, or as a volunteer medical director of an emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary course of the volunteer medical or health care provider's business or profession.

(c) As used in this section, a 'free clinic' is a nonprofit, 501(c)(3) tax-exempt organization organized for the purpose of providing health care services without charge or for a minimum fee to cover administrative costs and that maintains liability insurance covering the acts and omissions of the free clinic and any liability pursuant to subsection (a) of this section."

SECTION 2. G.S. 90-21.14(b) reads as rewritten:

"(b) Nothing in this section shall be deemed or construed to relieve any person from liability for damages for injury or death caused by an act or omission on the part of such person while rendering health care services in the normal and ordinary course of his business or profession. Services provided by a volunteer health care provider who receives no compensation for his services and who renders first aid or emergency treatment to members of athletic teams are deemed not to be in the normal and ordinary course of the volunteer health care provider's business or profession. ~~Services provided by a medical or health care provider who receives no compensation for his services and who voluntarily renders such services at facilities of local health departments as defined in G.S. 130A-2 or at a nonprofit community health center, or as a volunteer medical director of an emergency medical services (EMS) agency, are deemed not to be in the normal and ordinary course of the volunteer medical or health care provider's business or profession."~~

SECTION 3. This act becomes effective October 1, 2001, and applies to acts or omissions occurring on and after that date.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:22 p.m. on the 21st day of June, 2001.

S.B. 257

SESSION LAW 2001-231

AN ACT TO AMEND ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE TO GIVE THE SECRETARY OF STATE THE AUTHORITY TO PREVENT FRAUDULENT FILINGS AND TO MAKE CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

PART I. PREVENT FRAUDULENT FILINGS.

SECTION 1. G.S. 25-9-516(b) reads as rewritten:

"(b) Refusal to accept record; filing does not occur. – Filing does not occur with respect to a record that a filing office refuses to accept because:

- (1) The record is not communicated by a method or medium of communication authorized by the filing office;
- (2) An amount equal to or greater than the applicable filing fee is not tendered;
- (3) The filing office is unable to index the record because:
 - a. In the case of an initial financing statement, the record does not provide a name for the debtor;
 - b. In the case of an amendment or correction statement, the record:
 1. Does not identify the initial financing statement as required by G.S. 25-9-512 or G.S. 25-9-518, as applicable; or
 2. Identifies an initial financing statement whose effectiveness has lapsed under G.S. 25-9-515;
 - c. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
 - d. In the case of a record filed in the filing office described in G.S. 25-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;
- (4) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- (5) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - a. Provide a mailing address for the debtor;
 - b. Indicate whether the debtor is an individual or an organization; or
 - c. If the financing statement indicates that the debtor is an organization, provide:
 1. A type of organization for the debtor;
 2. A jurisdiction of organization for the debtor; or
 3. An organizational identification number for the debtor or indicate that the debtor has none;

- (6) In the case of an assignment reflected in an initial financing statement under G.S. 25-9-514(a) or an amendment filed under G.S. 25-9-514(b), the record does not provide a name and mailing address for the assignee; ~~or~~
- (7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by ~~G.S. 25-9-515(d)~~; G.S. 25-9-515(d); or
- (8) In the case of a record presented for filing at the Department of the Secretary of State, the Secretary of State determines that the record is not created pursuant to this Chapter or is otherwise intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person."

SECTION 2. G.S. 25-9-518(b)(3) reads as rewritten:

- "(3) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed. A correction statement that is subject to the provisions of subsection (b1) of this section shall include a written certification, under oath, by the person that the contents of the correction statement are true and accurate to the best of the person's knowledge."

SECTION 3. G.S. 25-9-518 is amended by adding a new subsection to read:

"(b1) In the case of a correction statement alleging that a previously filed record was wrongfully filed and that it should have been rejected under G.S. 25-9-516(b)(8), the Secretary of State shall, without undue delay, determine whether the contested record was wrongfully filed and should have been rejected. In order to determine whether the record was wrongfully filed, the Secretary of State may require the person filing the correction statement and the secured party to provide any additional relevant information requested by the Secretary of State, including an original or a copy of any security agreement that is related to the record. If the Secretary of State finds that the record was wrongfully filed and should have been rejected under G.S. 25-9-516(b)(8), the Secretary of State shall cancel the record and it shall be void and of no effect."

SECTION 4. G.S. 25-9-520 reads as rewritten:

"§ 25-9-520. ~~Acceptance and refusal to accept record.~~ Acceptance, refusal to accept record, and cancellation of record.

- (a) Mandatory refusal to accept record. – A filing office shall refuse to accept a record for filing for a reason set forth in G.S.

25-9-516(b) and may refuse to accept a record for filing only for a reason set forth in G.S. 25-9-516(b).

(b) Communication concerning refusal. – If a filing office refuses to accept a record for ~~filing~~, filing or cancels a record under G.S. 25-9-518(b1), it shall communicate to the person that presented the record the fact of and reason for the refusal or cancellation and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but in no event more than three business days after the filing office receives or cancels the record.

(c) When filed financing statement effective. – A filed financing statement satisfying G.S. 25-9-502(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a) of this section. However, G.S. 25-9-338 applies to a filed financing statement providing information described in G.S. 25-9-516(b)(5) which is incorrect at the time the financing statement is filed.

(d) Separate application to multiple debtors. – If a record communicated to a filing office provides information that relates to more than one debtor, this Part applies as to each debtor separately.

(e) Appeal.

- (1) If the Secretary of State refuses to accept a record for filing pursuant to G.S. 25-9-516(b)(8) or cancels a wrongfully filed record pursuant to G.S. 25-9-518(b1), the secured party may file an appeal within 30 days after the refusal or cancellation in the Superior Court of Wake County. Filing a petition requesting to be allowed to file the document commences the appeal. The petition shall be filed with the court and with the Secretary of State and shall have the record attached to it. Upon the commencement of an appeal, it shall be set for hearing at the earliest possible time and shall take precedence over all matters except older matters of the same character. The appeal to the Superior Court is not governed by Article 3, 3A, or 4 of Chapter 150B of the General Statutes and shall be determined upon such further notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The court shall permit the joinder of any interested party that would be allowed under the Rules of Civil Procedure.
- (2) Upon consideration of the petition and other appropriate pleadings, the court may order the Secretary of State to file the record or take other action the court considers appropriate, including the entry of orders affirming,

reversing, or otherwise modifying the decision of the Secretary of State. The court may order any other relief, including equitable relief, as may be appropriate.

- (3) The court's final decision may be appealed as in other civil proceedings."

SECTION 5. Article 52 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-401.19. Filing false security agreements.

It shall be unlawful for any person, firm, corporation, or any other association of persons in this State, under whatever name styled, to present a record for filing under the provisions of Article 9 of Chapter 25 of the General Statutes with knowledge that the record is not related to a valid security agreement or with the intention that the record be filed for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person. A violation of this section shall be a Class 2 misdemeanor."

PART II. CLARIFY PROVISIONS OF ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

SECTION 6. G.S. 25-9-707 reads as rewritten:

"§ 25-9-707. Amendment of pre-effective-date financing statement.

(a) 'Pre-effective-date financing statement'. – In this section, 'pre-effective-date financing statement' means a financing statement filed before July 1, 2001.

(b) Applicable law. – After July 1, 2001, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3 of this Article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Method of amending: general rule. – Except as otherwise provided in subsection (d) of this section, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after July 1, 2001 only if:

- (1) The pre-effective-date financing statement and an amendment are filed in the office specified in G.S. 25-9-501;
- (2) An amendment is filed in the office specified in G.S. 25-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies G.S. 25-9-706(c); or

- (3) An initial financing statement that provides the information as amended and satisfies G.S. 25-9-706(c) is filed in the office specified in G.S. 25-9-501.

(d) Method of amending: continuation. – If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under G.S. 25-9-705(d) and (f) or G.S. 25-9-706.

(e) Method of amending: additional termination rule. – Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after July 1, 2001, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies G.S. 25-9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 of this Article as the office in which to file a financing statement. However, a termination statement shall not be filed under this section in the register of deeds office unless it is the office specified in G.S. 25-9-501.

~~(f) Method of amending: termination. – If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be terminated after July 1, 2001 only if:~~

- ~~(1) The pre effective date financing statement and a termination statement are filed in the office specified in G.S. 25-9-501; or~~
- ~~(2) A termination statement is filed in the office specified in G.S. 25-9-501 concurrently with the filing in that office of an initial financing statement that satisfies G.S. 25-9-706(c). Under this subsection, no separate fee shall be charged for the filing or indexing of the termination statement.~~

No additional fee. – No separate fee shall be charged for the filing or indexing of a concurrently filed termination statement under subdivision (c)(2) of this section."

SECTION 7. G.S. 25-9-710 reads as rewritten:

"§ 25-9-710. *Special transitional provision for maintaining and searching local-filing office records.*

(a) In this section:

- (1) 'Former-Article-9 records' means:
 - a. Financing statements and other records that have been filed in the local-filing office before July 1, 2001, and that are, or upon processing and indexing will be, reflected in the index maintained, as of June 30, 2001, by the local-filing office for financing

statements and other records filed in the local-filing office before July 1, 2001; and

b. The index as of June 30, 2001.

The term does not include records presented to a local-filing office for filing after June 30, 2001, whether or not the records relate to financing statements filed in the local-filing office before July 1, 2001.

(2) 'Local-filing office' means a filing office, other than the office of the Secretary of State, that is designated as the proper place to file a financing statement under G.S. 25-9-401(1) of former Article 9. The term applies only with respect to a record that covers a type of collateral as to which the filing office is designated in that section as the proper place to file.

(b) A local-filing office must not accept for filing a record presented after June 30, 2001, whether or not the record relates to a financing statement filed in the local-filing office before July 1, 2001. This subsection does not apply, with respect to financing statements and other records, to a filing office in which mortgages or records of mortgages on real property are required to be filed or recorded, if:

(1) The collateral is timber to be cut or as-extracted collateral; or

(2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures.

(c) Until July 1, 2008, each local-filing office must maintain all ~~former Article 9~~ former-Article-9 records in accordance with former Article 9. A ~~former Article 9~~ former-Article-9 record that is not reflected on the index maintained at June 30, 2001, by the local-filing office must be processed and indexed, and reflected on the index as of June 30, 2001, as soon as practicable but in any event no later than July 30, 2001.

(d) Until at least June 30, 2008, each local-filing office must respond to requests for information with respect to ~~former Article 9~~ former-Article-9 records relating to a debtor and issue certificates, in accordance with former Article 9. The fees charged for responding to requests for information relating to a debtor and issuing certificates with respect to ~~former-Article-9~~ records must be the fees in effect under former Article 9 on June 30, 2001.

(e) After June 30, 2008, each local-filing office may remove and destroy, in accordance with any then applicable record retention law of this State, all ~~former-Article-9~~ records, including the related index.

~~(f) This section does not apply, with respect to financing statements and other records, to a filing office in which mortgages or~~

~~records of mortgages on real property are required to be filed or recorded, if:~~

- ~~(1) The collateral is timber to be cut or as extracted collateral, or~~
- ~~(2) The record is or relates to a financing statement filed as a fixture and the collateral is goods that are or are to become fixtures."~~

PART III. EFFECTIVE DATE.

SECTION 8. Section 5 of this act becomes effective December 1, 2001, and applies to documents presented for filing on or after that date. The remainder of this act becomes effective July 1, 2001. Sections 1 through 4 of this act apply to documents filed on or after July 1, 2001.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 21st day of June, 2001.

S.B. 466

SESSION LAW 2001-232

AN ACT TO INCREASE THE AMOUNT OF BURIAL EXPENSES COVERAGE UNDER THE WORKERS' COMPENSATION ACT; TO CHANGE A REQUIREMENT IN THE LOSS COSTS RATE-MAKING LAW; AND TO AMEND THE RATE BUREAU APPEAL STATUTE TO PROVIDE THAT MEMBER COMPANIES ARE NOT ALLOWED TO APPEAL BUREAU DECISIONS ON RATES OR LOSS COSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-38 reads as rewritten:

"§ 97-38. *Where death results proximately from compensable injury or occupational disease; dependents; burial expenses; compensation to aliens; election by partial dependents.*

If death results proximately from a compensable injury or occupational disease and within six years thereafter, or within two years of the final determination of disability, whichever is later, the employer shall pay or cause to be paid, subject to the provisions of other sections of this Article, weekly payments of compensation equal to sixty-six and two-thirds percent (66 2/3%) of the average weekly wages of the deceased employee at the time of the accident, but not more than the amount established annually to be effective October 1 as provided in G.S. 97-29, nor less than thirty dollars (\$30.00), per week, and burial expenses not exceeding ~~two thousand dollars (\$2,000)~~, three thousand five hundred dollars (\$3,500), to the person or persons entitled thereto as follows:

- (1) Persons wholly dependent for support upon the earnings of the deceased employee at the time of the accident shall be entitled to receive the entire compensation payable share and share alike to the exclusion of all other persons. If there be only one person wholly dependent, then that person shall receive the entire compensation payable.
- (2) If there is no person wholly dependent, then any person partially dependent for support upon the earnings of the deceased employee at the time of the accident shall be entitled to receive a weekly payment of compensation computed as hereinabove provided, but such weekly payment shall be the same proportion of the weekly compensation provided for a whole dependent as the amount annually contributed by the deceased employee to the support of such partial dependent bears to the annual earnings of the deceased at the time of the accident.
- (3) If there is no person wholly dependent, and the person or all persons partially dependent is or are within the classes of persons defined as "next of kin" in G.S. 97-40, whether or not such persons or such classes of persons are of kin to the deceased employee in equal degree, and all so elect, he or they may take, share and share alike, the commuted value of the amount provided for whole dependents in (1) above instead of the proportional payment provided for partial dependents in (2) above; provided, that the election herein provided may be exercised on behalf of any infant partial dependent by a duly qualified guardian; provided, further, that the Industrial Commission may, in its discretion, permit a parent or person standing in loco parentis to such infant to exercise such option in its behalf, the award to be payable only to a duly qualified guardian except as in this Article otherwise provided; and provided, further, that if such election is exercised by or on behalf of more than one person, then they shall take the commuted amount in equal shares.

When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments. Compensation payments due on account of death shall be paid for a period of 400 weeks from the date of the death of the employee; provided, however, after said 400-week period in case of a widow or widower who is unable to support herself or himself because of physical or mental disability as of the

date of death of the employee, compensation payments shall continue during her or his lifetime or until remarriage and compensation payments due a dependent child shall be continued until such child reaches the age of 18.

Compensation payable under this Article to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amounts as provided for residents, except that dependents in any foreign country except Canada shall be limited to surviving spouse and child or children, or if there be no surviving spouse or child or children, to the surviving father or mother."

SECTION 2. G.S. 58-36-100(j) reads as rewritten:

"(j) For reference filings filed by the Bureau:

- (1) If the insurer has filed to have its loss multiplier remain on file, applicable to subsequent reference filings, and a new reference filing is filed and approved and if:
 - a. The insurer decides to use the revision of the prospective loss costs and effective date as filed, then the insurer does not file anything with the Commissioner. Rates are the combination of the prospective loss costs and the on-file loss multiplier and become effective on the effective date of the loss costs.
 - b. The insurer decides to use the prospective loss costs as filed but with a different effective date, then the insurer must notify the Commissioner of its effective date before the effective date of the loss costs.
 - c. The insurer decides to use the revision of the prospective loss costs, but wishes to change its loss multiplier, then the insurer must file a revised reference filing adoption form before the effective date of the reference filing.
 - d. The insurer decides not to revise its rates using the prospective loss costs, then the insurer must notify the Commissioner before the effective date of the loss costs.
- (2) If an insurer has not elected to have its loss multiplier remain on file, applicable to future prospective loss costs reference filings, and a new reference filing is filed and approved, and if:
 - a. The insurer decides to use the prospective loss costs to revise its rates, then the insurer must file a reference filing adoption form including its effective date.

- b. The insurer decides not to use the revisions, then the insurer does not file anything with the Commissioner.
- c. The insurer decides to change its multiplier, then the insurer must file a reference filing adoption form referencing the current approved prospective loss costs, including its effective date and, if applicable, its loss costs modification factor and supporting documentation. The insurer shall not make a change to its loss costs multiplier based on any reference filing other than the current approved reference filing."

SECTION 3. G.S. 58-36-35 reads as rewritten:

"§ 58-36-35. *Appeal to Commissioner from decision of Bureau.*

(a) Any member of the Bureau may appeal to the Commissioner from any decision of the ~~Bureau~~Bureau, except for a decision made under G.S. 58-36-1(2). After a hearing held on not ~~less~~fewer than 10 days' written notice to the appellant and to the Bureau, the Commissioner shall issue an order approving the decision or directing the Bureau to reconsider the decision. ~~In the event~~If the Commissioner directs the Bureau to reconsider the decision and the Bureau fails to take action satisfactory to the Commissioner, the Commissioner shall make such order as ~~he~~the Commissioner may see fit.

(b) No later than 20 days before ~~each~~the hearing, the appellant shall file with the Commissioner or ~~his~~the Commissioner's designated hearing officer and shall serve on the appellee a written statement of his case and any evidence ~~he~~the appellant intends to offer at the hearing. No later than five days before such hearing, the appellee shall file with the Commissioner or ~~his~~the Commissioner's designated hearing officer and shall serve on the appellant a written statement of ~~his~~the appellee's case and any evidence ~~he~~the appellee intends to offer at the hearing. Each such hearing shall be recorded and transcribed. The cost of ~~such~~the recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. Each party shall, on a date determined by the Commissioner or ~~his~~the Commissioner's designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or ~~his~~the Commissioner's designated hearing officer and serve on the other party, a proposed order. The Commissioner or ~~his~~the Commissioner's designated hearing officer shall then issue an order."

SECTION 3.1. G.S. 97-40 reads as rewritten:

"§ 97-40. *Commutation and payment of compensation in absence of dependents; "next of kin" defined; commutation and distribution of compensation to partially dependent next of kin; payment in absence of both dependents and next of kin.*

Subject to the provisions of G.S. 97-38, if the deceased employee leaves neither whole nor partial dependents, then the compensation which would be payable under G.S. 97-38 to whole dependents shall be commuted to its present value and paid in a lump sum to the next of kin as herein defined. For purposes of this section and G.S. 97-38, "next of kin" shall include only child, father, mother, brother or sister of the deceased employee, including adult children or adult brothers or adult sisters of the deceased, but excluding a parent who has willfully abandoned the care and maintenance of his or her child and who has not resumed its care and maintenance at least one year prior to the first occurring of the majority or death of the child and continued its care and maintenance until its death or majority. For all such next of kin who are neither wholly nor partially dependent upon the deceased employee and who take under this section, the order of priority among them shall be governed by the general law applicable to the distribution of the personal estate of persons dying intestate. In the event of exclusion of a parent based on abandonment, the claim for compensation benefits shall be treated as though the abandoning parent had predeceased the employee. For all such next of kin who were also partially dependent on the deceased employee but who exercise the election provided for partial dependents by G.S. 97-38, the general law applicable to the distribution of the personal estate of persons dying intestate shall not apply and such person or persons upon the exercise of such election, shall be entitled, share and share alike, to the compensation provided in G.S. 97-38 for whole dependents commuted to its present value and paid in a lump sum.

If the deceased employee leaves neither whole dependents, partial dependents, nor next of kin as hereinabove defined, then no compensation shall be due or payable on account of the death of the deceased employee, except that the employer shall pay or cause to be paid the burial expenses of the deceased employee not exceeding ~~two thousand dollars (\$2,000)~~ three thousand five hundred dollars (\$3,500) to the person or persons entitled thereto."

SECTION 4. Notwithstanding the provisions of G.S. 97-31.1, Sections 1 and 3.1 of this act become effective October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:23 p.m. on the 21st day of June, 2001.

S.B. 543

SESSION LAW 2001-233

AN ACT TO AMEND THE CLASSIFICATION OF CERTAIN CONTROLLED SUBSTANCES TO MAKE CONSISTENT WITH FEDERAL LAW GOVERNING CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-90(1)a. reads as rewritten:

"§ 90-90. *Schedule II controlled substances.*

This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a high potential for abuse; currently accepted medical use in the United States, or currently accepted medical use with severe restrictions; and the abuse of the substance may lead to severe psychic or physical dependence. The following controlled substances are included in this schedule:

- (1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, unless specifically excepted or unless listed in another schedule:
 - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium and opiate, excluding apomorphine, nalbuphine, dextrophan, naloxone, naltrexone and nalmeffene, and their respective salts, but including the following:
 1. Raw opium.
 2. Opium extracts.
 3. Opium fluid extracts.
 4. Powdered opium.
 5. Granulated opium.
 6. Tincture of opium.
 7. Codeine.
 8. Ethylmorphine.
 9. Etorphine hydrochloride.
 10. Hydrocodone.
 11. Hydromorphone.
 12. Metopon.
 13. Morphine.
 14. Oxycodone.
 15. Oxymorphone.

16. Thebaine.

17. Dihydroetorphine."

SECTION 2.(a) G.S. 90-90(5) reads as rewritten:

"(5) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted, or listed in another schedule, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- a. ~~Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. [Some other names: (6aR trans) 6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-1,6H-dibenzo[b,d]pyran-1-ol, or (-) delta-9-(trans)-tetrahydrocannabinol].~~
- b. Nabilone [Another name for nabilone: (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6/y-dimethyl-9H-dibenzo[b, d]pyran-9-one]."

SECTION 2.(b) G.S. 90-91 is amended by adding the following new subsection to read:

"(m) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. [Some other names: (6aR-trans), -6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-ol or (-)delta-9-(trans)-tetrahydrocannabinol]."

SECTION 3.(a) G.S. 90-91(b) reads as rewritten:

"(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system unless specifically exempted or listed in another schedule:

1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
2. Chlorhexadol.
3. Repealed by Session Laws 1993, c. 319, s. 5.
4. Lysergic acid.
5. Lysergic acid amide.
6. Methypylon.
7. Sulfondiethylmethane.
8. Sulfonethylmethane.
9. Sulfonmethane.

- 9a. Tiletamine and zolazepam or any salt thereof. Some trade or other names for tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one. flupyrzapon.
10. Any compound, mixture or preparation containing
- (i) Amobarbital.
 - (ii) Secobarbital.
 - (iii) Pentobarbital.
- or any salt thereof and one or more active ingredients which are not included in any other schedule.
11. Any suppository dosage form containing
- (i) Amobarbital.
 - (ii) Secobarbital.
 - (iii) Pentobarbital.
- or any salt of any of these drugs and approved by the federal Food and Drug Administration for marketing as a suppository.

12. Ketamine."

SECTION 3.(b) G.S. 90-91(l) is repealed.

SECTION 4. G.S. 90-92(a) reads as rewritten:

"(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that a substance comes within this schedule, the Commission shall find: a low potential for abuse relative to the substances listed in Schedule III of this Article; currently accepted medical use in the United States; and limited physical or psychological dependence relative to the substances listed in Schedule III of this Article. The following controlled substances are included in this schedule:

- (1) Depressants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Barbital.
 - c. Bromazepam.
 - d. Camazepam.
 - e. Chloral betaine.

- f. Chloral hydrate.
- g. Chlordiazepoxide.
- h. Clobazam.
- i. Clonazepam.
- j. Clorazepate.
- k. Clotiazepam.
- l. Cloxazolam.
- m. Delorazepam.
- n. Diazepam.
- o. Estazolam.
- p. Ethchlorvynol.
- q. Ethinamate.
- r. Ethyl loflazepate.
- s. Fludiazepam.
- t. Flunitrazepam.
- u. Flurazepam.
- v. Repealed by Session Laws 2000, c. 140, s. 92.2(c).
- w. Halazepam.
- x. Haloxazolam.
- y. Ketazolam.
- z. Loprazolam.
- aa. Lorazepam.
- bb. Lormetazepam.
- cc. Mebutamate.
- dd. Medazepam.
- ee. Meprobamate.
- ff. Methohexital.
- gg. Methylphenobarbital (mephobarbital).
- hh. Midazolam.
- ii. Nimetazepam.
- jj. Nitrazepam.
- kk. Nordiazepam.
- ll. Oxazepam.
- mm. Oxazolam.
- nn. Paraldehyde.
- oo. Petrichloral.
- pp. Phenobarbital.
- qq. Pinazepam.
- rr. Prazepam.
- ss. Quazepam.
- tt. Temazepam.
- uu. Tetrazepam.
- vv. Triazolam.
- ww. Zolpidem.
- xx. Zaleplon.

- (2) Any material, compound, mixture, or preparation which contains any of the following substances, including its salts, or isomers and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
- Fenfluramine.
 - Pentazocine.
- (3) Stimulants. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- Diethylpropion.
 - Mazindol.
 - Pemoline (including organometallic complexes and chelates thereof).
 - Phentermine.
 - Cathine.
 - Fencamfamin.
 - Fenproporex.
 - Mefenorex.
 - Sibutramine.
 - Modafinil.
- (4) Other Substances. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:
- Dextropropoxyphene
(Alpha-(plus)-4-dimethylamino-1,
2-diphenyl-3-methyl-2-propion oxybutane).
 - Pipradrol.
 - SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
 - Butorphanol.
- (5) Narcotic Drugs. – Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
- Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - Buprenorphine."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:24 p.m. on the 21st day of June, 2001.

S.B. 937 SESSION LAW 2001-234

AN ACT TO REGULATE THE DEVELOPMENT OF ADULT CARE HOMES UNDER THE CERTIFICATE OF NEED LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-175 reads as rewritten:

"§ 131E-175. *Findings of fact.*

The General Assembly of North Carolina makes the following findings:

...

(8) That because persons who have received exemptions under Section 11.9(a) of S.L. 2000-67, as amended, and under Section 11.69(b) of S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212, and as amended by Section 1 of S.L. 1999-135, have had sufficient time to complete development plans and initiate construction of beds in adult care homes.

(9) That because with the enactment of this legislation, beds allowed under the exemptions noted above and pending development will count in the inventory of adult care home beds available to provide care to residents in the State Medical Facilities Plan.

(10) That because State and county expenditures provide support for nearly three-quarters of the residents in adult care homes through the State County Special Assistance program, and excess bed capacity increases costs per resident day, it is in the public interest to promote efficiencies in delivering care in those facilities by controlling and directing their growth in an effort to prevent underutilization and higher costs and provide appropriate geographical distribution."

SECTION 2. G.S. 131E-176 reads as rewritten:

"§ 131E-176. *Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

...

(9b) "Health service facility" means a hospital; psychiatric facility; rehabilitation facility; ~~long term care facility;~~

nursing home facility; adult care home; kidney disease treatment center, including freestanding hemodialysis units; intermediate care facility for the mentally retarded; home health agency office; chemical dependency treatment facility; diagnostic center; oncology treatment center; hospice, hospice inpatient facility, hospice residential care facility; and ambulatory surgical facility.

(9c) "Health service facility bed" means a bed licensed for use in a health service facility in the categories of (i) acute care beds; (ii) psychiatric beds; (iii) rehabilitation beds; (iv) nursing ~~care~~ home beds; (v) intermediate care beds for the mentally retarded; (vi) chemical dependency treatment beds; (vii) hospice inpatient facility beds; ~~and~~ (viii) hospice residential care facility ~~beds.~~ beds; and (ix) adult care home beds.

...
(12a) "Adult care home" means a facility with seven or more beds licensed under G.S. 131D-2 or Chapter 131E of the General Statutes that provides residential care for aged or disabled persons whose principal need is a home which provides the supervision and personal care appropriate to their age and disability and for whom medical care is only occasional or incidental.

...
(14d) ~~"Long term care facility" means a health service facility whose bed complement of health service facility beds is composed principally of nursing care facility beds.~~

...
(17b) "Nursing home facility" means a health service facility whose bed complement of health service facility beds is composed principally of nursing home facility beds.

...."

SECTION 3. Section 11.69 of S.L. 1997-443, as amended by Section 12.16C(a) of S.L. 1998-212, and as further amended by Section 1 of S.L. 1999-135 as amended by Section 11.9(a) of S.L. 2000-67, reads as rewritten:

"Section 11.69. (a) The General Assembly finds:

- (1) That the cost of care for seventy percent (70%) of adult care home residents is paid by the State and the counties;
- (2) That the cost to the State for care for residents in adult care homes is substantial, and high vacancy rates in adult care homes further increases the cost of care;

- (3) That the proliferation of unnecessary adult care home beds results in costly duplication and underuse of facilities and may result in lower quality service; and
- (4) That it is necessary to protect the general welfare and lives, health, and property of the people of the State to slow temporarily licensure of adult care home beds pending a finding of a more definitive means of developing and maintaining the quality of adult care home beds so that unnecessary costs to the State do not result, adult care home beds are available where needed, and that individuals who need care in adult care homes may have access to quality care.

(b) Effective until ~~September 30, 2001~~, December 31, 2001, the Department of Health and Human Services shall not approve the addition of any adult care home beds for any type home or facility in the State, except as follows:

- (1) Plans submitted for approval prior to May 18, 1997, may continue to be processed for approval;
- (2) Plans submitted for approval subsequent to May 18, 1997, may be processed for approval if the individual or organization submitting the plan demonstrates to the Department that on or before August 25, 1997, the individual or organization purchased real property, entered into a contract to purchase or obtain an option to purchase real property, entered into a binding real property lease arrangement, or has otherwise made a binding financial commitment for the purpose of establishing or expanding an adult care home facility. An owner of real property who entered into a contract prior to August 25, 1997, for the sale of an existing building together with land zoned for the development of not more than 50 adult care home beds with a proposed purchaser who failed to consummate the transaction may, after August 25, 1997, sell the property to another purchaser and the Department may process and approve plans submitted by the purchaser for the development of not more than 50 adult care home beds. It shall be the responsibility of the applicant to establish, to the satisfaction of the Department, that any of these conditions have been met;
- (3) Adult care home beds in facilities for the developmentally disabled with six beds or less which are or would be licensed under G.S. 131D or G.S. 122C may continue to be approved;

- (4) If the Department determines that the vacancy rate of available adult care home beds in a county is fifteen percent (15%) or less of the total number of available beds in the county as of August 26, 1997, and no new beds have been approved or licensed in the county or plans submitted for approval in accordance with subdivision (1) or (2) of this section which would raise the vacancy rate above fifteen percent (15%) in the county, then the department may accept and approve the addition of beds in that county; or
- (5) If a county board of commissioners determines that a substantial need exists for the addition of adult care home beds in that county, the board of commissioners may request that a specified number of additional beds be licensed for development in their county. In making their determination, the board of commissioners shall give consideration to meeting the needs of Special Assistance clients. The Department may approve licensure of the additional beds from the first facility that files for licensure and subsequently meets the licensure requirements.

(b1) Any person who obtained an exemption under subsection (b) of this section and has not obtained a license for the beds for which the exemption was granted shall no longer be authorized to develop the beds, unless all of the following conditions are met:

- (1) No later than June 1, 2002, the person granted the exemption shall submit to the Department of Health and Human Services fully executed copies of loan closing papers for a loan to the exempted person or a letter from a certified public accountant which states that liquid reserves have been placed in a separately identified account for the exempted person that document sufficient funding to cover the entire capital cost of the project for which the exemption was granted.
- (2) No later than December 1, 2002, the person granted the exemption shall submit to the Department of Health and Human Services documentation from the builder or architect that the foundation and footings of the facility for which the exemption was granted have been completed.
- (3) No later than December 1, 2003, the person granted the exemption shall submit to the Department of Health and Human Services a copy of the certificate of occupancy from the local building inspector for the facility for which the exemption was granted.

(b2) Notwithstanding the provisions of subsection (b1) of this section, any person who obtained an exemption under subsection (b) of this section for the construction of a new building that is not connected to any other existing structure by more than a protected walkway, and who obligated one or more Qualifying Financial Commitments for the construction of the building of a value totaling at least twenty-five thousand dollars (\$25,000), before January 1, 2001, may proceed to develop the beds and obtain a license for the operation of the beds if all of the following conditions are met. Exemptions that were received for increases in bed capacity of existing buildings must meet the requirements set forth in subsection (b1) of this section.

- (1) No later than the close of business on June 1, 2004, the person granted the exemption shall submit to the Department of Health and Human Services fully executed copies of loan closing papers for a loan to the exempted person or a letter from a certified public accountant which states that liquid reserves have been placed in a separately identified account for the exempted person that document sufficient funding to cover the entire capital cost of the project for which the exemption was granted.
- (2) Not later than the close of business on December 1, 2004, the person granted the exemption shall submit to the Department of Health and Human Services documentation from the builder or architect that the foundation and footings of the facility for which the exemption was granted have been completed.
- (3) Not later than the close of business on December 1, 2005, the person granted the exemption shall submit to the Department of Health and Human Services a copy of the certificate of occupancy from the building inspector for the facility for which the exemption was granted.

For the purposes of this subsection, "Qualifying Financial Commitments" includes any and all of the following expenses: (i) zoning fees and expenses; (ii) marketing and other demographic research and studies; (iii) site preparation costs including soil testing and soil boring costs; (iv) water and sewer improvements; (v) professional fees associated with the foregoing activities and which are otherwise connected to the development of the site, including accounting, architectural, engineering, and legal fees.

(c) The Department shall study the issue of high vacancy rates for adult care home beds, including the impact of those vacancy rates on cost-effectiveness and quality of care for the occupants of adult care homes and other facilities, and make recommendations with

respect to the need for establishing new procedures for determining the State and county reimbursement amounts for Special Assistance recipients, the need for the establishment of a certificate of need type process for adult care homes, or any changes needed in the certificate of need process for any other facilities to prevent high vacancy rates for adult care home beds. The Department also shall study the issue of the availability of beds for Special Assistance clients and how recent new bed development has impacted the availability, quality, and cost of beds available for those clients. The Department shall report the results of its study, along with the recommendations required by this section and any other proposals and recommendations, to the Chairs of the House and Senate Appropriations Subcommittees on Human Resources by February 1, 1998. The Department's report shall include any observations or recommendations it deems appropriate with respect to correlations between the vacancy rates and the condition or age of facilities.

(d) This section shall not apply to adult care home beds which are part of a continuing care facility subject to the jurisdiction of or licensed by the Department of Insurance pursuant to Article 64, Chapter 58 of the General Statutes.

(e) This section is effective when this act becomes law."

SECTION 4. The Department of Health and Human Services shall study and make recommendations regarding the State Medical Facilities Planning methodology that would be necessary in order to delineate the various populations currently being served in facilities regulated as adult care homes according to the needs of those populations. The Department shall report its findings and recommendations to the State Health Care Coordinating Council not later than May 1, 2002.

SECTION 5. Sections 1 and 2 of this act become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of June, 2001.

Became law upon approval of the Governor at 3:25 p.m. on the 21st day of June, 2001.

H.B. 573**SESSION LAW 2001-235**

**AN ACT TO ELIMINATE THE REQUIREMENT FOR
NOTARIZATION OF CAMPAIGN REPORTS.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.32 reads as rewritten:
"§ 163-278.32. *Statements under oath.*

Any statement required to be filed under this Article shall be signed and certified as true and correct by the individual, media, candidate, treasurer or others required to file it, and shall be ~~verified by the oath or affirmation of~~ certified as true and correct to the best of the knowledge of the individual, media, candidate, treasurer or others filing the ~~statement, taken before any officer authorized to administer oaths;~~ statement; provided further that the candidate shall certify as true and correct to the best of his knowledge the organizational report and appointment of treasurer filed for the candidate or the candidate's principal campaign committee. Any person making a certification under this Article knowing the information to be untrue may be prosecuted for perjury under G.S. 14-209."

SECTION 2. G.S. 163-278.9(i) reads as rewritten:

"(i) Any report or attachment filed under subsection (e) of this section must be ~~made under oath~~ certified."

SECTION 3. G.S. 163-278.10A(a) reads as rewritten:

"(a) Notwithstanding any other provision of this Chapter, a candidate shall be exempted from the reports of contributions, loans, and expenditures required in G.S. 163-278.9(a), 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E if to further his campaign that candidate:

- (1) Does not receive more than three thousand dollars (\$3,000) in contributions, and
- (2) Does not receive more than three thousand dollars (\$3,000) in loans, and
- (3) Does not spend more than three thousand dollars (\$3,000).

To qualify for the exemption from those reports, the candidate's treasurer shall file a certification ~~under oath~~ that he does not intend to receive in contributions or loans or expend more than three thousand dollars (\$3,000) to further his campaign. The certification shall be filed with the Board at the same time the candidate files his Organizational Report as required in G.S. 163-278.7, G.S. 163-278.9, and G.S. 163-278.40A. If the candidate's campaign is being conducted by a political committee which is handling all contributions, loans, and expenditures for his campaign, the treasurer of the political committee shall file a certification of intent to stay within the threshold amount. If the intent to stay within the threshold changes, or if the three thousand dollar (\$3,000) threshold is exceeded, the treasurer shall immediately notify the Board and shall be responsible for filing all reports required in G.S. 163-278.9 and 163-278.40B, 163-278.40C, 163-278.40D, and 163-278.40E; provided that any contribution, loan, or expenditure which would have been required to be reported on an earlier report but for this

section shall be included on the next report required after the intent changes or the threshold is exceeded."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 12:55 p.m. on the 22nd day of June, 2001.

H.B. 357**SESSION LAW 2001-236**

AN ACT TO INCREASE THE AMOUNTS OF LIABILITY INSURANCE THAT MAY BE CEDED TO THE NORTH CAROLINA MOTOR VEHICLE REINSURANCE FACILITY TO FACILITATE THE PURCHASE OF EXCESS OR UMBRELLA COVERAGE BY MOTOR VEHICLE OWNERS AND TO CLARIFY OTHER LAWS RELATING TO UMBRELLA INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-37-35(b) reads as rewritten:

"(b) The Facility shall reinsure for each coverage available ~~therein~~ in the Facility to the standard percentage of one hundred percent (100%) or lesser equitable percentage established in the Facility's plan of operation as follows:

- (1) For the following coverages of motor vehicle insurance and in at least the following amounts of insurance:
 - a. Bodily injury liability: thirty thousand dollars (\$30,000) each person, sixty thousand dollars (\$60,000) each accident;
 - b. Property damage liability: twenty-five thousand dollars (\$25,000) each person;
 - c. Medical payments: one thousand dollars (\$1,000) each person; except that this coverage shall not be available for motorcycles;
 - d. Uninsured motorist: thirty thousand dollars (\$30,000) each person; sixty thousand dollars (\$60,000) each accident for bodily injury; twenty-five thousand dollars (\$25,000) each accident property damage (one hundred dollars (\$100.00) deductible);
 - e. Any other motor vehicle insurance or financial responsibility limits in the amounts required by any federal law or federal agency regulation; by any law of this State; or by any rule duly adopted under

Chapter 150B of the General Statutes or by the North Carolina Utilities Commission.

- (2) Additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors ~~if there is a substantial public demand for a coverage or coverage limit of any component of motor vehicle insurance~~ up to the following:
- a. Bodily injury liability: one hundred thousand dollars (\$100,000) each person, three hundred thousand dollars (\$300,000) each accident;
 - b. Property damage liability: fifty thousand dollars (\$50,000) each accident;
 - c. Medical payments: two thousand dollars (\$2,000) each person;
 - d. Underinsured motorist: one million dollars (\$1,000,000) each person and each accident for bodily injury liability; and
 - e. Uninsured motorist: one million dollars (\$1,000,000) each person and each accident for bodily injury and fifty thousand dollars (\$50,000) for property damage (one hundred dollars (\$100.00) deductible).
- (2a) For persons who must maintain liability coverage limits above those available under subdivision (2) of this subsection in order to obtain or continue coverage under personal excess liability or personal "umbrella" insurance policies, additional ceding privileges for motor vehicle insurance shall be provided by the Board of Governors up to the following:
- a. Bodily injury liability: two hundred fifty thousand dollars (\$250,000) each person, five hundred thousand dollars (\$500,000) each accident.
 - b. Property damage liability: one hundred thousand dollars (\$100,000) each accident.
 - c. Medical payments: five thousand dollars (\$5,000) each person.
- (3) Whenever the additional ceding privileges are provided as in G.S. 58-37-35(b)(2) for any component of motor vehicle insurance, the same additional ceding privileges shall be available to "all other" types of risks subject to the rating jurisdiction of the North Carolina Rate Bureau."
- SECTION 2.** G.S. 58-36-1(3) reads as rewritten:
- "(3) The Bureau shall promulgate and propose rates for insurance against loss to residential real property with

not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; for insurance against theft of or physical damage to nonfleet private passenger motor vehicles; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured and underinsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and, as provided in G.S. 58-36-100, for loss costs and residual market rate filings for workers' compensation and employers' liability insurance written in connection therewith. This subdivision does not apply to motor vehicles operated under certificates of authority from the Utilities Commission, the Interstate Commerce Commission, or their successor agencies, where insurance or other proof of financial responsibility is required by law or by regulations specifically applicable to such certificated vehicles. The Bureau shall have no jurisdiction over excess workers' compensation insurance for employers qualifying as self-insurers as provided in Article 47 of this Chapter or Article 5 of Chapter 97 of the General Statutes; nor shall the Bureau's jurisdiction include farm buildings, farm dwellings and their appurtenant structures, farm personal property or other coverages written in connection with farm real or personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles, unless insured under policies covering nonfleet private passenger motor vehicles; personal excess liability or personal "umbrella" insurance; mechanical breakdown insurance covering nonfleet private passenger motor vehicles and other incidental coverages written in connection with this insurance, including emergency road service assistance, trip interruption reimbursement, rental car reimbursement, and tire coverage; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance, except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."

SECTION 3. G.S. 58-7-15(13) reads as rewritten:

"(13) "Personal injury liability insurance," meaning insurance against legal liability of the insured, and against loss, damage, or expense incident to a claim of such liability; including personal excess liability or personal "umbrella" insurance; and including an obligation of the insurer to pay medical, hospital, surgical, or funeral benefits; and in the case of automobile motor vehicle liability insurance including also disability and death benefits to injured persons, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interests of any person as a result of negligence in rendering expert, fiduciary, or professional service; but not including any kind of insurance specified in subdivision ~~(15)~~(15) of this section."

SECTION 4. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 12:55 p.m. on the 23rd day of June, 2001.

H.B. 377

SESSION LAW 2001-237

AN ACT TO MAKE CLARIFYING AND OTHER CHANGES TO THE GENERAL STATUTES PERTAINING TO CHILD SUPPORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-13.4 reads as rewritten:

"§ 50-13.4. *Action for support of minor child.*

(a) Any parent, or any person, agency, organization or institution having custody of a minor child, or bringing an action or proceeding for the custody of such child, or a minor child by his guardian may institute an action for the support of such child as hereinafter provided.

(b) In the absence of pleading and proof that the circumstances otherwise warrant, the father and mother shall be primarily liable for the support of a minor child. In the absence of pleading and proof that the circumstances otherwise warrant, parents of a minor, unemancipated child who is the custodial or noncustodial parent of a child shall share this primary liability for their grandchild's support with the minor parent, the court determining the proper share, until the minor parent reaches the age of 18 or becomes emancipated. If both the parents of the child requiring support were unemancipated minors at the time of the child's conception, the parents of both minor

parents share primary liability for their grandchild's support until both minor parents reach the age of 18 or become emancipated. If only one parent of the child requiring support was an unemancipated minor at the time of the child's conception, the parents of both parents are liable for any arrearages in child support owed by the adult or emancipated parent until the other parent reaches the age of 18 or becomes emancipated. In the absence of pleading and proof that the circumstances otherwise warrant, any other person, agency, organization or institution standing in loco parentis shall be secondarily liable for such support. Such other circumstances may include, but shall not be limited to, the relative ability of all the above-mentioned parties to provide support or the inability of one or more of them to provide support, and the needs and estate of the child. The judge may enter an order requiring any one or more of the above-mentioned parties to provide for the support of the child as may be appropriate in the particular case, and if appropriate the court may authorize the application of any separate estate of the child to his support. However, the judge may not order support to be paid by a person who is not the child's parent or an agency, organization or institution standing in loco parentis absent evidence and a finding that such person, agency, organization or institution has voluntarily assumed the obligation of support in writing. The preceding sentence shall not be construed to prevent any court from ordering the support of a child by an agency of the State or county which agency may be responsible under law for such support.

The judge may order responsible parents in a IV-D establishment case to perform a job search, if the responsible parent is not incapacitated. This includes IV-D cases in which the responsible parent is a noncustodial mother or a noncustodial father whose affidavit of parentage has been filed with the court or when paternity is not at issue for the child. The court may further order the responsible parent to participate in work activities, as defined in 42 U.S.C. § 607, as the court deems appropriate.

(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.

The court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to

subsection ~~(e1)~~(c1) of this section. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount determined by application of the presumptive guidelines, the court shall make findings of fact as to the criteria that justify varying from the guidelines and the basis for the amount ordered.

Payments ordered for the support of a child shall terminate when the child reaches the age of 18 except:

- (1) If the child is otherwise emancipated, payments shall terminate at that time;
- (2) If the child is still in primary or secondary school when the child reaches age 18, support payments shall continue until the child graduates, otherwise ceases to attend school on a regular basis, fails to make satisfactory academic progress towards graduation, or reaches age 20, whichever comes first, unless the court in its discretion orders that payments cease at age 18 or prior to high school graduation.

In the case of graduation, or attaining age 20, payments shall terminate without order by the court, subject to the right of the party receiving support to show, upon motion and with notice to the opposing party, that the child has not graduated or attained the age of 20.

(c1) Effective July 1, 1990, the Conference of Chief District Judges shall prescribe uniform statewide presumptive guidelines for the computation of child support obligations of each parent as provided in Chapter 50 or elsewhere in the General Statutes and shall develop criteria for determining when, in a particular case, application of the guidelines would be unjust or inappropriate. Prior to May 1, 1990 these guidelines and criteria shall be reported to the General Assembly by the Administrative Office of the Courts by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The purpose of the guidelines and criteria shall be to ensure that payments ordered for the support of a minor child are in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of

each party, and other facts of the particular case. The guidelines shall include a procedure for setting child support, if any, in a joint or shared custody arrangement which shall reflect the other statutory requirements herein.

Periodically, but at least once every four years, the Conference of Chief District Judges shall review the guidelines to determine whether their application results in appropriate child support award amounts. The Conference may modify the guidelines accordingly. The Conference shall give the Department of Health and Human Services, the Administrative Office of the Courts, and the general public an opportunity to provide the Conference with information relevant to the development and review of the guidelines. Any modifications of the guidelines or criteria shall be reported to the General Assembly by the Administrative Office of the Courts before they become effective by delivering copies to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The guidelines, when adopted or modified, shall be provided to the Department of Health and Human Services and the Administrative Office of the Courts, which shall disseminate them to the public through local IV-D offices, clerks of court, and the media.

Until July 1, 1990, the advisory guidelines adopted by the Conference of Chief District Judges pursuant to this subsection as formerly written shall operate as presumptive guidelines and the factors adopted by the Conference of Chief District Judges pursuant to this subsection as formerly written shall constitute criteria for varying from the amount of support determined by the guidelines.

(d) In non-IV-D cases, payments for the support of a minor child shall be ordered to be paid to the person having custody of the child or any other proper person, agency, organization or institution, or to the State Child Support Collection and Disbursement Unit, for the benefit of the child. In IV-D cases, payments for the support of a minor child shall be ordered to be paid to the State Child Support Collection and Disbursement Unit for the benefit of the child.

(d1) For child support orders initially entered on or after January 1, 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) shall apply.

(e) Payment for the support of a minor child shall be paid by lump sum payment, periodic payments, or by transfer of title or possession of personal property of any interest therein, or a security interest in or possession of real property, as the court may order. The court may order the transfer of title to real property solely owned by the obligor in payment of arrearages of child support so long as the net value of the interest in the property being transferred does not exceed the amount of the arrearage being satisfied. In every case in which payment for the support of a minor child is ordered and

alimony or postseparation support is also ordered, the order shall separately state and identify each allowance.

(e1) In IV-D cases, the order for child support shall provide that the clerk shall transfer the case to another jurisdiction in this State if the IV-D agency requests the transfer on the basis that the obligor, the custodian of the child, and the child do not reside in the jurisdiction in which the order was issued. The IV-D agency shall provide notice of the transfer to the obligor by delivery of written notice in accordance with the notice requirements of Chapter 1A-1, Rule 5(b) of the Rules of Civil Procedure. The clerk shall transfer the case to the jurisdiction requested by the IV-D agency, which shall be a jurisdiction in which the obligor, the custodian of the child, or the child resides. Nothing in this subsection shall be construed to prevent a party from contesting the transfer.

(f) Remedies for enforcement of support of minor children shall be available as herein provided.

- (1) The court may require the person ordered to make payments for the support of a minor child to secure the same by means of a bond, mortgage or deed of trust, or any other means ordinarily used to secure an obligation to pay money or transfer property, or by requiring the execution of an assignment of wages, salary or other income due or to become due.
- (2) If the court requires the transfer of real or personal property or an interest therein as provided in subsection (e) as a part of an order for payment of support for a minor child, or for the securing thereof, the court may also enter an order which shall transfer title as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.
- (3) The remedy of arrest and bail, as provided in Article 34 of Chapter 1 of the General Statutes, shall be available in actions for child-support payments as in other cases.
- (4) The remedies of attachment and garnishment, as provided in Article 35 of Chapter 1 of the General Statutes, shall be available in an action for child-support payments as in other cases, and for such purposes the child or person bringing an action for child support shall be deemed a creditor of the defendant. Additionally, in accordance with the provisions of G.S. 110-136, a continuing wage garnishment proceeding for wages due or to become due may be instituted by motion in the original child support proceeding or by independent action through the filing of a petition.
- (5) The remedy of injunction, as provided in Article 37 of Chapter 1 of the General Statutes and G.S. 1A-1, Rule

65, shall be available in actions for child support as in other cases.

- (6) Receivers, as provided in Article 38 of Chapter 1 of the General Statutes, may be appointed in action for child support as in other cases.
- (7) A minor child or other person for whose benefit an order for the payment of child support has been entered shall be a creditor within the meaning of Article 3A of Chapter 39 of the General Statutes pertaining to fraudulent conveyances.
- (8) Except as provided in Article 15 of Chapter 44 of the General Statutes, a judgment for child support shall not be a lien against real property unless the judgment expressly so provides, sets out the amount of the lien in a sum certain, and adequately describes the real property affected; but past due periodic payments may by motion in the cause or by a separate action be reduced to judgment which shall be a lien as other ~~judgments~~ judgments and may include provisions for periodic payments.
- (9) An order for the periodic payments of child support or a child support judgment that provides for periodic payments is enforceable by proceedings for civil contempt, and ~~its~~ disobedience may be punished by proceedings for criminal contempt, as provided in Chapter 5A of the General Statutes.

Notwithstanding the provisions of G.S. 1-294, an order for the payment of child support which has been appealed to the appellate division is enforceable in the trial court by proceedings for civil contempt during the pendency of the appeal. Upon motion of an aggrieved party, the court of the appellate division in which the appeal is pending may stay any order for civil contempt entered for child support until the appeal is decided, if justice requires.

- (10) The remedies provided by Chapter 1 of the General Statutes, Article 28, Execution; Article 29B, Execution Sales; and Article 31, Supplemental Proceedings, shall be available for the enforcement of judgments for child support as in other cases, but amounts so payable shall not constitute a debt as to which property is exempt from execution as provided in Article 16 of Chapter 1C of the General Statutes.

(11) The specific enumeration of remedies in this section shall not constitute a bar to remedies otherwise available.

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

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

SECTION 2. G.S. 110-132 reads as rewritten:

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

(a) In lieu of or in conclusion of any legal proceeding instituted to establish paternity, the written ~~acknowledgment of paternity~~affidavits of parentage executed by the putative father of the dependent child when accompanied by a written affirmation of paternity executed and sworn to by and the mother of the dependent child shall constitute an admission of paternity and shall have the same legal effect as a judgment of paternity for the purpose of establishing a child support obligation, subject to the right of either signatory to rescind within the earlier of:

- (1) 60 days of the date the document is executed, or
- (2) The date of entry of an order establishing paternity or an order for the payment of child support.

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

the trial court shall find the putative father to be the biological father as a matter of law.

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

A written agreement to support the child by periodic payments, which may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of prosecution of the paternity action, when acknowledged as provided herein, filed with, and approved by a judge of the district court at any time, shall have the same force and effect as an order of support entered by that court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases. The written ~~affirmation~~affidavit shall contain the social security number of the person executing the ~~affirmation~~, and the written ~~acknowledgment~~ shall contain the social security number of the person executing the ~~acknowledgment~~affidavit. Voluntary agreements to support shall contain the social security number of each of the parties to the agreement. The written ~~affirmations, acknowledgments~~affidavits and agreements to support shall be sworn to before a certifying officer or notary public or the equivalent or corresponding person of the state, territory, or foreign country where the affirmation, acknowledgment, or agreement is made, and shall be binding on the person executing the same whether the person is an adult or a minor. The child support enforcement agency shall ensure that the mother and putative father are given oral and written notice of the legal consequences and responsibilities arising from the signing of an ~~acknowledgment of paternity~~affidavit of parentage and of any alternatives to the execution of an ~~acknowledgment or affirmation of paternity~~affidavit of parentage. The mother shall not be excused from making the ~~affirmation~~affidavit on the grounds that it may tend to disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in the conception of the child as to whose paternity she ~~makes affirmation~~attests.

(b) At any time after the filing with the district court of an ~~acknowledgment of paternity~~affidavit of parentage, upon the application of any interested party, the court or any judge thereof shall cause a summons signed by him or by the clerk or assistant clerk of superior court, to be issued, requiring the putative father to appear in court at a time and place named therein, to show cause, if any he

has, why the court should not enter an order for the support of the child by periodic payments, which order may include provision for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expense of the action under this subsection on the ~~acknowledgment of paternity~~affidavit of parentage previously filed with said court. The court may order the responsible parents in a IV-D establishment case to perform a job search, if the responsible parent is not incapacitated. This includes IV-D cases in which the responsible parent is a noncustodial mother or a noncustodial father whose affidavit of parentage has been filed with the court or when paternity is not at issue for the child. The court may further order the responsible parent to participate in the work activities, as defined in 42 U.S.C. § 607, as the court deems appropriate. The amount of child support payments so ordered shall be determined as provided in G.S. 50-13.4(c). The prior judgment as to paternity shall be res judicata as to that issue and shall not be reconsidered by the court."

SECTION 3. G.S. 110-134 reads as rewritten:

"§ 110-134. *Filing of ~~affirmations, acknowledgments, agreements~~ affidavits, agreements, and orders; fees.*

All ~~affirmations, acknowledgments, agreements~~affidavits, agreements, and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110- 133 shall be filed by the clerk of superior court in the county in which they are entered. The filing fee for the institution of an action through the entry of an order under either of these provisions shall be four dollars (\$4.00)."

SECTION 4. G.S. 110-136.4 reads as rewritten:

"§ 110-136.4. *Implementation of withholding in IV-D cases.*

- (a) Withholding based on arrearages or obligor's request.
 - (1) Advance notice of withholding. When an obligor in a IV-D case becomes subject to income withholding, the obligee shall, after verifying the obligor's current employer or other payor, wages or other disposable income, and mailing address, serve the obligor with advance notice of withholding in accordance with G.S. 1A-1, Rule 4, Rules of Civil Procedure.
 - (2) Contents of advance notice. The advance notice to the obligor shall contain, at a minimum, the following information:
 - a. Whether the proposed withholding is based on the obligor's failure to make legally obligated child support, alimony or postseparation support payments on the obligor's request for withholding, on the obligee's request for withholding, or on the

- obligor's eligibility for withholding under G.S. 110-136.3(b)(3);
- b. The amount of overdue child support, overdue alimony or postseparation support payments, the total amount to be withheld, and when the withholding will occur;
 - c. The name of each child or person for whose benefit the child support, alimony or postseparation support payments are due and information sufficient to identify the court order under which the obligor has a duty to support the child, spouse, or former spouse;
 - d. The amount and sources of disposable income;
 - e. That the withholding will apply to the obligor's wages or other sources of disposable income from current payors and all subsequent payors once the procedures under this section are invoked;
 - f. An explanation of the obligor's rights and responsibilities pursuant to this section;
 - g. That withholding will be continued until terminated pursuant to G.S. 110-136.10.
- (3) Contested withholding. The obligor may contest the withholding only on the basis of a mistake of fact, except that G.S. 110-129(10)(a) is not applicable if withholding is based on the obligor's or obligee's request for withholding. To contest the withholding, the obligor must, within 10 days of receipt of the advance notice of withholding, request a hearing in the county where the support order was entered before the district court and give notice to the obligee specifying the mistake of fact upon which the hearing request is based. If the asserted mistake of fact can be resolved by agreement between the obligee and the obligor, no hearing shall occur. Otherwise, a hearing shall be held and a determination made, within 30 days of the obligor's receipt of the advance notice of withholding, as to whether the asserted mistake of fact is valid. No withholding shall occur pending the hearing decision. The failure to hold a hearing within 30 days shall not invalidate an otherwise properly entered order. If it is determined that a mistake of fact exists, no withholding shall occur. Otherwise, within 45 days of the obligor's receipt of the advance notice of withholding, the obligee shall serve the payor, pursuant to G.S. 1A-1, ~~Rule 4~~, Rule 5, Rules of Civil Procedure, with notice of his obligation to withhold, and

shall mail a copy of such notice to the obligor and file a copy with the clerk. In the event of appeal, withholding shall not be stayed. If the appeal is concluded in favor of the obligor, the obligee shall promptly repay sums wrongfully withheld and notify the payor to cease withholding.

- (4) Uncontested withholding. If the obligor does not contest the withholding within the 10-day response period, the obligee shall serve the payor, pursuant to G.S. 1A-1, ~~Rule 4~~, Rule 5, Rules of Civil Procedure, with notice of his obligation to withhold, and shall mail a copy of such notice to the obligor and file a copy with the clerk.
- (5) Payment not a defense to withholding. The payment of overdue support shall not be a basis for terminating or not implementing withholding.
- (6) Inability to implement withholding. When an obligor is subject to withholding, but withholding under this section cannot be implemented because the obligor's location is unknown, because the extent and source of his disposable income cannot be determined, or for any other reason, the obligee shall either request the clerk of superior court to initiate enforcement proceedings under G.S. 15A-1344.1(d) or G.S. 50-13.9(d) or take other appropriate available measures to enforce the support obligation.

(b) Immediate income withholding. When a new or modified child support order is entered, the district court judge shall, after hearing evidence regarding the obligor's disposable income, place the obligor under an order for immediate income withholding. The IV-D agency shall serve the payor pursuant to G.S. 1A-1, ~~Rule 4~~, Rule 5, Rules of Civil Procedure, with a notice of his obligation to withhold, and shall mail a copy of such notice to the obligor and file a copy with the clerk. If information is unavailable regarding an obligor's disposable income, or the obligor is unemployed, or an agreement is reached between both parties which provides for an alternative arrangement, immediate income withholding shall not apply. The obligor, however, is subject to income withholding pursuant to G.S. 110-136.4(a).

(c) Subsequent payors. If the obligor changes employment or source of disposable income, notice to subsequent payors of their obligation to withhold shall be served as required by G.S. 1A-1, ~~Rule 4~~, Rule 5, Rules of Civil Procedure. Copies of such notice shall be filed with the clerk of court and served upon the obligor by first class mail.

(d) Multiple withholdings. The obligor must notify the obligee if the obligor is currently subject to another withholding for child support. In the case of two or more withholdings against one obligor, the obligee or obligees shall attempt to resolve any conflict between the orders in a manner that is fair and equitable to all parties and within the limits specified by G.S. 110-136.6. If the conflict cannot be so resolved, an injured party, upon request, shall be granted a hearing in accordance with the procedure specified in G.S. 110-136.4(c). The conflict between the withholding orders shall be resolved in accordance with G.S. 110-136.7.

(e) Modification of withholding. When an order for withholding has been entered under this section, the obligee may modify the withholding based on changed circumstances. The obligee shall proceed as is provided in this section.

(f) Applicability of section. The provisions of this section apply to IV-D cases only."

SECTION 5. G.S. 110-136.3(d1) is recodified as G.S. 110-139(c1).

SECTION 6. G.S. 110-139(c1), as recodified in Section 5 of this act, reads as rewritten:

"(c1) Employment verifications. – For the purpose of ~~establishing~~ establishing, enforcing, or modifying a child support order, the amount of the obligor's gross income may be established by a written statement signed by the obligor's employer or the employer's designee or an Employee Verification form produced by the Automated Collections and Tracking System that has been completed and signed by the obligor's employer or the employer's designee. A written statement signed by the employer of the obligor or the employer's designee that sets forth an obligor's gross income, as well as an Employee Verification form signed by the obligor's employer or the employer's designee is admissible evidence in any action ~~establishing~~ establishing, enforcing, or modifying a child support order."

SECTION 7. G.S. 50-13.9(b1) reads as rewritten:

"(b1) In a IV-D case:

- (1) The designated child support enforcement agency shall have the sole responsibility and authority for monitoring the obligor's compliance with all child support orders in the case and for initiating any enforcement procedures that it considers appropriate.
- (2) The clerk of court shall maintain all official records in the case.
- (3) The designated child support enforcement agency shall maintain any other records needed to monitor the obligor's compliance with or to enforce the child support

orders in the case, including records showing the amount of each payment of child support received from or on behalf of the obligor, along with the dates on which each payment was received. In any action establishing, enforcing, or modifying a child support order, the payment records maintained by the designated child support agency shall be admissible evidence, and the court shall permit the designated representative to authenticate those records."

SECTION 8. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-136.11. National Medical Support Notice required.

(a) Notice Required. – The National Medical Support Notice shall be used to notify employers and health insurers or health care plan administrators of an order entered pursuant to G.S. 50-13.11 for dependent health benefit plan coverage in a IV-D case. For purposes of this section and G.S. 110-136.12 through G.S. 110-136.14, the terms 'health benefit plan' and 'health insurer' are as defined in G.S. 108A-69(a).

(b) Exception. – The National Medical Support Notice shall not be used in cases where the court has ordered nonemployment-based health benefit plan coverage or where the parties have stipulated to nonemployment-based health benefit plan coverage."

SECTION 9. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-136.12. IV-D agency responsibilities.

(a) Within five business days after the order for dependent health benefit plan coverage has been filed in a IV-D case, the IV-D agency shall serve, pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, the National Medical Support Notice on the employer, if known to the agency, of the noncustodial parent.

(b) In cases where the obligor is a newly hired employee, the agency shall serve, pursuant to G.S. 1A-1, Rule 5, Rules of Civil Procedure, the National Medical Support Notice, along with the income withholding notice pursuant to G.S. 110-136.8, on the employer within two business days after the date of entry of an obligor in the State Directory of New Hires.

(c) The IV-D agency shall notify the employer within 10 business days when there is no longer a current order for medical support for which the agency is responsible.

(d) In cases where the health insurer or health care plan administrator reports that there is more than one health care option available under the health benefit plan, the IV-D agency, in consultation with the custodian, may within 20 business days of the date the insurer or administrator informed the agency of the option,

select an option and inform the health insurer or health care plan administrator of the option selected."

SECTION 10. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-136.13. Employer responsibilities.

(a) For purposes of this section, G.S. 110-136.11, 110-136.12, and 110-14, the term 'employer' means employer as is defined at 29 U.S.C. § 203(d) in the Fair Labor Standards Act.

(b) Within 20 business days after the date of the National Medical Support Notice, the employer shall transfer the Notice to the health insurer or health care plan administrator that provides health benefit plan coverage for which the child is eligible unless one of following applies:

- (1) The employer does not maintain or contribute to plans providing dependent or family health insurance.
- (2) The employee is among a class of employees that are not eligible for family health benefit plan coverage under any group health plan maintained by the employer or to which the employer contributes.
- (3) Health benefit plan coverage is not available because the employee is no longer employed by this employer.
- (4) State or federal withholding limitations prevent the withholding from the obligor's income of the amount required to obtain insurance under the terms of the plan.

(c) If the employer is not required to transfer the Notice under subsection (b) of this section, then the employer shall, within the 20 business days after the date of the Notice, inform the agency in writing of the reason or reasons the Notice was not transferred.

(d) Upon receipt from the health insurer or health care plan administrator of the cost of dependent coverage, the employer shall withhold this amount from the obligor's wages and transfer this amount directly to the insurer or plan administrator.

(e) In the event the health insurer or health care plan administrator informs the employer that the Notice is not a 'qualified medical child support order' (QMCSO), the employer shall notify the agency in writing.

(f) In the event the health insurer or health care plan administrator informs the employer of a waiting period for enrollment, the employer shall inform the insurer or administrator when the employee is eligible to be enrolled in the plan.

(g) An employer obligated to provide health benefit plan coverage pursuant to this section shall inform the IV-D agency upon termination of the noncustodial parent's employment within 10 business days. The notice shall be in writing to the agency and shall

include the obligor's last known address and the name and address of the new employer, if known.

(h) In the event the employee contests the withholding order, the employer shall initiate and continue the withholding until the employer receives notice that the contested case is resolved.

(i) An employer shall not discharge from employment, refuse to employ, or otherwise take disciplinary action against any obligor solely because of the withholding.

(j) If a court finds that an employer has failed to comply with this section, the employer is liable as a payor pursuant to G.S. 110-136.8(e). Additionally, an employer who violates this section is liable in a civil action for reasonable damages."

SECTION 11. Article 9 of Chapter 110 of the General Statutes is amended by adding a new section to read:

"§ 110-136.14. Health insurer or health care plan administrator responsibilities.

(a) Upon receipt of the National Medical Support Notice from the employer, and within 40 business days after the date of the Notice, a health care plan administrator shall determine if the Notice is a 'qualified medical child support order' (QMCSO), as defined under the Employee Retirement Income Security Act (ERISA) or the Child Support Performance and Incentive Act (CSPIA). If the Notice is not a qualified medical support order, the plan administrator shall inform the employer within the time set forth in this subsection.

(b) Upon receipt of the Notice in a nonqualified ERISA plan, or upon a finding that the Notice constitutes a qualified medical child support order, the health insurer or plan administrator shall enroll the dependent child or children in a health benefit plan, determine the cost of the coverage, and inform the employer of the amount of the employee contribution to be withheld from the obligor's wages, if appropriate. If the child or children are already enrolled in a health benefit plan, the employer shall be so notified. The employer shall also be notified of any applicable enrollment waiting periods.

(c) If there is more than one health benefit plan in which the dependent child or children may be enrolled, the insurer or plan administrator shall so inform the custodian within the time specified in this subsection. If no plan has been selected within 20 days from the date the insurer or administrator informed the agency of the option, the insurer or administrator may enroll the child or children in the insurer's or administrator's default option.

(d) If the obligor is subject to a waiting period for enrollment, the insurer or administrator shall inform the agency, the employer, the obligor, and the custodial parent. Upon the completion of the waiting period, the enrollment shall be instituted.

(e) When a court finds that a health insurer or health care plan administrator has failed to comply with this section, the employer is liable as a payor pursuant to G.S. 110-136.10(e). Additionally, a health insurer or health care plan administrator who violates this section is liable in a civil action for reasonable damages."

SECTION 12. Sections 8 through 10 of this act become effective October 1, 2001. Section 11 of this act becomes effective July 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 2:05 p.m. on the 23rd day of June, 2001.

S.B. 123**SESSION LAW 2001-238**

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS TO ISSUE SPECIAL OBLIGATION BONDS FOR WATER AND SEWER PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159I-30(a) reads as rewritten:

"(a) Authorization. – Any unit of local government may borrow money for the purpose of financing or refinancing its cost of the acquisition or construction of a project and may issue special obligation bonds and notes, including bond anticipation notes and renewal notes, pursuant to the provisions of this section and the applicable provisions of this Chapter for this purpose. As used in this section, the term 'project' has the meaning provided in G.S. 159I-3 and also includes any of the following as defined in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works."

SECTION 2. The title of Chapter 159I of the General Statutes reads as rewritten:

"Chapter 159I.

~~"North Carolina Solid Waste Management Loan Program Program and Local Government Special Obligation Bonds."~~

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of June, 2001.

Became law upon approval of the Governor at 2:05 p.m. on the 23rd day of June, 2001.

S.B. 719 SESSION LAW 2001-239

AN ACT TO PROVIDE QUICK-TAKE PROCEDURES IN EMINENT DOMAIN PROCEEDINGS BY A REGIONAL PUBLIC TRANSPORTATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-42(a) reads as rewritten:

"(a) When a local public condemner is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemner is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), ~~(10) or (12)~~, (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemner upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 2:05 p.m. on the 23rd day of June, 2001.

H.B. 3 SESSION LAW 2001-240

AN ACT TO ALLOW THE SECRETARY OF ADMINISTRATION AND STATE AGENCIES TO ADD A PERCENT INCREASE TO BIDS OF NONRESIDENT BIDDERS WHERE THE NONRESIDENT BIDDERS' HOME STATES GRANT PREFERENCES TO IN-STATE BIDDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-59 reads as rewritten:

"§ 143-59. *Preference given to North Carolina products and citizens, and articles manufactured by State ~~agencies~~—agencies; reciprocal preferences.*

(a) Preference. — The Secretary of Administration and any State agency authorized to purchase foodstuff or other products, shall, in the purchase of or in the contracting for foods, supplies, materials,

equipment, printing or services give preference as far as may be practicable to such products or services manufactured or produced in North Carolina or furnished by or through citizens of North Carolina: Provided, however, that in giving such preference no sacrifice or loss in price or quality shall be permitted; and provided further, that preference in all cases shall be given to surplus products or articles produced and manufactured by other State departments, institutions, or agencies which are available for distribution.

(b) Reciprocal Preference. – For the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued over twenty-five thousand dollars (\$25,000), a percent of increase shall be added to a bid of a nonresident bidder that is equal to the percent of increase, if any, that the state in which the bidder is a resident adds to bids from bidders who do not reside in that state. Any amount due under a contract awarded to a nonresident bidder shall not be increased by the amount of the increase added by this subsection. On or before January 1 of each year, the Secretary of Administration shall electronically publish a list of states that give preference to in-State bidders and the amount of the percent increase added to out-of-state bids. All departments, institutions, and agencies of the State shall use this list when evaluating bids. If the reciprocal preference causes the nonresident bidder to no longer be the lowest bidder, the Secretary of Administration may, after consultation with the Board of Awards, waive the reciprocal preference. In determining whether to waive the reciprocal preference, the Secretary of Administration and the Board of Awards shall consider factors that include competition, price, product origination, and available resources.

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

- (1) Resident bidder. – A bidder that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State.
- (2) Nonresident bidder. – A bidder that is not a resident bidder as defined in subdivision (1) of this subsection.
- (3) Principal place of business. – The principal place from which the trade or business of the bidder is directed or managed.

(d) Exemptions. – Subsection (b) of this section shall not apply to contracts entered into under G.S. 143-53(a)(5) or G.S. 143-57.

(e) When a contract is awarded by the Secretary using the provisions of subsection (b) of this section, a report of the nature of the contract, the bids received, and the award to the successful bidder shall be posted on the Internet as soon as practicable."

SECTION 2. The Secretary of Administration may adopt temporary rules to implement this act.

SECTION 3. This act becomes effective January 1, 2002, and expires December 31, 2007.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

Became law upon approval of the Governor at 2:06 p.m. on the 23rd day of June, 2001.

S.B. 468 SESSION LAW 2001-241

AN ACT TO PROVIDE FOR GUIDELINES, RIGHTS, AND OBLIGATIONS IN WORKERS' COMPENSATION INSURANCE POLICY CANCELLATIONS AND NONRENEWALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-99 reads as rewritten:

"§ 97-99. *Law written into each insurance policy; form of policy to be approved by Commissioner of Insurance; ~~cancellation;~~ single catastrophe hazards.*

(a) Every policy for the insurance of the compensation ~~herein provided, in this Article,~~ or against liability therefor, shall be deemed to be made subject to the provisions of this Article. No corporation, association or organization shall enter into any such policy of insurance unless its form ~~shall have~~ has been approved by the Commissioner of Insurance. ~~No policy form shall be approved unless the same shall provide a 30-day prior notice of an intention to cancel same by the carrier to the insured by registered mail or certified mail. This shall not apply to the expiration date shown in the policy. The carrier may cancel the policy for nonpayment of premium on 10 days' written notice to the insured, and the insured may cancel the policy on 10 days' written notice to the carrier. Whenever notice of intention to cancel is required to be given by registered or certified mail, no cancellation by the insurer shall be effective unless and until such method is employed and completed.~~

(b) This Article shall not apply to policies of insurance against loss from explosion of boilers or flywheels or other similar single catastrophe hazards: Provided, that nothing ~~herein contained shall be construed to relieve the~~ in this Article relieves an employer from liability for injury or death of an employee as a result of such an explosion or catastrophe."

SECTION 2. Article 36 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

"§ 58-36-105. *Certain workers' compensation insurance policy cancellations prohibited.*

(a) No policy of workers' compensation insurance or employers' liability insurance written in connection with a policy of workers' compensation insurance shall be cancelled by the insurer before the expiration of the term or anniversary date stated in the policy and without the prior written consent of the insured, except for any one of the following reasons:

- (1) Nonpayment of premium in accordance with the policy terms.
- (2) An act or omission by the insured or the insured's representative that constitutes material misrepresentation or nondisclosure of a material fact in obtaining the policy, continuing the policy, or presenting a claim under the policy.
- (3) Increased hazard or material change in the risk assumed that could not have been reasonably contemplated by the parties at the time of assumption of the risk.
- (4) Substantial breach of contractual duties, conditions, or warranties that materially affects the insurability of the risk.
- (5) A fraudulent act against the company by the insured or the insured's representative that materially affects the insurability of the risk.
- (6) Willful failure by the insured or the insured's representative to institute reasonable loss control measures that materially affect the insurability of the risk after written notice by the insurer.
- (7) Loss of facultative reinsurance or loss of or substantial changes in applicable reinsurance as provided in G.S. 58-41-30.
- (8) Conviction of the insured of a crime arising out of acts that materially affect the insurability of the risk.
- (9) A determination by the Commissioner that the continuation of the policy would place the insurer in violation of the laws of this State.
- (10) The named insured fails to meet the requirements contained in the corporate charter, articles of incorporation, or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance coverage in this State.

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been given by registered or certified mail, return receipt requested, to the insured not less than 15 days before the proposed effective date of cancellation. The notice shall be given by registered or certified mail, return receipt

requested, to the insured and any other person designated in the policy to receive notice of cancellation at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice shall state the precise reason for cancellation. Whenever notice of intention to cancel is required to be given by registered or certified mail, no cancellation by the insurer shall be effective unless and until such method is employed and completed. Failure to send this notice, as provided in this section, to any other person designated in the policy to receive notice of cancellation invalidates the cancellation only as to that other person's interest.

(c) This section does not apply to any policy that has been in effect for fewer than 60 days and is not a renewal of a policy. That policy may be cancelled for any reason by giving at least 30 days' prior written notice of and reasons for cancellation to the insured by registered or certified mail, return receipt requested.

(d) Cancellation for nonpayment of premium is not effective if the amount due is paid before the effective date set forth in the notice of cancellation.

(e) Copies of the notice required by this section shall also be sent to the agent or broker of record though failure to send copies of the notice to those persons shall not invalidate the cancellation. Mailing copies of the notice by regular first-class mail to the agent or broker of record satisfies the requirements of this subsection.

"§ 58-36-110. Notice of nonrenewal, premium rate increase, or change in workers' compensation insurance coverage required.

(a) No insurer shall refuse to renew a policy of workers' compensation insurance or employers' liability insurance written in connection with a policy of workers' compensation insurance except in accordance with the provisions of this section, and any nonrenewal attempted or made that is not in compliance with this section is not effective. This section does not apply if the policyholder has obtained insurance elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

(b) An insurer may refuse to renew a policy that has been written for a term of one year or less at the policy's expiration date by mailing written notice of nonrenewal to the insured not less than 45 days prior to the expiration date of the policy.

(c) An insurer may refuse to renew a policy that has been written for a term of more than one year or for an indefinite term at the policy anniversary date by mailing written notice of nonrenewal to the insured not less than 45 days prior to the anniversary date of the policy.

(d) Whenever an insurer lowers coverage limits, raises deductibles, or raises premium rates for reasons within the exclusive

control of the insurer or other than at the request of the policyholder, the insurer shall mail to the policyholder written notice of the change at least 30 days in advance of the effective date of the change. As used in this subsection, the phrase, "reasons within the exclusive control of the insurer" does not mean experience modification changes, exposure changes, or loss cost rate changes.

(e) The notice required by this section shall be given by mail to the insured and any other person designated in the policy to receive this notice at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice of nonrenewal shall state the precise reason for nonrenewal. Failure to send this notice, as provided in this section, to any other person designated in the policy to receive this notice invalidates the nonrenewal only as to that other person's interest.

(f) Copies of the notice required by this section shall also be sent to the agent or broker of record, though failure to send copies of the notice to such persons shall not invalidate the nonrenewal.

(g) Mailing copies of the notice by regular first-class mail satisfies the notice requirements of this section."

SECTION 3. This act becomes effective October 1, 2001, and applies to policies issued, renewed or subject to renewal, or amended on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2001.

Became law upon approval of the Governor at 2:07 p.m. on the 23rd day of June, 2001.

S.B. 714**SESSION LAW 2001-242**

AN ACT TO AMEND THE DEFINITION OF "AMBULATORY SURGICAL FACILITY" BY REDUCING THE NUMBER OF REQUIRED OPERATING ROOMS FROM TWO TO ONE AND TO AMEND THE DEFINITION OF "NEW INSTITUTIONAL HEALTH SERVICE" BY INCLUDING CONSTRUCTION, DEVELOPMENT, ESTABLISHMENT, INCREASE IN NUMBER, OR RELOCATION OF AN OPERATING ROOM OR OPERATING ROOMS AND TO EXTEND THE DETERMINATIVE EFFECT OF THE STATE MEDICAL FACILITIES PLAN TO ALL OPERATING ROOMS AND TO REPEAL S.L. 2000-135.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131E-146 reads as rewritten:
"§ 131E-146. *Definitions.*

As used in this Part, unless otherwise specified:

- (1) 'Ambulatory surgical facility' means a facility designed for the provision of a specialty ambulatory surgical program or a multispecialty ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least ~~two~~ one designated operating ~~rooms~~ room and at least one designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under G.S. Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program as defined in subdivision (1a) and which are performed in a physician or dentist's office does not make that office an ambulatory surgical facility.
- (1a) 'Ambulatory surgical program' means a formal program for providing on a same-day basis those surgical procedures which require local, regional or general anesthesia and a period of post-operative observation to patients whose admission for more than 24 hours is determined, prior to surgery, to be medically unnecessary.
- (2) 'Commission' means the North Carolina Medical Care Commission."

SECTION 2. G.S. 131E-176 reads as rewritten:

"§ 131E-176. *Definitions.*

As used in this Article, unless the context clearly requires otherwise, the following terms have the meanings specified:

...

- (1a) 'Ambulatory surgical facility' means a facility designed for the provision of a specialty ambulatory surgical program or a multispecialty ambulatory surgical program. An ambulatory surgical facility serves patients who require local, regional or general anesthesia and a period of post-operative observation. An ambulatory surgical facility may only admit patients for a period of less than 24 hours and must provide at least ~~two~~ one designated operating ~~rooms~~ room and at least one

designated recovery room, have available the necessary equipment and trained personnel to handle emergencies, provide adequate quality assurance and assessment by an evaluation and review committee, and maintain adequate medical records for each patient. An ambulatory surgical facility may be operated as a part of a physician or dentist's office, provided the facility is licensed under G.S. Chapter 131E, Article 6, Part D, but the performance of incidental, limited ambulatory surgical procedures which do not constitute an ambulatory surgical program as defined in subdivision (1b) and which are performed in a physician's or dentist's office does not make that office an ambulatory surgical facility.

...
 (16) 'New institutional health services' means any of the following:

...
 u. The construction, development, establishment, increase in the number, or relocation of an operating room or operating rooms, other than the relocation of an operating room or operating rooms within the same building or on the same grounds or to grounds not separated by more than a public right-of-way adjacent to the grounds where the operating room is or operating rooms are currently located."

SECTION 3. G.S. 131E-183(a)(1) reads as rewritten:

"(a) The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

(1) The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, ~~ambulatory surgical~~ operating rooms, or home health offices that may be approved."

SECTION 4. S.L. 2000-135 is repealed.

SECTION 5. This act is effective when it becomes law. This act shall not apply to any project which was not a new institutional health service as defined in G.S. 131E-176(16) prior to the effective date of this act and for which there has been a capital

expenditure exceeding fifty thousand dollars (\$50,000) or there was a legally binding obligation for a capital expenditure exceeding fifty thousand dollars (\$50,000) in effect on or before the effective date of this act and which was reasonably expected to be completed by December 31, 2002. A facility or office that was not licensed as an ambulatory surgical facility prior to the effective date of this act shall not become an ambulatory surgical facility by virtue of the amendment set forth in Sections 1 and 2 of this act and may not be licensed as an ambulatory surgical facility under Part D of Article 6 of Chapter 131E of the General Statutes without a certificate of need.

In the General Assembly read three times and ratified this the 13th day of June, 2001.

Became law upon approval of the Governor at 2:08 p.m. on the 23rd day of June, 2001.

S.B. 573**SESSION LAW 2001-243**

AN ACT TO CLARIFY THAT NONRESIDENTS MAY PARTICIPATE IN THE PARENTAL SAVINGS TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-209.25 reads as rewritten:

"§ 116-209.25. (V2)(Effective July 1, 2001) *Parental Savings Trust Fund.*

(a) Policy. – The General Assembly of North Carolina hereby finds and declares that encouraging parents and other interested parties to save for the postsecondary education expenses of eligible students is fully consistent with and furthers the long-established policy of the State to encourage, promote, and assist education as more fully set forth in G.S. 116-201(a).

(b) Parental Savings Trust Fund. – There is established a parental savings trust fund to be administered by the State Education Assistance Authority to enable qualified parents to save funds to meet the costs of the postsecondary education expenses of eligible students.

(c) Contributions to the Trust Funds. – The Authority is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from qualified parents and other interested parties as trustee of the Parental Savings Trust Fund. The Authority shall hold all contributions to the Parental Savings Trust Fund, and any earnings thereon, in a separate trust fund and shall invest the contributions in accordance with this section. The assets of the Parental Savings Trust Fund shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust for the parents and other interested parties and their designated beneficiaries. Nothing in this Article shall be

construed to prohibit the Authority from accepting, holding, and investing contributions from persons who reside outside of North Carolina. Neither the contributions to the Parental Savings Trust Fund, nor the earnings thereon, shall be considered State moneys, assets of the State, or State revenue for any purpose.

(c1) Investments. – The Authority shall determine an appropriate investment strategy for the Parental Savings Trust Fund. The strategy may include a combination of fixed income assets and preferred or common stocks issued by any company incorporated, or otherwise located within or without the United States, or other appropriate investment instruments to achieve long-term return through a combination of capital appreciation and current income. The Authority may deposit all or any portion of the Parental Savings Trust Fund for investment either with the State Treasurer, or in the individual, common, or collective trust funds of an investment manager or managers that meet the requirements of this subsection. Contributions to the Parental Savings Trust Fund on deposit with the State Treasurer shall be invested by the State Treasurer as authorized in G.S. 147-69.2(b)(1) through (6) and the applicable provisions of G.S. 147-69.3. Contributions to the Parental Savings Trust Fund may be invested in the individual, common, or collective trust funds of an investment manager provided that the investment manager meets both of the following conditions:

- (1) The investment manager has assets under management of at least one hundred million dollars (\$100,000,000) at all times.
- (2) The investment manager is subject to the jurisdiction and regulation of the United States Security and Exchange Commission.

(d) Administration of the Trust Fund. – The Authority is authorized to develop and perform all functions necessary and desirable to administer the Parental Savings Trust Fund and to provide such other services as the Authority shall deem necessary to facilitate participation in the Parental Savings Trust Fund. The Authority is further authorized to obtain the services of such investment advisors or program managers as may be necessary for the proper administration and marketing and investment strategy for the Parental Savings Trust Fund.

(e) Loan Program. – The Authority is authorized to develop and administer a loan program in conjunction with the Parental Savings Trust Fund to provide loan assistance to qualified parents and interested parties in order to facilitate the postsecondary education of eligible students. All funds appropriated to, or otherwise received by the Authority for loans under this section, all funds received as repayment of such loans, and all interest earned on these funds shall

be placed in an institutional trust fund. This institutional trust fund may be used only for loans made to qualified parents and interested parties who contributed to the Parental Savings Trust Fund and administrative costs associated with the recovery of funds advanced under this loan program.

(f) Limitations. – Nothing in this section shall be construed to create any obligation of the Authority, the State Treasurer, the State, or any agency or instrumentality of the State to guarantee for the benefit of any parent, other interested party, or designated beneficiary the rate of return or other return for any contribution to the Parental Savings Trust Fund and the payment of interest or other return on any contribution to the Parental Savings Trust Fund."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 13th day of June, 2001.

Became law upon approval of the Governor at 2:08 p.m. on the 23rd day of June, 2001.

S.B. 811 SESSION LAW 2001-244

AN ACT TO ENSURE THAT THE PARENTS OR GUARDIANS OF STUDENTS WHO ARE SUSPENDED OR EXPELLED FROM SCHOOL RECEIVE NOTICE THAT IS EASY TO UNDERSTAND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-391 is amended by adding a new subsection to read:

"(d4) When a student is expelled or suspended for more than 10 days, the local board shall give notice to the student's parent or guardian of the student's rights under this section. If English is the second language of the parent or guardian, the notice shall be written in the parent or guardian's first language when the appropriate foreign language resources are readily available and in English, and both versions shall be in plain language and shall be easily understandable."

SECTION 2. This act becomes effective July 1, 2001, and applies to disciplinary actions initiated on or after that date.

In the General Assembly read three times and ratified this the 13th day of June, 2001.

Became law upon approval of the Governor at 2:08 p.m. on the 23rd day of June, 2001.

S.B. 614 SESSION LAW 2001-245

AN ACT TO AUTHORIZE THE TOWNS OF CARY AND WEDDINGTON AND THE CITIES OF CHARLOTTE, CONCORD, AND MONROE TO EXPEND FUNDS ON ROADS OUTSIDE THE CORPORATE LIMITS AND FOR PARTICIPATION IN CONSTRUCTION OF ROADS OUTSIDE THE CORPORATE LIMITS BY THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-296.1. Expenditure of funds for roads outside the corporate limits.

A city may appropriate funds not otherwise limited as to use by law to construct roadways in areas outside its corporate boundaries and outside its extraterritorial planning and zoning jurisdiction only if those roadways are owned by the State and maintained by the Department of Transportation."

SECTION 2. G.S. 136-66.3(a) reads as rewritten:

"(a) Municipal Participation Authorized. – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State highway improvement approved by the Board of Transportation under ~~G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.~~ G.S. 143B-350(f)(4)."

SECTION 3. This act applies to the Towns of Cary and Weddington and the Cities of Charlotte, Concord, and Monroe only.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law on the date it was ratified.

H.B. 838 SESSION LAW 2001-246

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF WAKE FOREST.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Wake Forest:

TRACT I

BEGINNING at a point in the center of Richland Creek, said point being located the following courses and distances from the common property corner of J. B. Kirkland, Jr., and William F. Caveness in Richland Creek; S. 60 deg. 31' 30" E. 85.0' to a point; S. 50 deg. 39' 30"W. 413.24' to a point; S. 65 deg. 34' W 352.33' to a point; S. 31 deg. 41' 30" W. 280.90' to a point; S 3 deg. 59' 30" W. 53.54' to a point; N. 65 deg. 03' 30" W. 139.14' to said beginning point in Richland Creek; thence S. deg. 03' 30" E. 285.00' to an iron pipe; thence S. 24 deg. 56' 30" W. 120.00' to an iron pipe; thence N. 65 deg. 03' 30" W. 309.00' to a point in the center of Richland Creek; thence up the centerline of Richland Creek N. 28 deg. 12' 30" E. 70.11' to a point in the center of said creek; thence continuing up the centerline of Richland Creek N. 46 deg. 44' 30" E. 53.85' to the point of beginning and containing 0.832 acres more or less.

The above-described lot is a portion of the property of J. B. Kirkland, Jr. as described by deed recorded in book 2212 at Page 197 in the Wake County Register of Deeds office.

For reference to the above-described easement see maps recorded at Book of Maps 1976, Page 435, Wake County Registry.

This property is the same property that was conveyed from J. B. Kirkland, Jr. and wife, Evelyn Johnson Kirkland, Grantors, to the Town of Wake Forest, Brook Street, Wake Forest, NC 27587, Grantee, by deed dated November 8, 1976, recorded in Deed Book 2466, Page 68, Wake County Registry.

TRACT II

BEGINNING at a point in the common property line of J. B. Kirkland, Jr. and William F. Caveness, said point being located N. 49 deg. 46' E. 134.20' from J. B. Kirkland, Jr.'s Southwest property corner in William F. Caveness' line; thence along the arc of a curve, having a chord bearing and distance of N. 0 deg. 32' W. 153.72', and arc distance of 157.12' and a radius of 212.62', to the P.T. of the curve; thence N. 20 deg. 38' W. 24.01' to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 30 deg. 57' W 98.38', an arc distance of 98.92' and a radius of 274.66', to the P.T. of the curve; thence N. 41 deg. 16' 30" W. 200.00' to the P.C. of a curve; thence along the arc of a curve, having a chord bearing distance of N. 45 deg. 01' 30" W 99.74', an arc distance of 99.79' and a radius of 762.57' to the P.T. of the curve; thence N. 48 deg. 46' 30"

W. 282.05' to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 18 deg. 04' 30" W. 102.14', an arc distance of 107.20' and a radius of 10.05', to a point in the south property line of the Town of Wake Forest's proposed Richland Creek Pumping Station property, said point being located N. 65 deg. 30' 30" W. 77.69' from said pumping station property's Southeast property corner.

The above described line is five feet (5') West of and Parallel to the centerline of a proposed sixty foot (60') right-of-way for a roadway to the Town of Wake Forest's proposed wastewater pumping station on Richland Creek and crosses a portion of the property of J. B. Kirkland, Jr. as described by deed recorded in Book 2212 at Page 197 in the Wake County Register of Deeds office.

For reference to the above-described tract, see maps recorded at Book of Maps 1976, Page 485, Wake County Registry.

This deed conveys all that tract of land within the above mentioned 60 ft. roadway, the centerline of which is particularly described above.

This property is the same property that was conveyed from J. B. Kirkland, Jr. and wife, Evelyn Johnson Kirkland, Grantors, to the Town of Wake Forest, Brook Street, Wake Forest, NC 27587, Grantee, by deed dated November 8, 1976, recorded in Deed Book 2466, Page 69, and which was re-recorded on July 18, 1977, in Deed Book 2523, Page 563, Wake County Registry.

TRACT III

BEGINNING at a point in the West right-of-way line of U.S. Highway No. 1, said point being located along said right-of-way N. 5 deg. 30' E. 26.37 ft. from the common property corner of William F. Caveness and Clifton L. Benson; thence N. 66 deg. 18' W. 1018.42 ft., parallel to and 25 ft. N. of the common property line of William F. Caveness and Clifton L. Benson, to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 62 deg. 12' W. 199.48 ft., an arc distance of 199.66 ft. and a radius of 1396.73', to the P.T. of the curve; thence N. 58 deg. 06' 30" W. 10.00 ft. to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 84 deg. 10' 30" W. 269.49 ft., an arc distance of 279.01 a radius of 306.61 ft, to the P.T. of the curve; thence S. 69 deg. 45' 30" W. 535.73 ft. to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of S. 77

deg. 14' W. 99.16 ft., and an arc distance of 99.43 ft. and a radius of 381.09 ft., to the P.T. of the curve; thence S. 84 deg. 42' 30" W. 304.04 ft. to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 37 deg. 49' W. 215.03 ft., and arc distance of 255.84 ft. and a radius of 127.51 ft. to the P.T. of the curve; thence N. 19 deg. 40' E. 592.59 ft., parallel to and 25 ft. east of the common property line of William F. Caveness and Clifton L. Benson, to the P.T. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 34 deg. 43' E. 193.11 ft., an arc distance of 195.38 ft. and a radius of 371.86 ft. to the P.T. of the curve; thence N. 49 deg. 46' E. 87.40 ft. to the P.C. of a curve; thence along the arc of a curve, having a chord bearing and distance of N. 35 deg. 44' E. 103.11 ft., an arc distance of 104.14 ft. and a radius of 212.62 ft., to a point in the common property line of William F. Caveness and J. B. Kirkland, said point being located N. 48 deg. 46' E. 134.20 Ft. from J. B. Kirkland's SE property corner in the property line of William F. Caveness.

The above-described line is 5 ft. S. and W. of and parallel to the centerline of a proposed 60 ft. roadway to the Town of Wake Forest's proposed wastewater pumping station on Richland Creek, said roadway being along the S. and W. portion of William F. Caveness as described by deeds recorded in Book 1220 at Page 181 and Book 1626, Page 526, Wake County Registry.

The area of the proposed 60 ft. roadway crossing William F. Caveness' property is 5.06 acres, more or less.

This property is the same property that was conveyed from William F. Caveness and wife, Angela Caveness, Grantor, to the Town of Wake Forest, Brooks Street, Wake Forest, NC 27587, Grantee, by deed dated December 22, 1976, recorded in Deed Book 2492, Page 544, Wake County Registry.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law on the date it was ratified.

S.B. 668

SESSION LAW 2001-247

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF BURGAW AND TO REPEAL PRIOR LOCAL ACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Burgaw is revised and consolidated to read as follows:

"THE CHARTER OF THE TOWN OF BURGAW.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Sec. 1.1. **Incorporation.** The Town of Burgaw, North Carolina, in the County of Pender, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the 'Town of Burgaw,' hereinafter at times referred to as the 'Town.'

"Sec. 1.2. **Powers.** The Town of Burgaw shall have and may exercise all of the powers, duties, rights, privileges, and immunities, which are now, or hereafter may be conferred, either expressly or by implication, upon the Town of Burgaw, specifically, or upon municipal corporations, generally, by this Charter, by the North Carolina Constitution, or by general or local law.

"Sec. 1.3. **Corporate Limits.** The corporate limits of the Town of Burgaw shall be those existing at the time of ratification of this Charter, as the same are set forth on the official map of the Town, and as the same may be altered from time to time in accordance with law. An official map or description showing the current Town boundaries shall be maintained permanently in the office of the Town Clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the Town shall be made.

"ARTICLE II. GOVERNING BODY.

"Sec. 2.1. **Governing Body.** The Mayor and Board of Commissioners, elected and constituted as herein set forth, shall be the governing body of the Town. On behalf of the Town, and in conformity with applicable laws, the Mayor and Board of Commissioners, hereinafter at times referred to as the 'Board,' may provide for the exercise of all municipal powers, and shall be charged with the general government of the Town.

"Sec. 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, each of whom shall be elected for a term of four years in the manner provided by Article III of this Charter, provided they shall serve until their successors are elected and qualified.

"Sec. 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected in the manner provided by Article III of this Charter to serve for a term of four years, or until his successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at all meetings of the Board. He shall have the right to vote only when there are an equal number of votes in the affirmative and the negative on any motion before the Board. The Mayor shall

exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this Charter, and by the ordinances of the Town.

"Sec. 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall appoint one of its members to act as Mayor Pro Tempore to perform the duties of the mayor in the Mayor's absence or disability. The Mayor Pro Tempore shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the Board.

"Sec. 2.5. **Meetings of the Board.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special meetings may be held as provided by general law.

"ARTICLE III. ELECTIONS.

"Sec. 3.1. **Regular Municipal Elections; Conduct and Method of Election.** Regular municipal elections shall be held in the Town every two years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Sec. 3.2. **Election of Commissioners.** The qualified voters of the entire Town shall elect the members of the Board. The candidates for the Board shall be elected at large. Those candidates who receive the highest number of votes in the Town at large shall be declared duly elected to the office for which the candidate has filed. At the municipal election to be held in November 2001, two members shall be elected for a four-year term and at the municipal election to be held in November 2003, three members shall be elected for a four-year term. Commissioners Charles M. Rooks and Howard N. Walker, Jr., shall continue to serve as members of the Board until the expiration of their terms in December 2001. Commissioners Charles M. Harrell, Charles E. Sparkman, and R. Eugene Brown shall continue to serve as members of the Board until the expiration of their terms in December 2003.

"Sec. 3.3. **Election of the Mayor.** At the regular municipal election in 2001, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years. The qualified voters of the entire Town shall elect the Mayor. John W. James, Jr. shall serve as Mayor until the expiration of his term in December 2001.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Sec. 4.1. **Form of Government.** The Town shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Sec. 4.2. **Town Manager.** The Board shall appoint a Town Manager who shall be the administrative head of the Town government and shall be responsible for the administration of all

departments of the Town government. The Town Manager shall be appointed with regard to merit only, and shall hold office at the pleasure of the Board and shall receive such compensation as the Board shall fix by ordinance.

The Town Manager shall also perform the following duties:

- (1) Take measures to ensure that within the Town the laws of the State and the ordinances, resolutions, and regulations of the Board are faithfully executed.
- (2) Attend all meetings of the Board and recommend for adoption any measures he deems expedient.
- (3) Make reports to the Board from time to time upon affairs of the Town, and keep the Board fully advised of the Town's financial condition and its future financial needs.
- (4) Appoint, suspend, and remove all heads of departments and other employees of the Town, except the Town Attorney and the Town Clerk, who shall be appointed by the Board.
- (5) Perform any other duties that may be required and authorized by the Board.
- (6) Prepare and submit the annual budget and capital program to the Board.

"ARTICLE V. SPECIAL PROVISIONS.

"Sec. 5.1. **Intent.** The purpose of this act is to revise the Charter of the Town of Burgaw and to consolidate herein certain acts concerning the property, affairs, and government of the Town. It is intended to continue without interruption those provisions of prior acts that are consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

"Sec. 5.2. **Construction.** This act shall not be deemed to repeal, modify, or in any manner affect any of the following acts, portions of acts, or amendments thereto, whether or not the acts, portions of acts, or amendments are expressly set forth herein:

- (1) Any acts concerning the property, affairs, or government of public schools in the Town of Burgaw.
- (2) Any acts validating, confirming, approving, or legalizing official proceedings, actions, contracts, or obligations of any kind.

"Sec. 5.3. **Repeal of Specific Acts.** The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act are hereby repealed:

- Chapter 23 of the Private Laws of 1879.
- Chapter 174 of the Private Laws of 1887.
- Chapter 497 of the Private Laws of 1907.
- Chapter 317 of the Private Laws of 1909.
- Chapter 69 of the Private Laws of 1913, Extra Session.

Chapter 265 of the Private Laws of 1913.
 Chapter 672 of the Public Laws of 1913.
 Chapter 23 of the Private Laws of 1937.
 Chapter 629 of the 1951 Session Laws.
 Chapter 157 of the 1953 Session Laws.
 Chapter 98 of the 1961 Session Laws.
 Chapter 823 of the 1991 Session Laws.

"Sec. 5.4. **Exclusions.** No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests, whether public or private:

- (1) Now vested or accrued, in whole or in part, the validating of which might be sustained or preserved by reference to any provisions of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

"Sec. 5.5. **Revival.** No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by either:

- (1) The repeal herein of any act repealing such law.
- (2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

"Sec. 5.6. **Prior Ordinances Saved.** All existing ordinances and resolutions of the Town of Burgaw and all existing rules or regulations of departments or agencies of the Town of Burgaw, not inconsistent with the provisions of this act, shall continue in full force and effect until repealed, modified, or amended.

"Sec. 5.7. **Effect on Legal Proceedings.** No action or proceeding of any nature, whether civil or criminal, judicial or administrative, or otherwise, pending on the effective date of this act by or against the Town of Burgaw or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

"Sec. 5.8. **Severability.** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

"Sec. 5.9. **Reference to Amended Provisions.** Whenever a reference is made in this act to a particular provision of the General Statutes, and the provision is later amended, repealed, recodified, or superseded, the reference shall be deemed amended to refer to the amended General Statutes, or to the General Statutes which most clearly correspond to the statutory provision that is amended, repealed, recodified, or superseded.

"Sec. 5.10. **General Repealer.** All laws and clauses of laws in conflict with the provisions of this act are hereby repealed."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2001.

Became law on the date it was ratified.

S.B. 534

SESSION LAW 2001-248

AN ACT TO PERMIT THE CITY OF CHARLOTTE TO CONTRACT FOR CERTAIN PUBLIC STORM DRAINAGE SYSTEM AND PUBLIC INTERSECTION OR ROADWAY IMPROVEMENTS WITHOUT COMPLYING WITH THE BID LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Charlotte, being S.L. 2000-26, is amended by adding a new section to read:

"Section 7.23. Storm Drainage System Improvements.

(a) Authorization. The City may contract with a private party for storm drainage system improvements that are adjacent or ancillary to a private land development project. Such a contract shall allow the City to reimburse the private party for costs associated with the design and construction of storm drainage improvements that are in addition to those required by the City's land development regulations. Such a contract is not subject to Article 8 of Chapter 143 of the General Statutes if the public cost will not exceed one hundred seventy-five thousand dollars (\$175,000) and the City's Engineering and Property Management Department determines that: (i) the public cost will not exceed the estimated cost of providing for such public storm drainage system improvements through either eligible force account qualified labor or through a public contract let pursuant to Article 8 of Chapter 143 of the General Statutes; or (ii) the coordination of separately constructed public storm drainage system improvements would be impracticable.

(b) Property Acquisition. The storm drainage system improvements may be constructed on property owned or acquired by the private party or on property directly acquired by the City. The private party may assist the City in obtaining storm drainage easements in favor of the City from private property owners on those properties that will be involved in or affected by the project. The contract between the City and the private party may be entered into before the acquisition of any real property necessary to the project."

SECTION 2. Section 7.107 of the Charter of the City of Charlotte, being S.L. 2000-26, reads as rewritten:

"Section 7.107.—~~Exchange of Property.~~ Intersection and Roadway Improvements.

(a) In connection with street widening, the City may purchase with any available funds, property immediately adjacent to property located on a street corner; provided, in the opinion of the Council, the value of such inside lands does not exceed the value of the corner property needed for street-widening purposes, and may convey and transfer such inside lands to the owner of the corner property in exchange for property needed for street-widening purposes, at private sale.

(b) The City may contract with a private party for public intersection or roadway improvements that are adjacent or ancillary to a private land development project. Such a contract is not subject to Article 8 of Chapter 143 of the General Statutes if the public cost will not exceed one hundred seventy-five thousand dollars (\$175,000) and the Charlotte Department of Transportation determines that: (i) the public cost will not exceed the estimated cost of providing for such public intersection or roadway improvements through either eligible force account qualified labor or through a public contract let pursuant to Article 8 of Chapter 143 of the General Statutes; or (ii) the coordination of separately constructed public intersection or roadway improvements and the adjacent or ancillary private land development improvements would be impracticable."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2001.

Became law on the date it was ratified.

S.B. 80 SESSION LAW 2001-249

AN ACT ANNEXING DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF BRUNSWICK.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Brunswick are extended to include the following described property:

To locate the beginning point, proceed to an iron located in the centerline of S.R. 1170 in Columbus County, said iron being further located West of the intersection of S.R. 1170 and N.C. 130, and further being the Northeast corner of the lands of the North Carolina Department of Correction, the Northwest corner of lands now or formerly owned by Sledge, and the Southernmost corner of lands now or formerly owned by Cullifer at the point at which said lands intersect with S.R. 1170, said iron being the POINT AND PLACE OF BEGINNING. From said BEGINNING POINT, proceed South 22

degrees 32 minutes East 2072.90 feet to a concrete monument, the Southeast corner of the lands owned by the North Carolina Department of Correction; thence South 80 degrees 13 minutes West 3053.33 feet to an iron, the Southwest corner of the lands owned by the North Carolina Department of Correction; thence North 12 degrees 27 minutes West 82.94 feet to an iron; thence North 12 degrees 16 minutes West 1124.94 feet to a concrete monument; thence North 28 degrees 54 minutes East 496.22 feet to an iron located in the centerline of S.R. 1170; thence North 79 degrees 19 minutes East 202.01 feet to an iron located in the centerline of S.R. 1170; thence North 69 degrees 00 minutes East 395.66 feet to an iron located in the centerline of S.R. 1170; thence South 20 degrees 29 minutes East 402.05 feet to an iron; thence North 69 degrees 38 minutes East 115.00 feet to an iron; thence South 20 degrees 29 minutes East 138.00 feet to an iron; thence North 69 degrees 38 minutes East 211.84 feet to a concrete monument; thence North 20 degrees 18 minutes West 125.04 feet to a concrete monument; thence North 69 degrees 55 minutes East 652.79 feet to an iron; thence North 18 degrees 13 minutes West 429.75 feet to an iron located in the centerline of S.R. 1170; thence North 67 degrees 52 minutes East 29.04 feet to an iron located in the centerline of S.R. 1170 thence South 18 degrees 27 minutes 31 seconds East 530.04 feet to an iron; thence North 68 degrees 30 minutes 04 seconds East 330.04 feet to an iron; thence North 18 degrees 27 minutes 31 seconds West 530.04 feet to an iron located in the centerline of S.R. 1170; thence North 69 degrees 53 minutes East 422.87 feet to the BEGINNING POINT, containing 141.19 acres, more or less, and being the same tract of land shown and delineated as "Tract A" (140.83 acres) and "Tract E" (.36 acres) on a property plat designated as "C.1, Columbus Correctional Center, Property Reallocations", prepared by the North Carolina Department of Correction.

SECTION 2. Until and unless the area annexed by this act becomes contiguous to the primary corporate limits of the Town of Brunswick by future annexations, the corporate limits of the area annexed by this section shall be considered satellite corporate limits within the meaning of Part 4 of Article 4A of Chapter 160A of the General Statutes, and they shall not be considered to be external boundaries for the purposes of Parts 2 and 3 of Article 4A of Chapter 160A of the General Statutes.

SECTION 3. This act becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law on the date it was ratified.

S.B. 42**SESSION LAW 2001-250**

AN ACT TO AUTHORIZE THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2001, AND TO EXTEND EXPIRING PROVISIONS OF LAW.

The General Assembly of North Carolina enacts:

SECTION 1. The Director of the Budget may continue to allocate funds for expenditure for current operations by State departments, institutions, and agencies at a level not to exceed the level of the recurring baseline budget submitted to the General Assembly by the Director of the Budget on March 12, 2001, in the document "The North Carolina State Budget, Summary of Recommendations for 2001-2003". The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions contained in Senate Bill 1005, 3rd edition, and Senate Bill 1005, as it passes the House of Representatives, that are not in controversy.

Vacant positions subject to the proposed budget reductions in either Senate Bill 1005, 3rd edition, or Senate Bill 1005, as it passes the House of Representatives, shall not be filled. State employees in positions funded with nonrecurring funds for the 2000-2001 fiscal year shall be given notice of termination as required by law.

To the extent necessary to implement this authorization, there are appropriated from the appropriate State funds and cash balances, federal receipts, and departmental receipts for the 2001-2002 fiscal year funds necessary to carry out this section.

The appropriations and the authorizations to allocate and spend funds, which are set out in this section, shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2001 becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations and Capital Improvements Appropriations Act of 2001 becomes law, the Director of the Budget shall adjust allocations to give effect to that act from July 1, 2001.

Except as otherwise provided by this act, the limitations and directions for the 2000-2001 fiscal year in S.L. 1999-237 and in S.L. 2000-67 remain in effect. Session laws that applied to appropriations to particular agencies or for particular purposes apply to the funds appropriated and authorized for expenditure under this section.

BLOCK GRANT PROVISIONS

SECTION 2. The Director of the Budget shall continue to allocate federal block grant funds at the levels provided in Sections 5 and 5.1 of S.L. 2000-67 and as otherwise provided by law.

EMPLOYEE SALARIES

SECTION 3. The salary schedules and specific salaries established for the 2000-2001 fiscal year by or under S.L. 2000-67 for offices and positions shall remain in effect until the effective date of the Current Operations and Capital Improvements Appropriations Act of 2001.

Teachers and other employees shall not move up on these salary schedules or receive automatic, annual, performance, merit, or other increments until authorized by the General Assembly.

SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

SECTION 4. Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salaries. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

The State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2001-2002 fiscal year and the 2002-2003 fiscal year are (i) four and thirty-five hundredths percent (4.35%) - Teachers and State Employees; (ii) nine and thirty-five hundredths percent (9.35%) - State Law Enforcement Officers; (iii) nine and seventy-one hundredths percent (9.71%) - University Employees' Optional Retirement System; (iv) fifteen and sixty-one hundredths percent (15.61%) - Consolidated Judicial Retirement System; and (v) twenty-five and fifty-five hundredths percent (25.55%) - Legislative Retirement System. Each of the foregoing contribution rates includes two and thirty-five hundredths percent (2.35%) for hospital and medical benefits. The rate for Teachers and State Employees, State

Law Enforcement Officers, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

The State's employer contribution rates established by this section are effective only until this section expires. They are subject to revision in the Current Operations and Capital Improvements Appropriations Act of 2001. If the Current Operations and Capital Improvements Appropriations Act of 2001 modifies these rates, the Director of the Budget shall further modify the rates set in that act for the remainder of the 2001-2002 fiscal year so as to compensate for the different amount contributed between July 1, 2001, and the date the Current Operations and Capital Improvements Appropriations Act of 2001 becomes law, so that the effective rates for the entire year reflect the rates set in the Current Operations and Capital Improvements Appropriations Act of 2001.

DISBURSEMENTS TO NONPROFITS

SECTION 5. G.S. 143-26 reads as rewritten:

"§ 143-26. *Director to have discretion as to manner of paying annual appropriations.*

(a) Unless otherwise provided, Except as provided in subsection (b) of this section or as otherwise provided by law, it shall be discretionary with the Director of the Budget whether any annual appropriation shall be paid in monthly, quarterly or semiannual installments or in a single payment.

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

FUNDS SHALL NOT REVERT

SECTION 6.(a) If the provisions of either Senate Bill 1005, 3rd edition, Senate Bill 1005, as it passes the House of Representatives, or both, direct that funds shall not revert, the funds shall not revert on June 30, 2001. Unless these funds are encumbered on or before June 30, 2001, these funds shall not be expended after June 30, 2001, except as provided by a statute that becomes effective after June 30, 2001.

SECTION 6.(b) This section becomes effective June 30, 2001.

STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30

SECTION 7.(a) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2000-2001 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2001.

SECTION 7.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2000-2001 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2001.

SECTION 7.(c) This section becomes effective June 30, 2001.

EFFECTIVE DATE

SECTION 8. Except as otherwise provided, this act becomes effective July 1, 2001. This act expires July 16, 2001.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 10:24 a.m. on the 29th day of June, 2001.

H.B. 343

SESSION LAW 2001-251

AN ACT REMOVING SUNSET PROVISIONS RELATING TO THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA AND MAKING OTHER AMENDMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 1997-404 reads as rewritten:

"Section 3. This act is effective when it becomes law and applies to new initial claims filed on or after September 1, 1997. The Employment Security Commission shall report to the General Assembly by January 1, 2001, on the effect of this act on unemployment compensation claims. ~~This act expires September 1, 2001.~~"

SECTION 2. Section 5 of S.L. 1999-196 reads as rewritten:

"Section 5. This act becomes effective July 1, 1999, and applies to unemployment insurance claims filed on or after that date. ~~This act expires June 30, 2001.~~"

SECTION 3. G.S. 96-8(10a) reads as rewritten:

"(10a) 'Undue family hardship' arises when an individual is unable to accept a particular shift because the individual is unable to obtain (i) child care during that shift for a minor child ~~under 14 years of age~~ who is in the legally recognized custody of the ~~individual or individual~~, (ii) elder care during that shift for an aged or disabled parent of the ~~individual~~, individual, or (iii) care for any disabled member of that individual's immediate family."

SECTION 4. G.S. 96-8 is amended by adding a new subdivision to read:

"(27) 'Immediate family' means an individual's wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, whether the relationship is a biological, step-, half-, or in-law relationship."

SECTION 5. G.S. 96-9(c)(2)b. reads as rewritten:

"b. Any benefits paid to any claimant under a claim filed for a period occurring after the date of such separations as are set forth in this paragraph and based on wages paid prior to the date of (i) the leaving of work by the claimant without good cause attributable to the employer; (ii) the discharge of claimant for misconduct in connection with his work; (iii) the discharge of the claimant for substantial fault as that term may be defined in G.S. 96-14; (iv) the discharge of the claimant solely for a bona fide inability to do the work for which he was hired but only where the ~~claimant was hired pursuant to a job order placed with a local office of the Commission for referrals to probationary employment (with a probationary period no longer than 100 days), which job order was placed in such circumstances and which satisfies such conditions as the Commission may by regulation prescribe and only to the extent of the wages paid during such probationary employment;~~ claimant's period of employment was 100 days or less; (v) separations made disqualifying under G.S. 96-14(2b) and (6a); (vi) separation due to leaving

for disability or health condition; or (vii) separation of claimant solely as the result of an undue family hardship; ~~or (viii) separation of claimant solely for a bona fide inability to do the work for which the claimant was hired, but only where the claimant in the last calendar quarter preceding the quarter in which the claimant was paid wages by the employer was a recipient of Work First Program assistance by an agency of the State and the claimant's period of employment was 100 days or less, shall not be charged to the account of the employer by whom the claimant was employed at the time of such separation;~~ provided, however, said employer promptly furnishes the Commission with such notices regarding any separation of the individual from work as are or may be required by the regulations of the Commission.

No benefit charges shall be made to the account of any employer who has furnished work to an individual who, because of the loss of employment with one or more other employers, becomes eligible for partial benefits while still being furnished work by such employer on substantially the same basis and substantially the same amount as had been made available to such individual during his base period whether the employments were simultaneous or successive; provided, that such employer makes a written request for noncharging of benefits in accordance with Commission regulations and procedures.

No benefit charges shall be made to the account of any employer for benefit years ending on or before June 30, 1992, where benefits were paid as a result of a discharge due directly to the reemployment of a veteran mandated by the Veteran's Reemployment Rights Law, 38 USCA § 2021, et seq.

No benefit charges shall be made to the account of any employer where benefits are paid as a result of a decision by an Adjudicator, Appeals Referee or the Commission if such decision to pay benefits is ultimately reversed; nor shall any such benefits paid be deemed to constitute an overpayment under G.S.

96-18(g)(2), the provisions thereof notwithstanding. Provided, an overpayment of benefits paid shall be established in order to provide for the waiting period required by G.S. 96-13(c)."

SECTION 6. Sections 3 and 4 of this act become effective September 1, 2001, and apply to unemployment insurance claims filed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of June, 2001.

Became law upon approval of the Governor at 12:31 p.m. on the 29th day of June, 2001.

S.B. 217**SESSION LAW 2001-252**

AN ACT TO EXTEND THE TIME FOR THE NORTH CAROLINA UTILITIES COMMISSION TO ADOPT FINAL RULES REGARDING UNIVERSAL SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-110(f1) reads as rewritten:

"(f1)Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the

Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

Any certificate issued by the Commission pursuant to this subsection shall not permit the provision of local exchange or exchange access service until July 1, 1996, unless the Commission shall have approved a price regulation plan pursuant to G.S. 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996. In the event a price regulation plan becomes effective prior to July 1, 1996, the Commission is authorized to permit the provision of local exchange or exchange access service by a competing local provider in the franchised area of such local exchange company.

The Commission is authorized to adopt rules it finds necessary (i) to provide for the reasonable interconnection of facilities between all providers of telecommunications services; (ii) to determine when necessary the rates for such interconnection; (iii) to provide for the reasonable unbundling of essential facilities where technically and economically feasible; (iv) to provide for the transfer of telephone numbers between providers in a manner that is technically and economically reasonable; (v) to provide for the continued development and encouragement of universally available telephone service at reasonably affordable rates; and (vi) to carry out the provisions of this subsection in a manner consistent with the public interest, which will include a consideration of whether and to what extent resale should be permitted.

Local exchange companies and competing local providers shall negotiate the rates for local interconnection. In the event that the parties are unable to agree within 90 days of a bona fide request for interconnection on appropriate rates for interconnection, either party may petition the Commission for determination of the appropriate rates for interconnection. The Commission shall determine the appropriate rates for interconnection within 180 days from the filing of the petition.

Each local exchange company shall be the universal service provider in the area in which it is certificated to operate on July 1, 1995, until otherwise determined by the Commission. In continuing this State's commitment to universal service, the Commission shall, by December 31, 1996, adopt interim rules that designate the person that should be the universal service provider and to determine whether universal service should be funded through interconnection rates or through some other funding mechanism. By ~~July 1, 2001~~, July 1, 2003, the Commission shall complete an investigation and adopt final rules concerning the provision of universal services, the person

that should be the universal service provider, and whether universal service should be funded through interconnection rates or through some other funding mechanism.

The Commission shall make the determination required pursuant to this subsection in a manner that furthers this State's policy favoring universally available telephone service at reasonable rates."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 12:32 p.m. on the 29th day of June, 2001.

S.B. 824 SESSION LAW 2001-253

AN ACT PERTAINING TO BENEFITS UNDER THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO HOSPITAL RATES UNDER WORKERS' COMPENSATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective July 1, 2002, G.S. 135-39.5 is amended by adding the following new subdivision to read:

"§ 135-39.5. *Powers and duties of the Executive Administrator and Board of Trustees.*

The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall have the following powers and duties:

...

(26) Increasing annually the amount of the annual deductible and annual aggregate maximum deductible. The increase shall be established by determining the ratio of the CPI-Medical Index to such index one year earlier. If the ratio indicates an increase in the CPI-Medical Index, then the amount of the annual deductible and annual aggregate maximum deductible may be increased by not more than the percentage increase in the CPI-Medical Index. As used in this subdivision, the term 'CPI-Medical Index' means the U.S. Consumer Price Index for All Urban Consumers for Total Medical Care."

SECTION 1.(b) G.S. 135-40.1(2) reads as rewritten:

"(2) Deductible. – Deductible shall mean an amount of covered expenses during a fiscal year which must be incurred after which benefits (subject to the deductible) becomes payable. The deductible for an employee, retired employee and/or his or her dependents shall be

~~two hundred fifty dollars (\$250.00)~~ three hundred fifty dollars (\$350.00) for each fiscal year.

The deductible applies separately to each covered individual in each fiscal year, subject to an aggregate maximum of ~~seven hundred fifty dollars (\$750.00)~~ one thousand fifty dollars (\$1,050) per ~~family (employee or retiree and his or her covered dependents)~~ employee and child(ren) or employee and family coverage contract in any fiscal year.

If two or more family members are injured in the same accident only one deductible is required for charges related to that accident during the benefit period."

SECTION 1.(c) G.S. 135-40.4(a) reads as rewritten:

"(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a ~~two hundred fifty dollars (\$250.00)~~ three hundred fifty dollar (\$350.00) deductible for each covered individual to an aggregate maximum of ~~seven hundred fifty dollars (\$750.00)~~ one thousand fifty dollars (\$1,050) per ~~family~~ employee and child(ren) or employee and family coverage contract and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may contract with providers of institutional and professional medical care and services to established preferred provider networks. The design, adoption, and implementation of such preferred provider contracts and networks are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating such preferred provider contracts. The Executive Administrator and Board of

Trustees shall implement a refined diagnostic-related grouping or diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995."

SECTION 1.(d) G.S. 135-40.5(d) is repealed.

SECTION 1.(e) G.S. 135-40.5(g) reads as rewritten:

"(g) Prescription Drugs. – The Plan's allowable charges for prescription legend drugs to be used outside of a hospital or skilled nursing facility are to be determined by the Plan's Executive Administrator and Board of Trustees. The Plan will pay allowable charges for each outpatient prescription drug less a copayment to be paid by each covered individual equal to the following amounts: pharmacy charges up to ten dollars (\$10.00) for each generic prescription, ~~fifteen dollars (\$15.00)~~ twenty-five dollars (\$25.00) for each branded prescription, and ~~twenty dollars (\$20.00)~~ thirty-five dollars (\$35.00) for each branded prescription with a generic equivalent drug, and ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for each branded or generic prescription not on a formulary used by the Plan. Allowable charges shall not be greater than a pharmacy's usual and customary charge to the general public for a particular prescription. Prescriptions shall be for no more than a 34-day supply for the purposes of the copayments paid by each covered individual. By accepting the copayments and any remaining allowable charges provided by this subsection, pharmacies shall not balance bill an individual covered by the Plan. A prescription legend drug is defined as an article the label of which, under the Federal Food, Drug, and Cosmetic Act, is required to bear the legend: "Caution: Federal Law Prohibits Dispensing Without Prescription." Such articles may not be sold to or purchased by the public without a prescription order. Benefits are provided for insulin even though a prescription is not required. The Plan may use a pharmacy benefit manager to help manage the Plan's outpatient prescription drug coverage. In managing the Plan's outpatient prescription drug benefits, the Plan and its pharmacy benefit manager shall not provide coverage for erectile dysfunction, growth hormone, antiwrinkle, weight loss, and hair growth drugs unless such coverage is medically necessary to the health of the member. The Plan and its pharmacy benefit manager shall not provide coverage for growth hormone and weight loss drugs and antifungal drugs for the treatment of nail fungus and botulinum toxin without approval in advance by the pharmacy benefit manager. Any formulary used by the Plan's Executive Administrator and pharmacy benefit manager shall be an open formulary. Plan members shall not be assessed more than two thousand five hundred dollars (\$2,500) per person per fiscal year in copayments required by this subsection."

SECTION 1.(f) The first paragraph of G.S. 135-40.6 reads as rewritten:

"The following benefits provided in this section are subject to a deductible of two hundred fifty dollars (\$250.00) three hundred fifty dollars (\$350.00) per covered individual to an aggregate maximum of seven hundred fifty dollars (\$750.00) one thousand fifty dollars (\$1,050) per family-employee and child(ren) or employee and family coverage contract per fiscal year and are payable on the basis of eighty percent (80%) by the Plan and twenty percent (20%) by the covered individual up to a maximum of one thousand dollars (\$1,000) five hundred dollars (\$1,500) out-of-pocket per fiscal year:year. The aggregate maximum out-of-pocket required of individuals covered by this section shall not be more than four thousand five hundred dollars (\$4,500) per employee and child(ren) or employee and family coverage contract per fiscal year."

SECTION 1.(g) G.S. 135-40.6(1)f. reads as rewritten:

"(1) In-Hospital Benefits. – The Plan pays in-hospital benefits for each single confinement, when charged by a hospital, for room accommodations, including bed, board and general nursing care, but not to exceed the charge for semiprivate room or ward accommodations, or the rate negotiated for the Plan. Under the DRG reimbursement system, the coinsurance shall be based on the lower of the DRG amount or charges.

The Plan will pay the following covered charges, when charged by a hospital, for each confinement.

...

f. ~~Physical~~ Physical, speech, and occupational therapy."

SECTION 1.(h) G.S. 135-40.6(3) reads as rewritten:

"(3) Skilled Nursing Facility Benefits. – The Plan will pay benefits in a skilled nursing facility licensed under applicable State laws for not more than 100 days per fiscal year for the same reason, as follows:

After discharge from a hospital for which inpatient hospital benefits were provided by this Plan for a period of not less than three days, and treatment consistent with the same illness or condition for which the covered individual was hospitalized, the daily charges will be paid for room and board in a semiprivate room or any multibed unit up to the maximum benefit specified in subsection (1) of this section, less the days of care already provided for the same illness in a hospital. Plan allowances for total daily charges may be negotiated but

will not exceed the daily semiprivate hospital room rate as determined by the Plan.

Credit will be allowed toward private room charges in an amount equal to the facility's most prevalent charge for semiprivate accommodations. Charges will also be paid for general nursing care and other services which would ordinarily be covered in a general hospital. In order to be eligible for these benefits, admission must occur within 14 days of discharge from the hospital.

In order to qualify for benefits provided by a skilled nursing facility, the following stipulations apply:

- a. The services are medically required to be given on an inpatient basis because of the covered individual's need for medically necessary skilled nursing care on a continuing daily basis for any of the conditions for which he or she was receiving inpatient hospital services prior to transfer from a hospital to the skilled nursing facility or for a condition requiring such services which arose after such transfer and while he or she was still in the facility for treatment of the condition or conditions for which he or she was receiving inpatient hospital services,
- b. Only on prior referral by and so long as, the patient remains under the active care of an attending doctor and the patient requires continual hospital confinement without the care and treatment of the skilled nursing facility, and
- c. Approved in advance by the Claims Processor.

For facilities not qualified for delivery of services covered by the benefits of Title XVIII of the Social Security Act (Medicare), neither the Plan nor any of its members shall be billed or held liable by such facilities for charges that otherwise would be covered by Medicare."

SECTION 1.(i) G.S. 135-40.6(8)e. reads as rewritten:

- "e. Prosthetic and Orthopedic Appliances and Durable Medical Equipment: Appliances and equipment including corrective and supportive devices such as artificial limbs and eyes, wheelchairs, traction equipment, inhalation therapy and suction machines, hospital beds, braces, orthopedic corsets and trusses, not more than three hundred fifty dollars (\$350.00) for therapeutic shoes for diabetes and other high-risk conditions, and other prosthetic

appliances or ambulatory apparatus which are provided solely for the use of the participant. Eligible charges include repair and replacement when medically necessary. Benefits will be provided on a rental or purchase basis at the sole discretion of the Claims Processor and agreements to rent or purchase shall be between the Claims Processor and the supplier of the appliance.

For the purposes of this subdivision, the term "durable medical equipment" means standard equipment normally used in an institutional setting which can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury and is appropriate for use in the home. Decisions of the Claims Processor, the Executive Administrator and Board of Trustees as to compliance with this definition and coverage under the Plan shall be final."

SECTION 1.(j) G.S. 135-40.6(8)m. reads as rewritten:

"m. Cardiac Rehabilitation: Charges not to exceed six hundred fifty dollars (\$650.00) the lesser of one thousand eight hundred dollars (\$1,800) or 90 days per fiscal year for cardiac testing and exercise therapy, when determined medically necessary by an attending physician and approved by the Claims Processor for patients with a medical history of myocardial infarction, angina pectoris, arrhythmias, cardiovascular surgery, hyperlipidemia, or hypertension, year. Coverage is limited to patients with Coronary Artery Bypass Graft (CABG), status/post myocardial infarction, Percutaneous Transluminar Coronary Angioplasty (PTCA) or stent, valve replacement, heart transplant, or chronic and disabling angina provided such charges are incurred services are provided within six months of the qualifying event and in a medically supervised facility fully certified by the North Carolina Department of Health and Human Services."

SECTION 1.(k) G.S. 135-40.6(9)f. reads as rewritten:

"(9) Limitations and Exclusions to Other Covered Charges. – No benefits are available under this section of the Plan until full utilization is made of similar benefits available under other sections of this Plan.

No benefits will be payable for:

...

- f. Eyeglasses or other corrective lenses (except for cataract lenses certified as medically necessary for aphakia persons), hearing aids, braces for teeth, dental plates or bridges or other dental prostheses, air-conditioners, vaporizers, humidifiers, mattresses (other than as supplied with a hospital bed) and specially built shoes (other than attached to artificial limbs or orthopedic ~~braces~~); braces, and other than therapeutic shoes for diabetes or other high-risk conditions);"

SECTION 1.(I) G.S. 135-40.6A(b) reads as rewritten:

"(b) The Executive Administrator and Board of Trustees may establish procedures to require prior medical approvals for the following services:

- (1) Skilled Nursing Facility ~~Care (after the initial 30 days); Care.~~
- (2) Private Duty ~~Nursing; Nursing.~~
- (3) Speech Therapy (unless rendered in an inpatient ~~hospital~~); hospital).
- (4) Physical Therapy (in the ~~home~~); home).
- (7) Surgical Procedures:
 - a. Blepharoplasties
 - b. Surgery for Hermaphroditism
 - c. Excision of Keloids
 - d. Reduction Mammoplasty
 - e. Morbid Obesity Surgery
 - f. Penile Prosthesis
 - g. Excision of Gynecomastia
 - h. Cochlear Implants
 - i. Revision of the Nasal Structure
 - j. Abdominoplasty
 - k. Fimbrioplasty
 - l. Tubotubal ~~Anastomosis~~. Anastomosis
 - m. Varicose Vein Surgery.
- (8) Subcutaneous injection of "filling" material (Example: zyderm, ~~silicone~~); and silicone).
- (8a) Botulinium toxin.
- (9) Suction Lipectomy.
- (10) Outpatient prescription drugs requiring prospective review under the Plan's pharmacy benefit management program.

(11) Outpatient prescription drugs for growth hormone, weight loss, and antifungal drugs for the treatment of nail fungus."

SECTION 1.(m) G.S. 135-40.8 reads as rewritten:

"§ 135-40.8. *Out-of-pocket expenditures.*

(a) For the balance of any fiscal year after each eligible employee, retired employee, or dependent satisfies the cash deductible, the Plan pays eighty percent (80%) of the eligible expenses outlined in G.S. 135-40.6. ~~The covered individual is then responsible for the remaining twenty percent (20%) until one thousand dollars (\$1,000), in excess of the deductible, has been paid out of pocket. The remaining twenty percent (20%) is paid by the covered individual until one thousand five hundred dollars (\$1,500) per covered individual up to an aggregate of four thousand five hundred dollars (\$4,500) per employee and child(ren) or employee and family coverage contract per fiscal year in excess of the deductible has been paid out of pocket.~~ The Plan then pays one hundred percent (100%) of the remaining covered expenses.

(b) ~~Where a covered individual fails to obtain a second surgical opinion as required under the Plan, or where a covered individual elects to have a surgery performed that conflicts with a majority opinion of the rendered consultations that the surgery requiring a second or third surgical opinion is not necessary, the covered individual shall be responsible for fifty percent (50%) of the eligible expenses, provided, however, that no covered individual shall be required to pay, in addition to the expenses in subsection (a) above out of pocket in excess of five hundred dollars (\$500.00) per fiscal year.~~

(c) Notwithstanding any other provision of this Article, on the first day of each confinement the Plan does not pay the first ~~seventy five dollars (\$75.00) one hundred dollars (\$100.00)~~ of the room accommodation charge allowable under G.S. 135-40.6(1). Any readmission within 60 days after discharge for the same reason shall be considered the same confinement for the purpose of this subsection. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs.

(c1) Notwithstanding any other provision of this Article, the Plan does not pay the first fifty dollars (\$50.00) of the facility fees and ancillary charges for allowable charges exceeding five hundred dollars (\$500.00) per episode of care for hospital outpatient departments and ambulatory surgical facilities under G.S. 135-40.6(4). Readmission within 30 days after discharge for the same reason shall be considered the same episode of care for the purpose of this subsection. The exclusion made under this subsection shall not

count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs.

(c2) Notwithstanding any other provision of this Article, the Plan does not pay the first one hundred dollars (\$100.00) of allowable emergency room charges when admission to a hospital pursuant to the emergency room use does not immediately follow. This subsection shall apply only when less costly alternative means of emergency medical care are reasonably available as determined by the Executive Administrator and Board of Trustees. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs.

(c3) Notwithstanding any other provision of this Article, the Plan does not pay for the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-40.6(4), G.S. 135-40.6(8)e.(IV therapy), i., j., k., n., r., and s., and G.S. 135-40.5(e). The copayment assessed by this subsection shall be assessed only once per person per provider per day and shall not apply to laboratory, pathology, and radiology services. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs.

(d) Where a network of qualified preferred providers of inpatient and outpatient hospital care is reasonably available for use by those individuals covered by the Plan, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year per covered individual up to an aggregate of fifteen thousand dollars (\$15,000) per employee and child(ren) or employee and family coverage contract per fiscal year in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6."

SECTION 1.(n) G.S. 135-40.9 reads as rewritten:

"§ 135-40.9. *Maximum benefits.*

The maximum lifetime benefit for each covered individual will be ~~two million dollars (\$2,000,000)~~ five million dollars (\$5,000,000)."

SECTION 1.(o) G.S. 135-40.6(2)g. is repealed.

SECTION 1.(p) G.S. 135-40.6(7)a. reads as rewritten:

"(7) Medical Benefits. –

- a. Services of Doctors. – The Plan pays the usual, reasonable and customary charges for covered inpatient medical (nonsurgical) services. Services are covered if the individual is hospital-confined and is eligible for hospitalization benefits as described in this section. Benefits are provided for exactly the same number of days as the individual is

entitled to under this section, except that medical benefits are provided on both the day of admission and the day of discharge.

In the event a covered individual is treated by two or more co-attending doctors during the same hospital confinement for a medical (nonsurgical) condition, benefits are limited to payment for services provided by the primary attending doctor, except where need is established for supplementary skills for treatment of separate and distinct diagnoses or conditions.

Home, office, and skilled nursing facility visits including (i) charges for injected medications, (ii) inpatient care by attending medical doctors, radiologists, pathologists, and consultants during such time as hospital benefits are paid under any section of this Plan, (iii) care in the outpatient department of a hospital, and (iv) administration of shock therapy (drug or electric) including the services of anesthesiologists provided on an office or hospital outpatient basis for treatment of acute psychotic reaction or severe depression. ~~The Plan does not cover the first ten dollars (\$10.00) of allowable charges for each home, office, or skilled nursing facility visit.~~"

SECTION 1.(q) Effective January 1, 2002, G.S. 135-39.5(12) reads as rewritten:

"§ 135-39.5. *Powers and duties of the Executive Administrator and Board of Trustees.*

The Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall have the following powers and duties:

...
 "(12) Determining basis of payments to health care providers, including payments in accordance with G.S. 58-50-56. The Plan shall comply with G.S. 58-3-225."

SECTION 1.(r) G.S. 135-39.8 reads as rewritten:
 "§ 135-39.8. *Rules and regulations.*

The Executive Administrator and Board of Trustees may issue rules and regulations to implement Parts 2, 3, 4, and 5 of this Article. The Executive Administrator and Board of Trustees shall provide to all employing units, all health benefit representatives, the oversight team provided for in G.S. 135-39.3, all relevant health care providers affected by a rule or regulation, and to any other persons requesting a written description and approved by the Executive Administrator and

Board of Trustees written notice and an opportunity to comment not later than 30 days prior to adopting, amending, or rescinding a rule or regulation, unless immediate adoption of the rule or regulation without notice is necessary in order to fully effectuate the purpose of the rule or regulation. Rules and regulations of the Board of Trustees shall remain in effect until amended or repealed by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written description of the rules and regulations issued under this section to all employing units, all health benefit representatives, the oversight team provided for in G.S. 135-39.3, all relevant health care providers affected by a rule or regulation, and to any other ~~parties~~ persons requesting a written description and approved by the Executive Administrator and Board of Trustees ~~to receive a description~~ on a timely basis."

SECTION 1.(s) The Plan shall develop as soon as practicable a prospective payment system for the payment of hospital outpatient services and the services of ambulatory surgical facilities. In developing this prospective payment system, the Plan shall make use of the expertise of the North Carolina Hospital Association, including any advisory committees of member hospitals that the Association may name, and ambulatory surgical facilities in this State. In addition, the Plan shall develop as soon as practicable a medical fee schedule for the payment of professional health care services. The fee schedule shall be developed with the expertise of the North Carolina Medical Society, the North Carolina Academy of Family Physicians, and any other groups of professional medical service providers that the Society may wish to include. Any prospective payment system for hospital outpatient services and the services of ambulatory surgical facilities and a medical fee schedule for the providers of professional medical services shall not be implemented by the Plan before July 1, 2003.

SECTION 2. Notwithstanding G.S. 97-26, payment for medical treatment and services rendered to workers' compensation patients by a hospital on or after July 1, 2001, and before August 1, 2001, shall be equal to the payment the hospital would have received for such treatment and services on June 30, 2001.

SECTION 3. Except as otherwise provided, this act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 12:33 p.m. on the 29th day of June, 2001.

H.B. 1312 SESSION LAW 2001-254

AN ACT TO EXTEND THE MORATORIA ON CONSTRUCTION OR EXPANSION OF SWINE FARMS, TO PROVIDE FOR THE ISSUANCE OF GENERAL PERMITS FOR ANIMAL WASTE MANAGEMENT SYSTEMS UNDER ARTICLE 21 OF CHAPTER 143 OF THE GENERAL STATUTES AND THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES), AND TO EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS.

Whereas, the 1997 General Assembly established moratoria on the construction or expansion of certain swine farms and on lagoons and animal waste management systems for certain swine farms; and

Whereas, among the purposes of these moratoria were to allow completion of certain studies related to swine farms and animal waste management systems; and

Whereas, the 1998 General Assembly extended these moratoria and established exceptions for animal waste management systems that meet certain performance standards; and

Whereas, the 1999 General Assembly further extended the moratoria so that moratoria have remained in effect continuously since 1 March 1997; and

Whereas, it appears that additional research and study is needed to identify and develop animal waste technologies that meet the performance standards established by the General Assembly; and

Whereas, on 25 July 2000, the Attorney General of North Carolina entered into an agreement with Smithfield Foods, Incorporated, and certain other companies; and

Whereas, this agreement commits those companies to work cooperatively to develop and implement animal waste management technologies that meet the performance standards established by the General Assembly; and

Whereas, the companies that are parties to this agreement constitute a significant portion of the swine production capacity of the State; and

Whereas, the companies that are parties to this agreement have agreed to provide substantial resources to assist the State in the development and implementation of animal waste management technologies that meet the performance standards established by the General Assembly; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended by Section 2 of S.L. 1998-188 and Section 2.1 of S.L. 1999-329, reads as rewritten:

"(a1) There is hereby established a moratorium on the construction or expansion of swine farms and on lagoons and animal waste management systems for swine farms. The purposes of this moratorium are to allow counties time to adopt zoning ordinances under G.S. 153A-340, as amended by Section 2.1 of this act; to allow time for the completion of the studies authorized by the 1995 General Assembly (1996 Second Extra Session); and to allow the 1999 General Assembly to receive and act on the findings and recommendations of those studies. Except as provided in subsection (b) of this section, the Environmental Management Commission shall not issue a permit for an animal waste management system for a new swine farm or the expansion of an existing swine farm for a period beginning on 1 March 1997 and ending on ~~1 July 2001~~ 1 September 2003. The construction or expansion of a swine farm or animal waste management system for a swine farm is prohibited during the period of the moratorium regardless of the date on which a site evaluation for the swine farm is completed and regardless of whether the animal waste management system is permitted under G.S. 143-215.1 or Part 1A of Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North Carolina Administrative Code 2H.0217."

SECTION 2. Section 1.2 of S.L. 1997-458, as amended by Section 3 of S.L. 1998-188 and Section 2.2 of S.L. 1999-329, reads as rewritten:

"Section 1.2. (a) As used in this section, 'swine farm' and 'lagoon' have the same meaning as in G.S. 106-802. As used in this section, 'animal waste management system' has the same meaning as in G.S. 143-215.10B. There is hereby established a moratorium for any new or expanding swine farm or lagoon for which a permit is required under Parts 1 or 1A of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103. Effective 1 January 1997, until ~~1 July 2001~~ 1 September 2003, the Environmental Management Commission shall not issue a permit for an animal waste management system, as defined in G.S. 143-215.10B, or for a new or expanded swine farm or lagoon, as defined in G.S. 106-802. The exemptions set out in subsection (b) of Section 1.1 of this act do not apply to the moratorium established under this section.

(b) In order to protect travel and tourism, effective ~~1 July 2001, 1 September 2003,~~ no animal waste management system shall be permitted except under an individual permit issued under Part 1 of Article 21 of Chapter 143 of the General Statutes in any county in the State: (i) that has a population of less than 75,000 according to the most recent decennial federal census; (ii) in which there is more than one hundred fifty million dollars (\$150,000,000) of expenditures for travel and tourism based on the most recent figures of the Department of Commerce; and (iii) that is not in the coastal area as defined by G.S. 113A-103."

SECTION 3. G.S. 143-215.10C(a) reads as rewritten:

"(a) No person shall construct or operate an animal waste management system for an animal operation without first obtaining an individual permit ~~under Part 1 of this Article~~ or a general permit under this ~~Part.~~ Article. The Commission shall develop a system of individual and general permits for animal operations based on species, number of animals, and other relevant factors. It is the intent of the General Assembly that most animal waste management systems be permitted under a general ~~permit issued under this Part.~~ permit. The Commission, in its discretion, may require that an animal waste management system be permitted under an individual permit ~~issued under Part 1 of this Article~~ if the Commission determines that an individual permit is necessary to protect water quality, public health, or the environment."

SECTION 4. G.S. 143-215.10C(c) reads as rewritten:

"(c) The Commission shall act on a permit application as quickly as possible and may conduct any inquiry or investigation it considers necessary before acting on an application. ~~If the Commission fails to act on an application for a permit, including a renewal of a permit, within 90 days after the applicant submits all information required by the Commission, the application is considered to be approved.~~"

SECTION 5. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than ~~November 1, 1997, 1 November 1997,~~ and to terminate ~~1 July 2001, 1 September 2002,~~ regarding the annual inspections of animal operations that are subject to a permit under ~~Part 1A~~ of Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under

~~Part 1A of~~ Article 21 of Chapter 143 of the General Statutes in these three counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these three counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources within the local Soil and Water Conservation Districts serving the three counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 6. Section 3.3 of S.L. 1999-329 reads as rewritten:

"Section 3.3. The Department of Environment and Natural Resources, in consultation with both the Division of Water Quality and the Division of Soil and Water Conservation, shall submit interim reports no later than 15 October 1999, 15 April 2000, 15 October 2000, 15 April 2001, 15 October 2001, and 15 April 2002 and shall submit a final report no later than ~~15 July 2001~~15 October 2002 to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the ~~2001~~2003 General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals."

SECTION 7. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 8. This act becomes effective 30 June 2001.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 12:34 p.m. on the 29th day of June, 2001.

S.B. 1075**SESSION LAW 2001-255**

AN ACT TO AMEND THE DEFINITION OF THE TERMS "QUALIFIED INDIVIDUAL" AND "TISSUE BANK" IN THE UNIFORM ANATOMICAL GIFT ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-403 reads as rewritten:

"§ 130A-403. *Definitions.*

The following definitions shall apply throughout this Part:

- (1) "Bank or storage facility" means a facility licensed, accredited or approved under the laws of any state for storage or distribution of a human body or its parts.
- (2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.
- (3) "Donor" means an individual who makes a gift of all or part of the individual's body.
- (4) "Hospital" means a hospital licensed, accredited or approved under the laws of any state and a hospital operated by the United States government, a state or its subdivision, although not required to be licensed under state laws.
- (5) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body.
- (6) "Physician" or "surgeon" means a physician or surgeon licensed to practice medicine under the laws of any state.
- (7) "State" includes any state, district, commonwealth, territory, insular possession and any other area subject to the legislative authority of the United States of America.
- (7a) "Tissue bank" means any facility or program operating in North Carolina that is certified by the American Association of Tissue Banks or the Eye Bank Association of ~~America~~ America, or is registered with the Food and Drug Administration as a tissue bank, and is involved in procuring, furnishing, donating, or distributing corneas, bones, or other human tissue for the purpose of injecting, transfusing, or transplanting any of them into the human body. "Tissue bank" does not include a licensed blood bank.

- (8) "Qualified individual" means any of the following individuals who ~~has~~have completed a course in eye enucleation and ~~has~~have been certified as competent to enucleate eyes or perform in situ excision by an eye bank accredited by the Eye Bank Association of America or by an accredited school of medicine in this State:
- a. An embalmer licensed to practice in this State;
 - b. A physician's assistant approved by the North Carolina Medical Board pursuant to G.S. 90-18(13);
 - c. A registered or a licensed practical nurse licensed by the Board of Nursing pursuant to Article 9A of Chapter 90 of the General Statutes;
 - d. A student who is enrolled in an accredited school of medicine operating within this State and who has completed two or more years of a course of study leading to the awarding of a degree of doctor of medicine;
 - e. A technician who has successfully completed a written examination administered by an eye bank that is registered with the Food and Drug Administration and accredited by the Eye Bank Association of America. ~~by the North Carolina Eye and Human Tissue Bank, Inc., certified by the Eye Bank Association of America."~~

SECTION 2. G.S. 130A-406(e) reads as rewritten:

"(e) In respect to a gift of an eye, a qualified individual may enucleate eyes or perform in situ excision for the gift after proper certification of death by a physician and upon the express direction of a physician other than the one who certified the death of the donor."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of June, 2001.

Became law upon approval of the Governor at 12:36 p.m. on the 29th day of June, 2001.

H.B. 998

SESSION LAW 2001-256

AN ACT TO PROVIDE UNDER STATE LAW A MIRROR AS TO FEDERAL LAW ON WHEN A SOCIAL SECURITY NUMBER CAN BE REQUIRED TO BE PROVIDED.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 3F."State Privacy Act."§ 143-64.60. State Privacy Act.

It is unlawful for any State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

The provisions of this section shall not apply with respect to:

- (1) Any disclosure which is required or permitted by federal statute, or
- (2) The disclosure of a social security number to any State or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

Any State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 19th day of June, 2001.

Became law upon approval of the Governor at 12:36 p.m. on the 29th day of June, 2001.

H.B. 689**SESSION LAW 2001-257**

AN ACT TO AUTHORIZE TENNESSEE VALLEY AUTHORITY OFFICERS TO PROVIDE ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IN THE SAME MANNER AS OTHER FEDERAL LAW ENFORCEMENT OFFICERS AND TO INCLUDE ALEXANDER COUNTY AMONG THOSE COUNTIES IN WHICH VACANCIES IN THE OFFICE OF SHERIFF ARE FILLED THROUGH CONSULTATION WITH THE POLITICAL PARTY OF THE PREVIOUS SHERIFF.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-406(a) reads as rewritten:

"(a) For purposes of this section, "federal law enforcement officer" means any of the following persons who are employed as full-time law enforcement officers by the federal government and

who are authorized to carry firearms in the performance of their duties:

- (1) United States Secret Service special agents;
- (2) Federal Bureau of Investigation special agents;
- (3) Bureau of Alcohol, Tobacco and Firearms special agents;
- (4) United States Naval Investigative Service special agents;
- (5) Drug Enforcement Administration special agents;
- (6) United States Customs Service officers;
- (7) United States Postal Service inspectors;
- (8) Internal Revenue Service special agents;
- (9) United States Marshals Service marshals and deputies;
- (10) United States Forest Service officers;
- (11) National Park Service officers;
- (12) United States Fish and Wildlife Service officers; ~~and~~
- (13) Immigration and Naturalization Service ~~officers~~officers; ~~and~~
- (14) Tennessee Valley Authority officers."

SECTION 2. G.S. 162-5.1 reads as rewritten:

"§ 162-5.1. *Vacancy filled in certain counties; duties performed by coroner or chief deputy.*

If any vacancy occurs in the office of sheriff, the coroner of the county shall execute all process directed to the sheriff until the board shall elect a sheriff to supply the vacancy for the residue of the term, who shall possess the same qualifications, enter into the same bond, and be subject to removal, as the sheriff regularly elected. If the sheriff were elected as a nominee of a political party, the board of commissioners shall consult the county executive committee of that political party before filling the vacancy, and shall elect the person recommended by the county executive committee of that party, if the party makes a recommendation within 30 days of the occurrence of the vacancy. If the board should fail to fill such vacancy, the coroner shall continue to discharge the duties of sheriff until it shall be filled.

In those counties where the office of coroner has been abolished, the chief deputy sheriff, or if there is no chief deputy, then the senior deputy in years of service, shall perform all the duties of the sheriff until the county commissioners appoint some person to fill the unexpired term. In all counties the regular deputy sheriffs shall, during the interim of the vacancy, continue to perform their duties with full authority.

This section shall apply only in the following counties: Alamance, Alexander, Alleghany, Avery, Beaufort, Brunswick, Buncombe, Burke, Cabarrus, Caldwell, Carteret, Cherokee, Clay, Cleveland, Davidson, Davie, Edgecombe, Forsyth, Gaston, Graham, Guilford, Haywood, Henderson, Hyde, Jackson, Lincoln, Madison, McDowell,

Mecklenburg, Moore, New Hanover, Onslow, Pender, Polk, Randolph, Rockingham, Rutherford, Sampson, Stanly, Stokes, Transylvania, Wake, and Yancey."

SECTION 3. Section 1 of this act becomes effective October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2001.

Became law upon approval of the Governor at 12:36 p.m. on the 29th day of June, 2001.

H.B. 109

SESSION LAW 2001-258

AN ACT TO AUTHORIZE REIMBURSEMENT FOR LICENSED MARRIAGE AND FAMILY THERAPISTS UNDER THE STATE HEALTH PLAN FOR THE TREATMENT OF MENTAL HEALTH AND CHEMICAL DEPENDENCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-40.7B reads as rewritten:

"§ 135-40.7B. *Special provisions for chemical dependency and mental health benefits.*

(a) Except as otherwise provided in this section, benefits for the treatment of mental illness and chemical dependency are covered by the Plan and shall be subject to the same deductibles, durational limits, and coinsurance factors as are benefits for physical illness generally.

(b) Notwithstanding any other provision of this Part, the following necessary services for the care and treatment of chemical dependency and mental illness shall be covered under this section: allowable institutional and professional charges for inpatient care, outpatient care, intensive outpatient program services, partial hospitalization treatment, and residential care and treatment:

(1) For mental illness treatment:

- a. Licensed psychiatric hospitals;
- b. Licensed psychiatric beds in licensed general hospitals;
- c. Licensed residential treatment facilities;
- d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
- e. Licensed intensive outpatient treatment programs; and
- f. Licensed partial hospitalization programs.

(2) For chemical dependency treatment:

- a. Licensed chemical dependency units in licensed psychiatric hospitals;
- b. Licensed chemical dependency hospitals;
- c. Licensed chemical dependency treatment facilities;
- d. Area Mental Health, Developmental Disabilities, and Substance Abuse Authorities;
- e. Licensed intensive outpatient treatment programs;
- f. Licensed partial hospitalization programs; and
- g. Medical detoxification facilities or units.

(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

- (1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;
- (2) Licensed or certified doctors of psychology;
- (3) Certified clinical social workers;
- (3a) Licensed professional counselors;
- (4) Certified clinical specialists in psychiatric and mental health nursing;
- (4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- (5) Repealed by Session Laws 1997-512, s. 14.
- (6) Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology;
- (7), (8) Repealed by Session Laws 1997-512, s. 14.
- (9) Certified fee-based practicing pastoral counselors; ~~and~~
- (10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or ~~certified~~; ~~and~~
- (11) Licensed marriage and family therapists.

(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

- (1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient

treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:

- a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - g. Certified clinical social workers;
 - h. Certified clinical specialists in psychiatric and mental health nursing;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral counselors;
~~and~~
 - k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General ~~Statutes-Statutes; and~~
 - l. Licensed marriage and family therapists.
- (2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
- a. Licensed physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Psychological associates with a masters degree in psychology working under the employment and

- direct supervision of such physicians, psychologists, or psychiatrists;
- f. Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
 - g. Certified clinical social workers;
 - h. Certified clinical specialists in psychiatric and mental health nursing;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral counselors;
 1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; ~~and~~
 - j.l. Licensed marriage and family therapists; and
 - k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:
 1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and
 2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
 3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

(d) Benefits provided under this section shall be subject to a case management program for medical necessity and medical appropriateness consisting of (i) precertification of outpatient visits beyond 26 visits each Plan year, (ii) all electroconvulsive treatment, (iii) inpatient utilization review through preadmission and length-of-stay certification for nonemergency admissions to the following levels of care: inpatient units, partial hospitalization programs, residential treatment centers, chemical dependency detoxification and treatment programs, and intensive outpatient programs, (iv) length-of-stay certification of emergency inpatient admissions, and (v) a network of qualified, available providers of inpatient and outpatient psychiatric and chemical dependency treatment. Care which is not both medically necessary and medically

appropriate will be noncertified, and benefits will be denied. Where qualified preferred providers of inpatient and outpatient care are reasonably available, use of providers outside of the preferred network shall be subject to a twenty percent (20%) coinsurance rate up to five thousand dollars (\$5,000) per fiscal year to be assessed against each covered individual in addition to the general coinsurance percentage and maximum fiscal year amount specified by G.S. 135-40.4 and G.S. 135-40.6.

(e) For the purpose of this section, 'emergency' is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of an immediate psychiatric or chemical dependency inpatient admission, could imminently result in injury or danger to self or others."

SECTION 2. This act becomes effective October 1, 2001, and applies to claims for payment or reimbursement for services rendered on or after that date.

In the General Assembly read three times and ratified this the 21st day of June, 2001.

Became law upon approval of the Governor at 12:37 p.m. on the 29th day of June, 2001.

H.B. 1342**SESSION LAW 2001-259**

AN ACT TO PROVIDE FOR TIME LIMITS FOR NOTIFICATION OF LEASED VEHICLE PARKING VIOLATIONS AND THE APPLICABILITY OF THE PRIMA FACIE RULE OF EVIDENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-162.1(b) reads as rewritten:

"(b) The prima facie rule of evidence established by subsection (a) shall not apply to the registered owner of a leased or rented vehicle parked in violation of law when ~~said the~~ owner can furnish sworn evidence that the vehicle was, at the time of the parking violation, leased or rented, to another ~~person, person or company.~~ In such those instances, the owner of the vehicle shall, within a reasonable time after notification of the parking violation, shall furnish sworn evidence to the courts the name and address of the person or company who leased or rented the vehicle, within 30 days after notification of the violation in accordance with this subsection.

If the notification is given to the owner of the vehicle within 90 days after the date of the violation, the owner shall include in the sworn evidence the name and address of the person or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation,

the owner is not required to include the name or address of the lessee or renter of the vehicle in the sworn evidence."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of June, 2001.

Became law upon approval of the Governor at 12:37 p.m. on the 29th day of June, 2001.

S.B. 532 SESSION LAW 2001-260

AN ACT TO CLARIFY THE RIGHT TO APPEAL TO A LOCAL BOARD OF EDUCATION, AND TO REQUIRE NOTICE OF THE DISMISSAL, DEMOTION, OR SUSPENSION WITHOUT PAY OF NONCERTIFIED EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from ~~the~~ any final administrative decision ~~of all school personnel to the appropriate local board of education~~ in the following matters:

- (1) The discipline of a student under G.S. 115C-391(c), (d), (d1), (d2), or (d3);
- (2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;
- (3) The terms or conditions of employment or employment status of a school employee; and
- (4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all such appeals to the board it shall be the duty of the board of education to see that a proper notice is given to all parties

concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal shall lie from the decision of a local board of education to the superior court of the State in any action of a local board of education affecting one's character or right to teach. An appeal of right brought before a local board of education under subdivision (1), (2), (3), or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee."

SECTION 2. G.S. 115C-305 is repealed.

SECTION 3. This act becomes effective July 1, 2001, and applies to final administrative or school board decisions made on or after that date.

In the General Assembly read three times and ratified this the 26th day of June, 2001.

Became law upon approval of the Governor at 6:22 p.m. on the 29th day of June, 2001.

S.B. 408 SESSION LAW 2001-261

AN ACT TO ALLOW LARGE CITIES TO MAKE ROADWAY IMPROVEMENTS IN THEIR EXTRATERRITORIAL JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-296 reads as rewritten:
"§ 160A-296. *Establishment and control of streets; center and edge lines.*

(a) A city shall have general authority and control over all public streets, sidewalks, alleys, bridges, and other ways of public passage within its corporate limits except to the extent that authority and control over certain streets and bridges is vested in the Board of Transportation. General authority and control includes but is not limited to:

- (1) The duty to keep the public streets, sidewalks, alleys, and bridges in proper repair;
- (2) The duty to keep the public streets, sidewalks, alleys, and bridges open for travel and free from unnecessary obstructions;
- (3) The power to open new streets and alleys, and to widen, extend, pave, clean, and otherwise improve existing streets, sidewalks, alleys, and bridges, and to acquire the necessary land therefor by dedication and acceptance, purchase, or eminent domain;
- (4) The power to close any street or alley either permanently or temporarily;
- (5) The power to regulate the use of the public streets, sidewalks, alleys, and bridges;
- (6) The power to regulate, license, and prohibit digging in the streets, sidewalks, or alleys, or placing therein or thereon any pipes, poles, wires, fixtures, or appliances of any kind either on, above, or below the surface;
- (7) The power to provide for lighting the streets, alleys, and bridges of the city; and
- (8) The power to grant easements in street rights-of-way as permitted by G.S. 160A-273.

(a1) A city with a population of 250,000 or over according to the most recent decennial federal census may also exercise the power granted by subdivision (a)(3) of this section within its extraterritorial planning jurisdiction. Before a city makes improvements under this subsection, it shall enter into a memorandum of understanding with the Department of Transportation to provide for maintenance.

(b) Repealed by Session Laws 1991, c. 530, s. 6."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 10:53 a.m. on the 4th day of July, 2001.

S.B. 823

SESSION LAW 2001-262

AN ACT TO PROMOTE THE NORTH CAROLINA GRAPE AND WINE INDUSTRY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1001 reads as rewritten:

"§ 18B-1001. *Kinds of ABC permits; places eligible.*

When the issuance of the permit is lawful in the jurisdiction in which the premises ~~is~~are located, the Commission may issue the following kinds of permits:

...

(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings on the premises conducted and supervised by the permittee. A wine tasting consists of the offering of a sample of one or more unfortified wine products, in amounts of no more than one ounce for each sample, without charge, to customers of the business. Representatives of the winery, which produced the wine, or the grape grower may assist with the tastings in a manner consistent with existing law. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of wine, and that the tastings are not used by industry members for unlawful inducements to retail permit holders, and do not violate existing rules. Except for purposes of this subsection, the holder of a wine-tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a wine-tasting permit."

SECTION 2. G.S. 18B-1101 reads as rewritten:

"§ 18B-1101. *Authorization of unfortified winery permit.*

The holder of an unfortified winery permit may:

- (1) Manufacture unfortified wine;
- (2) Sell, deliver and ship unfortified wine in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that wine may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;
- (2a) Receive, in closed containers, unfortified wine produced outside North Carolina under the winery's label from grapes owned by the winery, and sell, deliver, and ship that wine to wholesalers, exporters, and nonresident wholesalers in the same manner as its wine manufactured in North Carolina. This provision may be used only by a winery during its first three years of operation or when there is substantial damage to its grapes from catastrophic grape crop loss. This provision may be used only three years out of every 10 years and

notice must be given to the Commission each time this provision is used;

- (3) Ship its wine in closed containers to individual purchasers inside and outside this State;
- (4) Furnish or sell "short-filled" packages, on which State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;
- (5) Regardless of the results of any local wine election, sell the ~~winery's~~ wine owned by the winery at the winery for on- or off-premise consumption upon obtaining the appropriate permit under ~~G.S. 18B-1001~~. G.S. 18B-1001;
- (6) Sell the wine owned by the winery for on- or off-premise consumption at no more than three other locations in the State, upon obtaining the appropriate permit under G.S. 18B-1001; and
- (7) Obtain a wine wholesaler permit to sell, deliver, and ship at wholesale unfortified wine manufactured at the winery. The authorization of this subdivision applies only to a winery that annually sells, to persons other than exporters and nonresident wholesalers when the purchase is not for resale in this State, no more than 300,000 gallons of unfortified wine manufactured by it at the winery.

A sale under subdivision (4) shall not be considered a retail or wholesale sale under the ABC laws."

SECTION 3. G.S. 18B-1114.1(a) reads as rewritten:

"(a) Authorization. – The holder of an unfortified winery, ~~or a limited winery permit~~ permit, or a wine grower may obtain a winery special event ~~permit. The holder of a winery special event permit may:~~

- (1) ~~Give permit allowing the winery to give free tastings of its wine~~ wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.
- (2) ~~Sell its products in closed containers at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund raisers, and other similar events approved by the Commission."~~

SECTION 4. Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1114.3. Authorization of wine grower permit.

- (a) Authorization. – The holder of a wine grower permit may:
- (1) Ship grapes grown on land owned by it in North Carolina to a winery, inside or outside the State, for the manufacture and bottling of unfortified wine from those grapes and may receive that wine back in closed containers.
 - (2) Sell, deliver, and ship the unfortified wine manufactured from its grapes in closed containers to wholesalers and retailers licensed under this Chapter as authorized by the ABC laws and also sell to exporters and nonresident wholesalers when the purchase is not for resale in this State.
 - (3) Regardless of the results of any local wine election, sell the wine manufactured from its grapes for on- or off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

(b) Limitation on Sales. – The holder of a wine grower permit may not sell, in total, annually, more than 20,000 gallons of wine manufactured off its premises from grapes it has grown."

SECTION 5. G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt beverages, other than draft malt beverages in kegs;
- (2) Any amount of draft malt beverages in kegs;
- (3) Not more than ~~20~~50 liters of unfortified wine;
- (4) Not more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined."

SECTION 6. G.S. 18B-902(d) is amended by adding a new subdivision to read:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(34) Wine grower permit – \$300.00.

(35) Wine tasting permit – \$100.00."

SECTION 7. G.S. 18B-1000 is amended by adding a new subdivision to read:

"§ 18B-1000. *Definitions concerning establishments.*

The following requirements and definitions shall apply to this Chapter:

...

- (10) Wine grower. – A farming establishment of at least five acres committed to the production of grapes for the manufacture of unfortified wine."

SECTION 8. G.S. 18B-1100 is amended by adding a new subdivision to read:

"(19) Wine grower permit."

SECTION 9. G.S. 18B-1002(a)(5) reads as rewritten:

"(5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit will also allow the issuance of a purchase-transportation permit under G.S. 18B-403 and 18B-404 and the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed beverages."

SECTION 10. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of June, 2001.

Became law upon approval of the Governor at 10:54 a.m. on the 4th day of July, 2001.

S.B. 860

SESSION LAW 2001-263

AN ACT TO AUTHORIZE THE CHARTERING OF INDEPENDENT TRUST COMPANIES, TO PERMIT BANKS AND TRUST COMPANIES TO CONDUCT TRUST BUSINESS ON AN INTERSTATE BASIS, AND TO MODIFY THE RESIDENCY REQUIREMENTS FOR A BANK'S BOARD OF DIRECTORS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 53 of the General Statutes is amended by adding a new Article to read:

"Article 24.

"Trust Companies and Interstate Trust Business.

"Part 1. Definitions.

"§ 53-301. Definitions.

(a) Except as otherwise provided in this Article, or when the context clearly indicates that a different meaning is intended, the following definitions shall apply throughout this Article:

- (1) 'Account' means the client relationship established with a trust institution involving the transfer of real or personal property to the trust institution or the assumption of duties by the trust institution concerning real or personal property.
- (2) 'Act as a fiduciary' means:
 - a. To (i) act as trustee under a written instrument or by judicial appointment or order; (ii) receive money or other property as trustee for investment or reinvestment in real or personal property; (iii) act as custodian or custodial trustee under a gifts to minors act, a transfers to minors act, a custodial trust act, or similar statute; (iv) act as personal representative of the estate of a deceased person; (v) act as trustee, guardian, or conservator for the person or estate of an incompetent such as a minor or incapacitated person, or in other circumstances in which a guardian may be appointed; or (vi) act in a capacity similar to one listed in (i) through (v), however such capacity may be designated under applicable law or governing instrument; or
 - b. To possess, purchase, sell, safekeep, or otherwise manage or administer property in any other fiduciary capacity.
- (3) 'Affiliate' means a company that directly or indirectly controls, is controlled by, or is under common control with another company.
- (4) 'Authorized trust institution' means any State trust company and any trust office or representative trust office of a trust institution located in this State that is not a bank.
- (5) 'Bank' has the meaning set forth in 12 U.S.C. § 1813(a)(1), except that 'bank' does not include a trust company.
- (6) 'Bank supervisory agency' means:

- a. Any agency of another state or a home country with primary responsibility for chartering or supervising a trust institution; and
 - b. The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank acting in a supervisory capacity over any bank or bank holding company, the Office of Thrift Supervision, and any successor to these agencies.
- (7) 'Branch' has the meaning set forth in G.S. 53-1(1a).
- (8) 'Charter' means a charter issued to a State trust company by the Commissioner or a charter, license, or other authority issued by the Commissioner or a bank supervisory agency authorizing a trust institution to act as a fiduciary in its home state or home country, and the issuance of the charter, license, or other authority.
- (9) 'Client' means a person to whom a trust institution owes a duty or obligation under an account.
- (10) 'Commission' means the North Carolina State Banking Commission.
- (11) 'Commissioner' means the Commissioner of Banks for the State of North Carolina.
- (12) 'Company' includes a bank, trust company, corporation, partnership, association, limited liability company, trust, business trust, joint venture, foundation, pool, syndicate, unincorporated organization, or other form of entity not specifically listed herein.
- (13) 'Control,' with respect to a State trust company, means:
- a. The ownership of or ability or power to vote directly, acting through one or more other persons, or otherwise indirectly, ten percent (10%) or more of the outstanding shares of a class of voting securities of the State trust company;
 - b. The ability to control, directly or indirectly, the election of a majority of the board of the State trust company; or
 - c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the State trust company.
- (14) 'Debt security' means a marketable obligation evidencing indebtedness of a company in the form of a bond, note, debenture, or other debt instrument.

- (15) 'Depository institution' means any company within any of the definitions of "insured depository institution" set forth in 12 U.S.C. § 1813(c).
- (16) 'Equity capital' means the amount by which the total assets of a State trust company exceed its total liabilities.
- (17) 'Equity security' means:
- a. Stock, other than adjustable rate preferred stock and money market (auction rate) preferred stock;
 - b. A certificate of interest or participation in a profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, or voting-trust certificate;
 - c. A security immediately convertible at the option of the holder without payment of significant additional consideration into a security described by this subdivision;
 - d. A security carrying a warrant or right to subscribe to or purchase a security described by this subdivision; and
 - e. A certificate of interest or participation in, temporary or interim certificate for, or receipt for a security described by this subdivision that evidences an existing or contingent equity ownership interest.
- (18) 'Executive officer' means an officer of a company who is named an executive officer by the company or who participates in major policy-making functions of the company.
- (19) 'Federally chartered savings association' means a company described in 12 U.S.C. § 1813(b)(2).
- (20) 'Fiduciary record' means a matter written, transcribed, recorded, received, or otherwise in the possession or control of a trust institution, whether in physical, electronic, magnetic, or other form, that preserves information concerning an account or a client.
- (21) 'Foreign bank' means a foreign bank, as defined in 12 U.S.C. § 1813(s)(1), except for a bank organized under the laws of a territory of the United States.
- (22) 'Foreign trust institution' means a trust institution, other than a foreign bank, chartered in a foreign country.
- (23) 'Hazardous condition' with respect to a trust institution means:
- a. A refusal by the trust institution to permit examination of its books, papers, accounts, records,

or affairs by the Commissioner or a duly appointed or authorized examiner of the Commissioner, or a refusal by the officers or directors of a trust institution to be examined under oath regarding its affairs;

- b. A material violation by a trust institution of a condition of its chartering or an agreement entered into between the trust institution and the Commissioner; or
- c. A circumstance or condition in which an unreasonable risk of loss is threatened to clients, creditors, or shareholders of a trust institution because the trust institution:
 - 1. Has equity capital that is, or is in substantial danger of becoming, inadequate for the safe and sound conduct of its business without regard to whether it is, or is in substantial danger of becoming, insolvent;
 - 2. Has concentrated an excessive or unreasonable portion of its assets in a particular type or character of investment;
 - 3. Violates or fails to comply with this Article, another statute or rule applicable to trust institutions, or any duly issued order of the Commissioner;
 - 4. Is in a condition that renders the continuation of a particular business practice hazardous to its clients, creditors, or shareholders; or
 - 5. Conducts business in an unsafe or unsound manner, which includes conducting business with:
 - I. Materially inexperienced or inattentive management;
 - II. Dangerous operating practices;
 - III. Materially infrequent or inadequate audits;
 - IV. Materially deficient administration of assets in relation to the volume and character of the assets it administers or the trust institution's responsibility for such assets;
 - V. Materially frequent or serious failures to adhere to sound administrative practices;

VI. Materially frequent or serious violations of applicable laws, rules, or terms of instruments governing accounts; or

VII. Materially serious self-dealing or conflicts of interest.

- (24) 'Home country' means a foreign country in which a foreign trust institution is chartered.
- (25) 'Home country regulator' means the bank supervisory agency with primary responsibility for chartering and supervising a foreign trust institution.
- (26) 'Home state' means:
- a. With respect to a federally chartered savings association and a national bank, the state in which the institution maintains its principal office;
 - b. With respect to a foreign bank, the home state of the foreign bank as determined in accordance with the International Banking Act of 1978, 12 U.S.C. §§ 3101, et seq., and Article 18A of this Chapter or, if there is no such home state, the state in which the foreign bank maintains its principal office in the United States; and
 - c. With respect to any other trust institution, the state or home country which chartered the institution.
- (27) 'Home state regulator' means the bank supervisory agency with primary responsibility for chartering and supervising an out-of-state trust institution.
- (28) 'Host state' means a state other than the home state of a trust institution, or a foreign country, in which the trust institution maintains or seeks to establish or acquire and maintain a trust office or representative trust office.
- (29) 'Initial capital' means the amount of equity capital required for approval of a charter pursuant to G.S. 53-337.
- (30) 'Insolvent,' with respect to a State trust company, means a circumstance or condition in which a State trust company:
- a. Is unable or lacks the means to meet its current obligations as they come due in the regular and ordinary course of business, without regard to whether its assets exceed its liabilities;
 - b. Has equity capital less than one-fourth of its initial capital, except as otherwise specified by the Commissioner; or
 - c. Has purported to make a voluntary assignment of its assets for the benefit of creditors or to take any

- action for protection against creditors under any bankruptcy or insolvency law.
- (31) 'Jeopardized' means insolvent, in a hazardous condition, or in such other condition as the Commissioner determines warrants the use of procedures set forth in this Article relating to jeopardized State trust companies.
- (32) 'License', with respect to a State trust company, means the authority granted by the Commissioner pursuant to G.S. 53-160.
- (33) 'National bank' means a bank chartered under 12 U.S.C. § 21.
- (34) 'Office' with respect to a trust institution means its principal office, a trust office, or a representative trust office, but not a branch.
- (35) 'Out-of-state trust institution' means a trust institution that is neither a State trust institution nor a foreign trust institution.
- (36) 'Person' means an individual or a company.
- (37) 'Principal office' means:
- a. With respect to a State trust company, a location, registered with the Commissioner as the State trust company's principal office, at which:
 1. The State trust company does business; and
 2. At least one executive officer of the State trust company maintains a customary place of work; and
 - b. With respect to a trust institution other than a State trust company, its principal place of business.
- (38) 'Principal shareholder' means a person who owns or has the ability or power to vote, directly, acting through one or more other persons, or otherwise indirectly, ten percent (10%) or more of the outstanding shares of any class of voting securities of a company.
- (39) 'Private trust company' means a State trust company that is organized to engage in business with one or more family members and does not transact business with the general public, as defined in G.S. 53-363.
- (40) 'Representative trust office' means an office at which a trust institution engages in trust marketing, but not trust business.
- (41) 'Savings association' has the meaning set forth in 12 U.S.C. § 1813(b)(1).
- (42) 'State' means any state of the United States, the District of Columbia, and any territory of the United States.
- (43) 'State bank' means:

- a. A bank organized under the provisions of this Chapter and authorized to act as a fiduciary by this State or
 - b. A foreign bank lawfully doing business in this State pursuant to Article 18A of this Chapter.
- (44) 'State savings association' means a savings association organized under the laws of this State and authorized to act as a fiduciary pursuant to Chapter 54B or Chapter 54C of the General Statutes.
- (45) 'State trust company' means a corporation organized under the provisions of this Article and a trust company previously organized under other provisions of Chapter 53 of the General Statutes to operate only as a trust company and not as a commercial bank.
- (46) 'State trust company facility' has the meaning set forth in G.S. 53-340.
- (47) 'State trust institution' means a trust institution organized under the laws of, or having its principal office in, this State.
- (48) 'Subsidiary' means a company that is controlled by another company, and includes a subsidiary of a subsidiary.
- (49) 'Territory of the United States' means any geographic area over which the United States exercises sovereignty.
- (50) 'Trust business' means acting as a fiduciary or in other capacities permissible for a trust institution under G.S. 53-331.
- (51) 'Trust company' means a trust institution that is neither a depository institution nor a foreign bank.
- (52) 'Trust institution' means any company lawfully acting as a fiduciary in a state or in a foreign country.
- (53) 'Trust office' means an office, other than the principal office, at which a trust institution acts as a fiduciary.
- (54) 'Trust marketing' means the holding out by a company to the public by advertising, solicitation, or other means that the company is available to act as a fiduciary.
- (55) 'Unauthorized trust activity' means:
- a. Engaging in trust business within this State by a company other than one identified in G.S. 53-303;
or
 - b. Maintenance of a representative trust office by an out-of-state trust institution without approval from or in violation of an order issued by the Commissioner.

(b) These definitions shall be liberally construed to accomplish the purposes of this Article. The Commission may adopt other definitions to accomplish the purposes of this Article.

(c) References to statutory laws of North Carolina and of the United States of America shall be deemed to refer to recodified, amended, predecessor, or successor statutes. References to agencies of North Carolina and of the United States of America shall be deemed to refer to predecessor or successor agencies.

"Part 2. Multistate Trust Institutions Act.

"Subpart A. General.

"§ 53-302. Title and purposes.

(a) This Part may be cited as the Multistate Trust Institutions Act.

(b) It is the express intent of this Part to permit trust institutions to engage in trust business on a multistate and international basis subject to the provisions of this Part.

"Subpart B. Companies Authorized to Engage in Trust Business.

"§ 53-303. Companies authorized to engage in trust business.

(a) No company shall engage in trust business in this State except:

- (1) A State trust company;
- (2) A State bank;
- (3) A State savings association;
- (4) A national bank having its principal office in this State;
- (5) A federally chartered savings association having its principal office in this State;
- (6) An out-of-state trust institution in accordance with and subject to the provisions of Subpart D of this Part;
- (7) A foreign trust institution in accordance with and subject to the provisions of Subpart E of this Part; or
- (8) A company otherwise authorized to engage in trust business or to act in a particular capacity described in G.S. 53-331(b)(2) under the laws of this State or of the United States.

(b) No company shall engage in unauthorized trust activity, and all companies shall engage in trust business in accordance with and subject to all applicable laws of this State.

"§ 53-304. Activities not requiring a charter, license, or approval.

Notwithstanding any other provision of this Article, a company does not act as a fiduciary; engage in trust business or in any other business requiring a charter, license, or approval under the provisions of this Chapter; or engage in unauthorized trust activity by:

- (1) Acting in a manner authorized by law as an agent of a trust institution with respect to any activity that is not unauthorized trust activity;

- (2) Rendering legal services in a manner authorized by the North Carolina State Bar;
- (3) Acting as trustee under a deed of trust delivered only as security for the payment of money or for the performance of another act;
- (4) Receiving and distributing rents and proceeds of sales of real property in a manner authorized by the North Carolina Real Estate Commission;
- (5) Engaging in securities transactions or providing investment advisory services in accordance with applicable securities laws;
- (6) Engaging in the issuance, sale, or administration of an insurance or annuity product in a manner authorized by the North Carolina Department of Insurance;
- (7) Engaging in the lawful sale of prepaid funeral benefits in accordance with and subject to Article 13D of Chapter 90 of the General Statutes or engaging in the lawful business of a perpetual care cemetery corporation in accordance with and subject to Chapter 65 of the General Statutes;
- (8) Acting as trustee under a voting trust;
- (9) Acting as fiduciary by an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c) of the Internal Revenue Code of 1986, as amended, with respect to endowment funds or other funds owned, controlled, provided to, or otherwise made available to the organization with respect to its exempt purposes (including, without limitation, trust funds in which the organization has a beneficial interest).
- (10) Engaging in other activities expressly excluded from the application of this Article by rule, order, or declaratory ruling of the Commissioner;
- (11) Rendering services as a certified public accountant in a manner authorized by the North Carolina State Board of Certified Public Accountant Examiners;
- (12) Provided the company is a trust institution and is not barred by order of the Commissioner from engaging in trust marketing in this State pursuant to G.S. 53-321(b), (i) marketing or soliciting in this State with respect to acting as a fiduciary outside this State; (ii) delivering money or other intangible assets to, and receiving money or other intangible assets for administration outside this State from, a person in this State; or (iii) accepting an account outside this State or otherwise engaging in trust business outside this State; or

- (13) Receiving, holding, administering, or distributing real or personal property for or on behalf of another person solely incidental to a lawfully conducted activity or transaction.

"§ 53-305. Trust business of State trust institution.

A State trust institution may conduct any activities outside this State that are permissible for a trust institution in the host state, subject to the laws of this State and, in the case of a State bank or a State trust company, subject to rules, orders, or declaratory rulings of the Commissioner.

"§ 53-306. Trust business of out-of-state trust institution.

An out-of-state trust institution that establishes or acquires and maintains one or more trust offices or representative trust offices in this State under the provisions of this Part or that maintains one or more branches in this State may, subject to the provisions of this Part, conduct any activity at such a trust office, representative trust office, or branch that a State trust company or a State bank is authorized to conduct at a trust office, representative trust office, or branch under the laws of this State.

"§ 53-307. Trust business of foreign trust institution.

A foreign trust institution that establishes or acquires and maintains one or more trust offices in this State under the provisions of this Part may, subject to the provisions of this Part, also establish or acquire one or more representative trust offices and conduct any activity at the trust offices or representative trust offices that a State trust company is authorized to conduct at trust offices or representative trust offices under the laws of this State.

"§ 53-308. Name of trust institution.

Subject to other provisions of applicable law, a person may register or reserve any name with the Secretary of State in connection with engaging or proposing to engage in trust business or trust marketing in this State, except that the Commissioner may determine that a name registered or reserved is potentially misleading to the public and require the use of a name that is not potentially misleading.

"§ 53-309. Trust deposits of authorized trust institutions.

(a) Subsection (b) of G.S. 36A-63 shall not apply to an authorized trust institution.

(b) In the absence of a contrary provision in an instrument governing an account, an authorized trust institution may deposit client funds with itself to satisfy its duties under G.S. 36A-63(a) provided:

- (1) It maintains, as collateral for the deposits, a separate fund of readily marketable commercial bonds having not less than a recognized "A" rating equal to one hundred

and twenty-five percent (125%) of the funds so deposited;

- (2) The separate fund is designated as such; and
- (3) The separate fund either is maintained under the control of another trust institution, a bank, or a government agency, or is held by the authorized trust institution for the benefit of the accounts with deposits secured by the separate fund; provided, that the Commissioner may require such a separate fund of an authorized trust institution that is insolvent, in a hazardous condition, or jeopardized, to be held by a separate trust institution or bank approved by the Commissioner.

(c) An authorized trust institution may make periodic withdrawals from or additions to the separate fund required by subsection (b) of this section as long as the required value is maintained. Income from the separate fund belongs to the authorized trust institution.

(d) Collateral is not required for a deposit under subsection (b) of this section to the extent the deposit is insured by the Federal Deposit Insurance Corporation.

"Subpart C. State Trust Company Trust Offices and Representative Trust Offices.

"§ 53-310. Offices of State trust companies.

(a) A State trust company may engage in trust business or trust marketing at its principal office and at each trust office as permitted by this Part.

(b) A State trust company may engage in trust marketing at a representative trust office as permitted by this Part.

(c) A State trust company may engage in trust business and trust marketing in out-of-state trust offices or representative trust offices to the same extent permitted for trust institutions located in the host state in which those out-of-state trust offices or representative trust offices are located, subject to the laws of this State and as provided by rules, orders, or declaratory rulings of the Commissioner.

"§ 53-311. State trust company principal office.

(a) Each State trust company is required to maintain a principal office in this State and to register that principal office with the Commissioner by setting forth the current street address and telephone number of the principal office.

(b) Each executive officer at a principal office is an agent of the State trust company for service of process.

(c) Before changing the location of its principal office, a State trust company shall file a notice with the Commissioner setting forth the name of the State trust company, the current street address and telephone number of its principal office, the street address, and

telephone number if known, of the proposed new principal office, and a copy of the resolution adopted by the board of directors or duly authorized committee of the board of directors of the State trust company authorizing the change. If the State trust company is unable to provide the Commissioner with the telephone number for the proposed new principal office at the time of the notice, it shall do so immediately after beginning to operate at the new principal office location.

(d) The change of principal office shall take effect on the thirty-first day following the date the Commissioner receives the notice described in subsection (c) of this section, unless prior to the thirty-first day following receipt of the notice, the Commissioner (i) establishes an earlier or later date, or (ii) notifies the State trust company that the notice raises issues that require additional information or additional time for analysis, or (iii) disapproves the proposed trust office or representative trust office.

(e) If the Commissioner gives a notification described in subsection (d) of this section, the State trust company may change the location of its principal office only on approval by the Commissioner. The Commissioner may disapprove the change of location if the Commissioner finds that the change will adversely affect the safe and sound operation of the State trust company.

"§ 53-312. Trust offices; representative trust offices.

(a) Before establishing or acquiring and maintaining a trust office or representative trust office in this State, a State trust company shall file a notice with the Commissioner, in the form required by the Commissioner, setting forth the name of the State trust company, the location of the proposed trust office or representative trust office, and whether the office will be a trust office or a representative trust office. The State trust company also shall furnish a copy of the resolution adopted by the board of directors or duly authorized committee of the board of directors of the State trust company authorizing the trust office or representative trust office and shall pay the filing fee, if any, set by rule.

(b) The State trust company may commence business at the trust office or representative trust office on the thirty-first day after the date the Commissioner receives the notice, unless the Commissioner (i) establishes an earlier or later date; (ii) notifies the State trust company that the notice raises issues that require additional information or additional time for analysis; or (iii) disapproves the proposed trust office or representative trust office.

(c) If the Commissioner gives a notification described in subsection (b) of this section, the State trust company may establish the trust office or representative trust office only on approval by the Commissioner. The Commissioner may disapprove the proposed trust

office or representative trust office if the Commissioner finds that the State trust company lacks sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness.

"§ 53-313. Out-of-state trust offices and representative trust offices.

(a) Before establishing or acquiring and maintaining a trust office or representative trust office in a host state, a State trust company shall file a notice with the Commissioner, in the form required by the Commissioner, that sets forth the name of the State trust company, the location of the proposed trust office or representative trust office, whether the office will be a trust office or a representative trust office, and whether the laws of the host state permit the trust office or representative trust office to be maintained by the State trust company. The State trust company also shall furnish a copy of the resolution adopted by the board of directors or duly authorized committee of the board of directors of the State trust company authorizing the out-of-state trust office or representative trust office and shall pay the filing fee, if any, set by rule.

(b) The State trust company may commence business at the trust office or representative trust office on the thirty-first day following the date the Commissioner receives the notice, unless the Commissioner (i) establishes an earlier or later date; (ii) notifies the State trust company that the notice raises issues that require additional information or additional time for analysis; or (iii) disapproves the proposed trust office or representative trust office.

(c) If the Commissioner gives a notification described in subsection (b) of this section, the State trust company may establish the trust office or representative trust office only on approval by the Commissioner. The Commissioner may disapprove the proposed trust office or representative trust office if the Commissioner finds that the State trust company lacks sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness.

"Subpart D. Out-of-State Trust Institution Trust Offices and Representative Trust Offices.

"§ 53-314. Trust business at a branch or trust office.

An out-of-state trust institution may engage in trust business in this State only if it (i) maintains a trust office in this State as permitted by this Subpart, (ii) was allowed to maintain a trust office in this State under laws, or rules or orders of the Commissioner in effect prior to the date of enactment of this Article, but only to the extent allowed and subject to all limitations and conditions imposed under those laws, rules, or orders, or (iii) is a depository institution that maintains a branch in this State.

"§ 53-315. Establishing an interstate trust office.

An out-of-state trust institution that obtains approval from the Commissioner in accordance with the provisions of this Subpart may establish and maintain a trust office in this State; provided that the Commissioner shall not grant that approval unless the home state of the out-of-state trust institution permits a State trust institution to establish and maintain a trust office in that home state under restrictions not materially greater than those imposed by this Article.

"§ 53-316. Acquiring an interstate trust office.

An out-of-state trust institution that obtains approval from the Commissioner in accordance with the provisions of this Subpart may acquire and maintain a trust office in this State; provided that the Commissioner shall not grant that approval unless the home state of the out-of-state trust institution permits a State trust institution to acquire and maintain a trust office in that home state under restrictions not materially greater than those imposed by this Article.

"§ 53-317. Requirement of notice.

Before establishing or acquiring and maintaining a trust office in this State, an out-of-state trust institution shall provide, or cause its home state regulator to provide, notice to the Commissioner, in the form required by the Commissioner, along with copies of any applications, notices, or similar filings made with the home state regulator regarding the trust office. The notice shall be preceded or accompanied by:

- (1) Evidence satisfactory to the Commissioner of compliance by the out-of-state trust institution with any applicable requirements of Article 15 of Chapter 55 of the General Statutes;
- (2) Evidence satisfactory to the Commissioner of compliance by the out-of-state trust institution with any applicable requirements of its home state regulator for maintenance of capital, for expansion within the borders of the home state, and for acquiring or establishing and maintaining each trust office in this State;
- (3) Evidence satisfactory to the Commissioner that the out-of-state trust institution is not in a hazardous condition;
- (4) A copy of the resolution adopted by the board of directors of the out-of-state trust institution (or similar governing body or a duly-authorized committee thereof) authorizing the trust office; and
- (5) Payment of any fee set by rule.

"§ 53-318. Action on notice.

(a) The out-of-state trust institution may commence business in this State at the trust office on the sixty-first day following the date

the Commissioner receives the notice described in G.S. 53-317 unless the Commissioner, within 60 days of receiving the notice:

- (1) Specifies an earlier or later date for commencing business,
- (2) Extends the period of review on a determination that the notice raises issues that require additional information or additional time for analysis; or
- (3) Disapproves the proposed trust office.

(b) If the Commissioner gives a notification described in subdivision (2) of subsection (a) of this section, the out-of-state trust institution may establish the trust office only on approval by the Commissioner. The Commissioner may disapprove the proposed trust office if the Commissioner finds that the out-of-state trust institution lacks sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the requirements of G.S. 53-315 or G.S. 53-316 have not been satisfied.

"§ 53-319. Additional trust offices; representative trust offices.

(a) An out-of-state trust institution that maintains a trust office in this State may establish or acquire and maintain additional trust offices or one or more representative trust offices in this State to the same extent that a State trust institution may establish or acquire and maintain trust offices or representative trust offices in this State and shall follow the procedures for establishing or acquiring and maintaining trust offices or representative trust offices set forth in G.S. 53-312.

(b) An out-of-state trust institution that does not maintain a trust office in this State shall file a notice with the Commissioner, in the form required by the Commissioner, before establishing or acquiring a representative trust office in this State. The notice shall be preceded or accompanied by:

- (1) Evidence satisfactory to the Commissioner of compliance by the out-of-state trust institution with any applicable requirements of Article 15 of Chapter 55 of the General Statutes;
- (2) Evidence satisfactory to the Commissioner of compliance by the out-of-state trust institution with any applicable requirements of its home state regulator for maintenance of capital, for expansion within the borders of the home state, and for acquiring or establishing and maintaining each representative trust office in this State;
- (3) Evidence satisfactory to the Commissioner that the out-of-state trust institution is not in a hazardous condition;
- (4) A copy of the resolution adopted by the board of directors of the out-of-state trust institution (or similar

governing body or a duly authorized committee thereof authorizing the representative trust office;

- (5) The proposed location of each proposed representative trust office; and
- (6) Payment of any fee set by rule.

(c) The out-of-state trust institution may commence business at the representative trust office on the thirty-first day following the date the Commissioner receives the notice described in subsection (b) of this section, unless the Commissioner, within 30 days of receiving the notice:

- (1) Specifies an earlier or later date for commencing business;
- (2) Extends the period of review on a determination that the notice raises issues that require additional information or additional time for analysis; or
- (3) Disapproves the proposed representative trust office.

(d) If the Commissioner gives a notification described in subdivision (2) of subsection (c) of this section, the out-of-state trust institution may commence business at the representative trust office only on approval by the Commissioner. The Commissioner may disapprove the representative trust office if the Commissioner finds that the out-of-state trust institution lacks sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the requirements of G.S. 53-315 or G.S. 53-316 have not been satisfied.

(e) An out-of-state trust institution that was allowed to maintain a representative trust office in this State under laws, or rules or orders of the Commissioner in effect prior to the effective date of this Article may continue to do so, but only to the extent allowed and subject to all limitations and conditions imposed under those laws, rules, or orders.

"§ 53-320. Examinations; periodic reports; cooperative agreements; assessment of fees.

(a) The Commissioner may examine any trust office or representative trust office maintained in this State by an out-of-state trust institution to determine whether the trust office or representative trust office is being operated in compliance with the laws of this State and in accordance with safe and sound practices. The pertinent provisions of Part 4 of this Article shall apply to these examinations.

(b) The Commissioner may require periodic reports regarding any out-of-state trust institution that maintains a trust office or representative trust office in this State pursuant to this Subpart. The required reports shall be provided by the trust institution or by the home state regulator. Any reporting requirements shall be (i) consistent, to the extent practicable, with the reporting requirements

applicable to State trust companies and (ii) appropriate for the purpose of enabling the Commissioner to carry out the Commissioner's responsibilities under the provisions of this Article. The pertinent provisions of Part 4 of this Article shall apply to these reports.

(c) The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with bank supervisory agencies, including agreements arranged by an organization composed of, affiliated with, or representing one or more bank supervisory agencies, with respect to the periodic supervision and examination of any trust office or representative trust office of an out-of-state trust institution in this State, or any trust office or representative trust office of a State trust institution in any host state. The Commissioner may accept and rely upon a report of examination and report of investigation of a bank supervisory agency in lieu of conducting a separate examination or investigation.

(d) The Commissioner may enter into agreements with any bank supervisory agency supervising (i) a State trust institution engaging in trust business outside this State or (ii) an out-of-state trust institution maintaining a trust office or representative trust office in this State to engage the services of the agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this subsection.

(e) The Commissioner may enter into joint examinations or joint enforcement actions with bank supervisory agencies supervising any trust office or representative trust office maintained in this State by an out-of-state trust institution or any trust office or representative trust office maintained by a State trust institution in any host state; provided, that the Commissioner may at any time take actions independently if the Commissioner considers the actions to be necessary or appropriate to carry out the Commissioner's responsibilities under the provisions of this Article or to ensure compliance with the laws of this State.

(f) Each out-of-state trust institution that maintains one or more trust offices or representative trust offices in this State may be assessed and, if assessed, shall pay supervisory and examination fees as provided by rules of the Commissioner. The fees may be shared with bank supervisory agencies or any organization composed of, affiliated with, or representing one or more bank supervisory agencies as agreed between those bank supervisory agencies and organizations and the Commissioner.

"§ 53-321. Enforcement.

(a) Consistent with Article 3A of Chapter 150B of the General Statutes, after notice and opportunity for hearing, the Commissioner may determine:

- (1) That a trust office maintained by an out-of-state trust institution in this State is being operated in violation of the laws of this State or any rule, order, or declaratory ruling issued by the Commissioner, or in an unsafe and unsound manner, or that the out-of-state trust institution does not meet or no longer meets the requirements of this Subpart for maintaining a trust office in this State; or
- (2) That an out-of-state trust institution is engaged in unauthorized trust activity.

In either event, the Commissioner may take any enforcement actions the Commissioner would be authorized to take if the trust office or the out-of-state trust institution were a State trust company and may issue an order temporarily or permanently prohibiting the out-of-state trust institution from engaging in trust business in this State.

(b) Consistent with Article 3A of Chapter 150B of the General Statutes, after notice and opportunity for hearing, the Commissioner may determine by order that an out-of-state trust institution maintaining a representative trust office in this State does not meet or no longer meets the requirements of this Subpart for maintaining a representative trust office in this State. The order shall be effective on the date of issuance or any other date the Commissioner determines.

(c) In cases involving extraordinary circumstances requiring immediate action, the Commissioner may take any action permitted by subsection (a) or (b) of this section without notice or opportunity for hearing but shall promptly afford a subsequent hearing upon an application to rescind the action taken.

(d) The Commissioner shall promptly give notice to the home state regulator and any other bank supervisory agency supervising the out-of-state trust institution of each enforcement action taken against an out-of-state trust institution and may consult and cooperate with other bank supervisory agencies in pursuing and resolving the enforcement action.

"§ 53-322. Notice of transactions that cause a change in control.

Each out-of-state trust institution that maintains a trust office or representative trust office in this State, or the home state regulator of the trust institution, shall give at least 30 days' notice or, in the case of an emergency transaction, as much notice as practicable, to the Commissioner of:

- (1) Any merger, consolidation, share exchange, or other transaction that would cause a change in control of an out-of-state trust institution (i) that would be subject to

Subpart D of Part 3 of this Article if the out-of-state trust institution were a State trust company or (ii) is required to be filed with any bank supervisory agency;

- (2) Any transfer of all or substantially all of the accounts or account assets of the out-of-state trust institution to another person; or
- (3) The closing or transfer of any trust office or representative trust office in this State.

"Subpart E. Foreign Trust Institution Trust Offices and Representative Trust Offices.

"§ 53-323. Foreign trust institution application for trust office or representative trust office.

Before establishing or acquiring and maintaining a trust office in this State, a foreign trust institution shall make application to the Commissioner for permission to do so in the English language and in the form required by the Commissioner. The application shall be preceded or accompanied by:

- (1) Evidence satisfactory to the Commissioner of compliance with any applicable requirements of Article 15 of Chapter 55 of the General Statutes;
- (2) Evidence satisfactory to the Commissioner of compliance by the foreign trust institution with any applicable requirements of its home country regulator for maintenance of capital, for expansion within the borders of its home country or within a political subdivision of its home country, and for acquiring or establishing and maintaining the trust office in this State;
- (3) Evidence satisfactory to the Commissioner that the foreign trust institution is not in a hazardous condition;
- (4) A copy of the resolution adopted by the board of directors of the foreign trust institution, or similar governing body or a duly-authorized committee thereof, authorizing the trust office; and
- (5) Payment of any fee set by rule.

The Commissioner may require any materials not written in the English language to be translated, and the translation certified in a manner satisfactory to the Commissioner, at the expense of the foreign trust institution.

"§ 53-324. Conditions for approval.

(a) A foreign trust institution may engage in trust business in this State only on approval by the Commissioner of an application described in G.S. 53-323, which may be given upon conditions required by the the Commissioner for prudential reasons consistent with any applicable international agreements to which the United States is a party.

(b) The Commissioner may deny approval of the application if the Commissioner finds that the foreign trust institution lacks sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness or that the management, integrity, or reputation of the foreign trust institution does not justify approval. The Commissioner also may deny approval if the Commissioner is unable to determine from the application materials whether the foreign trust institution possesses sufficient resources to undertake the proposed expansion without adversely affecting its safety or soundness or whether the management, integrity, or reputation of the foreign trust institution justifies approval.

"§ 53-325. *Additional trust offices and representative trust offices.*

A foreign trust institution that maintains a trust office in this State under the provisions of this Subpart may establish or acquire and maintain additional trust offices or representative trust offices in this State in the manner provided by G.S. 53-319 for out-of-state trust institutions, except that the Commissioner may require any additional information and impose any additional conditions as the Commissioner deems necessary for prudential reasons consistent with any applicable international agreements to which the United States is a party.

"§ 53-326. *Examinations; periodic reports; cooperative agreements; assessment of fees.*

(a) The Commissioner may examine any trust office or representative trust office maintained in this State by a foreign trust institution to determine whether the trust office or representative trust office is being operated in compliance with the laws of this State and in accordance with safe and sound practices. The pertinent provisions of Part 4 of this Article shall apply to these examinations.

(b) The Commissioner may require periodic reports regarding any foreign trust institution that maintains a trust office or representative trust office in this State. The required reports shall be provided in the English language by the trust institution or by its home country regulator. The reporting requirements shall be those the Commissioner considers appropriate for the purpose of enabling the Commissioner to carry out the Commissioner's responsibilities under the provisions of this Article for prudential reasons consistent with any applicable international agreements to which the United States is a party. The pertinent provisions of Part 4 of this Article shall apply to these reports.

(c) The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with bank supervisory agencies supervising foreign trust institutions, including agreements arranged by an organization composed of, affiliated with, or representing one or more bank supervisory agencies, with respect to the periodic

supervision and examination of any trust office or representative trust office of a foreign trust institution in this State, or any trust office or representative trust office of a State trust institution engaged in trust business or trust marketing in a foreign country. The Commissioner may accept and rely upon a report of examination and report of investigation of a bank supervisory agency in lieu of conducting a separate examination or investigation of a foreign trust institution.

(d) The Commissioner may enter into agreements with bank supervisory agencies supervising (i) a State trust institution engaging in trust business in a foreign country or (ii) a foreign trust institution maintaining a trust office or representative trust office in this State to engage the services of the bank supervisory agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the bank supervisory agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this section.

(e) The Commissioner may enter into joint examinations or joint enforcement actions with bank supervisory agencies supervising any trust office or representative trust office maintained in this State by a foreign trust institution or any trust office or representative trust office maintained by a State trust institution in any foreign country; provided, that the Commissioner may at any time take actions independently if the Commissioner considers the actions to be necessary or appropriate to carry out the Commissioner's responsibilities under the provisions of this Article or to ensure compliance with the laws of this State.

(f) Each foreign trust institution that maintains one or more trust offices or representative trust offices in this State may be assessed and, if assessed, shall pay supervisory and examination fees as provided by rules of the Commissioner. The fees may be shared with bank supervisory agencies or with any organization composed of, affiliated with, or representing one or more bank supervisory agencies, as agreed between the bank supervisory agencies and organizations and the Commissioner.

"§ 53-327. Enforcement.

(a) Consistent with Article 3A of Chapter 150B of the General Statutes, after notice and opportunity for hearing, the Commissioner may determine:

- (1) That a trust office or representative trust office maintained by a foreign trust institution in this State is being operated in violation of the laws of this State or any rule, order, or declaratory ruling issued by the Commissioner, or in an unsafe and unsound manner, or that the foreign trust institution does not meet or no

longer meets the requirements of this Subpart for maintaining a trust office or representative trust office in this State; or

- (2) That a foreign trust institution is engaged in unauthorized trust activity.

In either event, the Commissioner may take any enforcement actions the Commissioner would be authorized to take if the foreign trust institution were a State trust company and may issue an order temporarily or permanently prohibiting the foreign trust institution from engaging in trust business or trust marketing in this State.

(b) Consistent with Article 3A of Chapter 150B of the General Statutes, after notice and opportunity for hearing, the Commissioner may determine by order that a foreign trust institution maintaining a representative trust office in this State does not meet or no longer meets the requirements of this Subpart for maintaining a representative trust office in this State. The order shall be effective on the date of issuance or any other date the Commissioner determines.

(c) In cases involving extraordinary circumstances requiring immediate action, the Commissioner may take any action permitted by subsection (a) or (b) of this section without notice or opportunity for hearing but shall promptly afford a subsequent hearing upon request to rescind the action taken.

(d) The Commissioner shall promptly give notice to the home country regulator and any other bank supervisory agency supervising the foreign trust institution of each enforcement action taken against a foreign trust institution and may consult and cooperate with bank supervisory agencies in pursuing and resolving the enforcement action.

"§ 53-328. Notice of transactions that cause a change in control.

Each foreign trust institution that maintains a trust office or representative trust office in this State, or the home country regulator of the foreign trust institution, shall give at least 30 days' notice (or, in the case of an emergency transaction, as much notice as practicable) to the Commissioner, in the form required by the Commissioner, of:

- (1) Any merger, consolidation, share exchange, or other transaction that would cause a change of control of a foreign trust institution:
- a. That would be subject to Subpart D of Part 3 of this Article if the foreign trust institution were a State trust company; or
 - b. Is required to be filed with any bank supervisory agency;
- (2) Any transfer of all or substantially all of the accounts or account assets of the foreign trust institution to another person; or

- (3) The closing or transfer of any trust office or representative trust office in this State.

"§ 53-329. International agreements.

If any provision of this Article concerning foreign trust institutions, or the application of that provision, is found by any competent adjudicatory body to violate any international agreement to which the United States is a party, the provision shall be deemed modified only to the extent and only in the particular circumstances necessary to make the provision as modified comply with the international agreement, and the remaining provisions of this Article shall not be affected and shall continue to apply to foreign trust institutions.

"Part 3. State Trust Company Charter Act.

"Subpart A. General.

"§ 53-330. Title and purposes.

(a) This Part may be cited as the State Trust Company Charter Act.

(b) It is the express intent of this Part to provide for the chartering of trust companies apart from the provisions of Article 2 of this Chapter and to permit trust companies to engage in trust business subject to the provisions of this Article.

"Subpart B. Organization and Powers of State Trust Company.

"§ 53-331. Organization and powers of State trust company.

(a) Subject to the other provisions of this Part, one or more persons may organize and charter a State trust company, which may be incorporated in the manner described in this Part and in no other way.

(b) Subject to G.S. 53-313 and G.S. 53-336(b) and other applicable provisions of State and federal law, a State trust company may:

- (1) Act as a fiduciary within or outside this State;
- (2) Act within or outside this State as agent, advisory agent, assignee, assignee for the benefit of creditors, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conservator, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial adviser, investment adviser, investment manager, managing agent, purchase agent, receiver, registrar, safekeeping agent, subscription agent, transfer agent, warrant agent, or in similar capacities generally performed by corporate trustees, and in so acting to possess, purchase, sell, invest, reinvest, safekeep, or otherwise manage or administer real or personal property of other persons;
- (3) Engage in trust marketing within this State; and

- (4) Exercise the powers of a business corporation organized under North Carolina law and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted fiduciary customs and usages, a power conferred in this Article.

"§ 53-332. Articles of incorporation of State trust company.

The articles of incorporation of a State trust company shall be signed and acknowledged by or on behalf of each organizer and shall contain:

- (1) The information required to be set forth in G.S. 55-2-02(a) and, except for telephone information, G.S. 53-311(c); and
- (2) Any provision consistent with G.S. 55-2-02(b) and other applicable law that the organizers elect to set forth in the articles of incorporation for the regulation of the internal affairs of the State trust company.

"§ 53-333. Application for State trust company charter and permission to incorporate State trust company.

(a) An application for a State trust company charter and permission to incorporate the State trust company shall be made to the Commissioner in the form required by the Commissioner and shall be supported by information, data, and records that the Commissioner requires. The application shall be accompanied by the fee set by the Commissioner by rule.

(b) Upon receipt of the application, the Commissioner shall at once conduct an examination of all relevant facts connected with the formation of the proposed State trust company. The Commissioner may consider the following factors:

- (1) The proposed market or markets to be served;
- (2) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets;
- (3) Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;
- (4) Whether the proposed officers and directors, as a group, have sufficient experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the proposed State trust company will be free from improper or unlawful influence and otherwise will operate in compliance with law, and that success of the proposed State trust company is reasonably probable; and

(5) Whether the proposed name of the proposed State trust company is likely to mislead the public as to its character or purpose or is the same as a name already adopted by an existing bank, savings association, or trust institution in this State, or so similar thereto as to be likely to mislead the public.

(c) The failure of an applicant to furnish required information, data, other material, or the required fee within 30 days after a request may be considered an abandonment of the application.

"§ 53-334. Notice and investigation of charter application.

(a) The Commissioner shall notify the organizers when the application is complete and accepted for filing and all required fees have been paid.

(b) The Commissioner shall investigate the application and inquire into the identity and character of each proposed director, officer, and principal shareholder. Notwithstanding any laws to the contrary, information in the application bearing on the character, or information about the personal finances, of an existing or proposed organizer, officer, director, or shareholder is confidential and not subject to public disclosure.

"§ 53-335. Decision on charter application and hearing.

(a) The Commissioner, based on the application and investigation described in this Subpart, shall enter an order approving or denying approval of the application.

(b) If the Commissioner orders that the proposed State trust company may be formed, the Commissioner shall issue a State trust company charter and a certification to the Secretary of State permitting the incorporation of the State trust company. The Commissioner may make approval of any application conditional and shall include any conditions in the order granting the charter.

(c) Any order entered by the Commissioner with respect to a charter application shall be subject to review by the Commission for entry of final agency decision.

"§ 53-336. Issuance of charter.

(a) A proposed State trust company shall not be incorporated or engage in trust business or trust marketing until it receives a charter issued by the Commissioner. The Commissioner shall not issue the charter until the State trust company certifies that it has:

- (1) Received cash or United States government securities having a market value on the date of capitalization in at least the full amount of required initial capital from subscriptions for the issuance of shares;
- (2) Elected the initial officers and directors named in the application for charter or other officers and directors approved by the Commissioner; and

(3) Complied with all other requirements of this Subpart relative to the organization of a State trust company.

(b) The charter issued by the Commissioner shall set forth the trust powers of the State trust company, which may be stated as:

(1) All powers granted to a State trust company in this State;
or

(2) Specific powers that the State trust company chooses and is authorized by the Commissioner to exercise.

(c) If a State trust company does not open and engage in trust business within six months after the date it receives its charter, or within such further period as may be extended by the Commissioner, the Commissioner may cancel the charter.

"§ 53-337. Required initial capital.

(a) The Commissioner shall not issue a charter to a proposed State trust company having initial capital of less than two million dollars (\$2,000,000), except as provided in subsection (b) of this section.

(b) The Commissioner may require additional initial capital for a proposed State trust company if the Commissioner finds the proposed scope or type of operation of a proposed State trust company requires additional initial capital for the safe and sound operation of the State trust company. The Commissioner may reduce the amount of minimum initial capital required for a proposed State trust company if the Commissioner finds the proposed scope or type of operation of a proposed State trust company may be formed with reduced initial capital consistent with the safe and sound operation of the State trust company. The safety and soundness factors to be considered by the Commissioner in the exercise of the Commissioner's discretion include:

(1) The nature and type of business proposed to be conducted;

(2) The nature and liquidity of assets proposed to be held in a corporate capacity;

(3) The amount of fiduciary assets projected to be under management;

(4) The type of fiduciary assets proposed to be held and the proposed depository of the assets;

(5) The complexity of fiduciary duties and degree of discretion proposed to be undertaken;

(6) The competence and experience of proposed management;

(7) The extent and adequacy of proposed internal controls;

(8) The proposed presence or absence of annual unqualified audits by an independent certified public accountant;

- (9) The reasonableness of business plans for retaining or acquiring additional equity capital; and
- (10) The existence and adequacy of insurance proposed to be obtained by the trust company for the purpose of protecting its clients, beneficiaries, and grantors.

"§ 53-338. Subordinated notes or debentures.

The amount of any outstanding notes or debentures that are subordinated to creditors or classes of creditors of the State trust company may be treated as equity capital of the State trust company for purposes of determining equity capital adequacy, hazardous condition, or insolvency, and for other purposes, as provided by rules, orders, or declaratory rulings of the Commissioner.

"§ 53-339. Application of laws relating to general business corporations.

Chapter 55 of the General Statutes applies to a State trust company to the extent not inconsistent with this Article. Except for the filing of annual reports and statement of change of registered agent or registered office, unless expressly authorized by this Article or a rule adopted by the Commission, a State trust company shall not take an action authorized by Chapter 55 of the General Statutes that requires a filing with the Secretary of State without first obtaining the approval of the Commissioner.

"Subpart C. Investments and Activities.

"§ 53-340. Investment in State trust company facilities.

(a) A State trust company may invest in one or more State trust company facilities consistent with the safe and sound operation of a State trust company.

(b) For the purposes of this Part, 'State trust company facility' means real estate owned, or leased to the extent the lease or the leasehold improvements are capitalized, by a State trust company for the purposes of:

- (1) Providing space for State trust company employees, officers, and directors to perform their duties and space for appropriate parking;
- (2) Conducting trust business, including meeting the reasonable needs and convenience of the State trust company's customers, employees, officers, and directors, and providing for necessary computer operations, data processing, maintenance, and record retention and storage;
- (3) Future expansion of the State trust company's facilities;
or
- (4) Conducting another activity authorized by law or by rules, orders, or declaratory rulings of the Commissioner.

(c) Without the approval of the Commissioner, a State trust company shall not, within the first three years following issuance of its charter, directly or indirectly, invest an amount in excess of one-half of its initial capital in State trust company facilities, furniture, fixtures, and equipment. Except as otherwise provided by rules, orders, or declaratory rulings of the Commissioner, in computing this limitation, a State trust company shall include:

- (1) Its direct investment in State trust company facilities;
- (2) Any investment in a company with an interest in a State trust company facility;
- (3) Any indebtedness incurred on State trust company facilities by an affiliate of the State trust company.

Except as otherwise provided by rules, orders, or declaratory rulings of the Commissioner, in computing this limitation, a State trust company may exclude an amount included under subdivisions (1) through (3) of this subsection to the extent any lease of a facility from the company holding title to the facility is capitalized by the State trust company.

(d) Real estate acquired under subdivision (3) of subsection (b) of this section ceases to be a State trust company facility if it is not used for a purpose listed in subdivision (1), (2), or (4) of subsection (b) of this section on the third anniversary of the date of its acquisition unless the Commissioner grants approval to hold the real estate for a longer period.

"§ 53-341. Other real estate.

(a) A State trust company shall not acquire real estate other than a State trust company facility for its own account except:

- (1) Securitized interests in real estate and obligations secured by real estate;
- (2) As necessary to avoid or minimize a loss on an investment previously made in good faith; or
- (3) As provided by rules, orders, or declaratory rulings of the Commissioner.

(b) To the extent reasonably necessary to avoid or minimize loss on real estate acquired as permitted by subsection (a) of this section or under G.S. 53-340, a State trust company may exchange real estate for other real estate or personal property, invest additional funds in or improve such real estate, or acquire additional real estate.

(c) Except as provided in subsection (d) of this section, a State trust company shall dispose of any real estate acquired as permitted by subdivision (2) of subsection (a) of this section or under G.S. 53-340:

- (1) In the case of real estate acquired under subdivision (2) of subsection (a) of this section, on or before the fifth anniversary of:

- a. The date it was acquired; or
 - b. The date it ceases to be used as a State trust company facility if it began to be so used after its acquisition.
- (2) In the case of real estate acquired under G.S. 53-340, on or before the third anniversary of the date it ceases to be a State trust company facility as provided by G.S. 53-340.
- (d) The Commissioner may grant one or more extensions of time for disposing of real estate if the Commissioner determines that:
- (1) The State trust company has made a good faith effort to dispose of the real estate and has been unable to do so on reasonably advantageous terms; or
 - (2) Disposal of the real estate otherwise would be detrimental to the State trust company.

"§ 53-342. Securities and other investments.

(a) A State trust company may invest its corporate funds in any type or character of equity securities or debt securities subject to the limitations provided by this section.

(b) Unless the Commissioner approves maintenance of a lesser amount, a State trust company shall invest and maintain an amount equal to at least forty percent (40%) of its equity capital in unencumbered cash, cash equivalents, and readily marketable securities.

(c) Subject to subsections (d) and (e) of this section, the total investment in equity and investment securities of any one issuer, obligor, or maker held by a State trust company for its own account shall not exceed an amount equal to fifteen percent (15%) of the State trust company's equity capital. The Commissioner may authorize investments in excess of this limitation if the Commissioner concludes that the safe and sound operation of a State trust company would not be adversely affected by a proposed investment exceeding this limitation.

(d) In calculating compliance with the investment limits set forth in subsection (c) of this section, a State trust company shall not be required to combine:

- (1) The State trust company's pro rata share of the securities of an issuer in the portfolio of a collective investment vehicle with the State trust company's pro rata share of the securities of that issuer held by another collective investment vehicle in which the State trust company has invested; or
- (2) The State trust company's own direct investment in the securities of an issuer with the State trust company's pro rata share of the securities of that issuer held by

collective investment vehicles in which the State trust company has invested under the provisions of this section.

(e) Notwithstanding subsection (c) of this section, a State trust company may purchase for its own account, without limitation and subject only to the exercise of prudent judgment:

- (1) Bonds and other general obligations of a state, an agency, or political subdivision of a state, the United States, or an agency or instrumentality of the United States;
- (2) A debt security that this State, an agency or political subdivision of this State, the United States, or an agency or instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee;
- (3) Securities that are offered and sold under 15 U.S.C. § 77d(5);
- (4) Mortgage-related securities as defined in 15 U.S.C. § 78c(a);
- (5) Investment securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the Federal Agricultural Mortgage Association, or the Federal Farm Credit Banks Funding Corporation; and
- (6) Investment securities issued or guaranteed by the North American Development Bank.

(f) The Commissioner may allow State trust companies to make other investments of its corporate funds not specified in this Subpart by rules, orders, or declaratory rulings.

"§ 53-343. Prohibited distributions, acquisitions, liens, or pledges.

A State trust company shall not make any distribution to its shareholders, acquire its own shares, acquire a lien upon its own shares, or pledge its own assets while an order of the Commissioner prohibiting such distributions, acquisitions, liens, or pledges is in effect.

"§ 53-344. Subsidiaries.

(a) Before acquiring, establishing, or performing activities through a subsidiary, a State trust company shall file a notice with the Commissioner, in the form required by the Commissioner, describing in detail the proposed activities of the subsidiary, the amount of the State trust company's proposed investment in the subsidiary, and the State trust company's proposed ownership interest in the subsidiary.

(b) The State trust company may acquire or establish a subsidiary or begin performing activities in an existing subsidiary 30 days following the date the Commissioner receives the notice, unless the Commissioner:

- (1) Establishes an earlier or later date;
- (2) Notifies the State trust company that the notice raises issues that require additional information or additional time for analysis; or
- (3) Disapproves the acquisition, establishment, or performance of activities through the subsidiary.

(c) If the Commissioner gives a notification described in subdivision (2) of subsection (b) of this section, the State trust company may acquire, establish or conduct activities through the subsidiary only on approval by the Commissioner. The Commissioner may disapprove the subsidiary if the Commissioner finds that the State trust company lacks sufficient resources to undertake the proposed expansion or perform the activity without adversely affecting its safety or soundness.

(d) The Commissioner may make the establishment, acquisition, or performance of new activities through a subsidiary conditional and shall include any such conditions in an order.

(e) The provisions of this section, rather than G.S. 53-342, shall apply to the establishment of a subsidiary by a State trust company.

(f) Changes in ownership or control of a subsidiary of a State trust company shall be made only upon the approval of the Commissioner obtained in accordance with the procedures set forth in this section.

"§ 53-345. *Engaging in commerce prohibited.*

Except as otherwise provided by this Part, or by rules, orders, or declaratory rulings of the Commissioner, a State trust company shall not engage in trade or commerce by buying, selling, or otherwise dealing in goods, or by conducting business other than trust business and trust marketing, except as necessary to fulfill a fiduciary obligation to a client.

"§ 53-346. *Lending and lease financing; conversion to State bank.*

(a) Except as may be appropriate for extensions of credit in connection with trust or other account relationships, and as provided in and subject to the provisions of Article 5 of Chapter 36A of the General Statutes and other provisions of applicable law, a State trust company shall not engage in a loan business or in lease financing transactions as the party extending credit.

(b) Notwithstanding any other provision of this Chapter, a State trust company may, with the approval of the Commissioner, convert to a State bank by following the procedures and requirements set forth in Article 2 of this Chapter, subject to any modifications to those procedures and requirements that are necessary and appropriate for the conversion of a State trust company. The Commissioner may make modifications to procedures or requirements of Article 2 of this Chapter by rule, order or declaratory ruling.

"Subpart D. Ownership; Governance; Mergers.

"§ 53-347. Acquisition of control.

(a) Except as this section otherwise expressly permits, a person shall not, without the approval of the Commissioner, directly or indirectly acquire control of a State trust company.

(b) This Subpart does not prohibit a person from contracting to acquire control of a State trust company subject to required approvals.

(c) This Subpart does not require the approval of the Commissioner for the acquisition of securities in the following circumstances:

- (1) The acquisition of securities in connection with securing, collecting, or satisfying a debt previously contracted for in good faith if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (2) The acquisition of additional voting securities in any class or series by a controlling person who previously has complied with and received approval under the provisions of this Article or who was identified as a controlling person in a prior application filed with and approved by the Commissioner if the acquiring person files notice of acquisition of those securities with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (3) An acquisition or transfer of securities by operation of law, will, or intestate succession if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired;
- (4) An acquisition of securities by gift, unless the gift is made for the purpose of circumventing this section, if the acquiring person files notice of acquisition of control with the Commissioner, in the form required by the Commissioner, at least 10 days before the person votes the securities acquired; or
- (5) A transaction exempted by the Commissioner by rules, orders, or declaratory rulings because (i) the transaction is not within the purposes of this Article, or (ii) regulation of the transaction is not necessary or appropriate to achieve the objectives of this Article.

(d) Information provided under the provisions of subsection (c) of this section shall be subject to G.S. 53-348(c), and persons providing that information shall be subject to G.S. 53-348(d).

(e) Upon receiving a notice described in subsection (c) of this section, the Commissioner may, on or before the tenth day after the acquiring person files the notice, notify the acquiring person of objection to the voting of securities by the acquiring person or of a request for further information concerning the acquisition of control. If the Commissioner notifies the acquiring person of the objection or request for further information, the acquiring person may vote the shares only on approval by the Commissioner and:

- (1) The acquiring person shall follow the procedures prescribed in this Subpart for an application to acquire control of a State trust company;
- (2) The Commissioner may request any information that may be requested under the procedures prescribed in this Subpart in connection with an application to acquire control of a State trust company; and
- (3) For purposes of determining a quorum of shareholders of a State trust company, the shares shall be treated as authorized but unissued shares unless (i) the Commissioner approves the application to vote the securities or (ii) the acquiring person no longer has the power to vote the shares, either directly or indirectly.

"§ 53-348. Application regarding acquisition of control.

(a) A person seeking approval to acquire control of a State trust company shall file with the Commissioner:

- (1) An application in the form required by the Commissioner;
- (2) Any filing fee required by rule; and
- (3) All information required by rule or that the Commissioner requires in connection with a particular application in order to make an informed decision to approve or reject the proposed acquisition of control.

(b) If any group of individuals or entities acting in concert seek approval to acquire control, the information the Commissioner may require under the provisions of this Subpart may be required of each member of the group.

(c) Notwithstanding any laws to the contrary, information bearing on the character or information about the personal finances of an existing or proposed shareholder of a State trust company or other individual is confidential and not subject to public disclosure.

(d) If a person seeking approval to acquire control is not a North Carolina resident, a North Carolina corporation, or an out-of-state corporation qualified to do business in this State, the Commissioner

may require the person to appoint a resident agent for service of process.

"§ 53-349. *Decision on acquisition of control.*

(a) Not later than the sixtieth day following receipt of the application, the Commissioner shall either approve or deny the proposed acquisition of control.

(b) The Commissioner may deny an acquisition of control if:

- (1) The financial condition of the person seeking approval to acquire control, or any member of a group seeking approval to acquire control, might jeopardize the financial stability of the State trust company or the interests of its clients;
- (2) Investigation of the character, competence, general fitness, experience, or integrity of the person seeking approval to acquire control, or any member of a group seeking approval to acquire control, shows that the proposed acquisition of control would not be in the best interests of the clients of the State trust company;
- (3) Plans or proposals to operate, liquidate, or sell the State trust company or its assets following the acquisition of control are not in the best interests of the State trust company's clients;
- (4) The State trust company would not be solvent, have adequate equity capital, or be in compliance with the laws of this State after the acquisition of control; or
- (5) The person seeking approval to acquire control has failed to furnish all information required by the Commissioner.

(c) If an application filed under the provisions of this section is approved by the Commissioner, the transaction may be consummated. Any written commitment from the person seeking approval to acquire control made as a condition for approval of the application is enforceable against the State trust company and the person acquiring control.

"§ 53-350. *Appeal.*

Any order entered by the Commissioner with respect to an application for acquisition or control of a State trust company shall be subject to review by the Commission for entry of a final agency decision.

"§ 53-351. *Report of changes in chief executive officer or directors.*

Each State trust company shall report to the Commissioner within 48 hours, on the forms and with the information required by the Commissioner, any changes in the chief executive officer or the directors of the State trust company, including in its report a

statement of the past and current business and professional affiliations of each new chief executive officer or director.

"§ 53-352. Board of directors.

(a) All corporate powers of a State trust company shall be exercised under the authority of, and the business and affairs of a State trust company shall be managed under the direction of, its board of directors. Without the approval of the Commissioner, the board shall consist of not less than five directors. The shareholders of a State trust company, at any shareholders' meeting, may authorize not more than two additional directorships which may be left unfilled and to be filled in the discretion of the directors of the State trust company during the interval between shareholders' meetings. Except as specifically provided otherwise in this section, the number, election, term, and classification of the directors of a State trust company shall be governed by the provisions of Chapter 55 of the General Statutes.

(b) Before each term to which a person is elected to serve as a director of a State trust company, the person shall submit an affidavit for filing in the minutes of the State trust company stating that the person:

- (1) Accepts the position;
- (2) Will not knowingly violate, or knowingly permit an officer, director, or employee of the State trust company to violate, any law applicable to the conduct of business of the State trust company; and
- (3) Will diligently perform the duties of a director.

(c) A person designated with a title such as advisory director is not considered a director if that person:

- (1) Is not elected by the shareholders of the State trust company; and
- (2) Does not vote on matters before the board of directors or any committee of the board and is not counted for purposes of determining a quorum of the board or any committee of the board.

"§ 53-353. Required board meetings.

The board of directors of a State trust company shall hold at least one regular meeting each quarter. At each regular meeting, the board shall review and approve, or disapprove and correct, the minutes of the prior meeting and review the operations, activities, and financial condition of the State trust company. The board may designate committees from among its members to perform these duties and approve or disapprove the committees' reports at each regular meeting. All material actions of the board shall be recorded in its minutes.

"§ 53-354. Officers.

The board of directors shall annually appoint the officers of the State trust company who shall serve at the pleasure of the board. The contract rights of officers, if any, shall be governed by applicable provisions of Chapter 55 of the General Statutes and general law. The State trust company shall have a chief executive officer primarily responsible for the execution of board policies and operation of the State trust company. The State trust company also shall have an officer responsible for the maintenance and storage of all corporate books and records of the State trust company and for required attestation of signatures. These positions shall not be held by the same person. The board may appoint any other officers of the State trust company, including assistants to the officers required by this section, the board considers necessary or appropriate.

"§ 53-355. *Certain criminal offenses.*

(a) An officer, director, employee, or shareholder of a State trust company commits an offense if the person knowingly:

- (1) Conceals information or a fact, or removes, destroys, or conceals a book or record of the State trust company for the purpose of concealing information or a fact, from the Commissioner or an agent of the Commissioner; or
- (2) For the purpose of concealing information or a fact, removes or destroys any book or record of the State trust company that is material to a pending or anticipated legal or administrative proceeding.

(b) An officer, director, or employee of a State trust company commits an offense if the person knowingly makes a false entry in the books or records or in any report or statement of the State trust company.

(c) An offense under the provisions of this section shall be a Class H felony.

"§ 53-356. *Responsibility of directors.*

(a) The standard of conduct for directors shall be as set forth in G.S. 55-8-30.

(b) Any director of a State trust company who shall knowingly violate, or who shall knowingly permit to be violated by any officers, agents, or employees of such State trust company, any of the provisions of this Article shall be held personally and individually liable for all damages which the State trust company, its shareholders, or any other person has sustained in consequence of the violation. Any aggrieved shareholder of any State trust company in liquidation may prosecute an action for the enforcement of the provisions of this section. Only one such action may be brought. The procedure shall follow, as much as possible, that prescribed by Article 3 of Chapter 44A of the General Statutes, relative to suits on bonds of contractors with municipal corporations.

"§ 53-357. Record keeping.

A State trust company shall keep its fiduciary records separate and distinct from its other records. The fiduciary records shall contain all material information relative to each account as appropriate under the circumstances.

"§ 53-358. Bonding requirements; reports of apparent crime.

(a) The board of directors of a State trust company shall require protection and indemnity for the State trust company and its clients in amounts established by rules, orders, or declaratory rulings of the Commissioner, or otherwise in reasonable amounts, against dishonesty, fraud, defalcation, forgery, theft, and other similar insurable losses, with corporate insurance or surety companies:

- (1) Authorized to do business in this State; or
- (2) Acceptable to the Commissioner and otherwise lawfully permitted to issue coverage against those losses in this State.

(b) Except as otherwise provided by rules, orders, or declaratory rulings of the Commissioner, coverage required under subsection (a) of this section shall include each director, officer, and employee of the State trust company without regard to whether the person receives salary or other compensation.

(c) A State trust company that is the victim of a robbery, has a shortage of corporate or account assets in excess of five thousand dollars (\$5,000), or is the victim of an apparent or suspected misapplication of its corporate property or account assets in any amount shall report the robbery, shortage, or apparent or suspected misapplication to the Commissioner within 48 hours after the time it is discovered. The initial report may be oral if a written report is made promptly following the oral report. Neither the State trust company nor any director, officer, employee, or agent of the State trust company is subject to any liability for providing any information in any such report in good faith.

"§ 53-359. Merger, share exchange, or asset transfer authority.

(a) With the approval of the Commissioner, a State trust company may merge or exchange its shares with, or acquire or be acquired through a merger or share exchange with, another company, or may transfer to another company all or substantially all of its assets and liabilities, or may acquire from another company all or substantially all of its assets and liabilities.

(b) A merger or share exchange authorized by subsection (a) of this section, shall be governed by Article 11 of Chapter 55 of the General Statutes and G.S. 53-17. An acquisition or transfer of assets authorized by subsection (a) of this section shall be governed by Article 12 of Chapter 55 of the General Statutes and G.S. 53-17.

"§ 53-360. Merger, share exchange, or asset transfer application.

(a) A copy of the proposed articles of merger or share exchange, or asset transfer agreement, and an application in the form required by the Commissioner, shall be filed with the Commissioner. The Commissioner shall investigate the condition of the parties proposing to engage in the merger, share exchange, or asset transfer and may require the submission of additional information.

(b) The Commissioner may approve the merger or share exchange if:

- (1) Each resulting trust institution will be solvent and have adequate capitalization;
- (2) Each resulting trust institution appears able and ready to comply substantially with the statutes and rules relative to its organization;
- (3) Each resulting State trust company will be a 'domestic corporation' as that term is defined in G.S. 55-1-40(4);
- (4) All fiduciary obligations and liabilities of each trust institution that is a party to the merger, share exchange, or asset transfer have been discharged properly or otherwise have been or will be assumed or retained properly by a person;
- (5) Each surviving, new, acquiring, or transferring party that is not authorized to engage in trust business will not engage in trust business and appears able and ready to comply substantially with applicable laws and rules; and
- (6) All conditions imposed by the Commissioner have been satisfied or otherwise resolved.

"§ 53-361. Notice and investigation of merger, share exchange, or asset transfer; decision, hearing, and appeal.

(a) The Commissioner shall notify the parties to the proposed merger, share exchange, or asset transfer when the application is complete and all required fees have been paid. Promptly following this notification, the parties shall provide notice to clients who may be affected by the proposed merger, share exchange, or asset transfer in the form and manner specified by the Commissioner.

(b) At the expense of the parties to the proposed merger, share exchange, or asset transfer, the Commissioner may investigate the proposed transaction, including the character of the proposed directors, officers, and principal shareholders of each resulting trust institution and of any other person proposed to succeed to the accounts of the applying institutions. Notwithstanding any laws to the contrary, information bearing on the character or information about the personal finances of an existing or proposed organizer, officer, director, or shareholder is confidential and not subject to public disclosure.

(c) Based on the application and investigation, the Commissioner shall enter an order approving or denying approval of the proposed merger, share exchange, or asset transfer not later than the sixtieth day following the date the Commissioner notifies the parties that the application is complete, unless extraordinary circumstances require a longer period of review.

(d) Any written commitment made by a person proposing to engage in the merger, share exchange, or asset transfer as a condition for approval of the application is enforceable against that person.

(e) Any order entered by the Commissioner under the provisions of this section shall be subject to review by the Commission for entry of a final agency decision.

"§ 53-362. Rights of dissenters to mergers, share exchanges, or asset transfers.

A shareholder of a State trust company may dissent from the proposed merger, share exchange, or asset transfer to the extent allowed under, and by following the procedures prescribed by, Article 13 of Chapter 55 of the General Statutes.

"Subpart E. Private Trust Companies.

"§ 53-363. Private trust companies.

(a) The following definitions apply in this Subpart:

- (1) 'Designated relative' means the individual required to be named in the application under G.S. 53-364(a)(5) requesting an exemption from certain provisions of this Act pursuant to G.S. 53-364.
- (2) 'Family member' means the designated relative and
 - a. Any individual within the fifth degree of lineal kinship to the designated relative computed in accordance with G.S. 104A-1;
 - b. Any individual within the ninth degree of collateral kinship to the designated relative computed in accordance with G.S. 104A-1;
 - c. The spouse of the designated relative and of any individual qualifying as a family member under sub-subdivision a. and b. of this subdivision;
 - d. A company controlled by one or more family members;
 - e. A trust established by (i) a family member or (ii) an individual who is not a family member if income or principal of the trust could be distributed currently to or for the benefit of a family member;
 - f. The estate of a family member; or
 - g. A charitable foundation or other charitable entity created by a family member.

For purposes of this subdivision, a legally adopted individual shall be treated as a natural child of the adoptive parents.

- (3) 'Transact business with the general public' means to engage in any sales, solicitations, arrangements, agreements, or transactions to provide trust business services, whether or not for a fee, commission, or other type of remuneration, to more than 35 persons who are not family members, except that rules, orders, or declaratory rulings of the Commissioner may provide for other circumstances in which a State trust company either does or does not transact business with the general public. For the purposes of this subdivision, an estate, a trust, or any other legal entity having multiple beneficiaries or owners shall be deemed to constitute one person.

(b) A private trust company engaging in trust business in this State shall comply with all provisions of this Article applicable to a State trust company unless expressly exempted from this Article by the Commissioner pursuant to this section or prior to the enactment of this Article.

(c) A private trust company or proposed private trust company may request in writing that it be exempted from specified provisions of G.S. 53-333(b), 53-337(a), 53-340, 53-341, 53-342, 53-345, 53-346, and 53-394(b). The Commissioner may grant the exemption request in whole or in part. The Commissioner also may issue rules, orders, or declaratory rulings granting exemptions to all private trust companies, or to private trust companies that meet specified conditions.

(d) The Commissioner may examine or investigate the private trust company or proposed private trust company in connection with the application for exemption. Unless the application presents novel or unusual questions, the Commissioner shall approve or deny the application for exemption no later than the sixty-first day after the date the Commissioner considers the application complete and accepted for filing. The Commissioner may require the submission of additional information in order to make an informed decision to approve or reject the proposed exemption.

(e) Any exemption granted under the provisions of this section may be made subject to conditions or limitations imposed by the Commissioner consistent with this Subpart, and those conditions or limitations shall be included in an order.

(f) Rules, orders, or declaratory rulings of the Commissioner may provide for other circumstances that justify exemption from specific provisions of this Article, specifying the provisions of this

Act that are subject to the exemption request, and establishing procedures and requirements for obtaining, maintaining, or revoking exemptions.

"§ 53-364. Requirements to apply for and maintain status as a private trust company.

(a) A private trust company or a proposed private trust company requesting an exemption from the provisions of this Article pursuant to G.S. 53-363 shall file an application with the Commissioner, in the form required by the Commissioner, containing, preceded, or accompanied by:

- (1) An application fee as set by rules of the Commissioner;
- (2) A statement under oath of the reasons for requesting the exemption;
- (3) A statement under oath showing that the private trust company is not currently transacting business with the general public and that the company will not transact business with the general public without the approval of the Commissioner;
- (4) A listing of the specific provisions of the Act from which exemption is requested; and
- (5) The name of the designated relative whose relationship to other individuals determines whether the individuals are family members under G.S. 53-363(a)(2). The designated relative must be living and 18 years of age or older at the time the application is made.

(b) The Commissioner may make further inquiry and investigation as the Commissioner deems appropriate. Notwithstanding any other law to the contrary, information bearing on actual or proposed accounts of the private trust company or proposed private trust company applying for the exemption is confidential and not subject to public disclosure.

(c) To maintain its status as a private trust company and to maintain any exemptions from the provisions of this Article granted by the Commissioner, a private trust company shall file with the Commissioner an annual certification that it is in compliance with the provisions of this Subpart and the conditions and limitations of all exemptions granted. This annual certification shall be filed in the form required by the Commissioner and accompanied by any fee required by the Commissioner by rule. The annual certification shall be filed on or before December 31 of each year. The Commissioner may examine or investigate the private trust company periodically as necessary to verify the certification.

(d) In any transaction involving a private trust company for which an application is required under G.S. 53-360, any exemption from the provisions of this Article granted to the private trust

company shall automatically terminate upon the consummation of the transaction unless the Commissioner approves the continuation of the exemption.

(e) The Commissioner may revoke any exemption from the provisions of this Article granted to a private trust company in the following circumstances:

- (1) An officer or director of the private trust company makes a false statement under oath on any document required to be filed by this Article or by any rules or orders of the Commissioner;
- (2) The private trust company fails to submit to an examination as required by G.S. 53-367;
- (3) An officer or director of the private trust company withholds requested information from the Commissioner; or
- (4) The private trust company violates any provision of this Subpart or fails to meet any condition on which the exemption is based.

(f) If the Commissioner determines from examination or other credible evidence that a private trust company has violated any of the requirements of this Subpart or fails to meet any condition or limitation on which an exemption from the provisions of this Article is based, the Commissioner may by personal delivery or registered or certified mail, return receipt requested, notify the private trust company that the private trust company's exemptions from the provisions of this Article will be revoked unless the private trust company corrects the violation or failure or shows cause why any exemptions should not be revoked. The notification shall state grounds for the revocation with reasonable certainty and shall advise of an opportunity for a hearing. The notice shall state the date upon which the revocation shall become effective absent a correction or showing of cause why the exemption should not be revoked, which shall not be before the thirtieth day after the date the notification is mailed or delivered, except as provided in subsection (g) of this section. The revocation shall take effect for the private trust company on the date stated in the notice if the private trust company does not request a hearing in writing before the effective date. After the revocation takes effect, the private trust company shall be subject to all of the requirements and provisions of this Article applicable to a State trust company.

(g) If the Commissioner determines from examination or other credible evidence that a private trust company appears to be engaging or attempting to engage in acts intended, designed, or likely to deceive or defraud the public, the Commissioner may shorten or eliminate the 30-day notice period specified in subsection (f) of this

section, but shall promptly afford a subsequent hearing upon request to rescind the action taken.

(h) If the private trust company does not comply with all of the provisions of this Article or correct any failure to meet any condition or limitation on which an exemption is based within the notice period specified in subsection (f) of this section, the Commissioner may institute any action or remedy prescribed by this Article or any applicable rule.

"§ 53-365. Conversion to public trust company.

(a) Before transacting business with the general public, a private trust company shall file a notice on a form prescribed by the Commissioner, which shall set forth the name of the private trust company and an acknowledgment that any exemption granted or otherwise applicable to the private trust company pursuant to G.S. 53-363 shall cease to apply once the Commissioner terminates private trust company status. The private trust company shall furnish a copy of the resolution adopted by its board of directors authorizing the private trust company to commence transacting business with the general public, and shall pay the filing fee, if any, prescribed by rule of the Commissioner.

(b) The private trust company may commence transacting business with the general public on the thirty-first day after the date the Commissioner receives the notice, unless the Commissioner:

- (1) Establishes an earlier or later date;
- (2) Notifies the private trust company that the notice raises issues that require additional information or additional time for analysis; or
- (3) Disapproves the termination of private trust company status.

(c) If the Commissioner gives a notification described in subdivision (2) of subsection (b) of this section, the private trust company status may be terminated only on approval by the Commissioner.

(d) The Commissioner may deny approval of the proposed termination of private trust company status if the Commissioner finds that the private trust company lacks sufficient resources to undertake the proposed conversion without adversely affecting its safety or soundness or if the Commissioner determines that the private trust company could not within a reasonable period be in compliance with any provision of this Article from which it previously had been exempted pursuant to G.S. 53-363.

"Part 4. Applicable Law; Enforcement Actions.

"Subpart A. Supervision and Examination.

"§ 53-366. Applicability of other laws to authorized trust institutions; status of State trust company.

(a) Except as otherwise provided in this Article, the following provisions of this Chapter shall apply to authorized trust institutions:

- (1) G.S. 53-14;
- (2) G.S. 53-16;
- (3) G.S. 53-17;
- (4) G.S. 53-68;
- (5) G.S. 53-77.3;
- (6) G.S. 53-85;
- (7) Article 8 of this Chapter, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of:
 - a. G.S. 53-95;
 - b. G.S. 53-104;
 - c. G.S. 53-105;
 - d. G.S. 53-106; and
 - e. G.S. 53-107.1(a), (b) and (d).
- (8) Article 9 of this Chapter, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of G.S. 53-119.
- (9) Article 10 of this Chapter, except where it clearly appears from the context that a particular provision is not applicable to trust business or trust marketing, and except that the provisions of this Article shall apply in lieu of G.S. 53-135, and except that G.S. 53-131 and G.S. 53-132 shall not apply to authorized trust institutions.
- (10) Article 14 of this Chapter.

(b) Rules adopted by the Commissioner to implement those provisions of this Chapter made applicable to authorized trust institutions by subsection (a) of this section also shall apply to authorized trust institutions unless the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to trust business or trust marketing.

(c) Activities of authorized trust institutions for clients shall not be considered the sale or issuance of checks under G.S. 53-194.

(d) Until the Commissioner has issued new rules governing State trust companies, State trust companies shall be governed by rules issued by the Commissioner for banks acting in a fiduciary capacity, except to the extent the rules are inconsistent with this Article or it clearly appears from the context that a particular provision is inapplicable to the business of a State trust company.

(e) Notwithstanding any other provision of this Chapter, a State trust company:

- (1) Is a 'banking entity' for purposes of G.S. 53-127;
- (2) Is a 'bank' for purposes of laws made applicable to authorized trust institutions in this section and for purposes of G.S. 53-277.
- (3) Is a trust company organized and doing business under the laws of the State of North Carolina, a substantial part of the business of which is exercising fiduciary powers similar to those permitted national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by the Commissioner as a banking institution; and
- (4) Is a financial institution similar to a bank.

(f) In the case of a State trust company controlled by a company that has declared itself to be a 'financial holding company' under 12 U.S.C. § 1843(l)(1)(C)(i), deposits held for an account shall be deemed to be 'trust funds' within the meaning of 12 U.S.C. § 1813(p) unless all fiduciary duties with respect to the account are explicitly disclaimed. This subsection does not prescribe the nature or extend the scope of any fiduciary duties; the nature and extent of any fiduciary duties with respect to deposits held for accounts shall be as provided by the instruments and laws applicable to those accounts.

(g) Subject to any limitations contained in this Article, an authorized trust institution is a 'trust company', a 'corporate trustee', a 'corporate fiduciary', and a 'corporation acting in a fiduciary capacity', as such and similar terms are used in the General Statutes, except where it clearly appears from the context in which those terms are used that a different meaning is intended.

"§ 53-367. Commissioner shall have supervision over authorized trust institutions and shall examine.

Every authorized trust institution shall be under the supervision of the Commissioner. The Commissioner may periodically examine and require reports from authorized trust institutions, and shall execute and enforce, through examiners and any other agents as are now or may hereafter be created or appointed, all laws and all rules, orders, and declaratory rulings relating to authorized trust institutions. All authorized trust institutions shall conduct their business in a manner consistent with all laws and all rules, orders, and declaratory rulings that may be adopted or issued by the Commissioner relating to authorized trust institutions.

"§ 53-368. Assessment of State trust companies.

(a) For the purpose of operating and maintaining the office of the Commissioner, each State trust company shall pay into the office of the Commissioner, within 10 days after notice, an annual assessment

of six thousand dollars (\$6,000) plus one dollar (\$1.00) per one hundred thousand dollars (\$100,000) of assets held for its accounts, exclusive of nonsecuritized real estate interests. For purposes of this assessment, the amount of assets held for accounts shall be determined as of the close of business on December 31 of each year.

(b) If an application for merger, share exchange, sale of assets, change of control, conversion, or a similar transaction occasions an examination or if the Commissioner determines that the financial condition or manner of operation of a State trust company warrants further examination or an increased level of supervision, a State trust company may be subject to an additional assessment not to exceed the amount required of all State trust companies by subsection (a) of this section.

(c) Except as set forth in this section, fees and assessments of a State trust company shall be governed by G.S. 53-122. Fees and assessments collected under the provisions of this section shall be considered to be part of the total fees collected under G.S. 53-122(d).

"Subpart B. Enforcement Orders; Trust Company Management.

"§ 53-369. Administrative orders; penalties for violation; increase of equity capital.

(a) In addition to any other powers conferred by this Chapter, the Commissioner may:

- (1) Order any authorized trust institution, or affiliate thereof, or any director, officer, or employee of an authorized trust institution, to cease and desist violating any provision of this Article or any rule issued thereunder.
- (2) Order any authorized trust institution, or affiliate thereof, or any director, officer, or employee of an authorized trust institution, to cease and desist from a course of conduct that is unsafe or unsound and which is likely to cause insolvency or dissipation of the assets of an authorized trust institution, or is likely to jeopardize or otherwise seriously prejudice the interests of the clients, creditors, shareholders, or the public in their relationships with the authorized trust institution.
- (3) Order any company to cease engaging in unauthorized trust activity.
- (4) Enter orders described in G.S. 53-321, 53-327, and 53-343.

(b) The Commissioner may impose a civil money penalty of not more than one thousand dollars (\$1,000) for each violation of an order issued under subdivision (1) of subsection (a) of this section. The Commissioner may impose a civil money penalty of not more than five hundred dollars (\$500.00) per day for each violation of a cease and desist order issued under subdivision (2) or (3) of

subsection (a) or this section. The clear proceeds of civil money penalties imposed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(c) The Commissioner may order that a State trust company in a hazardous condition increase its equity capital to a level that is adequate for the safe and sound conduct of its business. The order shall specify the period of time for meeting the requirement to increase equity capital, which period of time may be extended by further order of the Commissioner.

"§ 53-370. Notice and opportunity for hearing.

Consistent with Chapter 150B of the General Statutes, notice and opportunity for hearing shall be provided before the Commissioner may act under the provisions of this Subpart. In cases involving extraordinary circumstances requiring immediate action, however, the Commissioner may take action without a hearing, but shall promptly afford a subsequent hearing upon request to rescind the action taken.

"§ 53-371. Removal of directors, officers, and employees.

The Commissioner may require the immediate removal from office of any officer, director, or employee of any State trust company, who shall be found to be dishonest, incompetent, or reckless in the management of the affairs of the State trust company, or who persistently violates the laws of this State or the rules, orders, and declaratory rulings issued by the Commissioner.

"Part 5. Dissolution and Receivership; Conservatorship;
Jeopardized State Trust Companies.

"Subpart A. Voluntary Dissolution and Liquidation.

"§ 53-372. Required vote of shareholders.

With the approval of the Commissioner, a State trust company may go into voluntary liquidation, be closed, and surrender its charter and franchise as a corporation of this State by the affirmative vote of its shareholders owning two-thirds of its stock.

"§ 53-373. Corporate procedure.

Shareholder action to liquidate a State trust company shall be taken at a meeting of the shareholders duly called by resolution of the board of directors. Notice of the meeting, stating the purpose of the meeting, shall be mailed to each shareholder, addressed to the shareholder's last known residence at least 10 days prior to the date of the meeting. If the shareholders, by the required vote, elect to liquidate a trust company, a certified copy of all proceedings of the meeting at which the action was taken, verified by the oath of the president and secretary, shall be transmitted to the Commissioner for approval.

"§ 53-374. Authority to liquidate; publication.

If the Commissioner approves the liquidation, the Commissioner shall issue to the State trust company, under the Commissioner's seal, a permit for liquidation. No permit shall be issued by the Commissioner until the Commissioner is satisfied that provision has been made by the State trust company to satisfy and pay off all creditors and to transfer all client accounts and fiduciary records to successor fiduciaries in the manner provided by G.S. 53-383(c). If not so satisfied, the Commissioner shall refuse to issue a permit, and shall be authorized to take possession of the State trust company and its assets and business and to hold and liquidate the State trust company in the manner provided in this Part. When the Commissioner approves the voluntary liquidation of a State trust company, the directors of the State trust company shall notify clients of the State trust company in the manner prescribed by the Commissioner and shall cause to be published in a newspaper in the county in which the principal office of the trust company is located, or if no newspaper is published in that county, then in a newspaper having a general circulation in that county, a notice that the State trust company is closing down its affairs and going into liquidation and that creditors of the State trust company shall present their claims for payment. The notice shall be published once a week for four consecutive weeks.

"§ 53-375. Examination and reports.

When any State trust company is in the process of voluntary liquidation, it shall be subject to examination by the Commissioner and shall furnish any reports required by the Commissioner.

"§ 53-376. Unclaimed property.

All unclaimed property remaining with a State trust company voluntarily liquidated under the provisions of this Subpart shall be subject to the provisions of Chapter 116B of the General Statutes.

"Subpart B. Seizure by Commissioner; Involuntary Dissolution and Liquidation.

"§ 53-377. When Commissioner may take charge.

The Commissioner may take possession of the business and property of any State trust company whenever it appears that the trust company:

- (1) Is in a hazardous condition;
- (2) Has become insolvent or is in substantial danger of becoming insolvent;
- (3) Has sold or attempted to sell substantially all of its assets or has merged or attempted to merge its business with another entity without meeting the requirements of this Article;
- (4) Has dissolved or liquidated or attempted to dissolve or liquidate without meeting the requirements of this Article; or

(5) Has suspended operations.

"§ 53-378. Directors may act.

A State trust company may place its assets and business under the control of the Commissioner by a resolution of a majority of its directors upon notice to the Commissioner, and, upon taking possession of the State trust company, the Commissioner shall retain possession thereof until the State trust company is authorized by the Commissioner to resume business or until the affairs of the State trust company are fully liquidated as provided in this Subpart. No State trust company shall make any general assignment for the benefit of its creditors except by surrendering possession of its assets to the Commissioner as provided in this Subpart; and any other purported general assignment for the benefit of creditors by a State trust company shall be void.

"§ 53-379. Notice of seizure; bar to attachment of liens.

When the Commissioner takes possession of any State trust company under G.S. 53-377 or G.S. 53-378, the Commissioner shall, within 48 hours, file with the clerk of the superior court in the county where the principal office of the State trust company is located a notice of the action which shall state the reason for the action, and which shall be deemed the equivalent of a summons and complaint against the State trust company in an action in the superior court except that it shall not be necessary to serve the notice. The taking possession of any State trust company shall be effective on the date when the authority is first exercised and from and after that time all assets and property of the State trust company, of whatever nature, shall be deemed to be in possession of the Commissioner, and the exercise of the authority shall operate as a bar to any attachment or other legal proceeding against the State trust company or its assets. After the Commissioner's exercise of authority, no lien shall attach in any manner binding or affecting any of the assets of the State trust company, and every purported transfer or assignment made thereafter by the State trust company, or by its authority, of the whole or any part of its assets, shall be null and void; and the Commissioner shall be substituted in place of the State trust company in any civil actions or proceedings pending at the time of the exercise of the authority.

"§ 53-380. Notice to trust institutions, corporations, and others holding assets; existing liens.

Upon taking possession of the assets and business of any State trust company, the Commissioner shall forthwith give notice, by mail or otherwise, of the action to all banks, clearing corporations, brokers, trust institutions, or other persons or corporations holding, or having in possession, any assets of the State trust company. No lien against any assets of the State trust company shall be enforced in any manner

other than as provided in this Article after the Commissioner has taken possession of the State trust company.

"§ 53-381. *Permission to resume business.*

(a) After the Commissioner has taken possession of a State trust company under the provisions of this Subpart, the State trust company may resume business only upon approval and subject to terms and conditions specified by the Commissioner.

(b) When possession of a State trust company has been taken pursuant to either G.S. 53-377 or G.S. 53-378, the terms and conditions under which it may resume business shall be fully stated in writing, and a copy thereof shall be filed with the clerk of superior court of the county in which the action is pending.

(c) Notwithstanding subsections (a) and (b) of this section, no State trust company possessed by the Commissioner under the provisions of this Article shall resume trust business unless and until the State trust company has been completely restored to solvency and it clearly appears to the Commissioner that the State trust company may be reopened with safety to the clients, creditors, and shareholders of the State trust company and to the public.

(d) If the Commissioner determines that the State trust company shall not resume business, the State trust company shall be liquidated in accordance with the provisions of this Part and shall cancel the charter and revoke the license of the State trust company as provided in G.S. 53-414.

"§ 53-382. *Remedy for seizure; answer to notice; injunction; appeal; and motions.*

(a) Whenever any State trust company of which the Commissioner has taken possession under G.S. 53-377 shall deem itself aggrieved thereby, it may file an answer to the notice as in other civil actions and may also, upon notice to the Commissioner, apply to the resident or presiding judge of the superior court for an injunction to enjoin further proceedings by the Commissioner. The judge of the superior court may cite the Commissioner to show cause why further proceedings should not be enjoined and, after hearing the allegations and proof of the parties with respect to the condition of the State trust company, may dismiss an application for injunction or may enjoin further proceedings under the provisions of this section by the Commissioner. If the judge enjoins further action of the Commissioner and permits the reopening of the State trust company, the judge may require of the State trust company a surety bond as the judge deems necessary, payable to the Commissioner for the sole benefit of the creditors and clients of the State trust company and upon any terms the judge deems proper. Either party has the right to appeal a decision as in other civil actions.

(b) The State trust company or any person interested may be heard by motion as to actions taken or proposed to be taken by the Commissioner, but the judge hearing the motion shall enter an order as in the judge's discretion will best serve the parties interested.

"§ 53-383. Collection of debts and claims; Commissioner succeeds to all property of the State trust company.

(a) Upon taking possession of the assets and business of any State trust company, the Commissioner is authorized to collect all money due the State trust company and to do any other acts necessary to conserve its assets and property. The Commissioner shall collect all debts due and claims belonging to the State trust company, and by order of the court may sell, compromise, or compound any bad or doubtful debt or claim or sell the real and personal property of the State trust company on any terms provided by the order. Where the sale is made under power contained in any mortgage or lien bond or other paper wherein the title is retained for sale and the terms of sale set out, sale may be made under that authority.

(b) Upon taking possession of any State trust company under the provisions of this section, the Commissioner shall have the possession and the right to the possession of all the property, assets, choses in action, rights, and privileges of the State trust company. The property rights and privileges shall vest in the Commissioner absolutely for the purpose of liquidating, selling, or conveying the property rights and privileges, together with all other incidental rights, privileges, and powers necessary for the right of conveyance and sale.

(c) Upon taking possession of any State trust company under the provisions of this section, the Commissioner shall administer each account of the State trust company on a temporary basis until either (i) a successor to the State trust company is appointed or the account is terminated in the manner provided by the terms of its governing instrument consistent with applicable law, or by applicable law in the absence of a provision in the governing instrument, or (ii) the Commissioner has granted the State trust company permission to resume business under the provisions of G.S. 53-381. The Commissioner may take appropriate steps for the appointment of successors or termination of accounts as the Commissioner deems necessary as to some or all of the accounts of the State trust company. If the governing instrument or other applicable law do not prescribe methods for appointing successors, or if the methods prescribed are unfeasible, the applicable law for appointment of a successor shall be as set forth in G.S. 53-399.

(d) The officers and directors of any State trust company that is in the possession of the Commissioner under this Part shall not exercise any powers declared by this Subpart to be vested in the Commissioner.

"§ 53-384. Bond of the Commissioner; surety; condition; minimum penalty.

Upon taking possession of any State trust company, the Commissioner shall execute and file a bond payable to this State for the benefit of creditors, clients, and shareholders of the State trust company, with some surety company as surety thereon, with the clerk of the superior court of the county in which the action is pending, conditioned upon the faithful performance of all duties imposed upon the Commissioner under the provisions of this Subpart with respect to the State trust company, the penal sum of the bond to be fixed by order of the Commissioner, which in no case shall be less than two hundred fifty thousand dollars (\$250,000). Any person interested, by motion in the pending action, shall be heard by the resident or presiding judge of the superior court as to the sufficiency of the bond. The judge hearing the motion may fix the bond.

"§ 53-385. Inventory.

Within 90 days after the filing of a notice described in G.S. 53-279, the Commissioner shall file an inventory of the assets and liabilities, not including assets and liabilities held in accounts of the State trust company, of the State trust company. A copy of the inventory shall be filed with the clerk of the superior court of the county in which the action is pending, and a copy shall be kept on file with the State trust company. The inventory shall be open for inspection during usual business hours, provided that nothing herein shall require the State trust company to remain open unnecessarily.

"§ 53-386. Notice and time for filing claims.

Notice shall be given by advertisement once a week for four consecutive weeks in a newspaper published in the county where the principal office of the State trust company is located, or if no newspaper is published in the county, then in some newspaper having a general circulation in the county, calling on all persons who may have claims against the State trust company to present them to the Commissioner at the principal office of the State trust company, and within the time to be specified in the notice which time shall not be less than 90 days from the date of the first publication. A copy of this notice shall be mailed to all persons whose names appear as creditors upon the books of the State trust company. Affidavit by the Commissioner to the effect that the notice was mailed shall be conclusive evidence thereof. For purposes of this section, clients and accounts of the State trust company shall not be considered creditors of the State trust company as to the assets held by the State trust company for the benefit of its accounts.

"§ 53-387. Power to reject claims; notice; affidavit of service; action on claims.

If the Commissioner doubts the validity of any claim, the Commissioner may reject the claim, in whole or in part, and serve notice of the rejection upon the claimant, either personally or by certified mail, and an affidavit of the service of the notice shall be filed in the office of the clerk of the superior court of the county in which the action is pending and shall be conclusive evidence of the notice. Any action or suit upon a rejected claim shall be brought by the claimant against the Commissioner in the superior court of the county in which the action is pending within 90 days after service, or the action or suit shall be barred. Objections to any claim not rejected by the Commissioner may be made by any person interested by filing the objection in the pending action and by serving a copy thereof on the Commissioner. The Commissioner, after investigation, shall either allow the objection and reject the claim, or disallow the objection. If the objection is not allowed and the claim is not rejected, the Commissioner shall file a notice in the pending action and serve the notice upon the person making the claim and the person objecting to the claim. Within 10 days after the notice is filed, the person filing objection by motion in the pending action may question the validity of the claim, and the questions of law and issues of fact shall thereupon be determined as in other civil actions.

"§ 53-388. *List of claims presented, copies, and proviso.*

Upon the expiration of the time fixed for presentation of claims, the Commissioner shall make a full and complete list of the claims presented, including and specifying any claims that have been rejected. One copy shall be filed in the office of the clerk of the superior court of the county in which the action is pending, and one copy shall be kept on file with the inventory in the principal office of the State trust company for examination. Any indebtedness against any State trust company which has been established or recognized as a valid liability of the State trust company before it went into liquidation, for which no claimant has filed claim, or any liability for which a claim has been filed and rejected, shall be listed by the Commissioner in the office of the clerk of the superior court of the county in which the action is pending. Any claim that may be presented after the expiration of the time fixed for the presentation of claims in the notice provided in G.S. 53-386 shall, if allowed, share pro rata in the distribution but only as to those assets of the State trust company in the hands of the Commissioner that are undistributed at the time the claim is presented.

"§ 53-389. *Declaration of dividends; order of preference in distribution.*

(a) At any time after the expiration of the date fixed by the Commissioner for the presentation of claims against the State trust company, and from time to time thereafter, the Commissioner may

declare and pay dividends to the creditors and shareholders of the State trust company. In paying and calculating dividends, all disputed claims shall be taken into account, but no dividend shall be paid upon the disputed claims until the claims have been finally determined. The following shall be the order of preference in the distribution of the assets of any State trust company liquidated hereunder:

- (1) State, county, and federal taxes owed and fees due the Commissioner other than those due under the provisions of this Subpart;
- (2) Wages and salaries due officers and employees of the State trust company for a period of not more than four months;
- (3) Expenses of liquidation, including those described in G.S. 53-391 and G.S. 53-395;
- (4) Amounts due creditors, honoring the priorities of valid security interests and subject to orders of the court concerning disputes among creditors;
- (5) Amounts due shareholders.

(b) A statement of all dividends paid shall be filed in the office of the clerk of the superior court of the county in which the action is pending, and the statements shall show the expenses deducted and the disputed claims in determining dividends.

"§ 53-390. *Deposit of funds collected.*

All funds collected by the Commissioner, in liquidating any State trust company, shall be deposited from time to time in a bank as may be selected by the Commissioner and shall be subject to withdrawal by check of the Commissioner.

"§ 53-391. *Employment of counsel, accountants, and other experts; compensation.*

The Commissioner, for the purpose of exercising any power under the provisions of this Subpart, may (i) employ any liquidating agents, attorneys, accountants, consultants, and clerks necessary to properly conduct the business of or liquidate and distribute the assets of a State trust company; (ii) fix the compensation for the agents, attorneys, accountants, consultants, and clerks; and (iii) pay the compensation of those persons out of the assets of the State trust company. Provided, that all expenditures described in this section shall be approved by the resident or presiding judge in the county in which the action is pending. Payments made by the Commissioner pursuant to this section shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes. As used in this Subpart, the term 'Commissioner' includes the Commissioner's duly appointed agents.

"§ 53-392. *Unclaimed dividends held in trust.*

Unclaimed dividends for claims described in subdivisions (a)(1) through (a)(4) of G.S. 53-389 shall be held by the Commissioner in

trust for the claimants to whom the dividends are owed; and the dividends so held by the Commissioner shall be paid over to the persons entitled to the dividends when they furnish satisfactory evidence of their right to the dividends. In case of doubtful or conflicting claims, the Commissioner may apply to the superior court, by motion in the pending action, for an order from the resident or presiding judge of the superior court directing the payment of the dividends so claimed. Issues of fact raised by motion may, upon request of any claimant, be determined as in other civil actions. Interest earned on any unclaimed dividends so held shall be applied toward defraying the expenses incurred in the distribution of the unclaimed dividends. The balance of interest, if any, shall be deposited and held as other funds to the credit of the Commissioner. After the Commissioner has held any unclaimed dividends in trust under the provisions of this statute for the creditors of the liquidated State trust company for a period of three years following the resumption of business by or cancellation of the charter of the State trust company, the unclaimed dividends shall be subject to the provisions of Chapter 116B of the General Statutes. Upon payment of unclaimed dividends to the State Treasurer, the Commissioner shall be fully discharged from all further liability therefor.

"§ 53-393. Action by the Commissioner following full settlement.

Whenever the Commissioner has paid all duly proven and allowed claims described in subdivisions (a)(1) through (a)(4) of G.S. 53-389, has made proper provision for unclaimed and unpaid and disputed claims, and has other assets of the State trust company, the Commissioner shall, unless the State trust company is granted permission to resume business in accordance with G.S. 53-381, call a meeting of the shareholders of the State trust company by giving notice thereof by publication once a week for four consecutive weeks in a newspaper published in the county, or if no newspaper is published in the county, then in a newspaper having general circulation in the county, and by mailing a copy of the notice to each shareholder's address as it appears on the books of the State trust company. Affidavit of the mailing of the notice herein required and of the newspaper as to the publication shall be conclusive evidence of notice hereunder. At the meeting, any shareholders may be represented by proxy and the shareholders shall elect, by a majority vote of the shares present, an agent or agents who shall be authorized to receive from the Commissioner all the remaining assets of the State trust company. The shareholders also may specify the means of resolving disputes between multiple agents and appointing successors to the agent or agents. The Commissioner shall cause to be transferred and delivered to the agent, or agents, all the remaining assets of the State trust company. The Commissioner shall thereupon cause to be

filed in the office of the clerk of the superior court of the county in which the action is pending a full and complete report of all transactions showing the assets of the State trust company so transferred together with the name of the agent or agents giving receipt for the assets; and the filing of the report shall act as a full and complete discharge of the Commissioner from all further liabilities to the shareholders of the State trust company by reason of the liquidation of the State trust company. The agent shall convert the assets coming into the agent's hands into cash, except as otherwise provided by the court upon motion in the cause made by a shareholder of the State trust company, and shall make distribution to the shareholders of the State trust company as herein provided. The agent shall file semiannually a report of all transactions with the superior court of the county in which the State trust company is located, and with the Commissioner, and shall be allowed for the services such fees, not in excess of five percent (5%) of receipts and disbursements, as may be fixed by the court. In case of death, removal, or refusal to act of any agent or agents elected by the shareholders, the Commissioner or any interested person may seek an order from the resident or presiding judge in the county in which the action is pending appointing a successor to the agent or agents as determined by the shareholders or, if no method was set forth by the shareholders, as determined by the court to be in the best interests of the shareholders. The court in its discretion may either appoint a successor or order the call of a further meeting of shareholders for the election of a successor and make any orders that are appropriate.

"§ 53-394. Annual report of the Commissioner; items included; reports of condition of State trust companies.

(a) The Commissioner shall file, as a part of an annual report to the Governor, a list of the names of any State trust companies of which possession was taken and liquidated in the preceding year, the sum of unclaimed assets with respect to each State trust company, and all depositories of all sums coming into the hands of the Commissioner under the provisions of this Part.

(b) The Commissioner shall, from time to time, compile and make available for public inspection reports showing the condition of State trust companies.

"§ 53-395. Compensation of the Commissioner's office.

The office of the Commissioner, for services rendered in connection with the duties described in this Subpart, shall be entitled to actual expenses incurred in connection with the liquidation of each State trust company, including a reasonable sum for the time of the examiners and other agents of the Commissioner. The Commissioner may adopt rules or orders for fixing these expenses.

"§ 53-396. Exclusive method of liquidation.

No State trust company shall be liquidated other than as provided in this Part.

"§ 53-397. Disposition of books and records.

All fiduciary records relating to the administration of particular accounts shall be turned over to the successors in charge of administration of the accounts. All other books, papers, and records of a State trust company that has been finally liquidated shall be deposited by the receiver in the office of the clerk of the superior court of the county in which the action is pending, or in any other place as in the clerk's judgment, after consultation with the Commissioner, will provide for the proper safekeeping and protection of those books, papers, and records. Such books, papers, and records shall be held subject to the orders of the clerk of the superior court of the county in which the action is pending, including orders necessary for preserving the confidentiality of any information relating to accounts contained in those books, papers, and records.

"§ 53-398. Destruction of books and records.

(a) After the expiration of five years from the date of filing, in the office of the clerk of the superior court of the county in which the action is pending, of a final order approving the liquidation of a State trust company and the delivery to the clerk or into the clerk's custody of books, papers, records of the State trust company, the books, papers, and records may be destroyed by the clerk of the superior court of the county in which the action is pending.

(b) After five years from the filing by the Commissioner of a final report of liquidation of any insolvent State trust company, the Commissioner, by and with the consent of the Commission, may destroy the records of any State trust company held in the office of the Commissioner in connection with the liquidation of the State trust company. However, in connection with any unpaid dividends, the Commissioner shall preserve the records or other evidence of indebtedness of the State trust company with reference to the unpaid dividends until the dividends have been paid.

(c) Nothing in this section shall be construed to authorize the destruction by the clerk of superior court of any county or by the Commissioner of any of the formal records of liquidation or the records made in the office of the Commissioner with reference to the liquidation.

"§ 53-399. Petition for new trustee.

Any person interested in any account, either as trustee, beneficiary, client, or otherwise, may petition the clerk of superior court of the county in which court accountings are filed or, if there is no such county, the county in which the account is being administered, for a new trustee or other successor to a State trust company in all cases in which use of the procedures set forth in this

Part are employed. The petition and the order appointing a new trustee or other successor may relate to any number of accounts administered by the State trust company. Except as specified in this section, the procedure shall be as provided in Chapter 36A of the General Statutes for the appointment of successor trustees.

"§ 53-400. Report to the Secretary of State.

The Commissioner shall, on or before the first day of each year, file with the Secretary of State a report showing any State trust companies under liquidation in this State and the names of any auditors or attorneys employed in connection with the liquidation of these State trust companies, together with the amounts paid or contracted to be paid to each of the auditors or attorneys. If any attorney has been employed on a fee contingent upon recovery, the report shall set forth the material terms of the fee arrangements.

"Subpart C. Conservatorship.

"§ 53-401. Provisions for conservator; duties and powers.

Whenever the Commissioner deems it necessary in order to conserve the assets of a State trust company for the benefit of clients or creditors, the Commissioner may appoint a conservator for the State trust company and require of the conservator a bond with any surety the Commissioner deems necessary and proper in an amount deemed sufficient by the Commissioner. The conservator, under the direction of the Commissioner, shall take possession of the fiduciary records and other books, records, and assets of every description of the State trust company placed under conservatorship and take actions necessary to conserve those assets pending further disposition of its business as provided by law. Except as provided in G.S. 53-405, the conservator shall have all rights, powers, and privileges, subject to the approval of the Commissioner, now possessed by or given to the Commissioner under the provisions of Subpart B and Subpart D of this Part. All expenses of the conservator shall be paid out of the assets of the State trust company under conservatorship and shall be a lien thereon which shall be prior to any other lien provided by law. The compensation of the conservator shall be determined by the Commissioner and shall be based on the time and experience of the conservator and the complexity of the conservatorship. Compensation of the conservator shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes.

"§ 53-402. Examination.

The Commissioner shall examine the affairs of a State trust company placed under conservatorship in the manner deemed necessary by the Commissioner to oversee the conservatorship.

"§ 53-403. Termination of conservatorship.

If the Commissioner is satisfied that the conservatorship may be terminated with safety to the clients, creditors, and shareholders of the

State trust company, and to the public, the Commissioner may terminate the conservatorship of a State trust company and permit the company to resume the transaction of its business, subject to such terms, conditions, restrictions, and limitations as the Commissioner prescribes.

"§ 53-404. Rights and liabilities of conservator.

A conservator appointed pursuant to the provisions of this Subpart is subject to the provisions of G.S. 53-331 and to the penalties prescribed by G.S. 53-129 and G.S. 53-355.

"§ 53-405. Naming of conservator not liquidation.

No power conferred in this Subpart upon the Commissioner, when exercised, shall be deemed as an act of possession for the purposes of liquidation; and whenever the Commissioner shall, with reference to any State trust company for which a conservator is appointed, deem that liquidation is necessary, the Commissioner shall exercise the powers for the purposes of liquidation as provided in Subpart B of Part 5 of this Article.

"Subpart D. Sale of Assets; Issuance of Preferred Stock
by Jeopardized State Trust Company.

"§ 53-406. Sale of assets by board of jeopardized State trust company.

(a) With the Commissioner's approval, the board of directors of a jeopardized State trust company, acting without shareholder approval and notwithstanding any other provision of this Article or any other law, or any of the provisions of the articles of incorporation or bylaws of the State trust company, may cause the State trust company to sell to one or more buyers all or substantially all of its assets, including the right to control and act as fiduciary for accounts established with the trust company, if the Commissioner finds:

- (1) The interests of the State trust company's clients, creditors, and shareholders are jeopardized by the continued operation of the State trust company; and
- (2) The sale is in the best interests of the State trust company's clients and creditors.

(b) Sales under the provisions of this section shall include assumptions and promises by one or more buyers to pay or otherwise discharge, except as provided in G.S. 53-407:

- (1) All of the State trust company's liabilities to clients and creditors;
- (2) All of the State trust company's liabilities for salaries of the State trust company's employees incurred before the date of the sale;
- (3) Expenses incurred by the Commissioner arising out of the supervision or sale of the State trust company; and

(4) Taxes owed and fees and assessments due the Commissioner's office.

(c) This section does not limit the power of a State trust company to buy and sell assets in the ordinary course of business.

(d) This section does not affect the Commissioner's right to take action under another law or sale under other provisions of this Article.
"§ 53-407. Authority to act as disbursing agent.

If a purchasing trust institution acts under a written agency contract that (i) is approved by the Commissioner; (ii) specifically names each creditor and the amount to be paid each; and (iii) limits the agency to the purely ministerial act of paying creditors the amounts due them as determined by the selling institution and does not involve discretionary duties or authority other than the identification of the creditors named, then the purchasing trust institution:

(1) May rely on the contract of agency and the instructions included in it; and

(2) Is not responsible for:

a. Any error made by the selling institution in determining its liabilities, the creditors to whom the liabilities are due, or the amounts due the creditors;
or

b. Any preference that results from the payments made under the contract of agency and the instructions included in it.

"§ 53-408. Payment to creditors.

Payment to a creditor of the selling institution of the amount to be paid under the terms of a contract of agency described in G.S. 53-407 may be made by the purchasing trust company by (i) opening an agency account in the name of the creditor; (ii) crediting the account with the amount to be paid the creditor under the terms of the agency contract; and (iii) mailing or personally delivering a duplicate ticket evidencing the credit to the creditor at the creditor's address shown in the records of the selling institution.

"§ 53-409. Issuance of preferred shares by jeopardized trust company.

Notwithstanding any other provisions of this Article or any other laws, and notwithstanding any of the provisions of its articles of incorporation or bylaws, any jeopardized State trust company may, with the approval of the Commissioner, and by vote of shareholders owning a majority of the shares of such State trust company, upon not less than two days' notice given by registered mail pursuant to action taken at a meeting of its board of directors (which may be held upon not less than one day's notice) issue shares of preferred stock in such amount, with such voting rights, with such preferences, at such

dividend rate, and with such other rights and limitations as shall be approved by the Commissioner. A copy of the minutes of such directors' and shareholders' meetings, certified by the proper officer and under the corporate seal of the State trust company, and accompanied by the written approval of the Commissioner, shall be immediately filed in the office of the Secretary of State, and when so filed, shall be deemed and treated as an amendment to the articles of incorporation of such State trust company. For purposes of this section, a State trust company shall be considered jeopardized when it is critical that the State trust company obtain additional equity capital to avoid, or to cease to be in, a hazardous condition, and other means of raising additional equity capital do not appear to be feasible. No issue of preferred shares shall be valid until the amount of all shares so issued shall have been paid for in full in cash, except as may otherwise be specifically approved by the Commissioner. The provisions of this section do not limit the authority of a State trust company to issue shares as provided under other applicable law.

"Part 6. Authority, Hearings, Enforcement, and Severability.

"§ 53-410. Commissioner to act under authority of the Commission.

All the powers, duties, and functions granted to or imposed upon the Commissioner by law shall be exercised under the direction and supervision of the Commission. Wherever provision is made in this Article authorizing and permitting the Commissioner to make rules, the words 'the Commissioner' shall be construed to mean the Commission.

"§ 53-411. Rules.

The Commission may adopt rules in accordance with Chapter 150B of the General Statutes to carry out the provisions of this Article relating to authorized trust institutions and to ensure safe and conservative management of authorized trust institutions under its supervision, taking into consideration the appropriate interests of the clients, creditors, shareholders, and the public in their relations with the authorized trust institutions.

"§ 53-412. Commissioner hearings; appeals.

(a) This section does not grant a right to a hearing to a person that is not otherwise granted by governing law.

(b) The Commissioner may convene a hearing to receive evidence and argument regarding any matter before the Commissioner for decision or review under the provisions of this Article. The hearing shall be conducted in accordance with Article 3A of Chapter 150B of the General Statutes.

(c) Disputes over decisions and actions of the Commissioner under the provisions of this Article shall be 'contested cases' as defined in G.S. 150B-2(2).

(d) Except as expressly provided otherwise by this Chapter, an order of the Commissioner may be appealed to the Commission for review. The Commission may affirm, modify, or reverse a decision of the Commissioner.

(e) Appeals from the Commission shall be to the Wake County Superior Court and shall proceed as provided in G.S. 53-92.

"§ 53-413. Civil enforcement.

The Commissioner may bring any appropriate civil action against any person the Commissioner believes has committed or is about to commit a violation of this Article or a rule, order, or declaratory ruling of the Commissioner pertaining to this Article.

"§ 53-414. Cancellation of charter.

Whenever a merger, share exchange, sale of assets, liquidation, or other transaction occurs by which a State trust company ceases to exist or ceases to be eligible for a charter, the Commissioner shall cancel the State trust company's charter, revoke its license, and provide notice of the revocation in the manner provided in G.S. 53-163. The filing, in the office of the Secretary of State, of a certified copy of the cancellation under seal of the Commissioner shall authorize the cancellation of the charter of the State trust company, subject, however, to its continued existence, as provided by this Article and the general law relative to corporations, for the purpose of winding up and liquidating its business and affairs.

"§ 53-415. Severability.

If any provision of this Article, or its application, is found by any court of competent jurisdiction in the United States to be invalid as to any trust institution or other person or circumstance, or to be superseded by federal law, the provision shall be deemed modified only to the extent and only in the particular circumstances necessary to render the provision valid, and the remaining provisions of this Article shall not be affected and shall continue to apply to any trust institution or other person or circumstance."

SECTION 2. G.S. 53-2 reads as rewritten:

"§ 53-2. How incorporated.

Any number of persons, not less than five, who may be desirous of forming a company and engaging in the business of establishing, maintaining, and operating banks of discount and deposit to be known as commercial banks, ~~or operating banks engaged in doing a trust and fiduciary business,~~ shall be incorporated in the manner following and in no other way; that is to say, such persons shall, by a certificate of incorporation under their hands and seals set forth:

- (1) The name of the corporation; no name shall be used already in use by another existing corporation organized under the laws of this State or of the Congress, or so

nearly similar thereto as to lead to uncertainty or confusion.

- (2) The location of its principal office in this State.
- (3) ~~The nature of its business, whether that of a commercial bank, trust company, or a combination of both such classes of business. Whether it will do trust business as well as the business of a commercial bank.~~
- (4) The amount of its authorized common capital stock, the number of shares into which it is divided, the par value of each share; and the amount of common capital stock with which it will commence business. The amount of capital required to charter a bank shall be determined as herein set forth by the Commissioner of Banks who shall give due consideration to (i) the population of the proposed bank's trade area, (ii) the total deposits of those depository financial institutions already operating in the proposed bank's trade area, (iii) the economic conditions and outlook within the proposed bank's trade area, (iv) the business experience and reputation of the proposed bank's management, (v) the business experience and reputation of the proposed bank's incorporators and proposed directors, (vi) the type and nature of business activities proposed to be engaged in, and (vii) the proposed bank's projected deposit growth and profitability. Except as otherwise provided, the amount of common capital stock required to charter a bank shall not be less than two million dollars (\$2,000,000); provided, however, such amount of capital may be increased or decreased in the discretion of the Commissioner of Banks who, after considering the above enumerated criteria, determines that a greater capital requirement is necessary or that a smaller capital requirement will provide a sufficient capital base. In addition to the required capital, every bank shall have a paid in surplus of at least fifty percent (50%) of its common capital stock. The capital and paid in surplus required to charter a bank shall be exclusive of any organizational expenses. This subdivision shall not apply to banks organized and doing business prior to its adoption or amendment; provided, however, the Banking Commission is hereby authorized and directed to adopt rules ~~and regulations~~ to keep any original required minimum capital funds intact to the end that they remain in and with the bank as a protection for depositors.

- (5) The names and post-office addresses of subscribers for stock, and the number of shares subscribed by each; the aggregate of such subscriptions shall be the amount of the capital with which the company will commence business.
- (6) Period, if any, limited for the duration of the company."

SECTION 3. Article 14 of Chapter 53 reads as rewritten:
"Article 14.

"Banks Acting in a Fiduciary Capacity.

"§ 53-159. *Bank may act as fiduciary.*

Any bank licensed by the Commissioner of Banks, where such powers or privileges are granted it in its charter, may be guardian, trustee, assignee, receiver, executor or administrator or act in another fiduciary capacity in this State without giving any bond; and the clerks of the superior courts, or other officers charged with the duty or clothed with the power of making such appointments, are authorized to appoint such bank to any such office.

"§ 53-159.1. *Power of fiduciary or custodian to deposit securities in a clearing corporation.*

Notwithstanding any other provision of law, any fiduciary holding securities in its fiduciary capacity, any bank or trust company holding securities in a fiduciary capacity or as a custodian or agent is authorized to deposit or arrange for the deposit of such securities in a clearing corporation as defined in G.S. 25-8-102. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as a fiduciary or as a custodian or managing agent shall at all times show the name of the party for whose account the securities are so deposited. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities. A bank or trust company so depositing securities pursuant to this section shall be subject to such rules ~~and regulations~~ as, in the case of State-chartered institutions, the State Banking Commission and, in the case of national banking associations, the Comptroller of the Currency may from time to time issue. A bank or trust company acting as custodian or agent for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company in such clearing corporation for the account of such fiduciary. A

fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary. This section shall apply to any fiduciary holding securities in its fiduciary capacity, and to any bank or trust company holding securities as a fiduciary or as a custodian or managing agent acting on May 15, 1973, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed and regardless of whether or not such fiduciary, custodian or agent owns capital stock of such clearing corporation. The fiduciary shall personally be liable for any loss to the trust resulting from an act of such nominee in connection with such securities so deposited.

"§ 53-160. License to do business.

Before any such bank or trust company is authorized to act in any fiduciary capacity without bond, it must be licensed by the Commissioner of Banks of the State. For such license the licensee shall pay to the State Banking Commission an annual license fee of two hundred dollars (\$200.00), which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks and trust companies acting in a fiduciary capacity, insofar as it may be necessary, and the surplus, if any, shall remain in the State treasury for the use of the general fund of the State: Provided, however, that a national bank which has been granted trust powers by the Comptroller of the Currency or his duly authorized agent shall be annually licensed as required in this section and shall be granted a certificate of solvency which will meet the provisions of G.S. 53-162 without examination by the Commissioner of Banks as required in G.S. 53-161.

"§ 53-161. Examination as to solvency.

The Commissioner of Banks shall examine into the solvency of such bank, and shall, if he deem it necessary, at the expense of the bank, make or cause to be made an examination at its home office of its assets and liabilities. Examinations of trust institutions other than banks shall be as provided in Article 24 of this Chapter.

"§ 53-162. Certificate of solvency.

After any ~~such~~ bank has been licensed by the Commissioner of Banks, a certificate issued by the Commissioner of Banks, showing the bank to be solvent to an amount not less than one hundred thousand dollars (\$100,000), shall authorize such bank to act in a fiduciary capacity without bond. There shall be no charge for the seal of this certificate.

"§ 53-163. Clerk of superior court notified of license and revocation.

The Commissioner of Banks, upon granting license to any such ~~bank, bank or trust company,~~ shall immediately notify the clerk of the superior court of each county in the State that ~~such the bank or trust company~~ has been licensed under this Article, and, whenever the Commissioner of Banks is satisfied that any bank or trust company licensed by ~~him the Commissioner~~ has become insolvent, or is in imminent danger of insolvency, ~~he the Commissioner~~ shall revoke the license granted to ~~such that~~ bank and notify the clerk of the superior court of each county in the State of the revocation. After such notification, the right of any such bank or trust company to act in a fiduciary capacity shall cease."

SECTION 4. G.S. 55-15-05(a) reads as rewritten:

"(a) A certificate of authority authorizes the foreign corporation to which it is issued to transact business in this State subject, however, to the right of the State to revoke the certificate as provided in this Chapter. A foreign corporation, ~~however, is not eligible or entitled to~~ corporation may qualify in this State as executor, administrator, or guardian, or as trustee under the will of any person domiciled in this State at the time of ~~his death, that person's death only in accordance with applicable provisions of Article 24 of Chapter 53, except that a foreign corporation chartered under the banking laws of Georgia, South Carolina, Tennessee or Virginia or as a national banking association in any said states may act as testamentary trustee, or executor in this State if:~~

- (1) ~~It has a bona fide capital of at least two hundred and fifty thousand dollars (\$250,000) actually paid in;~~
- (2) ~~It is authorized to act in such fiduciary capacity in the state in which it is incorporated or if such foreign corporation be a national banking association in the state in which it has its principal place of business; and~~
- (3) ~~Any bank or other corporation organized under the laws of this State or a national banking association having its principal place of business in this State is permitted by law to act in such fiduciary capacity in the state in which such foreign corporation seeking to act in this State is organized or in which it has its principal place of business if it is a national banking association without further showing or qualification other than that it is authorized to act in such fiduciary capacity in this State and upon compliance with the laws of such other state, if any, concerning service of process on nonresident fiduciaries.~~

~~Unless assets of the estate are to be removed from within the State of North Carolina, such foreign corporations seeking to act as testamentary trustee, or executor in this State, upon qualifying to act~~

~~in such fiduciary capacity, shall not be required by law to give bond except as required of a resident corporate fiduciary in like circumstances. No officer, employee or agent of any such foreign corporation shall be eligible or entitled to serve as testamentary trustee, or executor in this State whether such officer, employee, or agent is a resident or nonresident of this State if such officer, employee or agent is acting as testamentary trustee or executor on behalf of any such foreign corporation except when such foreign corporation itself shall be eligible to so serve.~~

A foreign corporation qualifying as testamentary trustee or executor under the provisions of this section shall appoint a process agent and file such appointment with the court as required by G.S. 28A-4-2(4)."

SECTION 5. G.S. 53-25 reads as rewritten:

"§ 53-25. *Trust terminated on insolvency of trustee bank.*

Whenever any bank ~~or trust company~~ created under the laws of this State, which has heretofore been, or shall hereafter be, appointed trustee in any indenture, deed of trust or other instrument of like character, executed to secure the payment of any bonds, notes or other evidences of indebtedness, has been or shall be by reason of insolvency, or for any other cause provided by law, taken over for liquidation by the Commissioner of Banks of this State or by any other legally constituted authority, the powers and duties of such bank ~~or trust company~~ as trustee in any such instrument shall, upon the entry of an order of the clerk of the superior court appointing a successor trustee, upon a petition as hereinafter provided, immediately cease and determine."

SECTION 6. G.S. 53-1 reads as rewritten:

"§ 53-1. *'Bank,' 'surplus,' 'undivided profits,' and other words defined.*

Except as otherwise specifically provided in this Chapter, the~~The~~ following definitions shall be applied to the terms used in this Chapter:

- (1) Bank. – The term "bank" shall be construed to mean any corporation, other than savings and loan associations, savings banks, industrial banks, and credit unions, receiving, soliciting or accepting money or its equivalent on deposit as a business.
- (1a) Branch. – The term "branch" means an office of any bank in which deposits are received, monies are paid, and loans are made. Any of the functions or services authorized to be engaged in by a bank may be carried out in a branch.

- (2) Demand Deposits. – The term "demand deposits" means all deposits, the payment of which can be legally required within 30 days.
- (3) Insolvency. – The term "insolvency" means:
 - a. When a bank cannot meet its deposit liabilities as they become due in the regular course of business;
 - b. When the actual cash market value of its assets is insufficient to pay its liabilities to depositors and other creditors;
 - c. When its reserve shall fall under the amount required by this Chapter, and it shall fail to make good such reserve within 30 days after being required to do so by the Commissioner of Banks; or
 - d. Whenever the undivided profits and surplus shall be inadequate to cover losses of the bank, whereby an impairment of the capital stock is created.
- (3a) Limited Service Facility. – The term "limited service facility" means an office of a bank in which deposits are received, monies are paid, or other duties and functions of a teller are performed. Loan applications shall be taken in a limited service facility but notes may not be executed nor loan proceeds disbursed in a limited service facility.
- (4) Net Earnings. – The term "net earnings" means the excess of the gross earnings of any bank over the expenses and losses chargeable against such earnings during any dividend period.
- (5) Practical Banker. – The term "practical banker" means an officer or employee of a bank actively engaged in performing duties in managing or supervising or assisting in managing or supervising the conducting of a banking business, including any such banker who is in a retired status from such duties.
- (6) Surplus. – The term "surplus" means a fund created pursuant to the provisions of this Chapter by a bank from payments by stockholders or from its net earnings or undivided profits which, to the amount specified and by any additions thereto set apart and designated as such, is not available for the payment of dividends, and cannot be used for the payment of expenses or losses so long as such bank has undivided profits.
- (7) Time Deposits. – The term "time deposits" means all deposits, the payment of which cannot be legally required within 30 days.

- (8) Undivided Profits. – The term "undivided profits" means the credit balance of the profit and loss account of any bank.
- (9) Unimpaired Capital Fund. – The term "unimpaired capital fund" means the total of the amount of unimpaired common stock, preferred stock, surplus, undivided profits, reserve for contingencies and other capital reserves (excluding accrued dividends on preferred stock and limited life preferred stock), mandatory convertible instruments, allowance for possible loan losses, and the amount of capital debentures or notes, convertible or otherwise, having an average original maturity of at least seven years, which have been specifically designated as part of the bank's unimpaired capital fund by resolution duly adopted by the board of directors of the bank; provided, that upon payment of such capital debentures or notes or upon accumulation of funds in a sinking fund for amortization of such debentures or notes, unimpaired capital fund shall be reduced by the amount of such payment or accumulation. The terms and conditions of any issue of or prepayment of capital debentures or notes must have the prior written approval of the Commissioner of Banks affirming that in his opinion such issue or prepayment is in the best interest of the depositors, creditors and stockholders of the bank."

SECTION 7. Trust companies organized under Article 1 of Chapter 53 of the General Statutes shall hereafter be governed by this Article and may take such steps as may be necessary or appropriate to conform to the provisions hereof. The Commissioner shall allow a period of up to one year for this transition.

SECTION 8. G.S. 53-80 reads as rewritten:
"§ 53-80. *Qualifications of directors.*

Every director of a bank doing business under this Chapter shall be the owner and holder of shares of stock in the bank representing not less than one thousand dollars (\$1,000) book value as of the last business day of the calendar year immediately prior to the election of such director. For the purpose of this section, book value shall consist of common capital stock, unimpaired surplus, undivided profits, and reserves for contingencies if any such reserves are segregations of capital. Where directors are appointed during the interval between stockholders' meetings pursuant to the provisions of G.S. 53-67, such directors shall hold the required qualifying shares as of the time of their appointment. Notwithstanding the proviso at the end of this section, where the bank is a wholly owned subsidiary, the required

qualifying shares shall be shares in the parent corporation, whether or not the bank was doing business before February 18, 1921. And every such director shall hold the shares in the director's own name unpledged and unencumbered in any way. Provided, however, shares of the bank or parent corporation stock held in an individual retirement account or other retirement account of a bank director, over which the director has investment authority, shall be considered qualifying shares for the purpose of this section. The office of any director at any time violating any of the provisions of this section shall immediately become vacant, and the remaining directors shall declare that director's office vacant and proceed to fill such vacancy forthwith. Not less than one-half of the directors of every bank doing business under this Chapter shall be residents of the State of North ~~Carolina~~ Carolina or any state in which the bank has a branch: Provided, that as to banks doing business before February 18, 1921, the requirements as to amount of stock owned by a director shall not apply unless the Commissioner of Banks shall rule that the director is not bona fide discharging the director's duties."

SECTION 9. This act becomes effective July 1, 2001, and applies to acts or omissions occurring and agreements or contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 10:54 a.m. on the 4th day of July, 2001.

H.B. 1448**SESSION LAW 2001-264****AN ACT TO PROVIDE UNIFORM PENALTIES FOR LOCAL MEALS TAXES.**

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-154.1. Uniform penalties for local meals taxes.

(a) Penalties. – Notwithstanding any other provision of law, the civil and criminal penalties that apply to State sales and use taxes under Chapter 105 of the General Statutes apply to local meals taxes. The governing board of a taxing county has the same authority to waive the penalties for a local meals tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(b) Scope. – This section applies to every county authorized by the General Assembly to levy a meals tax. As used in this section, the term 'meals tax' means a tax on prepared food and drink."

SECTION 2. Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-214.1. Uniform penalties for local meals taxes.

(a) Penalties. – Notwithstanding any other provision of law, the civil and criminal penalties that apply to State sales and use taxes under Chapter 105 of the General Statutes apply to local meals taxes. The governing board of a taxing city has the same authority to waive the penalties for a meals tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(b) Scope. – This section applies to every city authorized by the General Assembly to levy a meals tax.

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

(1) City. – A municipality.

(2) Meals tax. – A tax on prepared food and drink."

SECTION 3. Any provision of a local act that conflicts with G.S. 153A-154.1 or G.S. 160A-214.1 is repealed.

SECTION 4. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 26th day of June, 2001.

Became law upon approval of the Governor at 10:55 a.m. on the 4th day of July, 2001.

H.B. 1062

SESSION LAW 2001-265

AN ACT TO CORRECT CERTAIN ENVIRONMENTAL LAWS RELATING TO THE DRY-CLEANING SOLVENT CLEANUP ACT OF 1997 AND THE MANAGEMENT OF WHITE GOODS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 23 of S.L. 2000-19 reads as rewritten:

"Section 23. Section 1.1 of this act becomes effective April 1, 2003, and expires June 30, 2010. Section 1.2 of this act becomes effective ~~October 1, 2001,~~ August 1, 2001, and expires January 1, 2010. Sections 3 and 4 of this act are effective on and after April 1, 1998. Section 5.1 of this act becomes effective July 1, 2001. Section 5.2 of this act becomes effective July 1, 2002. Section 5.3 of this act becomes effective July 1, 2003. All other sections of this act are effective when this act becomes law."

SECTION 2.(a) Any person who undertakes assessment or remediation of dry-cleaning solvent contamination pursuant to a notice of violation or enforcement action by the Department of Environment and Natural Resources during the period beginning 1 October 1997 and ending 30 June 2001 may, on or after 30 June 2001 and prior to 1 July 2002, seek reimbursement from the Dry-Cleaning

Solvent Cleanup Fund for any costs exceeding fifty thousand dollars (\$50,000). The Environmental Management Commission shall reimburse costs if it finds that the costs incurred were (i) appropriately documented and reasonably necessary to assess or remediate the dry-cleaning solvent contamination; (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) through (9) of G.S. 143-215.104N(b); (iv) not reimbursable from pollution and remediation legal liability insurance; and (v) required by a notice of violation or a specific order of the Department of Environment and Natural Resources issued on or after 30 June 1996. No reimbursement may be paid pursuant to this section for dry-cleaning solvent contamination that did not result from operations at a dry-cleaning or wholesale distribution facility.

SECTION 2.(b) Any person who, as of 30 June 2001, is undertaking assessment or remediation of dry-cleaning solvent contamination may petition the Environmental Management Commission prior to 1 July 2002 to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement with respect to the contamination. The Commission shall determine whether the cost of any assessment or remediation performed prior to entry into an agreement is necessary and reasonable. The Commission shall credit the costs of assessment or remediation that it determines to be necessary and reasonable, and that have been paid by the person, toward the financial responsibility requirements applicable to that person under G.S. 143-215.104F.

SECTION 2.(c) The total of all payments made pursuant to this section in a single fiscal year shall not exceed ten percent (10%) of the revenues credited to the Dry-Cleaning Solvent Cleanup Fund in the preceding fiscal year.

SECTION 3. Section 19 of S.L. 2000-19 is repealed.

SECTION 4. Section 22 of S.L. 2000-19 reads as rewritten:

"Section 22. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Environmental Management Commission and the Commission on Health Services may adopt temporary rules to implement the provisions of this act until 1 July ~~2001~~, 2002."

SECTION 5. Sections 7, 8, and 9 of Chapter 471 of the 1993 Session Laws are repealed.

SECTION 6. Section 38 of Chapter 745 of the 1993 Session Laws is repealed.

SECTION 7. Sections 1, 3, 4, and 7 of this act are effective when the act becomes law. Section 2 of this act is effective retroactively to 1 January 2000. Section 5 of this act is effective

retroactively to 13 July 2000. Section 6 of this act is effective retroactively to 1 July 1998.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 10:57 a.m. on the 4th day of July, 2001.

S.B. 9**SESSION LAW 2001-266****AN ACT TO APPOINT MEMBERS TO THE VIRGINIA-NORTH
CAROLINA INTERSTATE HIGH-SPEED RAIL
COMMISSION.**

Whereas, levels of congestion on interstate highways and at major airports along the east coast of the United States are rapidly rising, and in some locations have reached virtual gridlock for hours each day; and

Whereas, it is therefore necessary to develop and use alternative modes of transportation for the movement of goods and passengers long distances along the east-coast corridor; and

Whereas, preliminary engineering studies have documented that the creation of high-speed passenger rail service between points in Virginia and points in North Carolina could provide travelers along the corridor with an attractive alternative to highway travel, thus reducing highway congestion; and

Whereas, establishment of high-speed passenger rail service between Virginia and North Carolina offers the additional possibility of connection through the District of Columbia to origins and destinations as far north as New England; and

Whereas, establishment of high-speed passenger rail service between Virginia and North Carolina offers the additional possibility of connections to destinations in the South, including Florida, Greenville-Spartanburg, South Carolina, and Atlanta, Georgia; and

Whereas, the Virginia General Assembly by passage of Senate Joint Resolution 396 of the 2001 Session has taken its action to create the Virginia-North Carolina Interstate High-Speed Rail Commission; and

Whereas, it is useful and prudent to have a panel of legislators from both Virginia and North Carolina established in order to explore the benefits, costs, and required legislative actions associated with establishing high-speed passenger rail service; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Upon the Virginia General Assembly's concurring action, the Virginia-North Carolina Interstate High-Speed Rail Commission is established. The North Carolina component shall consist of six members to be appointed as follows:

- (1) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives; and
- (2) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

SECTION 2. In conducting its study, the Commission shall hold meetings, tours of inspection, and public hearings as appropriate to determine the desirability and feasibility of establishing high-speed passenger rail service between Virginia and North Carolina. If it appears to the Commission that establishment of such service is desirable and feasible, the Commission shall consider and recommend to the Governor and General Assembly those legislative actions necessary to do so, including the identification of the necessary levels of funding and the sources of those funds.

SECTION 3. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Technical support shall be provided by the Rail Division of the Department of Transportation. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The North Carolina members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. North Carolina members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6; and
- (3) All other Commission members at the rate established in G.S. 138-5.

SECTION 4. The Commission shall report its findings and any recommendations to the Governor and the General Assembly

by October 20, 2002, and may make an interim report to the Governor and General Assembly upon the convening of the 2002 Regular Session of the 2001 General Assembly.

SECTION 5. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Interstate High-Speed Rail Commission.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 11:50 a.m. on the 4th day of July, 2001.

H.B. 1098**SESSION LAW 2001-267**

AN ACT TO AMEND THE LAWS CONCERNING CERTAIN TYPES OF DEPOSIT ACCOUNTS IN NORTH CAROLINA TO MAKE THEM MORE UNDERSTANDABLE TO CONSUMERS AND TO MAKE THEM MORE FLEXIBLE IN MEETING CONSUMER PREFERENCES.

The General Assembly of North Carolina enacts:

PART I. ACCOUNTS AT COMMERCIAL BANKS.

SECTION 1. G.S. 53-146.2 reads as rewritten:

"§ 53-146.2. ~~Trust~~ Payable on Death (POD) accounts.

(a) If any person or persons establishing a deposit account shall execute a written agreement with the bank containing a statement that it is executed pursuant to the provisions of this ~~subsection~~ section and providing for the account to be held in the name of ~~such~~ the person or persons as ~~trustee~~ owner or owners ~~for not more than one person for one or more persons~~ designated as ~~beneficiary, beneficiaries,~~ the account and any balance thereof shall be held as a trust Payable on Death account, with the following incidents:

- (1) ~~The trustee~~ Any owner during the ~~trustee's~~ owner's lifetime may change ~~the~~ any designated beneficiary by a written direction to the bank.
- (1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 53-146.1.
- (2) ~~The trustee~~ Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the ~~trustee's~~ owner's personal order. ~~Such payment or~~

~~withdrawal shall constitute a revocation of the trust agreement as to the amount withdrawn.~~

- (3) If ~~the~~ only one beneficiary is living and of legal age at the death of the ~~trustee,~~ last surviving owner, the beneficiary shall be the owner of the account, and payment by the bank to such owner shall be a total discharge of the bank's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 53-146.1, and payment by the bank to the owners or any of the owners shall be a total discharge of the bank's obligation as to the amount paid.
- (4) If ~~the beneficiary predeceases the trustee,~~ one or more owners survive the last surviving beneficiary, the account shall become an individual account of the ~~trustee~~ owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual ~~account.~~ account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 53-146.1, in the case of multiple owners.
- (5) If ~~the named~~ only one beneficiary is living and that beneficiary is not of legal age at the death of the ~~trustee,~~ last surviving owner, the bank shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the bank shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a ~~trust~~ Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the ~~trustee~~ last surviving owner and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the bank of funds in the ~~trust~~ Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the bank for the funds so paid, but the personal representative's authority

to collect such funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"BANK (or name of institution)
TRUST PAYABLE ON DEATH ACCOUNT
G.S. 53-146.2

I (or we) understand that by establishing a ~~trust~~ Payable on Death account under the provisions of North Carolina General Statute 53-146.2 that:

1. During ~~my lifetime~~ I my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account; and
2. By written direction to the bank (or name of institution) I (or we), individually or jointly, may change the ~~beneficiary; beneficiary or beneficiaries;~~ and
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries and the money will not be inherited by my (or our) heirs or be controlled by will.

-----"

(a1) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

~~(b) Whenever the beneficiary of a trust account does not survive the trustee, then the account and any balance thereof which exists shall be owned by the trustee in the trustee's own right and for the trustee's own use and benefit.~~

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary shall affect the nature of such accounts as trust Payable on Death accounts, or affect the right of a ~~trustee~~ any owner to terminate the account.

(d) This section does not repeal or modify any provisions of laws relating to estate taxes."

PART II. ACCOUNTS AT CREDIT UNIONS.

SECTION 2. G.S. 54-109.57 reads as rewritten:
"§ 54-109.57. ~~Trusts~~ Payable on Death (POD) accounts.

(a) Shares may be issued to and deposits received from any person or persons establishing an account who shall execute a written agreement with the credit union containing a statement that it is executed pursuant to the provisions of this ~~subsection~~ section and providing for the account to be held in the name of ~~such~~ the person or

persons as ~~trustee for not more than one person~~ owner or owners for one or more persons designated as ~~beneficiary, beneficiaries,~~ the account and any balance thereof shall be held as a ~~trust~~ Payable on Death account, with the following incidents:

- (1) ~~The trustee~~ Any owner during the ~~trustee's~~ owner's lifetime may change ~~the any~~ designated beneficiary by a written direction to the credit union.
- (1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54-109.58.
- (2) ~~The trustee~~ Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the ~~trustee's~~ owner's personal order. ~~Such payment or withdrawal shall constitute a revocation of the trust agreement as to the amount withdrawn.~~
- (3) ~~If the~~ only one beneficiary is living and of legal age at the death of the last surviving trustee, the beneficiary shall be the holder of the account, and payment by the credit union to the holder shall be a total discharge of the credit union's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54-109.58, and payment by the credit union to the owners or to any of the owners shall be a total discharge of the credit union's obligation as to the amount paid.
- (4) If one or more owners survive the last surviving beneficiary, the beneficiary predeceases the trustee, the account shall become an individual account of the trustee owner, or a joint account with right of survivorship of the owners and shall have the legal incidents of an individual account, account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 54-109.58, in the case of multiple owners.
- (5) ~~If the named~~ only one beneficiary is living and that beneficiary is not of legal age at the death of the ~~trustee,~~ last surviving owner, the credit union shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the credit union shall hold the funds in a similar interest

bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.

- (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a ~~trust~~ Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the ~~trustee~~ last surviving owner and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the credit union of funds in the ~~trust~~ Payable on Death account to the beneficiary shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the credit union for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"CREDIT UNION (or name of institution)
TRUST PAYABLE ON DEATH ACCOUNT
 G.S. 54-109.57

I (or we) understand that by establishing a ~~trust~~ Payable on Death account under the provisions of North Carolina General Statute 54-109.57 that:

- 1. During ~~my lifetime~~ I my (or our) lifetime I (or we) may withdraw the money in the account; and
- 2. By written direction to the credit union (or name of institution) I (or we), individually or jointly, may change the ~~beneficiary;~~ beneficiary or beneficiaries; and
- 3. Upon my (or our) death the money remaining in the account will belong to the ~~beneficiary;~~ beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by ~~my~~ will.

-----"

(a1) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

~~(b) Whenever the beneficiary of a trust account does not survive the trustee, then the account and any balance thereof which exists~~

shall be held by the trustee in the trustee's own right and for the trustee's own use and benefit.

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary shall affect the nature of such accounts as ~~trust~~ Payable on Death accounts, or affect the right of a ~~trustee~~ any owner to terminate the account.

(d) ~~Nothing herein contained shall be construed to repeal or modify any of the provisions of G.S. 105-24, relating to the administration of the estate tax laws of this State, or provisions of law relating to estate taxes. This section does not repeal or modify any provisions of law relating to estate taxes.~~

PART III. ACCOUNTS AT SAVINGS AND LOAN ASSOCIATIONS.

SECTION 3. G.S. 54B-130 reads as rewritten:

"§ 54B-130. ~~Trust Payable on Death (POD)~~ accounts.

(a) If any person or persons establishing a withdrawable account shall execute a written agreement with the association containing a statement that it is executed pursuant to the provisions of this ~~subsection~~ section and providing for the account to be held in the name of ~~such~~ the person or persons as ~~trustee for not more than one person~~ owner or owners for one or more persons designated as ~~beneficiary,~~ beneficiaries, the account and any balance thereof shall be held as a ~~trust~~ Payable on Death account with the following incidents:

- (1) ~~The trustee~~ Any owner during the ~~trustee's~~ owner's lifetime may change ~~the~~ any designated beneficiary by a written direction to the association.
- (1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54B-129.
- (2) ~~The trustee~~ Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the ~~trustee's~~ owner's personal order. ~~Such payment or withdrawal shall constitute a revocation of the trust agreement as to the amount withdrawn.~~
- (3) ~~If the~~ only one beneficiary is living and of legal age at the death of the ~~trustee,~~ last surviving owner, the beneficiary shall be the holder of the account, and payment by the association to the holder shall be a total discharge of the association's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the

account as joint tenants with right of survivorship as provided in G.S. 54B-129, and payment by the association to the owners or to any of the owners shall be a total discharge of the association's obligation as to the amount paid.

- (4) If the beneficiary predeceases the trustee, one or more owners survive the last surviving beneficiary, the account shall become an individual account of the trustee owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account. account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 54B-129, in the case of multiple owners.
- (5) If the named only one beneficiary is living and that beneficiary is not of legal age at the death of the trustee, last surviving owner, the association shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the association shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a trust Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the trustee last surviving owner and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the association of funds in the trust Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the association for the funds so paid, but the personal representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"SAVINGS AND LOAN (or name of institution)
TRUST PAYABLE ON DEATH ACCOUNT
 G.S. 54B-130(a)

I (or we) understand that by establishing a ~~trust~~ Payable on Death account under the provisions of North Carolina General Statute 54B-130(a) that:

1. During my (or our) lifetime I (or we), individually or jointly, may withdraw the money in the account; and
2. By written direction to the savings and loan association (or name of institution) I (or we), individually or jointly, may change the beneficiary; and
3. Upon my (or our) death the money remaining in the account will belong to the ~~beneficiary~~, beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by ~~my~~ will.

-----"

(a1) This section shall not be deemed exclusive. Deposit accounts not conforming to this section shall be governed by other applicable provisions of the General Statutes or the common law, as appropriate.

~~(b) Whenever the beneficiary of a trust account does not survive the trustee then the account and any balance thereof which exists shall be held by the trustee in the trustee's own right and for the trustee's own use and benefit.~~

(c) No addition to such accounts, nor any withdrawal, payment, or change of beneficiary shall affect the nature of such accounts as trust Payable on Death accounts, or affect the right of a ~~trustee~~ any owner to terminate the account.

(d) This section does not repeal or modify any provisions of laws relating to estate taxes."

PART IV. ACCOUNTS AT SAVINGS BANKS.

SECTION 4. G.S. 54C-166 reads as rewritten:

"§ 54C-166. ~~Trust~~ Payable on Death (POD) accounts.

(a) If a person or persons establishing a withdrawable account executes a written agreement with the savings bank containing a statement that it is executed under this ~~subsection~~ section and providing for the account to be held in the name of the person or persons as ~~trustee for not more than one person~~ owner or owners for one or more persons designated as ~~beneficiary~~, beneficiaries, the account and any balance of the account is held as a trust Payable on Death account with the following incidents:

(1) ~~The trustee~~ Any owner during the ~~trustee's~~ owner's lifetime may change ~~the~~ any designated beneficiary by a written direction to the savings bank.

(1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as

- otherwise provided in this section, the account shall have the incidents set forth in G.S. 54C-165.
- (2) ~~The trustee~~ Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the ~~trustee's~~ owner's personal order. ~~The payment or withdrawal shall constitute a revocation of the trust agreement as to the amount withdrawn.~~
 - (3) If ~~the~~ only one beneficiary is living and of legal age at the death of the ~~trustee,~~ last surviving owner, the beneficiary is the holder of the account, and payment by the savings bank to the holder is a total discharge of the savings bank's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54C-165, and payment by the savings bank to the owners or to any of the owners shall be a total discharge of the savings bank's obligation as to the amount paid.
 - (4) ~~If the beneficiary predeceases the trustee,~~ one or more owners survive the last surviving beneficiary, the account shall become an individual account of the ~~trustee~~ owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual ~~account.~~ account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 54C-165, in the case of multiple owners.
 - (5) ~~If the named~~ only one beneficiary is living and that beneficiary is not of legal age at the death of the ~~trustee,~~ last surviving owner, the savings bank shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the savings bank shall hold the funds in a similar interest-bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
 - (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a ~~trust~~ Payable on Death account established under this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner ~~trustee~~ and the funds shall be subject only to the personal representative's right of

collection as set forth in G.S. 28A-15-10(a)(1). Payment by the savings bank of funds in the ~~trust~~ Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the savings bank for the funds so paid, but the personal representative's authority to collect the funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"SAVINGS BANK (or name of institution) ~~TRUST~~ PAYABLE ON DEATH ACCOUNT

G.S. 54C-166(a)

I (or we) understand that by establishing a ~~trust~~ Payable on Death account under G.S. 54C-166(a) that:

1. During ~~my lifetime~~ I my (or our) lifetime, I (or we) may withdraw the money in the account; and
2. By written direction to the savings bank (or name of institution) I (or we), individually or jointly, may change the beneficiary; and
3. Upon my (or our) death the money remaining in the account will belong to the ~~beneficiary~~, beneficiary or beneficiaries and the money will not be inherited by my (or our) heirs or be controlled by ~~my~~ will.

-----"

(a1) This section is not deemed exclusive. Deposit accounts not conforming to this section are governed by other applicable law, as appropriate.

(b) ~~Whenever the beneficiary of a trust account does not survive the trustee, then the account and any balance of the account that exists is held by the trustee in the trustee's own right and for the trustee's own use and benefit.~~

(c) No addition to the accounts, nor any withdrawal, payment, or change of beneficiary shall affect the nature of the accounts as ~~trust~~ Payable on Death accounts, or affect the right of a ~~trustee~~ any owner to terminate the account.

(d) This section does not repeal or modify any law relating to estate taxes."

PART V. CONFORMING AMENDMENTS TO THE GENERAL STATUTES.

SECTION 5. G.S. 36A-120 reads as rewritten:

"§ 36A-120. ~~Discretionary revocable trust~~ Payable on Death accounts in financial institution.

~~Trusts~~ Payable on Death accounts created under the provisions of G.S. 53-146.2, G.S. 54C-166, G.S. 54-109.57 or G.S. 54B-129 are governed by the provisions of those statutes."

SECTION 6. G.S. 36A-125.1(3) reads as rewritten:

"(3) "Trust" means an express noncharitable trust. A trust is noncharitable if it is neither a wholly charitable trust nor a charitable split-interest trust subject to the provisions of Article 4 or 4A of Chapter 36A of the General Statutes. The term "trust" does not include constructive trusts, resulting trusts, conservatorships, personal representatives, ~~trust accounts~~ Payable on Death accounts as defined in G.S. 53-146.2, 54-109.57, G.S. 54C-166, and G.S. 54B-130, trust funds subject to G.S. 90-210.61, custodial arrangements pursuant to G.S. 33A-1 through G.S. 33A-24 and G.S. 33B-1 through G.S. 33B-22, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, or any arrangement under which a person is nominee or escrowee for another."

SECTION 7. G.S. 36A-161(d) reads as rewritten:

"(d) This Article does not apply:

- (1) Unless the provisions of the trust provide otherwise by specific reference to this Article, to:
 - a. Trusts under any federal employee retirement income security statute or other retirement or pension trusts;
 - b. Trusts which are created by legislative act;
 - c. Trusts which are created by or pursuant to premarital or postmarital agreements, divorce settlements, settlements of other proceedings or disputes;
 - d. Transfers under the Uniform Transfers to Minors Act;
 - e. Transfers under the Uniform Custodial Trust Act; or
 - f. Honorary trusts, trusts for pets, and trusts for cemetery lots.
- (2) To trusts imposed or required under another chapter of the General Statutes or by rule in which the investment of the trust funds is regulated by the other chapter or by

rule, unless a provision of the other chapter or the rule provides otherwise by a specific reference to this Article.

- (3) To:
- a. Constructive trusts and resulting trusts;
 - b. Guardianship, conservatorship, and estates managed by personal representatives; or
 - c. Trust Payable on Death accounts as defined in G.S. 53-146.2, 54-109.57, 54C-166, and G.S. 54B-130; or
 - d. Business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interests, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another."

PART VI. EFFECTIVE DATE.

SECTION 8. This act becomes effective October 1, 2001, and applies to accounts opened on or after that date.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 11:51 a.m. on the 4th day of July, 2001.

H.B. 63 SESSION LAW 2001-268

AN ACT TO REQUIRE THE USE OF CERTAIN SAFETY EQUIPMENT BY CHILDREN WHILE THEY ARE BICYCLE OPERATORS OR PASSENGERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new Part 10B to Article 3 to read:

"Part 10B. Child Bicycle Safety Act.

"§ 20-171.6. Short title.

This Article shall be known and may be cited as the 'Child Bicycle Safety Act'.

"§ 20-171.7. Legislative findings and purpose.

(a) The General Assembly finds and declares that:

- (1) Disability and death of children resulting from injuries sustained in bicycling accidents are a serious threat to the public health, welfare, and safety of the people of this State, and the prevention of that disability and death is a goal of all North Carolinians.

- (2) Head injuries are the leading cause of disability and death from bicycling accidents.
- (3) The risk of head injury from bicycling accidents is significantly reduced for bicyclists who wear proper protective bicycle helmets; yet helmets are worn by fewer than five percent (5%) of child bicyclists nationwide.
- (4) The risk of head injury or of any other injury to a small child who is a passenger on a bicycle operated by another person would be significantly reduced if any child passenger sat in a separate restraining seat.

(b) The purpose of this Article is to reduce the incidence of disability and death resulting from injuries incurred in bicycling accidents by requiring that while riding on a bicycle on the public roads, public bicycle paths, and other public rights-of-way of this State, all bicycle operators and passengers under the age of 16 years wear approved protective bicycle helmets; that all bicycle passengers who weigh less than 40 pounds or are less than 40 inches in height be seated in separate restraining seats; and that no person who is unable to maintain an erect, seated position shall be a passenger in a bicycle restraining seat, and all other bicycle passengers shall be seated on saddle seats.

"§ 20-171.8. Definitions.

As used in this Article, the following terms have the following meanings:

- (1) 'Bicycle' means a human-powered vehicle with two wheels in tandem designed to transport, by the action of pedaling, one or more persons seated on one or more saddle seats on its frame. This term also includes a human-powered vehicle, designed to transport by the action of pedaling which has more than two wheels where the vehicle is used on a public roadway, public bicycle path, or other public right-of-way, but does not include a tricycle.
- (2) 'Operator' means a person who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle.
- (3) 'Other public right-of-way' means any right-of-way other than a public roadway or public bicycle path that is under the jurisdiction and control of this State or a local political subdivision of the State and is designed for use and used by vehicular and/or pedestrian traffic.
- (4) 'Passenger' means a person who travels on a bicycle in any manner except as an operator.

- (5) 'Protective bicycle helmet' means a piece of headgear that meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation.
- (6) 'Public bicycle path' means a right-of-way under the jurisdiction and control of this State or a local political subdivision of the State for use primarily by bicycles and pedestrians.
- (7) 'Public roadway' means a right-of-way under the jurisdiction and control of this State or a local political subdivision of the State for use primarily by motor vehicles.
- (8) 'Restraining seat' means a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle.
- (9) 'Tricycle' means a three-wheeled, human-powered vehicle designed for use as a toy by a single child under the age of six years, the seat of which is no more than two feet from ground level.

"§ 20-171.9. Requirements for helmet and restraining seat use.

With regard to any bicycle used on a public roadway, public bicycle path, or other public right-of-way:

(a) It shall be unlawful for any parent or legal guardian of a person below the age of 16 to knowingly permit that person to operate or be a passenger on a bicycle unless at all times when the person is so engaged he or she wears a protective bicycle helmet of good fit fastened securely upon the head with the straps of the helmet.

(b) It shall be unlawful for any parent or legal guardian of a person below the age of 16 to knowingly permit that person to be a passenger on a bicycle unless all of the following conditions are met:

- (1) The person is able to maintain an erect, seated position on the bicycle.
- (2) Except as provided in subdivision (3) of this subsection, the person is properly seated alone on a saddle seat (as on a tandem bicycle).
- (3) With respect to any person who weighs less than 40 pounds, or is less than 40 inches in height, the person can be and is properly seated in and adequately secured to a restraining seat.

(c) No negligence or liability shall be assessed on or imputed to any party on account of a violation of subsection (a) or (b) of this section.

(d) Violation of this section shall be an infraction. Except as provided in subsection (e) of this section, any parent or guardian found responsible for violation of this section may be ordered to pay a civil fine of up to ten dollars (\$10.00), inclusive of all penalty assessments and court costs.

(e) In the case of a first conviction of this section, the court may waive the fine upon receipt of satisfactory proof that the person responsible for the infraction has purchased or otherwise obtained, as appropriate, a protective bicycle helmet or a restraining seat, and uses and intends to use it whenever required under this section."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 11:50 a.m. on the 5th day of July, 2001.

H.B. 356**SESSION LAW 2001-269**

AN ACT TO UPDATE THE BOND REQUIREMENTS FOR COLLECTION AGENCIES; TO CLARIFY THE DEFINITION OF COLLECTION AGENCY; TO REQUIRE NONRESIDENT COLLECTION AGENCIES TO POST A SECOND BOND FOR EXPENSES INCURRED BY THE STATE IN A RECEIVERSHIP PROCEEDING INVOLVING THE COLLECTION AGENCY; TO CONFORM THE LAW ON DECEPTIVE REPRESENTATION BY COLLECTION AGENCIES TO FEDERAL LAW; TO MAKE TECHNICAL CORRECTIONS; TO ALLOW BAIL BONDSMEN TO CREATE SHARED TRUST ACCOUNTS; TO CODIFY AN ADMINISTRATIVE RULE ON BONDSMEN AFFIDAVITS; AND TO AUTHORIZE THE COMMISSIONER TO DENY LICENSE RENEWALS TO PROFESSIONAL BONDSMEN UNTIL THEY CURE DEPOSIT DEFICIENCIES.

The General Assembly of North Carolina enacts:

PART I. COLLECTION AGENCIES

SECTION 1.1. G.S. 58-70-5(f) reads as rewritten:

"(f) A completed statement by each stockholder owning ten percent (10%) or more of the applicant's outstanding voting stock and each partner, director, ~~officer, office manager, sales representative or other collector~~ and officer actively engaged in the collection agency business, containing: the name of the collection agency, the name and address of the individual completing the form, the positions held by ~~such~~ the individual, each conviction of any criminal offense and any criminal charges pending other than minor traffic violations of ~~such~~

the individual, and the name and address of three people not related to the individual who can attest to the individual's reputation for honesty and fair dealings;".

SECTION 1.2. G.S. 58-70-15 reads as rewritten:

"§ 58-70-15. *Definition of collection agency and collection agency business.*

(a) 'Collection agency' means ~~and includes all persons, firms, corporations, and associations~~ a person directly or indirectly engaged in soliciting, from more than one ~~person, firm, corporation or association,~~ person delinquent claims of any kind owed or due or asserted to be owed or due the solicited ~~person, firm, corporation or association,~~ person and all ~~persons, firms, corporations and associations~~ persons directly or indirectly engaged in the asserting, enforcing or prosecuting of those claims.

(b) 'Collection agency' ~~shall include:~~includes:

- (1) Any ~~person, firm, corporation or association who shall procure~~ person that procures a listing of delinquent debtors from any creditor and ~~who shall sell such that sells the listing~~ or otherwise ~~receive~~ receives any fee or benefit from collections made on ~~such the listing;~~ and
- (2) Any ~~person, firm, corporation or association which~~ person that attempts to or does transfer or sell to any ~~person, firm, corporation or association~~ person not holding the permit prescribed by this Article any system or series of letters or forms for use in the collection of delinquent accounts or claims which by direct assertion or by implication indicate that the claim or account is being asserted or collected by any person, firm, corporation, or association other than the creditor or owner of the claim or demand; and
- (3) An in-house collection agency, whereby a person, firm, corporation, or association sets up a collection service for his or its own business and the agency has a name other than that of the business.

(c) 'Collection agency' does not ~~mean or include:~~mean:

- (1) Regular employees of a single creditor;
- (2) Banks, trust companies, or bank-owned, controlled or related firms, corporations or associations engaged in accounting, bookkeeping or data processing services where a primary component of such services is the rendering of statements of accounts and bookkeeping services for creditors;
- (3) Mortgage banking companies;
- (4) Savings and loan associations;
- (5) Building and loan associations;

- (6) Duly licensed real estate brokers and agents when the claims or accounts being handled by the broker or agent are related to or are in connection with the broker's or agent's regular real estate business;
- (7) Express, telephone and telegraph companies subject to public regulation and supervision;
- (8) Attorneys-at-law handling claims and collections in their own name and not operating a collection agency under the management of a layman;
- (9) Any person, firm, corporation or association handling claims, accounts or collections under an order or orders of any court;
- (10) A person, firm, corporation or association which, for valuable consideration purchases accounts, claims, or demands of another, which such accounts, claims, or demands of another are not delinquent at the time of such purchase, and then, in its own name, proceeds to assert or collect the accounts, claims or demands;
- (11) ~~"Collection agency" shall not include any person, firm, corporation or association. Any person attempting to collect or collecting claims, in his or its own that person's name, of a business or businesses owned wholly or substantially by the same person, firm, corporation, or association; that person;~~
- (12) Any nonprofit tax exempt corporation organized for the purpose of providing mediation or other dispute resolution services; and
- (13) The designated representatives of programs as defined by G.S. 110-129(5)."

SECTION 1.3. G.S. 58-70-20 reads as rewritten:

"§ 58-70-20. *Bond requirement.*

(a) As a condition precedent to the issuance of any permit under ~~G.S. 58-70-1, any~~ this Article, every applicant for ~~such a~~ permit shall file with the Commissioner of Insurance ~~and shall thereafter maintain in force while licensed~~ a bond in favor of the State of North Carolina ~~and that is~~ executed by a surety company ~~duly authorized~~ licensed to transact surety business in this State. The bond shall be maintained in force during the permit period, continuous in ~~form~~ form, and ~~shall remain in full force and effect until all moneys collected have been accounted for, and it shall be expressly stated in the for.~~ The bond shall expressly provide that it ~~the bond~~ is for the benefit of any person, firm or corporation for whom ~~such the~~ collection agency engages in the collection of accounts. ~~Such~~ The bond shall be in the amount of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) for the initial permit. The amount of ~~such the~~ bond for any

renewal permit shall be no less than ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000), nor more than ~~fifty thousand dollars (\$50,000)~~, ~~seventy-five thousand dollars (\$75,000)~~, and shall be computed as follows: The total collections paid directly to the collection agency less commissions earned by the collection agency on those collections for the calendar year ending immediately prior to the date of application, multiplied by one-sixth.

(b) A person required by this section to maintain a bond may, in lieu of that bond, deposit with the Commissioner the equivalent amount in cash, in certificates of deposit issued by banks organized under the laws of the State of North Carolina, or any national bank having its principal office in North Carolina, or securities, which shall be held in accordance with Article 5 of this Chapter. Securities may only be obligations of the United States or of federal agencies listed in G.S. 147-69.1(c)(2) guaranteed by the United States, obligations of the State of North Carolina, or obligations of a city or county of this State. Any proposed deposit of an obligation of a city or county of this State is subject to the prior approval of the Commissioner.

(c) In addition to the requirements of subsections (a) and (b) of this section, as a condition precedent to the issuance of any permit under this Article, every nonresident applicant for a permit shall file with the Commissioner a bond in the amount of ten thousand dollars (\$10,000) in favor of the Department that is executed by a surety company licensed to transact surety business in this State. The bond shall be maintained in force during the permit period, be continuous in form, and remain in effect until terminated by the Commissioner. The bond shall expressly provide that the bond is for the purpose of reimbursing the Department for expenses incurred in visiting and examining a nonresident collection agency in connection with a federal bankruptcy or State receivership proceeding in which the collection agency is the subject of the proceeding."

SECTION 1.4. G.S. 58-70-110 reads as rewritten:

"§ 58-70-110. *Deceptive representation.*

No collection agency shall collect or attempt to collect a debt or obtain information concerning a consumer by any fraudulent, deceptive or misleading representation. Such representations include, but are not limited to, the following:

- (1) Communicating with the consumer other than in the name of the person making the communication, the collection agency and the person or business on whose behalf the collection agency is acting or to whom the debt is owed;
- (2) ~~Failing to disclose in all communications attempting to collect a debt that the purpose of such communication is to collect a debt;~~ Failing to disclose in the initial written

communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector; provided, however, that this subdivision does not apply to a formal pleading made in connection with legal action;

- (3) Falsely representing that the collection agency has in its possession information or something of value for the consumer;
- (4) Falsely representing the character, extent, or amount of a debt against a consumer or of its status in any legal proceeding; falsely representing that the collection agency is in any way connected with any agency of the federal, State or local government; or falsely representing the creditor's rights or intentions;
- (5) Using or distributing or selling any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source;
- (6) Falsely representing that an existing obligation of the consumer may be increased by the addition of attorney's fees, investigation fees, service fees, or any other fees or charges;
- (7) Falsely representing the status or true nature of the services rendered by the collection agency or its business."

PART II. BAIL BONDSMEN

SECTION 2.1. G.S. 58-71-1(1) reads as rewritten:

- "(1) 'Accommodation bondsman' is a ~~natural person who has reached the age of 18 years and is a bona fide resident of this State and who, aside from love and affection and release of the person concerned, receives no~~ who shall not charge a fee or receive any consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value-value, and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that ~~such the~~ real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized ~~in the event of~~ if there is a breach

of the conditions ~~thereof. of the bond.~~ 'Consideration' as used in this subdivision does not include the legal rights of a surety against a principal by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety ~~so as~~ long as the value of the surety's rights in the collateral do not exceed the principal's liability to the surety by reason of a breach in the conditions of ~~said the~~ bail bond."

SECTION 2.2. G.S. 58-71-10 reads as rewritten:

"§ 58-71-10. *Defects not to invalidate undertakings; liability not affected by agreement or lack of qualifications.*

(a) No undertaking shall be ~~invalid, nor shall any person be discharged from his undertaking, nor a forfeiture thereof be stayed, nor shall judgment thereon be stayed, set aside or reversed, the collection of any such judgment be barred or defeated by reason~~ invalid because of any defect of form, omission or recital or of condition, failure to note or record the default of any principal or surety, or because of any other ~~irregularity, or because the undertaking was entered into on Sunday or other holiday, irregularity,~~ if it appears from the tenor of the undertaking before what magistrate or at what court the principal was bound to appear, and that the official before whom it was entered into was legally authorized to take it and the amount of bail is stated.

(b) The liability of a person on an undertaking shall not be affected by reason of the lack of any qualifications, sufficiency or competency provided in the criminal procedure law, or by reason of any other agreement whether or not the agreement is expressed in the undertaking, or because the defendant has not joined in the undertaking."

SECTION 2.3. G.S. 58-71-20 reads as rewritten:

"§ 58-71-20. *Surrender of defendant by surety; when premium need not be returned.*

At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the ~~official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed;~~ sheriff of the county in which the defendant is bonded to appear or to the sheriff where the defendant was bonded; in such case the full premium shall be returned within 72 hours after the surrender. The defendant may be surrendered without the return of premium for the bond if the defendant does any of the following:

- (1) Willfully fails to pay the premium to the surety or willfully fails to make a premium payment under the agreement specified in G.S. 58-71-167.

- (2) Changes his or her address without notifying the surety before the address change.
- (3) Physically hides from the surety.
- (4) Leaves the State without the permission of the surety.
- (5) Violates any order of the court."

SECTION 2.4. G.S. 58-71-40 reads as rewritten:

"§ 58-71-40. *Bail bondsmen and runners to be qualified and licensed; license applications generally.*

(a) No person shall act in the capacity of a ~~bail bondsman~~ professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for ~~bail bondsmen~~ professional bondsmen, surety bondsmen, or runners under ~~the provisions of this Article unless that person shall be is~~ qualified and (except as regards an accommodation bondsman) licensed in accordance with the provisions of under this Article. No license shall be issued to a ~~professional bondsman or runner under this Article~~ except to an individual natural person.

(b) The applicant shall apply for a license on forms prepared and supplied by the ~~Commissioner and the Commissioner.~~ The Commissioner may propound any reasonable interrogatories to an applicant for a license under this Article ~~relating to about~~ the applicant's qualifications, residence, prospective place of business, and any other matters ~~which, in the opinion of the Commissioner, are deemed that the Commissioner considers necessary in order to~~ protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(c) A person whose application is denied may reapply, but the Commissioner ~~may shall~~ not consider more than one application submitted by the same person within any one-year period.

(d) When a license is issued under this section, the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license is terminated ~~must shall~~ surrender the identification card to the Commissioner within 10 working days ~~of after~~ the termination.

(e) This section does not prohibit the hiring of personnel by a bail bondsman to perform only normal office duties. As used in this subsection, 'normal office duties' do not include acting as a bail bondsman or runner."

SECTION 2.5. G.S. 58-71-100 reads as rewritten:

"§ 58-71-100. *Receipts for collateral; trust accounts.*

(a) When a bail bondsman accepts collateral he shall give a written receipt for the collateral. The receipt shall give in detail a full description of the collateral received. Collateral security shall be held and maintained in trust. When collateral security is received in the form of cash or check or other negotiable instrument, the licensee shall deposit the cash or instrument within two banking days after receipt, in an established, separate noninterest-bearing trust account in any bank located in North Carolina. The trust account funds under this section shall not be commingled with other operating funds.

(b) With the approval of the Commissioner, bail bondsmen operating out of the same business office or location may establish a shared trust account for collateral security received by them. The Commissioner may require the bondsmen desiring to establish the shared trust account to furnish the Commissioner information about their business that the Commissioner considers necessary to administer this Article effectively."

SECTION 2.6. G.S. 58-71-140 reads as rewritten:

"§ 58-71-140. *Registration of licenses and power of appointments by insurers.*

(a) No professional bail bondsman shall become a surety on an undertaking unless he or she has registered his or her current license in the office of the clerk of superior court in the county in which he or she resides and a certified copy of the same with the clerk of superior court in any other county in which he or she shall write bail bonds.

(b) A surety bondsman shall register his or her current surety bondsman's license and a certified copy of his or her power of appointment with the clerk of superior court in the county in which the surety bondsman resides and with the clerk of superior court in any other county in which the surety bondsman writes bail bonds on behalf of an insurer.

(c) No runner shall become surety on an undertaking on behalf of a professional bondsman unless that runner has registered his or her current license and a certified copy of his or her power of attorney in the office of the clerk of superior court in the county in which the runner resides and with the clerk of superior court in any other county in which the runner writes bail bonds on behalf of the professional bondsman.

(d) Professional bondsmen, surety bondsmen, and runners shall file with the clerk of court having jurisdiction over the principal an affidavit on a form furnished by the Administrative Office of the Courts. The affidavit shall include, but not be limited to:

(1) If applicable, a statement that the bondsman has not, nor has anyone for the bondsman's use, been promised or received any collateral, security, or premium for executing this appearance bond.

- (2) If promised a premium, the amount of the premium promised and the due date.
- (3) If the bondsman has received a premium, the amount of premium received.
- (4) If given collateral security, the name of the person from whom it is received and the nature and amount of the collateral security listed in detail."

SECTION 2.7. G.S. 58-71-160 reads as rewritten:

"§ 58-71-160. *Security deposit to be maintained.*

(a) Any professional bondsman, whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements of this Article, shall immediately upon receipt of a notice of deficiency from the Commissioner ~~of Insurance~~ deposit such additional securities as are necessary to comply with the law. No professional bondsman shall sign, endorse, ~~execute~~ ~~execute~~, or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until ~~such time as he~~ the professional bondsman has made such additional deposit of securities as ~~shall be~~ required by the notice of deficiency.

(b) The Commissioner may deny the renewal of any license held by a professional bondsman under this Chapter or may deny the issuance of any license applied for by a professional bondsman under this Chapter if, at the time of the renewal application or license application, the professional bondsman has not complied with a notice of deficiency under subsection (a) of this section. The Commissioner may issue the renewal license or the new license upon compliance by the professional bondsman with the notice of deficiency."

SECTION 2.8. G.S. 58-71-170(a) reads as rewritten:

"(a) Whenever the Commissioner ~~deems~~ considers it prudent, the Commissioner shall visit and examine or cause to be visited and examined by a competent person appointed by the Commissioner for that purpose any professional bail ~~bondsman~~ ~~bondsman~~, surety bondsman, or runner subject to ~~the provisions of this Article~~. For this purpose the Commissioner or person making the examination shall have free access to all ~~books and papers~~ ~~records~~ of the ~~bondsman~~ licensee that relate to the ~~bondsman's~~ licensee's business and to the ~~books and papers~~ ~~records~~ kept by any of the ~~bondsman's~~ agents or ~~runners~~ licensee's agents."

SECTION 3. This act becomes effective October 1, 2001, and applies to permits or licenses issued or renewed on or after that date.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 12:11 p.m. on the 6th day of July, 2001.

S.B. 395 SESSION LAW 2001-270

AN ACT TO AMEND CERTAIN PROVISIONS UNDER THE LAWS REGULATING PLUMBING AND HEATING CONTRACTORS AND TO AUTHORIZE THE BOARD OF EXAMINERS OF PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS TO INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-18 reads as rewritten:

"§ 87-18. *Organization meeting; officers; seal; rules; employment of ~~personnel~~ personnel; acquire property.*

The Board ~~shall~~shall, within 30 days after its ~~appointment~~appointment, meet in the City of Raleigh and organize, and shall elect a ~~chairman and secretary and~~chairman, secretary, and treasurer, each to serve for one year. Thereafter ~~said~~the officers shall be elected annually. The secretary and treasurer shall give bond approved by the Board for the faithful performance of ~~his~~their ~~duties,~~duties in ~~such~~the sum as the Board may, from time to ~~time~~time, determine. The Board shall have a common seal, shall formulate rules to govern its actions, and is hereby authorized to employ ~~such~~ personnel as it may deem necessary to carry out the provisions of this Article. The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to the approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

SECTION 2. G.S. 87-21 reads as rewritten:

"§ 87-21. *Definitions; contractors licensed by Board; examination; posting license, etc.*

- (a) Definitions. – For the purpose of this Article:
- (1) The word "plumbing" is hereby defined to be the system of pipes, fixtures, apparatus and appurtenances, installed upon the premises, or in a building, to supply water thereto and to convey sewage or other waste therefrom.
 - (2) The phrase "heating, group number one" shall be deemed and held to be the heating system of a building, which requires the use of high or low pressure steam, vapor or hot water, including all piping, ducts, and mechanical equipment appurtenant thereto, within,

adjacent to or connected with a building, for comfort heating.

- (3) The phrase "heating, group number two" means an ~~air conditioning system which consists~~integral system for heating or cooling a building consisting of an assemblage of interacting components producing conditioned air for comfort cooling by the lowering of to raise or lower the temperature, and having a mechanical refrigeration capacity in excess of fifteen tons, and which circulates air. Systems installed in single-family residences are included under heating group number three, regardless of size. Holders of a heating group number three license who have heretofore installed systems classified as heating group number two systems may nevertheless service, replace, or make alterations to those installed systems until June 30, 2004.
- (4) The phrase "heating, group number three" shall be deemed and held to be a direct heating or cooling system of a building ~~which produces heat to raise~~that raises or lowers the temperature of the space within the building for the purpose of comfort in which electric heating elements or products of combustion exchange heat either directly with the building supply air or indirectly through a heat exchanger ~~and using an air distribution system of ducts.~~ducts and having a mechanical refrigeration capacity of 15 tons or less. A heating system requiring air distribution ducts and supplied by ground water or utilizing a coil supplied by water from a domestic hot water heater not exceeding 150 degrees Fahrenheit requires either plumbing or heating group number one license to extend piping from valved connections in the domestic hot water system to the heating coil and requires either heating group number one or heating group number three license for installation of coil, duct work, controls, drains and related appurtenances.
- (5) Any person, firm or corporation, who for a valuable consideration, (i) installs, alters or restores, or offers to install, alter or restore, either plumbing, heating group number one, or heating group number two, or heating group number three, or (ii) lays out, fabricates, installs, alters or restores, or offers to lay out, fabricate, install, alter or restore fire sprinklers, or any combination thereof, as defined in this Article, shall be deemed and held to be engaged in the business of plumbing, heating, or fire sprinkler contracting; provided, however, that

nothing herein shall be deemed to restrict the practice of qualified registered professional engineers. Any person who installs a plumbing, heating, or fire sprinkler system on property which at the time of installation was intended for sale or to be used primarily for rental is deemed to be engaged in the business of plumbing, heating, or fire sprinkler contracting without regard to receipt of consideration, unless exempted elsewhere in this Article.

- (6) The word "contractor" is hereby defined to be a person, firm or corporation engaged in the business of plumbing, heating, or fire sprinkler contracting.
- (7) The word "heating" shall be deemed and held to mean heating group number one, heating group number two, heating group number three, or any combination thereof.
- (8) Repealed by Session Laws 1997-298, s. 1.
- (9) The word "Board" means the State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.
- (10) The word "experience" means actual and practical work directly related to the category of plumbing, heating group number one, heating group number two, heating group number three, or fire sprinkler contracting, and includes related work for which a license is not required.
- (11) The phrase "fire sprinkler" means an automatic or manual sprinkler system designed to protect the interior or exterior of a building or structure from fire, and where the primary extinguishing agent is water. These systems include wet pipe and dry pipe systems, preaction systems, water spray systems, foam water sprinkler systems, foam water spray systems, nonfreeze systems, and circulating closed-loop systems. These systems also include the overhead piping, combination standpipes, inside hose connections, thermal systems used in connection with the sprinklers, tanks, and pumps connected to the sprinklers, and controlling valves and devices for actuating an alarm when the system is in operation. This subsection shall not apply to owners of property who are building or improving farm outbuildings. This subsection shall not include water and standpipe systems having no connection with a fire sprinkler system. Nothing herein shall prevent licensed plumbing contractors, utility contractors, or fire sprinkler contractors from installing underground water supplies for fire sprinkler systems.

(b) Classes of Licenses; Eligibility and Examination of Applicant; Necessity for License. –

- (1) In order to protect the public health, comfort and safety, the Board shall establish two classes of licenses: Class I covering all plumbing, heating, and fire sprinkler systems for all structures, and Class II covering plumbing and heating systems in single-family detached residential dwellings.
- (2) ~~Effective April 15, 1998, the~~The Board shall establish and issue a fuel piping license for use by persons who do not possess the required Class I or Class II plumbing or heating license, but desire to engage in the contracting or installing of fuel piping extending from an approved fuel source at or near the premises, which piping is used or may be used ~~partly or entirely~~ to supply fuel to ~~plumbing or heating systems or equipment or which, by its installation, may alter or affect the fuel supply to plumbing or heating systems or equipment within the meaning of G.S. 87-21(a); any systems, equipment, or appliances located inside the premises.~~

The Board may also establish additional restricted classifications to provide for: (i) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting; (ii) the licensing of any person, partnership, firm, or corporation desiring to engage in a specific phase of heating, plumbing, or fire sprinkling contracting that is an incidental part of their primary business, which is a lawful business other than heating, plumbing, or fire sprinkling contracting; or (iii) the licensing of persons desiring to engage in contracting and installing fuel piping from an approved fuel source on the premises to a point inside the residence.

- (3) The Board shall prescribe the standard of competence, experience and efficiency to be required of an applicant for license of each class, and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating costs, fundamentals of installation and design, codes, fire hazards, and related subjects as these subjects pertain to plumbing, heating, or fire sprinkler systems. The examination for a fire sprinkler contractor's license shall include such materials as would test the competency of the applicant and which may include the minimum requirements of

certification for Level III, subfield of Automatic Sprinkler System Layout, National Institute for Certification of Engineering Technologies (NICET). As a result of the examination, the Board shall issue a certificate of license of the appropriate class in plumbing, heating, or fire sprinkler contracting, and a license shall be obtained, in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof. The obtaining of a license, as required by this Article, shall not of itself authorize the practice of another profession or trade for which a State qualification license is required. Prior to taking the examination, the applicant may be required by the Board to establish that the applicant is at least 18 years of age and is of good moral character. The Board may require experience as a condition of examination, provided that (i) the experience required may not exceed two years, (ii) that up to one-half the experience may be in the form of academic or technical courses of study, and (iii) that registration is not required at the commencement of the period of experience.

- (4) Conditions of examination set by the Board shall be uniformly applied to each applicant within each license classification. It is the purpose and intent of this section that the Board shall provide an examination for plumbing, heating group number one, or heating group number two, or heating group number three, or each restricted classification, and may provide an examination for fire sprinkler contracting or may accept a current certification of the National Institute for Certification in Engineering Technologies for Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler System Layout.
- (5) The Board is authorized to issue a certificate of license limited to either plumbing or heating group number one, or heating group number two, or heating group number three, or fire sprinkler contracting, or any combination thereof. The Board is also authorized to issue a certificate of license limited to one or more restricted classifications that are established pursuant to this section.
- (6) ~~Each application for examination shall be accompanied by a check, post office money order, or cash, in the~~

amount of the annual license fee required by this Article. ~~Regular examinations~~ Examinations shall be given ~~in the months of April and October of at least twice~~ each year, and additional examinations may be given ~~at such other times~~ as the Board ~~may deem~~ deems wise and necessary. ~~Any person may demand in writing a special examination, and upon payment by the applicant of the cost of holding such examination and the deposit of the amount of the annual license fee, the Board in its discretion will fix a time and place for such examination. Upon satisfactory proof of the applicant's inability to write and upon demand of an applicant for a Class II plumbing or heating license six weeks prior to an examination, the Board shall conduct the examination of that applicant orally, and shall not require that applicant to take a written examination as to examination inquiries answered other than by preparation of diagrams. Signed statements from two reliable citizens resident in the home county of the applicant shall constitute satisfactory proof of an applicant's inability to write. The Board may offer written examinations or administer examinations by computer within 30 days after approving an application. Upon passing the examination and paying the annual license fee, the applicant shall be issued a license. A person who fails to pass any examination shall not be reexamined until the next regular examination after 90 days from the date the person was last examined. The Board may require applicants who fail the examination three times to receive additional education before the applicant is allowed to retake the examination.~~

(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article. The provisions of this Article shall not apply to those who make minor repairs or minor replacements to an already installed system of plumbing or heating, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system.

(c1) Exemption. – The provisions of this Article shall not apply to a person who performs the on-site assembly of a factory designed drain line system for a manufactured home, as defined in G.S. 143-143.9(6), if the person (i) is a licensed manufactured home retailer, a licensed manufactured home set-up contractor, or a

full-time employee of either, (ii) obtains an inspection by the local inspections department and (iii) performs the assembly according to the State Plumbing Code.

(d) Repealed by Session Laws 1979, c. 834, s. 7.

(d1) Expired.

(e) Posting License; License Number on Contracts, etc. – The current license issued in accordance with the provisions of this Article shall be posted in the business location of the licensee, and its number shall appear on all proposals or contracts and requests for permits issued by municipalities. The initial qualified licensee on a license is the permanent possessor of the license number under which that license is issued, except that a licensee, or the licensee's legal agent, personal representative, heirs or assigns, may designate in writing to the Board a qualified licensee to whom the Board shall assign the license number upon the payment of a ten dollar (\$10.00) assignment fee. Upon such assignment, the qualified licensee becomes the permanent possessor of the assigned license number. Notwithstanding the foregoing, the license number may be assigned only to a qualified licensee who has been employed by the initial licensee's plumbing and heating company for at least 10 years or is a lineal relative, sibling, first cousin, nephew, niece, daughter-in-law, son-in-law, brother-in-law, or sister-in-law of the initial licensee. Each successive licensee to whom a license number is assigned under this subsection may assign the license number in the same manner as provided in this subsection.

(f) Repealed by Session Laws 1971, c. 768, s. 4.

(g) The Board may, in its discretion, grant to plumbing, heating, or fire sprinkler contractors licensed by other states license of the same or equivalent classification without written examination upon receipt of satisfactory proof that the qualifications of such applicants are substantially equivalent to the qualifications of holders of similar licenses in North Carolina and upon payment of the usual license fee.

(h) Expired."

SECTION 3. G.S. 87-22 reads as rewritten:

"§ 87-22. ~~License fee based on population; fee; expiration and renewal; penalty; reinstatement.~~

All persons, firms, or corporations engaged in the business of either plumbing or heating contracting, or both, ~~in cities or towns of 10,000 inhabitants or more shall pay an annual license fee not exceeding seventy five dollars (\$75.00), and in cities or towns of less than 10,000 inhabitants an annual license fee not exceeding fifty dollars (\$50.00) to exceed one hundred fifty dollars (\$150.00).~~ The annual fee for a piping or restricted classification license shall not exceed that for a plumbing or heating license. All persons, firms, or corporations engaged in the business of fire sprinkler contracting shall

pay an initial application fee not to exceed seventy-five dollars (\$75.00) and an annual license fee not to exceed three hundred dollars (\$300.00). In the event the Board refuses to license an applicant, the license fee deposited shall be returned by the Board to the applicant. All licenses shall expire on the last day of December in each year following their issuance or renewal. It shall be the duty of the secretary and treasurer to ~~cause to be mailed~~ send by United States mail or e-mail to every licensee registered ~~hereunder with the Board,~~ notice to the licensee's last known address reflected on the records of the Board of the amount of fee required for renewal of license, ~~such~~ the notice to be mailed at least one month in advance of the expiration of the license. The Board may require payment of all unpaid annual fees before reissuing a license. In the event of failure on the part of any person, firm or corporation to renew the license certificate annually and pay the required fee ~~therefor~~ during the month of January in each year, the Board shall increase the license fee ~~ten per centum (10%) for each month or fraction of a month that payment is delayed; provided that the penalty for nonpayment shall not exceed the amount of the annual fee, and provided further that the~~ by twenty-five dollars (\$25.00) to cover any additional expense associated with late renewal. The Board requires ~~shall require~~ reexamination upon failure of a licensee to renew license within three years after expiration. The Board may adopt regulations requiring attendance at programs of continuing education as a condition of license renewal. A licensee employed full time as a local government plumbing, heating, or mechanical inspector and holding qualifications from the Code Officials Qualifications Board may renew the license at a fee not to exceed twenty-five dollars (\$25.00)."

SECTION 4. G.S. 87-22.1 reads as rewritten:

"§ 87-22.1. *Examination fees; funds disbursed upon warrant of chairman and secretary-treasurer.*

The Board shall charge ~~an~~ a nonrefundable application and examination fee not exceeding to exceed fifty dollars (\$50.00) one hundred fifty dollars (\$150.00) for each regular examination provided, examination, and such ~~the~~ funds collected shall be disbursed upon warrant of the chairman and secretary-treasurer, to partially defray general expenses of the Board. ~~Such~~ The application and examination fee shall be retained by the Board irrespective of whether or not the applicant is granted a license."

SECTION 5. Notwithstanding G.S. 87-22 and G.S. 87-22.1, as enacted in Sections 3 and 4 of this act, after this act becomes effective and until changed by permanent rule of the Board, the annual license fee shall be one hundred dollars (\$100.00) and the application and examination fee shall be eighty dollars (\$80.00).

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 12:12 p.m. on the 6th day of July, 2001.

S.B. 681 SESSION LAW 2001-271

AN ACT TO AMEND THE LAW GOVERNING JUDICIAL SALES AND EXECUTION SALES TO PROVIDE FOR A ROLLING UPSET BID PROCEDURE AND TO CONFORM THE TIME PERIODS FOR POSTING AND PUBLISHING NOTICE OF SALE TO THE LAW GOVERNING FORECLOSURE SALES UNDER A POWER OF SALE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. JUDICIAL SALES.

SECTION 1. G.S. 1-339.3(b) reads as rewritten:

"(b) The procedure prescribed by this Article applies to all sales ordered by a judge of the superior or district court, except that the judge having jurisdiction may, upon a finding and a recital in the order of sale of the necessity or advisability thereof, vary the procedure from that herein prescribed, but not inconsistently with G.S. 1-339.6 restricting the place of sale of real property, and not inconsistently with G.S. 1-339.27(a) and G.S. 1-339.36 requiring that a resale be ordered when an upset bid is submitted property."

SECTION 2. G.S. 1-339.8 reads as rewritten:

"§ 1-339.8. *Public sale of separate tracts in different counties.*

(a) When an order of public sale directs the sales of separate tracts of real property situated in different counties, exclusive jurisdiction over the sale remains in the superior or district court of the county where the proceeding, in which the order of sale was issued, is pending, but there shall be a separate advertisement, sale and report of sale with respect to the property in each county. In any such sale proceeding, the clerk of the superior court of the county where the original order of sale was issued, issued has jurisdiction with respect to the resale of upset bids submitted for separate tracts of property situated in other counties as well as in the clerk's own county, and when county. When the public sale is by auction an upset bid may be filed only with that clerk, except in those cases where the judge retains resale jurisdiction pursuant to G.S. 1-339.27.clerk.

(b) The report of sale with respect to all sales of separate tracts situated in different counties shall be filed with the clerk of the

superior court of the county in which the order of sale was issued, and is not required to be filed in any other county.

(c) When the public sale is by auction, the sale ~~and each subsequent resale~~ of each separate tract shall be subject to ~~a separate upset bid; and to separate upset bids.~~ To the extent deemed necessary by the judge or clerk of court of the county where the original order of sale was issued, the sale of each tract, after an upset bid thereon, tract shall be treated as a separate sale for the purpose of determining the procedure applicable thereto, sale.

(d) When real property is sold in a county other than the county where the proceeding, in which the sale was ordered, is pending, the person authorized to hold the sale shall cause a certified copy of the order of confirmation to be recorded in the office of the register of deeds of the county where such property is situated, and it shall not be necessary for the clerk of court to probate said certified copy of the order of confirmation."

SECTION 3. G.S. 1-339.17 reads as rewritten:

"§ 1-339.17. *Public sale; posting and publishing notice of sale of real property.*

(a) ~~The Subject to subsection (d) of this section,~~ notice of public sale of real property ~~shall shall:~~

(1) Be posted, in the area designated by the clerk of superior court for the posting of notices in the county in which the property is situated, for ~~thirty~~ at least 20 days immediately preceding the ~~sale, sale;~~ and

(2) ~~And in addition thereto,~~ Be published once a week for at least two successive weeks:

a. ~~If In~~ a newspaper qualified for legal advertising is published in the ~~county,~~ the notice shall be published in such a newspaper once a week for at least four successive weeks, but ~~county;~~ or

b. If no newspaper qualified for legal advertising is published in the county, ~~then notice shall be published once a week for at least four successive weeks~~ in a newspaper having a general circulation in the county.

(b) When the notice of public sale is published in a ~~newspaper, newspaper:~~

(1) The period from the date of the first publication to the date of the last publication, both dates inclusive, shall not be less than ~~twenty two~~ seven days, including ~~Sundays, Sundays;~~ and

(2) The date of the last publication shall be not more than 10 days preceding the date of the sale in a sale by ~~auction,~~

auction or the date on which sealed bids are opened in a sale by sealed bid.

(c) When the real property to be sold is situated in more than one county, the provisions of subsections (a) and (b) of this section shall be complied with in each county in which any part of the property is situated.

(c1) When the public sale is a sale of timber by sealed bid, the notice shall also be given in writing, not less than 21 days before the date on which bids are opened, to a reasonable number of prospective timber buyers, which in all cases shall include the timber buyers listed in the office of the Division of Forest Resources for the county or counties in which the timber to be sold is located.

(d) In addition to the ~~foregoing, other requirements of this section,~~ the notice of public sale shall be ~~otherwise~~ posted or the sale shall be ~~otherwise~~ advertised as may be required by the judge or clerk pursuant to the provisions of G.S. 1-339.13(b)(2).

(e) If the sale is a sale of timber by sealed bid, the person holding the sale shall include in the report required by G.S. 1-339.24 an affidavit showing that the requirements of this section have been complied with and listing all the persons notified pursuant to subsection (c1) of this section."

SECTION 4. G.S. 1-339.25 reads as rewritten:

"§ 1-339.25. *Public sale; upset bid on real property; compliance bond.*

(a) An upset bid is an advanced, ~~increased~~-increased, or raised bid in a public sale by auction whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price or the last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). ~~An~~ Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of the sale or the last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior ~~court,~~ court with whom the report of sale or the last notice of upset bid was filed, by the close of normal business hours on the tenth day after the filing of the report of ~~sale,~~ sale or the last notice of upset bid, and if the tenth day ~~shall fall~~ falls upon a Sunday or legal holiday or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made and the notice of upset bid may be filed on the day following when the office is open for the regular dispatch of its business. ~~An upset bid need not be in writing, and the~~

timely deposit with the clerk of the required amount, together with an indication to the clerk as to the sale to which it is applicable, is sufficient to constitute the upset bid, subject to the provisions of subsection (b) of this section. Except as provided in G.S. 1-339.27A and G.S. 1-339.30, there shall be no resales; however, there may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid. If a timely motion for resale is filed under G.S. 1-339.27A, no upset bids may be filed while the motion is pending. If an upset bid or a motion for resale under G.S. 1-339.27A is not filed within 10 days following a sale, resale, or prior upset bid, the rights of the parties to the sale or resale become fixed.

(b) The clerk of the superior court may require a person submitting an upset bid an upset bidder or the highest bidder at a resale held under G.S. 1-339.30 also to deposit with the clerk a cash bond, or, in lieu thereof at the option of the bidder, a surety bond, approved by the clerk, conditioned on compliance with the upset bid. The amount of such bond shall not exceed the amount of the upset bid less the amount of the required deposit. clerk. The compliance bond shall be in the amount the clerk deems adequate, but in no case greater than the amount of the bid of the person being required to furnish the bond, less the amount of any required deposit. The compliance bond shall be payable to the State of North Carolina for the use of the parties in interest and shall be conditioned on the principal obligor's compliance with the bid.

(c) The clerk of the superior court may in the order of resale require the highest bidder at a resale had pursuant to an upset bid to deposit with the clerk a cash bond, or, in lieu thereof at the option of the bidder, a surety bond, approved by the clerk, conditioned on compliance with his bid. The bond shall be in such amount as the clerk deems adequate, but in no case greater than the amount of the bid of the person being required to furnish the bond.

(d) A compliance bond, such as is provided for by subsections (b) and (c), shall be payable to the State of North Carolina for the use of the parties in interest and shall be conditioned on the principal obligor's compliance with his bid.

(d1) At the time that an upset bid on real property is submitted to the court as provided in subsection (a) of this section, together with a compliance bond if one is required, the upset bidder shall file with the clerk a notice of upset bid. The notice of upset bid shall:

- (1) State the name, address, and telephone number of the upset bidder;
- (2) Specify the amount of the upset bid;
- (3) Provide that the sale shall remain open for a period of 10 days after the date on which the notice of upset bid is

filed for the filing of additional upset bids as permitted by law; and

- (4) Be signed by the upset bidder or the attorney or the agent of the upset bidder.

(d2) When an upset bid is made as provided in this section, the clerk shall notify the person holding the sale who shall thereafter mail a written notice of upset bid by first-class mail to the last known address of the last prior bidder and the current record owners of the property.

(d3) When an upset bid is made as provided in this section, the last prior bidder, regardless of how the bid was made, is released from any further obligation on account of the bid, and any deposit or bond provided by the last prior bidder shall be released.

(d4) Any person offering to purchase real property by upset bid as permitted in this Article is subject to and bound by the terms of the original notice of sale except as modified by court order or the provisions of this Article.

(d5) The clerk of superior court shall make all orders as may be just and necessary to safeguard the interests of all parties and may fix and determine all necessary procedural details with respect to upset bids in all instances in which this Article fails to make definite provisions as to that procedure.

(e) The provisions of this section do not apply to public sales of timber by sealed bid."

SECTION 5. G.S. 1-339.26 reads as rewritten:

"§ 1-339.26. *Public sale by auction; separate upset bids when real property sold in parts; subsequent procedure.*

When real property is sold at public sale by auction in parts, as provided by G.S. 1-339.9, the sale, and each subsequent resale, sale of any part shall be subject to a separate upset bid; and, to the extent the judge or clerk of court having jurisdiction deems advisable, the sale of each part shall thereafter be treated as a separate sale for the purpose of determining the ~~procedure applicable thereto.~~ applicable procedure."

SECTION 6. G.S. 1-339.27 is repealed.

SECTION 7. Article 29A of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-339.27A. *Ordering resale of real property after sale or upset bid.*

Upon motion of an interested person filed within 10 days after a sale or upset bid and for good cause, the judge or clerk having jurisdiction may order a resale of real property. If the motion is granted based on the inadequacy of the last bid, the procedure for the resale is the same in every respect as is provided by this Article in the case of an original public sale, and the last bidder is released from the

bidder's obligations under the bid. If the motion is granted for any other reason, the last bid becomes the opening bid at resale, and if there is no bid at resale other than the last bid, the person who made the last bid is the highest bidder at resale. If the motion is denied, the 10-day period for subsequent upset bids begins upon the entry of the order."

SECTION 8. G.S. 1-339.30 reads as rewritten:

"§ 1-339.30. Public sale; failure of bidder to make cash deposit or to comply with bid; resale.

(a) If an order of public sale by auction requires the highest bidder to make a cash deposit at the sale, and ~~he~~ the highest bidder fails to make the required deposit, the person holding the sale shall at the same time and place again offer the property for sale.

(a1) If an order of public sale of timber by sealed bid requires the highest bidder to make a cash deposit and the bidder fails to make the required deposit within the time specified in the order, the judge or clerk having jurisdiction may direct that the timber be sold to the person who submitted the next highest bid or may order a resale. The procedure for a resale is the same in every respect as is provided by this Article in the case of an original public sale.

(b) When the highest bidder at a public sale of personal property not required to be confirmed fails to make the cash payment, if any, required by the terms of the sale, the person holding the sale shall at the same time and place again offer the property for sale. In the event no other bid is received, a new sale may be advertised in the regular manner provided by this Article for an original sale.

(c) When the highest bidder at a public sale of personal property required to be confirmed fails to comply with his bid within ~~ten~~ 10 days after notice given by the person holding the sale or after a bona fide attempt to give such notice that the sale has been confirmed, the judge or clerk having jurisdiction may order a resale. The procedure for ~~such~~ the resale is the same in every respect as is provided by this Article in the case of an original public sale of personal property.

(d) When the highest bidder at a public sale or resale of real property by auction or any upset bidder fails to comply with ~~his~~ the bid within ~~ten~~ 10 days after the tender to ~~him~~ the bidder of a deed for the property or after a bona fide attempt to tender the deed, the judge or clerk having jurisdiction may order a resale. The procedure for a resale of real property is the same in every respect as is provided by this Article in the case of an original public sale of real property ~~except that the provisions of G.S. 1-339.27 (c), (d) and (e) apply with respect to the posting and publishing of the notice of the resale property.~~

(d1) When the highest bidder at a public sale or resale of timber by sealed bid fails to comply with ~~his~~ the bid within 10 days after the

tender to ~~him~~ the bidder of a deed for the timber or after a bona fide attempt to tender a timber deed, the judge or clerk having jurisdiction may direct that the timber be sold to the person who submitted the next highest bid or may order a resale. The procedure for a resale is the same in every respect as is provided by this Article in the case of an original public sale.

(e) A defaulting bidder at any sale or resale or any defaulting upset bidder is liable on ~~his~~ the bid, and in case a resale is had because of ~~his~~ the default, ~~he shall remain~~ the defaulting bidder remains liable to the extent that the final sale price is less than ~~his~~ the bid, and for all costs of the resale or resales. Any deposit or compliance bond made by the defaulting bidder shall secure payment of the amount, if any, for which the defaulting bidder remains liable under this section.

(f) Nothing in this section deprives any person of any other remedy against the defaulting bidder."

SECTION 9. G.S. 1-339.36(b) reads as rewritten:

"(b) When an upset bid is made for property sold at private sale, subsequent procedure with respect ~~thereto shall be~~ to the upset bid is the same as for ~~the public sale of real property for which an upset bid has been submitted, except that the notice of resale of personal property need not be published in a newspaper, but shall be posted as provided by G.S. 1-339.17.~~ upset bids submitted in connection with real property sold at public sale, except that the notice of any resale of personal property held pursuant to an order granted under G.S. 1-339.27A need not be published in a newspaper but shall be posted as provided by G.S. 1-339.17."

SECTION 10. G.S. 1-339.37 reads as rewritten:

"§ 1-339.37. *Private sale; confirmation.*

If no upset bid for property sold at private sale is submitted within ~~ten~~ 10 days after the report of sale or the last notice of upset bid is filed, the sale may then be confirmed, and the provisions of G.S. 1-339.28(a) and (b) are applicable to such confirmation whether the property sold is real or personal. Unless otherwise provided in the order of sale, no confirmation is required of any sale held as provided by G.S. 1-339.34."

PART II. EXECUTION SALES.

SECTION 11. G.S. 1-339.52 reads as rewritten:

"§ 1-339.52. *Posting and publishing notice of sale of real property.*

(a) The notice of sale of real property ~~shall~~ shall:

(1) Be posted, ~~at the courthouse door~~ in the area designated by the clerk of superior court for the posting of notices in the county in which the property is situated, for ~~thirty~~ at least 20 days immediately preceding the ~~sale,~~ sale; and

- (2) ~~And in addition thereto, Be published once a week for at least two successive weeks:~~
- a. ~~If In a newspaper qualified for legal advertising is published in the county, the notice shall be published in such a newspaper once a week for at least four successive weeks; but~~ county; or
 - b. If no ~~such~~ newspaper qualified for legal advertising is published in the county, ~~then notice shall be published once a week for at least four successive weeks~~ in a newspaper having general circulation in the county.
- (b) When the notice of sale is published in a ~~newspaper,~~ newspaper:
- (1) The period from the date of the first publication to the date of the last publication, both dates inclusive, shall not be less than ~~twenty-two~~ seven days, including ~~Sundays,~~ Sundays; and
 - (2) The date of the last publication shall be not more than 10 days preceding the date of the sale.
- (c) When the real property to be sold is situated in more than one county, the provisions of subsections (a) and (b) shall be complied with in each county in which any part of the property is situated."

SECTION 12. G.S. 1-339.53 reads as rewritten:

"§ 1-339.53. *Posting notice of sale of personal property.*

The notice of sale of personal property, except in the case of perishable property as specified in G.S. 1-339.56, shall be posted, ~~at the courthouse door in the area designated by the clerk of superior court for the posting of notices~~ in the county in which the sale is to be held, for ~~ten~~ 10 days immediately preceding the date of sale."

SECTION 13. G.S. 1-339.58 reads as rewritten:

"§ 1-339.58. *Postponement of sale.*

- (a) The sheriff may postpone the sale to a day certain not later than six days, exclusive of Sunday, after the original date for the ~~sale~~ sale:
- (1) When there are no bidders, ~~or~~
 - (2) When, in ~~his~~ the sheriff's judgment, the number of prospective bidders at the sale is substantially decreased by inclement weather or by any casualty, ~~or~~
 - (3) When there are so many other sales advertised to be held at the same time and place as to make it inexpedient and impracticable, in ~~his~~ the sheriff's judgment, to hold the sale on that day, ~~or~~
 - (4) When ~~he~~ the sheriff is unable to hold the sale because of illness or for other good reason, or
 - (5) When other good cause exists.

- (b) Upon postponement of a sale, the sheriff ~~shall~~ shall:
- (1) At the time and place advertised for the sale, publicly announce the postponement ~~thereof, and of the sale; and~~
 - (2) On the same day, attach to or enter on the original notice of sale or a copy ~~thereof,~~ of the notice, ~~posted at the courthouse door,~~ as provided by G.S. 1-339.52 in the case of real property or G.S. 1-339.53 in the case of personal property, a notice of the postponement.
- (c) The posted notice of postponement ~~shall~~ shall:
- (1) State that the sale is postponed,
 - (2) State the hour and date to which the sale is postponed,
 - (3) State the reason for the postponement, and
 - (4) Be signed by the sheriff.

(d) If a sale is not held at the time fixed ~~therefor for the sale and~~ is not postponed as provided by this section, or if a postponed sale is not held at the time fixed ~~therefor, for the sale,~~ the sheriff shall report the facts with respect thereto to the clerk of the superior court, who shall thereupon make an order for the sale of the property to be held at such time and place and upon such notice to be given in ~~such the~~ manner and for ~~such the~~ length of time as ~~he the clerk of the superior court~~ deems advisable, but nothing ~~herein contained shall be deemed to relieve in this section~~ relieves the sheriff of liability for the nonperformance of ~~his the~~ sheriff's official duty."

SECTION 14. G.S. 1-339.64 reads as rewritten:

"§ 1-339.64. *Upset bid on real property; compliance bond.*

(a) An upset bid is an advanced, ~~increased~~ increased, or raised bid whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price or last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). ~~At~~ Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of sale or the last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court, with whom the report of sale or the last notice of upset bid was filed, by the close of normal business hours on the tenth day after the filing of the report of ~~sale, sale or the last notice of upset bid~~ and if the tenth day ~~shall fall~~ falls upon a Sunday or legal holiday or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made and the notice of upset bid may be filed on the day following when ~~said the~~ the office is open for the regular dispatch of its business. ~~At~~

upset bid need not be in writing, and the timely deposit with the clerk of the required amount, together with an indication to the clerk as to the sale to which it is applicable, is sufficient to constitute the upset bid, subject to the provisions of subsection (b). Except as provided in G.S. 1-339.66A and G.S. 1-339.69, there shall be no resales; however, there may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid. If a timely motion for resale is filed under G.S. 1-339.66A, no upset bids may be filed while the motion is pending. If an upset bid or a motion for resale under G.S. 1-339.66A is not filed within 10 days following a sale, resale, or prior upset bid, the rights of the parties to the sale or resale become fixed.

(b) The clerk of the superior court may require the person submitting an upset bid an upset bidder or the highest bidder at a resale held under G.S. 1-339.69 also to deposit with the clerk a cash bond, or, in lieu thereof at the option of the bidder, a surety bond, approved by the clerk, conditioned on compliance with the upset bid. The amount of such bond shall not exceed the amount of the upset bid less the amount of the required deposit. clerk. The compliance bond shall be in the amount the clerk deems adequate, but in no case greater than the amount of the bid of the person being required to furnish the bond, less the amount of any required deposit. The compliance bond shall be payable to the State of North Carolina for the use of the parties in interest and shall be conditioned on the principal obligor's compliance with the bid.

(c) The clerk of the superior court may in the order of resale require the highest bidder at a resale had pursuant to an upset bid to deposit with the clerk a cash bond, or, in lieu thereof at the option of the bidder, a surety bond, approved by the clerk, conditioned on compliance with his bid. The bond shall be in such amount as the clerk deems adequate but in no case greater than the amount of the bid of the person being required to furnish the bond.

(d) A compliance bond, such as is provided for by subsections (b) and (c), shall be payable to the State of North Carolina for the use of the parties in interest and shall be conditioned on the principal obligor's compliance with his bid.

(e) At the time that an upset bid on real property is submitted to the court as provided in subsection (a) of this section, together with a compliance bond if one is required, the upset bidder shall file with the clerk a notice of upset bid. The notice of upset bid shall:

- (1) State the name, address, and telephone number of the upset bidder;
- (2) Specify the amount of the upset bid;
- (3) Provide that the sale shall remain open for a period of 10 days after the date on which the notice of upset bid is

filed for the filing of additional upset bids as permitted by law; and

(4) Be signed by the upset bidder or the attorney or the agent of the upset bidder.

(f) When an upset bid is made as provided in this section, the clerk shall notify the person holding the sale who shall thereafter mail a written notice of upset bid by first-class mail to the last known address of the last prior bidder and the current record owners of the property.

(g) When an upset bid is made as provided in this section, the last prior bidder, regardless of how the bid was made, is released from any further obligation on account of the bid, and any deposit or bond provided by the last prior bidder shall be released.

(h) Any person offering to purchase real property by upset bid as permitted in this Article is subject to and bound by the terms of the original notice of sale except as modified by a court order or the provisions of this Article.

(i) The clerk of superior court shall make all orders as may be just and necessary to safeguard the interests of all parties and may fix and determine all necessary procedural details with respect to upset bids in all instances in which this Article fails to make definite provisions as to that procedure."

SECTION 15. G.S. 1-339.65 reads as rewritten:

"§ 1-339.65. Separate upset bids when real property sold in parts; subsequent procedure.

When real property is sold in parts, as provided by G.S. 1-339.46, ~~the sale, and each subsequent resale, sale~~ of any ~~such~~ part shall be subject to a separate upset bid; and to the extent the clerk of the superior court having jurisdiction deems advisable, the sale of each ~~such~~ part shall thereafter be treated as a separate sale for the purpose of determining the ~~procedure applicable thereto.~~ applicable procedure."

SECTION 16. G.S. 1-339.66 is repealed.

SECTION 17. Article 29B of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-339.66A. Ordering resale of real property after upset bid.

Upon motion of an interested person filed within 10 days after a sale or upset bid and for good cause, the clerk of superior court may order a resale of real property when an upset bid is submitted as provided in G.S. 1-339.64. If the motion is granted based on the inadequacy of the last bid, the procedure for the resale is the same in every respect as is provided by this Article in the case of an original public sale, and the last bidder is released from the bidder's obligations under the bid. If the motion is granted for any other reason, the last bid becomes the opening bid at resale, and if there is

no bid at resale other than the last bid, the person who made the last bid is the highest bidder at resale. If the motion is denied, the 10-day period for subsequent upset bids begins upon the entry of the order."

SECTION 18. G.S. 1-339.69 reads as rewritten:

"§ 1-339.69. Failure of bidder to comply with bid; resale.

(a) When the highest bidder at a sale of personal property fails to pay the amount of ~~his~~the bid, the sheriff shall at the same time and place immediately resell the property. In the event no other bid is received, a new sale may be advertised in the regular manner provided by this Article for an original sale.

(b) When the highest bidder at a sale or resale of real property or any upset bidder fails to comply with ~~his~~the bid within ~~ten~~10 days after the tender to ~~him~~the bidder of a deed for the property or after a bona fide attempt to tender such deed, the clerk of the superior court who issued the execution may order a resale. The procedure for such resale is the same in every respect as is provided by this Article in the case of an original sale of real ~~property except that the provisions of~~ G.S. 1-339.66(b), (c) and (d) apply with respect to the posting and publishing of the notice of such resale property.

(c) A defaulting bidder at any sale or resale or any defaulting upset bidder is liable on ~~his~~the bid, and in case a resale is had because of ~~such~~the default, ~~he shall remain~~the defaulting bidder remains liable to the extent that the final sale price is less than ~~his~~the bid plus all costs of ~~such~~the resale or resales. Any deposit or compliance bond made by the defaulting bidder shall secure payment of the amount, if any, for which the defaulting bidder remains liable under this section.

(d) Nothing in this section deprives any person of any other remedy against the defaulting bidder."

PART III. CONFORMING AMENDMENTS TO OTHER SECTIONS OF THE GENERAL STATUTES.

SECTION 19. G.S. 46-28.1(e) reads as rewritten:

"(e) If the court revokes its order of confirmation under this section, the court shall order a ~~resale pursuant to the provisions of~~ G.S. 1-339.27. resale. The procedure for a resale is the same as is provided for an original public sale under Article 29A of Chapter 1 of the General Statutes."

PART IV. EFFECTIVE DATE AND APPLICABILITY.

SECTION 20. This act becomes effective January 1, 2002, and applies to judicial sales when the original order of sale is issued on or after that date and to execution sales when the execution is originally issued on or after that date. This act does not apply to any judicial sale when the original order of sale is issued prior to the effective date of this act or to any execution sale held pursuant to any execution originally issued prior to the effective date of this act.

In the General Assembly read three times and ratified this the 25th day of June, 2001.

Became law upon approval of the Governor at 12:13 p.m. on the 6th day of July, 2001.

H.B. 983 SESSION LAW 2001-272

AN ACT TO PROVIDE THAT OWNERS OF LAND ASSOCIATED WITH WATERSHED IMPROVEMENT PROJECTS HAVE LIMITED LIABILITY WITH REGARD TO CERTAIN MEMBERS OF THE PUBLIC ENTERING THE LAND FOR EDUCATIONAL AND RECREATIONAL PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 139 of the General Statutes is amended by adding a new section to read:

"§ 139-41.3. *Liability of owners of land associated with watershed improvement projects.*

(a) Purpose. – The purpose of this section is to encourage owners of land to make land and water areas available to the public at no cost for educational and recreational purposes by limiting the liability of the owner to persons entering the land for those purposes. The further purpose of this section is to establish a statutory rule of landowner liability law to govern the liability of a landowner whose land is associated with a watershed improvement project as defined by this Chapter to persons entering the land for educational and recreational purposes without charge. This statutory rule modifies the common law of North Carolina concerning landowner liability.

(b) Definitions. – The following definitions apply in this section, unless otherwise specified:

- (1) Charge. – A price or fee asked for services, entertainment, recreation performed, or products offered for sale on land or in return for an invitation or permission to enter upon land, except as otherwise excluded in this section.
- (2) Educational purpose. – Any activity undertaken as part of a formal or informal educational program, and viewing historical, natural, archaeological, or scientific sites.
- (3) Land. – Real property, land, and water. The term does not include a dwelling or the property immediately adjacent to and surrounding the dwelling that is generally used for activities associated with occupancy of the dwelling as a living space.

- (4) Land associated with watershed improvement projects. – The entire parcel or set of parcels on which any part of a watershed improvement project is located, including any fee easement, leasehold interest or legal possession.
 - (5) Legal entity. – The term includes (in addition to a private entity) a county, city, special district, public authority, or other unit or agency of government.
 - (6) Owner. – Any individual or legal entity that has any fee, easement, leasehold interest, or legal possession, and any employee or agent of the individual or legal entity.
 - (7) Recreational purpose. – Any activity undertaken for recreation, exercise, education, relaxation, refreshment, diversion, or pleasure.
- (c) Exclusion. – For purposes of this Chapter, the term 'charge' does not include any of the following:
- (1) Any contribution in-kind, services, or cash contributed by a person, legal entity, nonprofit organization, or governmental entity other than the owner, whether or not sanctioned or solicited by the owner, the purpose of which is to: (i) remedy damage to land caused by educational or recreational use; or (ii) provide warning of hazards on, or remove hazards from, land used for educational or recreational purposes.
 - (2) Unless otherwise agreed in writing or otherwise provided by the State or federal tax codes, any property tax abatement or relief received by the owner from the State or local taxing authority in exchange for the owner's agreement to open the land for educational or recreational purposes.
 - (3) Any volunteer service involving trash pickup, stream cleanup, or stream bank restoration.
- (d) Limitation of Liability. – Except as specifically recognized by or provided for in this section, an owner of land associated with a watershed improvement project, as defined by this Chapter, who either directly or indirectly invites or permits without charge any person to use the land for educational or recreational purposes owes the person the same duty of care that he or she owes a trespasser, except that nothing in this Chapter shall be construed to limit or nullify the doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual hazards of which the owner has actual knowledge.
- This section does not apply to an owner who invites or permits any person to use land for a purpose for which the land is regularly used and for which a price or fee is usually charged even if it is not charged in that instance, or to an owner whose purpose in extending

an invitation or granting permission is to promote a commercial enterprise."

SECTION 2. This act becomes effective October 1, 2001, and applies to all causes of action arising on or after that date. All insurance policies providing liability coverage for land, as defined in G.S. 139-41.3(b)(3) covered by Section 1 of this act shall be reredated on the anniversary dates of the policies next following the effective date of Section 1 of this act, to reflect the added limitation of liability contained in G.S. 139-41.3.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

Became law upon approval of the Governor at 12:14 p.m. on the 6th day of July, 2001.

S.B. 269**SESSION LAW 2001-273**

AN ACT TO AMEND THE DEFINITION OF INVESTMENT ADVISER REPRESENTATIVE; TO ALLOW MULTIPLE REGISTRATION OF INVESTMENT ADVISER REPRESENTATIVES FOR CERTAIN PURPOSES; AND TO REVISE THE REGISTRATION AND NOTICE FILING PROCEDURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78C-2(3) reads as rewritten:

- "(3) "Investment adviser representative" means, with respect to any investment adviser registered under this Chapter, any partner, officer, director (or a person occupying a similar status or performing similar functions) or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who:
- a. Makes any recommendations or otherwise renders advice regarding securities directly to clients,
 - b. Manages accounts or portfolios of clients,
 - c. Determines which recommendations or advice regarding securities should be given; provided, however if there are more than five such persons employed by or associated with an investment adviser, who do not otherwise come within the meaning of G.S. 78C-2(3)a., b., d., or e., then only the direct supervisors of such persons are deemed to be investment adviser representatives under G.S. 78C-2(3)c.,
 - d. Solicits, offers or negotiates for the sale of or sells investment advisory services, unless such person is

a dealer or salesman registered under Chapter 78A of the General Statutes and the person would not be an investment adviser representative except for the performance of the activities described in G.S. 78C-2(3)d., or

- e. Directly supervises investment adviser representatives as defined in G.S. 78C-2(3)a., b., c. (unless such investment adviser representatives are already required to register due to their role as supervisors by operation of G.S. 78C-2(3)c.), or d. in the performance of the foregoing activities.

~~With respect to any person that is registered or required to be registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-3), "investment adviser representative" means any person who is defined as an "investment adviser representative" pursuant to rules or regulations adopted or promulgated by the Securities Exchange Commission pursuant to the Investment Advisers Act of 1940, and who has a place of business located in the State.~~

Notwithstanding this subdivision, the term "investment adviser representative" as used in this Chapter and as applied to a person who is employed by, or associated with, an investment adviser covered under federal law only includes an individual who (i) has a "place of business" in the State, as that term is defined in rules or regulations adopted or promulgated under section 203A of the Investment Advisers Act of 1940 by the United States Securities and Exchange Commission and (ii) either:

- a. Is an "investment adviser representative" as that term is defined in rules or regulations adopted or promulgated under section 203A of the Investment Advisers Act of 1940 by the United States Securities and Exchange Commission; or
- b. Is not a "supervised person" as that term is defined in rules or regulations adopted or promulgated under the Investment Advisers Act of 1940 by the United States Securities and Exchange Commission and who solicits, offers, or negotiates for the sale of, or who sells, investment advisory services on behalf of an adviser covered under federal law."

SECTION 2. G.S. 78C-16 reads as rewritten:

"§ 78C-16. *Registration and notice filing requirement.*

(a) It is unlawful for any person to transact business in this State as an investment adviser unless:

- (1) The person is registered under this Chapter;
- (2) The person's only clients in this State are investment companies as defined in the Investment Company Act of 1940, other investment advisers, investment advisers covered under federal law, dealers, banks, trust companies, savings institutions, savings and loan associations, insurance companies, employee benefit plans with assets of not less than one million dollars (\$1,000,000), and governmental agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional investors as are designated by rule or order of the Administrator; or
- (3) The person has no place of business in this State, and during the preceding 12-month period has had not more than five clients, other than those specified in subdivision (2) of this subsection, who are residents of the State.

(a1) It is unlawful for any person to transact business in this State as an investment adviser representative unless:

- (1) The person is registered under this Chapter; or
- (2) The person is an investment adviser representative employed by or associated with an investment adviser exempt from registration under subdivision (2) or (3) of subsection (a) of this section; or
- (3) The person is an investment adviser representative employed by or associated with an investment adviser covered under federal law that is exempt from the notice filing requirements of G.S. 78C-17(a1).

(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the

investment adviser representative shall, and the investment adviser may, notify promptly the Administrator.

(b1) No investment adviser representative may be registered with more than one investment adviser registered under this Chapter or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.

(b2) Notwithstanding subsection (b1) of this section, an investment adviser representative may be registered with more than one investment adviser registered under this Chapter or investment adviser covered under federal law for the purposes of soliciting, offering, or negotiating for the sale of, or for selling investment advisory services for or on behalf of, those investment advisers. If an investment adviser representative is registered with more than one investment adviser pursuant to this subsection, the representative shall be registered separately with each investment adviser for whom the representative solicits business and shall provide in writing to each person solicited any information disclosing the terms of any compensation arrangement that is related to the representative's solicitation or referral activities and that is required by the Administrator pursuant to rule or order. The Administrator may, by rule or order, specify supervisory procedures consistent with regulations adopted by the United States Securities and Exchange Commission applicable to investment advisers who compensate persons for referrals of business.

(c) Every registration or notice filing expires December 31 of each year unless renewed.

(d) It is unlawful for any investment adviser covered under federal law to conduct advisory business in this State unless the investment adviser covered under federal law complies with the provisions of G.S. 78C-17(a1)."

SECTION 3. G.S. 78C-17 reads as rewritten:
"§ 78C-17. *Registration and notice filing procedures.*

(a) An investment adviser, or investment adviser representative may obtain an initial or renewal registration by filing with the Administrator or the Administrator's designee an application together with a consent to service of process pursuant to ~~G.S. 78C-46(b)~~; G.S. 78C-46(b) and paying any reasonable costs charged by the designee for processing the filings. The application shall contain whatever information the Administrator by rule requires concerning such matters as:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant; in the case of an investment adviser, the qualifications

and business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the investment adviser;

- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
- (5) The applicant's financial condition and history; and
- (6) Any information to be furnished or disseminated to any client or prospective client.

If no denial order is in effect and no proceeding is pending under G.S. 78C-19, registration becomes effective at noon of the 30th day after an application is filed. The Administrator may by rule or order specify an earlier effective date, and he may by order defer the effective date until noon of the 30th day after the filing of any amendment. Registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, executive officer, or director, or a person occupying a similar status or performing similar functions.

(a1) The Administrator may require investment advisers covered under federal law to file with the Administrator any documentation filed with the Securities and Exchange Commission as a condition of doing business in this State. This subsection does not apply to (i) an investment adviser covered under federal law whose only clients are those described in G.S. 78C-16(a)(2), or (ii) an investment adviser covered under federal law who has no place of business in this State, and during the preceding 12-month period has had not more than five clients, other than those described in G.S. 78C-16(a)(2), who are residents of this State. A notice filing under this section may be renewed by (i) filing documents required by the Administrator and filed with the Securities and Exchange Commission, prior to the expiration of the notice filing, and (ii) paying the fee required under subsection (b1) of this section. A notice filed under this section may be terminated by the investment adviser by providing the Administrator notice of the termination, which shall be effective upon receipt by the Administrator.

(b) Every applicant for initial or renewal registration shall pay a filing fee of two hundred dollars (\$200.00) in the case of an investment adviser, and forty-five dollars (\$45.00) in the case of an investment adviser representative. When an application is denied or withdrawn, the Administrator shall retain the fee.

(b1) Every person acting as an investment adviser covered under federal law in this State shall pay an initial filing fee of two hundred dollars (\$200.00) and a renewal notice filing fee of two hundred dollars (\$200.00).

(b2) Any person required to pay a fee under this section may transmit through any designee any fee required by this section or by the rules adopted pursuant to this section.

(c) A registered investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. There shall be no filing fee.

(d) The Administrator may by rule establish minimum net capital requirements not to exceed one hundred thousand dollars (\$100,000) for registered investment advisers, subject to the limitations of section 222 of the Investment Advisers Act of 1940 (15 U.S.C. § 80(b)-18a), which may include different requirements for those investment advisers who maintain custody of clients' funds or securities or who have discretionary authority over same and those investment advisers who do not.

(e) The Administrator may by rule require registered investment advisers who have custody of or discretionary authority over client funds or securities to post surety bonds in amounts up to one hundred thousand dollars (\$100,000), subject to the limitations of section 222 of the Investment Advisers Act of 1940 (15 U.S.C. § 80(b)-18a), and may determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any investment adviser whose minimum net capital, which may be defined by rule, exceeds one hundred thousand dollars (\$100,000). Every bond shall provide for suit thereon by any person who has a cause of action under G.S. 78C-38 and, if the Administrator by rule or order requires, by any person who has a cause of action not arising under this Chapter. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within the time limitations of G.S. 78C-38(d)."

SECTION 4. G.S. 78C-20 reads as rewritten:

"§ 78C-20. *Alternative methods of registration.*

~~(a) The Administrator may by rule or order provide an alternative method of registration by which any investment adviser or investment adviser representative may satisfy the requirements of this Article by furnishing the information otherwise required to be filed pursuant to this Article. The Administrator may provide for, among other things, alternative filing periods for investment advisers and investment adviser representatives, elimination of the issuance of a paper license and alternative methods for the payment and collection of initial or renewal filing fees, which shall be known as "alternative filing fees". The alternative filing fees shall be the same as provided in G.S. 78C-17(b). All applications for initial and renewal registrations or notice filings required under G.S. 78C-17 shall be filed with the Investment~~

Adviser Registration Depository (IARD) operated by the National Association of Securities Dealers.

~~(b) The Administrator may not adopt an alternative method of registration unless its purpose is to facilitate a central registration depository whereby investment advisers and investment adviser representatives can centrally or simultaneously register and pay fees for all states in which they plan to transact business that require registration. The Administrator may enter into an agreement with or otherwise facilitate an alternative method of registration with any national securities association registered with the Securities and Exchange Commission pursuant to Section 15A of the Securities Exchange Act of 1934, any national securities exchange registered under the Securities Exchange Act of 1934, or any national association of state securities administrators or similar association to effectuate the provisions of this section.~~

(c) Nothing in this section shall be construed to prevent the exercise of the authority of the Administrator as provided in G.S. 78C-19."

SECTION 5. This act becomes effective October 1, 2001, and applies to applications for initial or renewal registrations and notice filings filed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2001.

Became law upon approval of the Governor at 11:44 a.m. on the 9th day of July, 2001.

S.B. 559

SESSION LAW 2001-274

AN ACT INCREASING THE FORCE ACCOUNT LIMIT OF THE CITY OF ASHEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. As to the City of Asheville only, G.S. 143-135 is amended by deleting "one hundred twenty-five thousand dollars (\$125,000)" and substituting "three hundred thousand dollars (\$300,000)".

SECTION 2. This act applies only to the construction of a skateboard park on Cherry Street.

SECTION 3. This act is effective when it becomes law and expires June 30, 2003.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law on the date it was ratified.

H.B. 695 SESSION LAW 2001-275**AN ACT TO REPEAL THE SUNSET PROVISION RELATING TO MECKLENBURG COUNTY ZONING.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2000-77 reads as rewritten:

"Section 2. ~~This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this~~ This act shall not apply to conditional zoning petitions that were approved or denied by the Board of Commissioners prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending litigation.

Petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by the county as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions."

SECTION 2. This act applies to Mecklenburg County only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law on the date it was ratified.

H.B. 696 SESSION LAW 2001-276**AN ACT TO REPEAL THE SUNSET RELATING TO MECKLENBURG MUNICIPAL ZONING.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2000-84 reads as rewritten:

"Section 2. ~~This act applies only to conditional zoning petitions filed on or before August 31, 2001. Notwithstanding the foregoing, this~~ This act shall not apply to conditional zoning petitions that were approved or denied by the City Council prior to April 17, 2000, and shall not affect any rezoning case that is the subject of pending ~~litigation.~~ litigation as of June 16, 2000.

Notwithstanding the foregoing, petitions seeking either conditional district rezoning or conditional use district rezoning which were pending and not yet decided as of April 17, 2000, may be treated by

the city as petitions for conditional zoning under this act. Such petitions need not be refiled, but all other processes spelled out in this act, including the mandatory neighborhood meeting and report and a new public hearing, must be followed as to such petitions."

SECTION 2. This act applies to the City of Charlotte and the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville only.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law on the date it was ratified.

H.B. 643

SESSION LAW 2001-277

AN ACT ESTABLISHING A QUALIFIED TESTIMONIAL PRIVILEGE FOR COMMUNICATIONS WITH AGENTS OF RAPE CRISIS CENTERS AND DOMESTIC VIOLENCE PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 8 of the General Statutes is amended by adding a new section to read:

"§ 8-53.12. *Communications with agents of rape crisis centers and domestic violence programs privileged.*

- (a) Definitions. – The following definitions apply in this section:
- (1) Agent. – An employee or agent of a center who has completed a minimum of 20 hours of training as required by the center, or a volunteer, under the direct supervision of a center supervisor, who has completed a minimum of 20 hours of training as required by the center.
 - (2) Center. – A domestic violence program or rape crisis center.
 - (3) Domestic violence program. – A nonprofit organization or program whose primary purpose is to provide services to domestic violence victims.
 - (4) Domestic violence victim. – Any person alleging domestic violence as defined by G.S. 50B-1, who consults an agent of a domestic violence program for the purpose of obtaining, for himself or herself, advice, counseling, or other services concerning mental, emotional, or physical injuries suffered as a result of the domestic violence. The term shall also include those persons who have a significant relationship with a victim of domestic violence and who have sought, for

themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by the domestic violence against the victim.

- (5) Rape crisis center. – Any publicly or privately funded agency, institution, organization, or facility that offers counseling and other services to victims of sexual assault and their families.
- (6) Services. – Includes, but is not limited to, crisis hotlines; safe homes and shelters; assessment and intake; children of violence services; individual counseling; support in medical, administrative, and judicial systems; transportation, relocation, and crisis intervention. The term does not include investigation of physical or sexual assault of children under the age of 16.
- (7) Sexual assault. – Any alleged violation of G.S. 14-27.2, 14-27.3, 14-27.4, 14-27.5, 14-27.7, 14-27.7A, or 14-202.1, whether or not a civil or criminal action arises as a result of the alleged violation.
- (8) Sexual assault victim. – Any person alleging sexual assault, who consults an agent of a rape crisis center for the purpose of obtaining, for themselves, advice, counseling, or other services concerning mental, physical, or emotional injuries suffered as a result of sexual assault. The term shall also include those persons who have a significant relationship with a victim of sexual assault and who have sought, for themselves, advice, counseling, or other services concerning a mental, physical, or emotional condition caused or reasonably believed to be caused by sexual assault of a victim.
- (9) Victim. – A sexual assault victim or a domestic violence victim.

(b) Privileged Communications. – No agent of a center shall be required to disclose any information which the agent acquired during the provision of services to a victim and which information was necessary to enable the agent to render the services; provided, however, that this subsection shall not apply where the victim waives the privilege conferred. Any resident or presiding judge in the district in which the action is pending shall compel disclosure, either at the trial or prior thereto, if the court finds, by a preponderance of the evidence, a good faith, specific and reasonable basis for believing that (i) the records or testimony sought contain information that is relevant and material to factual issues to be determined in a civil proceeding, or is relevant, material, and exculpatory upon the issue of guilt,

degree of guilt, or sentencing in a criminal proceeding for the offense charged or any lesser included offense, (ii) the evidence is not sought merely for character impeachment purposes, and (iii) the evidence sought is not merely cumulative of other evidence or information available or already obtained by the party seeking the disclosure or the party's counsel. If the case is in district court, the judge shall be a district court judge, and if the case is in superior court, the judge shall be a superior court judge.

Before requiring production of records, the court must find that the party seeking disclosure has made a sufficient showing that the records are likely to contain information subject to disclosure under this subsection. If the court finds a sufficient showing has been made, the court shall order that the records be produced for the court under seal, shall examine the records in camera, and may allow disclosure of those portions of the records which the court finds contain information subject to disclosure under this subsection. After all appeals in the action have been exhausted, any records received by the court under seal shall be returned to the center, unless otherwise ordered by the court. The privilege afforded under this subsection terminates upon the death of the victim.

(c) Duty in Case of Abuse or Neglect. – Nothing in this section shall be construed to relieve any person of any duty pertaining to abuse or neglect of a child or disabled adult as required by law."

SECTION 2. This act becomes effective December 1, 2001, and applies to all communications made on or after that date.

In the General Assembly read three times and ratified this the 3rd day of July, 2001.

Became law upon approval of the Governor at 3:20 p.m. on the 12th day of July, 2001.

H.B. 598

SESSION LAW 2001-278

AN ACT TO REPEAL THE REQUIREMENT THAT COUNTIES AND MUNICIPALITIES MAY ONLY ENTER INTO CONTRACTS WITH PRIVATELY EMPLOYED INDIVIDUALS OR THEIR EMPLOYERS FOR BUILDING INSPECTION SERVICES FOR SPECIFICALLY DESIGNATED PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-353 reads as rewritten:
"§ 153A-353. *Joint inspection department; other arrangements.*

A county may enter into and carry out contracts with one or more other counties or cities under which the parties agree to create and support a joint inspection department for enforcing those State and

local laws and local ordinances and regulations specified in the agreement. The governing bodies of the contracting units may make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a county may designate an inspector from another county or from a city to serve as a member of the county inspection department, with the approval of the governing body of the other county or city. A county may also contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 153A-351.1 or G.S. 160A-411.1. ~~Contracts with an individual or with the employer of an individual who is not an employee of another county or a city may be entered into only for specifically designated projects.~~ The inspector, if designated from another county or city under this section, while exercising the duties of the position, is a county employee. The county shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the county as it does for an individual who is an employee of the county. The company or individual with whom the county contracts shall have errors and omissions and other insurance coverage acceptable to the county."

SECTION 2. G.S. 160A-413 reads as rewritten:

"§ 160A-413. *Joint inspection department; other arrangements.*

A city council may enter into and carry out contracts with another city, county, or combination thereof under which the parties agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a city council may designate an inspector from any other city or county to serve as a member of its inspection department with the approval of the governing body of the other city or county. A city may also contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1 or with the employer of an individual who holds one of the applicable certificates as provided in G.S. 160A-411.1 or G.S. 153A-351.1. ~~Contracts with an individual or with the employer of an individual who is not an employee of another city or a county may be entered into only for specifically designated projects.~~ The inspector, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered a municipal employee. The city shall have the same potential liability, if any, for inspections conducted by an individual

who is not an employee of the city as it does for an individual who is an employee of the city. The company or individual with whom the city contracts shall have errors and omissions and other insurance coverage acceptable to the city.

The city council of any city may request the board of county commissioners of the county in which the city is located to direct one or more county building inspectors to exercise their powers within part or all of the city's jurisdiction, and they shall thereupon be empowered to do so until the city council officially withdraws its request in the manner provided in G.S. 160A-360(g)."

SECTION 3. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 4th day of July, 2001.

Became law upon approval of the Governor at 2:30 a.m. on the 13th day of July, 2001.

S.B. 365 SESSION LAW 2001-279

**AN ACT TO PROVIDE FOR ELECTRONIC LISTING OF
BUSINESS PERSONAL PROPERTY FOR AD VALOREM
TAXES AND TO ALLOW COUNTIES TO EXTEND THE
LISTING PERIOD FOR ELECTRONIC LISTING.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-304 reads as rewritten:

"§ 105-304. *Place for listing tangible personal property.*

(a) Listing Instructions. – This section ~~shall apply~~ applies to all taxable tangible personal property that has a tax situs in this State and that is not required by this Subchapter to be appraised originally by the Department of Revenue. The place in this State at which ~~such this~~ property is taxable ~~shall be~~ is determined according to the rules ~~prescribed in subsections (c) through (h), below.~~ provided in this section. The person whose duty it is to list property ~~shall~~ must list it in the county in which the place of taxation is located, indicating on the abstract the information required by G.S. 105-309(d). If the place of taxation lies within a city or town that requires separate listing under G.S. 105-326(a), the person whose duty it is to list ~~shall~~ must also list the property for taxation in the city or town.

(a1) Electronic Listing. – The board of county commissioners may, by resolution, provide for electronic listing of business personal property in accordance with procedures prescribed by the board. If the board of county commissioners allows electronic listing of business personal property, the assessor must publish this information, including the timetable and procedures for electronic listing, in the notice required by G.S. 105-296(c).

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

- (1) ~~"Situated" means more~~ Situated. – More or less permanently located.
- (2) ~~"Business premises"~~ Business premises. – The term includes, for purposes of illustration, ~~but is not limited to~~ the following: Store, mill, dockyard, piling ground, shop, office, mine, farm, factory, warehouse, rental real estate, place for the sale of property (including the premises of a consignee), and place for storage (including a public warehouse).
- (3) Electronic. – Defined in G.S. 66-312.

(c) General Rule. – Except as otherwise provided in subsections (d) through ~~(h), below,~~ (h) of this section, tangible personal property ~~shall be~~ is taxable at the residence of the owner. For purposes of this section:

- (1) The residence of an individual person who has two or more places in this State at which ~~he~~ the individual occasionally dwells ~~shall be~~ is the place at which ~~he~~ the individual dwelt for the longest period of time during the calendar year immediately preceding the date as of which property is to be listed for taxation.
- (2) The residence of a domestic or foreign taxpayer other than an individual person ~~shall be~~ is the place at which its principal North Carolina place of business is located.

(d) Property of Taxpayers With No Fixed Residence in This State. –

- (1) Tangible personal property owned by an individual nonresident of this State ~~shall be~~ is taxable at the place in this State at which the property is situated.
- (2) Tangible personal property owned by a domestic or foreign taxpayer (other than an individual person) that has no principal office in this State ~~shall be~~ is taxable at the place in this State at which the property is situated.

(e) Farm Products. – Farm products produced in this State, if owned by their producer, ~~shall be~~ are taxable at the place in this State at which they were produced.

(f) Property Situated or Commonly Used at Premises Other Than Owner's Residence. – Subject to the provisions of subsection ~~(e),~~ above: (e) of this section:

- (1) Tangible personal property situated at or commonly used in connection with a temporary or seasonal dwelling owned or leased by the owner of the personal property ~~shall be~~ is taxable at the place at which the temporary or seasonal dwelling is situated.

- (2) Tangible personal property situated at or commonly used in connection with a business premises hired, occupied, or used by the owner of the personal property (or by the owner's agent or employee) ~~shall be~~ is taxable at the place at which the business premises is situated. Tangible personal property that may be used by the public generally or that is used to sell or vend merchandise to the public ~~shall be regarded as falling falls~~ within the provisions of this ~~subdivision (f)(2)~~ subdivision.
- (3) Tangible personal property situated at or commonly used in connection with a premise owned, hired, occupied, or used by a person who is in possession of the personal property under a business agreement with the property's owner ~~shall be~~ is taxable at the place at which the possessor's premise is situated. For purposes of this ~~subdivision (f)(3)~~ subdivision, the term "business agreement" means a commercial lease, a bailment for hire, a consignment, or a similar business arrangement.
- (4) In applying the provisions of subdivisions ~~(f)(1), (f)(2), and (f)(3), above,~~ (1), (2), and (3) of this subsection, the temporary absence of tangible personal property from the place at which it is taxable under one of those subdivisions on the day as of which property is to be listed ~~shall does~~ not affect the application of the rules established in those subdivisions. The presence of tangible personal property at a location specified in subdivision ~~(f)(1), (f)(2), or (f)(3)~~ (1), (2), or (3) of this subsection on the day as of which property is to be listed ~~shall be~~ is prima facie evidence that it is situated at or commonly used in connection with that location.

(g) Decedents. – The tangible personal property of a decedent whose estate is in the process of administration or has not been distributed ~~shall be~~ is taxable at the place at which it would be taxable if the decedent were still alive and still residing at the place at which ~~he~~ the decedent resided at the time of ~~his~~ death.

(h) Beneficial Ownership. – Tangible personal property within the jurisdiction of the State held by a resident or nonresident trustee, guardian, or other fiduciary having legal title to the property ~~shall be~~ is taxable in accordance with the following rules:

- (1) If any beneficiary is a resident of the State, an amount representing ~~his that beneficiary's~~ the beneficiary's portion of the property ~~shall be~~ is taxable at the place at which it would be taxable if ~~he were the owner of his~~ the beneficiary owned that portion.

- (2) If any beneficiary is a nonresident of the State, an amount representing ~~his~~ that beneficiary's portion of the property ~~shall be~~ is taxable at the place at which it would be taxable if the fiduciary were the beneficial owner of the property."

SECTION 2. G.S. 105-307 reads as rewritten:

"§ 105-307. *Length of listing period; extension; preliminary work.*

(a) Listing Period. – ~~The Unless extended as provided in this section, the period during which property is to be listed for taxation each year shall begin~~ begins on the first business day of ~~the month of January and, unless extended as herein provided shall continue through the month of January.~~ January and ends on January 31.

(b) General Extensions. – The board of county commissioners may, ~~in any nonrevaluation year, by resolution,~~ extend the time during which property is to be listed for taxation as provided in this subsection. for a period not to exceed 30 additional days; in years of octennial appraisal of real property, the board may extend the time for listing for a period not to exceed 60 additional days. Any action by the board of county commissioners extending the listing period ~~shall~~ must be recorded in the minutes of the board, and notice ~~thereof shall~~ of the extensions must be published as required by G.S. 105-296(c). The entire period for listing, including any extension of time granted, ~~shall be~~ is considered the regular listing period for the particular year within the meaning of this Subchapter.

- (1) In nonrevaluation years, the listing period may be extended for up to 30 additional days.
- (2) In years of octennial appraisal of real property, the listing period may be extended for up to 60 additional days.
- (3) If the county has provided for electronic listing of business personal property under G.S. 105-304, the period for electronic listing may be extended up to June 1.

(c) Individual Extensions. – The board of county commissioners shall grant individual extensions of time for the listing of real and personal property upon written request and for good cause shown. The request must be filed with the assessor no later than the ending date of the regular listing period. The board may delegate the authority to grant extensions to the assessor. Extensions granted under this ~~paragraph~~ subsection shall not extend beyond April 15. If the county has provided for electronic listing of business personal property under G.S. 105-304, the period for electronic listing is as provided in subsection (b) of this section.

(d) Preliminary Work. – The assessor may conduct preparatory work before the listing period begins, but ~~he~~ may not make a final

appraisal of property before the day as of which the value of the property is to be determined under G.S. 105-285."

SECTION 3. G.S. 105-311(b) reads as rewritten:

"(b) Any abstract submitted by mail may be accepted or rejected by the assessor in his the assessor's discretion. However, the board of county commissioners, with the approval of the Department of Revenue, may by resolution provide for the general acceptance of completed abstracts submitted by ~~mail.~~ mail or submitted electronically. In no event shall an abstract submitted by mail be accepted unless the affirmation ~~thereon~~ on the abstract is signed by the individual prescribed in subsection ~~(a), above.~~ (a) of this section. An electronic listing may be signed electronically in accordance with the Electronic Commerce Act, Article 11A of Chapter 66 of the General Statutes.

For the purpose of this Subchapter, abstracts submitted by mail ~~shall be deemed to be~~ are considered filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the ~~abstracts shall be deemed to be~~ abstract is considered filed when received in the office of the assessor. Abstracts submitted by electronic listing are considered filed when received in the office of the assessor. In any dispute arising under this Subchapter, the burden of proof ~~shall be~~ is on the taxpayer to show that the abstract was timely filed."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2001.

Became law upon approval of the Governor at 2:32 a.m. on the 13th day of July, 2001.

H.B. 75 SESSION LAW 2001-280

AN ACT TO PROVIDE FOR THE DISTRIBUTION OF COPIES OF THE APPELLATE DIVISION REPORTS TO THE CHEROKEE SUPREME COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-343.1 reads as rewritten:

"§ 7A-343.1. *Distribution of copies of the appellate division reports.*

The Administrative Officer of the Courts shall, at the State's expense distribute such number of copies of the appellate division reports to federal, State departments and agencies, and to educational institutions of instruction, as follows:

Governor, Office of the	1
Lieutenant Governor, Office of the	1

Secretary of State, Department of the	2
State Auditor, Department of the	1
Treasurer, Department of the State	1
Superintendent of Public Instruction	1
Office of the Attorney General	11
State Bureau of Investigation	1
Agriculture and Consumer Services, Department of	1
Labor, Department of	1
Insurance, Department of	1
Budget Bureau, Department of Administration	1
Property Control, Department of Administration	1
State Planning, Department of Administration	1
Environment and Natural Resources, Department of	1
Revenue, Department of	1
Health and Human Services, Department of	1
Juvenile Justice and Delinquency Prevention, Department of	1
Commission for the Blind	1
Transportation, Department of	1
Motor Vehicles, Division of	1
Utilities Commission	8
Industrial Commission	11
State Personnel Commission	1
Office of State Personnel	1
Office of Administrative Hearings	2
Community Colleges, Department of	38
Employment Security Commission	1
Commission of Correction	1
Parole Commission	1
Archives and History, Division of	1
Crime Control and Public Safety, Department of	2
Cultural Resources, Department of	3
Legislative Building Library	2
Justices of the Supreme Court	1 ea.
Judges of the Court of Appeals	1 ea.
Judges of the Superior Court	1 ea.
Clerks of the Superior Court	1 ea.
District Attorneys	1 ea.
Emergency and Special Judges of the Superior Court	1 ea.
Supreme Court Library	AS MANY AS REQUESTED
Appellate Division Reporter	1
University of North Carolina, Chapel Hill	71
University of North Carolina, Charlotte	1
University of North Carolina, Greensboro	1
University of North Carolina, Asheville	1

North Carolina State University, Raleigh	1
Appalachian State University	1
East Carolina University	1
Fayetteville State University	1
North Carolina Central University	17
Western Carolina University	1
Duke University	17
Davidson College	2
Wake Forest University	25
Lenoir Rhyne College	1
Elon College	1
Campbell University	25
Federal, Out-of-State and Foreign Secretary of State	1
Secretary of Defense	1
Secretary of Health, Education and Welfare	1
Secretary of Housing and Urban Development	1
Secretary of Transportation	1
Attorney General	1
Department of Justice	1
Internal Revenue Service	1
Veterans' Administration	1
Library of Congress	5
Federal Judges resident in North Carolina	1 ea.
Marshal of the United States Supreme Court	1
Federal District Attorneys resident in North Carolina	1 ea.
Federal Clerks of Court resident in North Carolina	1 ea.
Supreme Court Library exchange list	1
<u>Cherokee Supreme Court, Eastern Band of</u>	
<u>Cherokee Indians</u>	1

Each justice of the Supreme Court and judge of the Court of Appeals shall receive for private use, one complete and up-to-date set of the appellate division reports. The copies of reports furnished each justice or judge as set out in the table above may be retained personally to enable the justice or judge to keep up-to-date the personal set of reports."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of July, 2001.

Became law upon approval of the Governor at 2:35 a.m. on the 13th day of July, 2001.

H.B. 722

SESSION LAW 2001-281

AN ACT TO INCREASE THE MEMBERS OF THE NORTH CAROLINA VETERINARY MEDICAL BOARD FROM

SEVEN TO EIGHT AND TO ALLOW THE BOARD OF CHIROPRACTIC EXAMINERS TO BRING AN ACTION FOR INJUNCTIVE RELIEF IN SUPERIOR COURT TO PREVENT PERSONS FROM PRACTICING CHIROPRACTIC WITHOUT A LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-182(a) reads as rewritten:

"(a) In order to properly regulate the practice of veterinary medicine and surgery, there is established a Board to be known as the North Carolina Veterinary Medical Board which shall consist of ~~seven~~ eight members.

Five members shall be appointed by the Governor. Four of these members shall have been legal residents of and licensed to practice veterinary medicine in this State for not less than five years preceding their appointment. The other member shall not be licensed or registered under the Article and shall represent the interest of the public at large. Each member appointed by the Governor shall reside in a different congressional district.

~~The Lieutenant Governor~~ The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint to the Board one member who shall have been a resident of and licensed to practice veterinary medicine in this State for not less than five years preceding his ~~the~~ appointment. The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint to the Board one member who shall have been a legal resident of and registered as a veterinary technician in this State for not less than five years preceding the appointment.

In addition to the ~~six~~ seven members appointed as provided above, the Commissioner of Agriculture shall biennially appoint to the Board the State Veterinarian or another veterinarian from a staff of a North Carolina department or institution. This member shall have been a legal resident of and licensed to practice veterinary medicine in North Carolina for not less than five years preceding his appointment.

Every member shall, within 30 days after notice of appointment, appear before any person authorized to administer the oath of office and take an oath to faithfully discharge the duties of the office."

SECTION 2. G.S. 20-182(c) reads as rewritten:

"(c) All members serving on the board on June 30, 1981, shall complete their respective terms. The Governor shall appoint the public member not later than July 1, 1981. No member appointed to the Board by the Governor, ~~Lieutenant Governor or Speaker of the House of Representatives~~ Lieutenant Governor, Speaker of the House of Representatives, or General Assembly on or after July 1, 1981, shall serve more than two complete consecutive five-year

terms, except that each member shall serve until his successor is appointed and qualifies."

SECTION 3. Notwithstanding the provisions of G.S. 90-182(a), as enacted in Section 1 of this act, the member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who shall have been a legal resident of and registered as a veterinary technician in this State for not less than five years preceding his or her appointment, shall be appointed for a five-year term to commence July 1, 2001, and to expire June 30, 2006. The member described in this section shall serve the term for which he or she was appointed and until his or her successor is appointed and qualified.

SECTION 4. G.S. 90-147 reads as rewritten:

"§ 90-147. *Practice without license a ~~misdemeanor~~ misdemeanor; injunctions.*

Any person practicing chiropractic in this State without ~~having first obtained~~ possessing a license as provided in this Article shall be guilty of a Class 1 misdemeanor.

The Board of Chiropractic Examiners may appear in its own name in the superior court in an action for injunctive relief to prevent violation of this section, and the superior court shall have the power to grant such injunction regardless of whether criminal prosecution has been or may be instituted. An action under this section shall be commenced in the superior court district in which the respondent resides or has his principal place of business or in which the alleged violation occurred."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of July, 2001.

Became law upon approval of the Governor at 2:36 a.m. on the 13th day of July, 2001.

H.B. 884 SESSION LAW 2001-282

AN ACT TO ASSIST AN INNOCENT PERSON CHARGED WITH OR WRONGLY CONVICTED OF A CRIMINAL OFFENSE IN ESTABLISHING THE PERSON'S INNOCENCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-146 is amended by adding two new subsections to read:

"(b1) Any person entitled to expungement under this section may also apply to the court for an order expunging DNA records when the person's case has been dismissed by the trial court and the person's DNA record or profile has been included in the State DNA Database

and the person's DNA sample is stored in the State DNA Databank. A copy of the application for expungement of the DNA record or DNA sample shall be served on the district attorney for the judicial district in which the felony charges were brought not less than 20 days prior to the date of the hearing on the application. If the application for expungement is granted, a certified copy of the trial court's order dismissing the charges shall be attached to an order of expungement. The order of expungement shall include the name and address of the defendant and the defendant's attorney and shall direct the SBI to send a letter documenting expungement as required by subsection (b2) of this section.

(b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this section, the SBI shall purge the DNA record and all other identifying information from the State DNA Database and the DNA sample stored in the State DNA Databank covered by the order, except that the order shall not apply to other offenses committed by the individual that qualify for inclusion in the State DNA Database and the State DNA Databank. A letter documenting expungement of the DNA record and destruction of the DNA sample shall be sent by the SBI to the defendant and the defendant's attorney at the address specified by the court in the order of expungement."

SECTION 2. Article 5 of Chapter 15A is amended by adding a new section to read:

"§ 15A-148. *Expunction of DNA records when charges are dismissed on appeal or pardon of innocence is granted.*

(a) Upon a motion by the defendant following the issuance of a final order by an appellate court reversing and dismissing a conviction of an offense for which a DNA analysis was done in accordance with Article 13 of Chapter 15A of the General Statutes, or upon receipt of a pardon of innocence with respect to any such offense, the court shall issue an order of expungement of the DNA record and samples in accordance with subsection (b) of this section. The order of expungement shall include the name and address of the defendant and the defendant's attorney and shall direct the SBI to send a letter documenting expungement as required by subsection (b) of this section.

(b) When an order of expungement has been issued pursuant to subsection (a) of this section, the order of expungement, together with a certified copy of the final appellate court order reversing and dismissing the conviction or a certified copy of the instrument granting the pardon of innocence, shall be provided to the SBI by the clerk of court. Upon receiving an order of expungement for an individual whose DNA record or profile has been included in the State DNA Database and whose DNA sample is stored in the State DNA Databank, the DNA profile shall be expunged and the DNA

sample destroyed by the SBI, except that the order shall not apply to other offenses committed by the individual that qualify for inclusion in the State DNA Database and the State DNA Databank. A letter documenting expungement of the DNA record and destruction of the DNA sample shall be sent by the SBI to the defendant and the defendant's attorney at the address specified by the court in the order of expungement. The SBI shall adopt procedures to comply with this subsection."

SECTION 3. G.S. 15A-266.10 is repealed.

SECTION 4. Article 13 of Chapter 15A of the General Statutes is amended by adding the following new sections to read:

"§ 15A-267. Access to DNA samples from crime scene.

(a) A criminal defendant shall have access before trial to the following:

- (1) Any DNA analyses performed in connection with the case in which the defendant is charged.
- (2) Any biological material, that has not been DNA tested, that was collected from the crime scene, the defendant's residence, or the defendant's property.

(b) Access as provided for in subsection (a) of this section shall be governed by G.S. 15A-902 and G.S. 15A-952.

(c) Upon a defendant's motion made before trial in accordance with G.S. 15A-952, the court may order the SBI to perform DNA testing and DNA Database comparisons of any biological material collected but not DNA tested in connection with the case in which the defendant is charged upon a showing of all of the following:

- (1) That the biological material is relevant to the investigation.
- (2) That the biological material was not previously DNA tested.
- (3) That the testing is material to the defendant's defense.

(d) The defendant shall be responsible for bearing the cost of any further testing and comparison of the biological materials, including any costs associated with the testing and comparison by the SBI in accordance with this section, unless the court has determined the defendant is indigent, in which event the State shall bear the costs.

"§ 15A-268. Preservation of samples of biological materials.

(a) Notwithstanding any other provision of law and subject to subsection (b) of this section, a governmental entity that collects evidence containing DNA in the course of a criminal investigation shall preserve a sample of the evidence collected for the period of time a defendant convicted of a felony is incarcerated in connection with that case. The governmental entity may determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing.

(b) The governmental entity may dispose of the sample of evidence containing DNA preserved pursuant to subsection (a) of this section before the expiration of the period of time described in subsection (a) of this section if all of the following conditions are met:

- (1) The governmental entity sent notice of its intent to dispose of the sample of evidence to the district attorney in the county in which the conviction was obtained.
- (2) The district attorney gave to each of the following persons written notification of the intent of the governmental entity to dispose of the sample of evidence: any defendant convicted of a felony who is currently incarcerated in connection with the case, the defendant's current counsel of record, the Office of Indigent Defense Services, and the Attorney General. The notice shall be consistent with the provisions of this section, and the district attorney shall send a copy of the notice to the governmental entity. Delivery of written notification from the district attorney to the defendant was effectuated by the district attorney transmitting the written notification to the superintendent of the correctional facility where the defendant was assigned at the time and the superintendent's personal delivery of the written notification to the defendant. Certification of delivery by the superintendent to the defendant in accordance with this subdivision was in accordance with subsection (c) of this section.
- (3) The written notification from the district attorney specified the following:
 - a. That the governmental entity would destroy the sample of evidence collected in connection with the case unless the governmental entity received a written request that the sample of evidence not be destroyed.
 - b. The address of the governmental entity where the written request was to be sent.
 - c. That the written request must be received by the governmental entity within 90 days of the date of receipt by the defendant of the district attorney's written notification.
 - d. That the written request must ask that the material not be destroyed or disposed of for one of the following reasons:
 1. The case is currently on appeal.

2. The case is currently in postconviction proceedings.

3. The defendant will file within 180 days of the date of receipt by the defendant of the district attorney's written notification a motion for DNA testing pursuant to G.S. 15A-269, that is followed within 180 days of sending the request that the sample of evidence not be destroyed or disposed of, by a motion for DNA testing pursuant to G.S. 15A-269, unless a request for extension is requested by the defendant and agreed to by the governmental entity in possession of the evidence.

(4) The governmental entity did not receive a written request in compliance with the conditions set forth in sub-subdivision (3)d. of this subsection within 90 days of the date of receipt by the defendant of the district attorney's written notification.

(c) Upon receiving a written notification from a district attorney in accordance with subdivision (b)(3) of this section, the superintendent shall personally deliver the written notification to the defendant. Upon effectuating personal delivery on the defendant, the superintendent shall sign a sworn written certification that the written notification had been delivered to the defendant in compliance with this subsection indicating the date the delivery was made. The superintendent's certification shall be sent by the superintendent to the governmental entity that intends to dispose of the sample of evidence. The governmental entity may rely on the superintendent's certification as evidence of the date of receipt by the defendant of the district attorney's written notification.

"§ 15A-269. Request for postconviction DNA testing.

(a) A defendant may make a motion before the trial court that entered the judgment of conviction against the defendant for performance of DNA testing of any biological evidence that meets all of the following conditions:

(1) Is material to the defendant's defense.

(2) Is related to the investigation or prosecution that resulted in the judgment.

(3) Meets either of the following conditions:

a. It was not DNA tested previously.

b. It was tested previously, but the requested DNA test would provide results that are significantly more accurate and probative of the identity of the perpetrator or accomplice or have a reasonable probability of contradicting prior test results.

(b) The court shall grant the motion for DNA testing of the evidence upon its determination that:

- (1) The conditions set forth in subdivisions (1), (2), and (3) of subsection (a) of this section have been met; and
- (2) If the DNA testing being requested had been conducted on the evidence, there exists a reasonable probability that the verdict would have been more favorable to the defendant.

(c) The court shall appoint counsel for the person who brings a motion under this section if that person is indigent.

(d) The defendant shall be responsible for bearing the cost of any DNA testing ordered under this section unless the court determines the defendant is indigent, in which event the State shall bear the costs.

(e) DNA testing ordered by the court pursuant to this section shall be done as soon as practicable. However, if the court finds that a miscarriage of justice will otherwise occur and that DNA testing is necessary in the interests of justice, the court shall order a delay of the proceedings or execution of the sentence pending the DNA testing.

"§ 15A-270. Post-test procedures.

(a) Notwithstanding any other provision of law, upon receiving the results of the DNA testing conducted under G.S. 15A-269, the court shall conduct a hearing to evaluate the results and to determine if the results are unfavorable or favorable to the defendant.

(b) If the results of DNA testing conducted under this section are unfavorable to the defendant, the court shall dismiss the motion and, in the case of a defendant who is not indigent, shall assess the defendant for the cost of the testing.

(c) If the results of DNA testing conducted under this section are favorable to the defendant, the court shall enter any order that serves the interests of justice, including an order that does any of the following:

- (1) Vacates and sets aside the judgment.
- (2) Discharges the defendant, if the defendant is in custody.
- (3) Resentences the defendant.
- (4) Grants a new trial."

SECTION 5. G.S. 15A-903 is amended by adding a new subsection to read:

"(g) DNA Laboratory Reports. – The defendant shall have the right to obtain a copy of DNA laboratory reports provided to the district attorney revealing that there was a DNA match to the defendant that was derived from a CODIS match during a comparison search involving the defendant's DNA sample, in accordance with the procedure set forth in G.S. 15A-902."

SECTION 6. G.S. 15A-267, as enacted in Section 4 of this act, and Section 5 of this act are effective when it becomes law

and apply to persons charged with crimes on or after that date. Section 6 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2001, and applies to evidence, records, and samples in the possession of a governmental entity on or after October 1, 2001.

In the General Assembly read three times and ratified this the 3rd day of July, 2001.

Became law upon approval of the Governor at 2:37 a.m. on the 13th day of July, 2001.

H.B. 307 SESSION LAW 2001-283

AN ACT TO APPLY A LAW CLOSING A LOOPHOLE IN THE MINIMUM HOUSING STANDARDS ACT AS IT APPLIES TO MUNICIPALITIES LOCATED IN COUNTIES WITH POPULATIONS IN EXCESS OF SEVENTY-ONE THOUSAND PEOPLE BY THE LAST CENSUS WHERE THE OWNER CAN AVOID ORDERS TO REPAIR, REMOVE, OR DEMOLISH A RENTAL UNIT BY SIMPLY CLOSING IT SO THAT IT WILL APPLY IN THE ENTIRETY OF A MUNICIPALITY LOCATED IN MORE THAN ONE COUNTY WHERE SOME OF THE MUNICIPALITY IS LOCATED IN A COUNTY THAT MEETS THE POPULATION THRESHOLD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-443(5a) reads as rewritten:

"(5a)If the governing body shall have adopted an ordinance, or the public officer shall have:

- a. In a municipality located in counties which have a population in excess of 71,000 by the last federal ~~eensus,~~ census (including the entirety of any municipality located in more than one county at least one county of which has a population in excess of 71,000), other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;
- b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or

vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,

then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or
- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

This subdivision only applies to municipalities located in counties which have a population in excess of 71,000 by the last federal ~~census~~, census (including the entirety of any municipality located in more than one

county at least one county of which has a population in excess of 71,000)."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of July, 2001.

Became law upon approval of the Governor at 9:55 a.m. on the 13th day of July, 2001.

H.B. 1111 SESSION LAW 2001-284

AN ACT TO EXPAND THE POWERS AND DUTIES OF THE SOIL AND WATER CONSERVATION COMMISSION OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO INCLUDE DEVELOPMENT AND IMPLEMENTATION OF A PROGRAM TO APPROVE WATER QUALITY AND ANIMAL WASTE MANAGEMENT SYSTEM TECHNICAL SPECIALISTS AND DEVELOPMENT AND APPROVAL OF WATER QUALITY BEST MANAGEMENT PRACTICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 139-4(d) is amended by adding two new subdivisions to read:

"(11) To develop and implement a program for the approval of water quality and animal waste management systems technical specialists.

(12) To develop and approve best management practices for use in the water quality protection programs of the Department of Environment and Natural Resources and to adopt rules that establish criteria governing approval of these best management practices."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of July, 2001.

Became law upon approval of the Governor at 9:56 a.m. on the 13th day of July, 2001.

H.B. 334 SESSION LAW 2001-285

AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS TO EXEMPT FROM THE DEFINITION OF EMPLOYER GOVERNMENTAL EMPLOYERS WHO HIRE INTERNS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 96-8(5)p. reads as rewritten:

"(5) 'Employer' means:

...

- p. With respect to employment on and after January 1, 1978, any state and local governmental employing unit, including the State of North Carolina, a county board of education, a city board of education, the State Board of Education, the Board of Trustees of The University of North Carolina, the board of trustees of other institutions and agencies supported and under the control of the State, any other agency of and within the State by which a teacher or other employee is paid, and any county, incorporated city or town, the light and water board or commission of any incorporated city or town, the board of alcoholic control of any county or incorporated city or town, county and/or city airport authorities, housing authorities created and operated under and by virtue of Chapter 157 of the General Statutes, redevelopment commissions created and operated under and by virtue of Article 22, Chapter 160A of the General Statutes, county and/or city or regional libraries, county and/or city boards of health, district boards of health, any other separate, local governmental entity, jointly owned or operated governmental entities, and the Retirement System. For purposes of this Chapter, any employing unit described in this paragraph is not an employer by reason of hiring an intern.

...."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of July, 2001.

Became law upon approval of the Governor at 9:56 a.m. on the 13th day of July, 2001.

S.B. 243

SESSION LAW 2001-286

AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO USE TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS AND TO AUTHORIZE CERTAIN MUNICIPALITIES TO USE RED LIGHT CAMERAS FOR SAFETY, FOR SCHOOLS, BUT NOT FOR PROFIT.

The General Assembly of North Carolina enacts:

SECTION 1. Subsection (d) of G.S. 160A-300.1 reads as rewritten:

"(d) This ~~aet~~section applies only to the Cities of Albemarle, Charlotte, Durham, Fayetteville, Greensboro, High Point, Rocky Mount, Wilmington, Greenville, and Lumberton, and to the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, Nags Head, and Pineville~~Pineville, and to the municipalities in Union County only.~~"

SECTION 2. G.S. 160A-300.1 is amended by adding a new subsection to read:

"(c1) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified in the Design Manual developed by the Signals and Geometrics Section of the North Carolina Department of Transportation."

SECTION 3. Article 15 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-300.2. Use of traffic control photographic systems in Wake County.

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subsection (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Any traffic control photographic system installed on a street or highway shall be identified by appropriate advance warning signs conspicuously posted not more than 300 feet from the location of the traffic control photographic system. All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation in conjunction with local governments authorized to install traffic control photographic systems.

(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. If a municipality adopts an ordinance pursuant to this section then, notwithstanding G.S. 20-176, a violation of G.S. 20-158 detected only

by a traffic control photographic system shall not be an infraction. If a violation of G.S. 20-158 is detected by both a law enforcement officer and a traffic control photographic system, the officer may charge the offender with an infraction. If the officer charges the offender with an infraction, a civil penalty issued by the municipality for the same offense is void and unenforceable. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after receiving notification of the violation, furnishes the office of the mayor of the municipality that issued the citation:
 - a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle;
 - b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person who did not have permission of the owner to use the vehicle; or
 - c. A statement that the person who received the citation is not the owner or driver of the vehicle, or that the person who received the citation was not driving a vehicle at the time and location designated in the citation.
- (2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- (3) The owner of the vehicle shall be issued a citation that shall be attached to photographic evidence of the violation that identifies the vehicle involved. The citation shall clearly state the manner in which the violation may be challenged. The owner of the vehicle shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time

period specified on the citation, the owner shall have waived the right to contest responsibility for the violation and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.

- (4) The municipality shall establish a nonjudicial administrative hearing process to review objections to citations or penalties issued or assessed under this section. The municipality may establish an appeals panel composed of municipal employees to review objections. If the municipality does not establish an appeals panel composed of municipal employees, the mayor of the municipality shall review and make a final decision on all objections.

(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified in the Design Manual developed by the Signals and Geometrics Section of the North Carolina Department of Transportation.

(f) A municipality enacting an ordinance implementing a traffic control photographic system may enter into a contract with a contractor for the lease, lease-purchase, or purchase of the system. The municipality may enter into only one contract for the lease, lease-purchase, or purchase of the system and the duration of the contract may be for no more than 60 months. After the period specified in the contract has expired, the system shall either be the property of the municipality or the system shall be removed and returned to the contractor.

(g) The clear proceeds from the citations issued pursuant to the ordinance authorized by this section shall be paid to the county school fund. The clear proceeds from the citations shall mean the funds remaining after paying for the lease, lease-purchase, or purchase of the traffic control photographic system; paying a contractor for operating the system; and paying any administrative costs incurred by the municipality related to the use of the system.

(h) This section applies only to the municipalities in Wake County. For purposes of this section, a municipality is in Wake County if fifty-one percent (51%) or more of the land area of the municipality lies within Wake County."

SECTION 4. Article 15 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-300.3. Use of traffic control photographic systems in the City of Concord.

(a) A traffic control photographic system is an electronic system consisting of a photographic, video, or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control device to automatically produce photographs, video, or digital images of each vehicle violating a standard traffic control statute or ordinance.

(b) Any traffic control photographic system or any device which is a part of that system, as described in subdivision (a) of this section, installed on a street or highway which is a part of the State highway system shall meet requirements established by the North Carolina Department of Transportation. Any traffic control system installed on a municipal street shall meet standards established by the municipality and shall be consistent with any standards set by the Department of Transportation.

(c) Any traffic control photographic system installed on a street or highway must be identified by appropriate advance warning signs conspicuously posted not more than 300 feet from the location of the traffic control photographic system. All advance warning signs shall be consistent with a statewide standard adopted by the Department of Transportation in conjunction with local governments authorized to install traffic control photographic systems.

(d) Municipalities may adopt ordinances for the civil enforcement of G.S. 20-158 by means of a traffic control photographic system, as described in subsection (a) of this section. Notwithstanding the provisions of G.S. 20-176, in the event that a municipality adopts an ordinance pursuant to this section, a violation of G.S. 20-158 at a location at which a traffic control photographic system is in operation shall not be an infraction. An ordinance authorized by this subsection shall provide that:

- (1) The owner of a vehicle shall be responsible for a violation unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody, or control of another person. The owner of the vehicle shall not be responsible for the violation if the owner of the vehicle, within 21 days after notification of the violation, furnishes the officials or agents of the municipality which issued the citation:
 - a. The name and address of the person or company who leased, rented, or otherwise had the care, custody, and control of the vehicle; or
 - b. An affidavit stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of

some person who did not have permission of the owner to use the vehicle.

- (2) A violation detected by a traffic control photographic system shall be deemed a noncriminal violation for which a civil penalty of fifty dollars (\$50.00) shall be assessed, and for which no points authorized by G.S. 20-16(c) shall be assigned to the owner or driver of the vehicle nor insurance points as authorized by G.S. 58-36-65.
- (3) The owner of the vehicle shall be issued a citation which shall clearly state the manner in which the violation may be challenged, and the owner shall comply with the directions on the citation. The citation shall be processed by officials or agents of the municipality and shall be forwarded by personal service or first-class mail to the address given on the motor vehicle registration. If the owner fails to pay the civil penalty or to respond to the citation within the time period specified on the citation, the owner shall have waived the right to contest responsibility for the violation, and shall be subject to a civil penalty not to exceed one hundred dollars (\$100.00). The municipality may establish procedures for the collection of these penalties and may enforce the penalties by civil action in the nature of debt.
- (4) The municipality shall institute a nonjudicial administrative hearing to review objections to citations or penalties issued or assessed under this section.

(e) The duration of the yellow light change interval at intersections where traffic control photographic systems are in use shall be no less than the yellow light change interval duration specified in the Design Manual developed by the Signals and Geometrics Section of the North Carolina Department of Transportation.

(f) The clear proceeds from the citations issued pursuant to the ordinance authorized by this section shall be paid to the county school fund. The clear proceeds from the citations shall mean the funds remaining after paying for the lease, lease-purchase, or purchase of the traffic control photographic system; paying a contractor for operating the system; and paying any administrative costs incurred by the municipality related to the use of the system.

(g) This section applies only to the City of Concord."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of July, 2001.

Became law upon approval of the Governor at 9:59 a.m. on the 13th day of July, 2001.

S.B. 40 SESSION LAW 2001-287

AN ACT TO EXTEND THE EXPIRATION DATE OF THE LEGISLATION AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2001, AND EXTENDING EXPIRING PROVISIONS OF LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Section 8 of S.L. 2001-250 reads as rewritten:

"**SECTION 8.** Except as otherwise provided, this act becomes effective July 1, 2001. This act expires ~~July 16, 2001~~ July 31, 2001."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 8:05 a.m. on the 15th day of July, 2001.

H.B. 1041 SESSION LAW 2001-288

AN ACT TO REQUIRE THAT BALLOT INSTRUCTIONS BE PRINTED IN SPANISH AS WELL AS ENGLISH.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-140.2. Ballot instructions in English and Spanish.

In every county or municipality where the Hispanic population exceeds six percent (6%), in accordance with the most recent decennial federal census, all instructions to the voter for ballots shall be printed in both English and Spanish. The State Board of Elections shall prepare a Spanish translation of ballot instructions for local boards of elections."

SECTION 2. If Senate Bill 17 of the 2001 Session of the General Assembly is enacted, then G.S. 163-140.2, as enacted by Section 1 of this act, is recodified as G.S. 163-165.5A.

SECTION 3. This act becomes effective with respect to all primaries, elections, and referenda held on or after August 1, 2001. This act expires January 1, 2012, unless extended by legislation enacted before that date.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 10:58 a.m. on the 18th day of July, 2001.

H.B. 31 SESSION LAW 2001-289

AN ACT TO PROVIDE FOR SELECTION OF PRESIDENTIAL ELECTORS BY THE GENERAL ASSEMBLY IF THE ELECTION RESULTS HAVE NOT BEEN PROCLAIMED BY THE SIXTH DAY BEFORE ELECTORS ARE TO MEET, AND BY THE GOVERNOR IF ELECTORS HAVE NOT BEEN SELECTED BY THE DAY BEFORE ELECTORS ARE TO MEET.

The General Assembly of North Carolina enacts:

SECTION 1. Article 18 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-213. Appointment of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances.

(a) Appointment by General Assembly if No Proclamation by Six Days Before Electors' Meeting Day. – As permitted by 3 U.S.C. § 2, whenever the appointment of any Presidential Elector has not been proclaimed under G.S. 163-210 before noon on the date for settling controversies specified by 3 U.S.C. § 5, and upon the call of an extra session pursuant to the North Carolina Constitution for the purposes of this section, the General Assembly may fill the position of any Presidential Electors whose election is not yet proclaimed.

(b) Appointment by Governor if No Appointment by the Day Before Electors' Meeting Day. – If the appointment of any Presidential Elector has not been proclaimed under G.S. 163-210 before noon on the date for settling controversies specified by 3 U.S.C. § 5, nor appointed by the General Assembly by noon on the day before the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall appoint that Elector.

(c) Standard for Decision by General Assembly and Governor. – In exercising their authority under subsections (a) and (b) of this section, the General Assembly and the Governor shall designate Electors in accord with their best judgment of the will of the electorate. The decisions of the General Assembly or Governor under subsections (a) and (b) of this section are not subject to judicial review, except to ensure that applicable statutory and constitutional procedures were followed. The judgment itself of what was the will of the electorate is not subject to judicial review.

(d) Proclamation Before Electors' Meeting Day Controls. – If the proclamation of any Presidential Elector under G.S. 163-210 is made any time before noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that proclamation shall control over an appointment made by the General Assembly or the Governor. This section does not preclude litigation otherwise provided by law to challenge the validity of the proclamation or the procedures that resulted in that proclamation."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 9:50 a.m. on the 19th day of July, 2001.

H.B. 218 SESSION LAW 2001-290

AN ACT TO PROVIDE FOR DOUBLE DAMAGES FOR THE INJURY TO, OR THE DESTRUCTION OF, AGRICULTURAL COMMODITIES OR PRODUCTION SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 43 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-539.2B. Double damages for injury to agricultural commodities or production systems; define value of agricultural commodities grown for educational, testing, or research purposes.

(a) Any person who unlawfully and willfully injures or destroys any other person's agricultural commodities or production system is liable to the owner for double the value of the commodities or production system injured or destroyed.

(b) For purposes of this section, the value of agricultural commodities that are grown for educational, testing, or research purposes includes all of the following:

- (1) The diminution in market value of the commodities when the commodities were grown for sale and the plaintiff is the entity who sold the commodities or would have sold the commodities but for their injury or destruction.
- (2) Costs to the plaintiff for research and development of the injured or destroyed commodities.
- (3) Other incidental and consequential damages proven to have been incurred by the plaintiff.

(c) For the purpose of this section, the following definitions apply:

- (1) 'Agricultural commodities' means:
- a. Commodities produced for individual and public use, consumption, and marketing from one of the following:
 1. The cultivation of soil or hydroponics or any other method of production for crops, including fruits, vegetables, flowers, and ornamental plants.
 2. The planting and production of trees, timber, forests, or forest products.
 3. The raising of livestock, poultry, and eggs.
 4. Aquaculture as defined in G.S. 106-758.
 - b. Seed, genetic material, tissue cultures, and any research and development materials, information, and records related to items included in subdivision (1)a. of this subsection developed or used for educational, testing, or research purposes.
- (2) 'Production systems' means land, buildings, and equipment used in the production of agricultural commodities, including aquaculture facilities as defined in G.S. 106-758."

SECTION 2. This act becomes effective October 1, 2001, and applies to acts that occur on or after that date.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 10:25 a.m. on the 19th day of July, 2001.

H.B. 275 SESSION LAW 2001-291

AN ACT TO DECRIMINALIZE ABANDONMENT OF AN INFANT UNDER CERTAIN CIRCUMSTANCES AND TO MODIFY SOME PROCEDURES INVOLVING ABANDONED JUVENILES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-302(a) reads as rewritten:

"(a) When a report of abuse, neglect, or dependency is received, the director of the department of social services shall make a prompt and thorough investigation in order to ascertain the facts of the case, the extent of the abuse or neglect, and the risk of harm to the juvenile, in order to determine whether protective services should be provided or the complaint filed as a petition. When the report alleges abuse, the director shall immediately, but no later than 24 hours after receipt of the report, initiate the investigation. When the report alleges neglect

or dependency, the director shall initiate the investigation within 72 hours following receipt of the report. When the report alleges abandonment, the director shall immediately initiate an investigation, take appropriate steps to assume temporary custody of the juvenile, and take appropriate steps to secure an order for nonsecure custody of the juvenile. The investigation and evaluation shall include a visit to the place where the juvenile resides. When the report alleges abandonment, the investigation shall include a request from the director to law enforcement officials to investigate through the North Carolina Center for Missing Persons and other national and State resources whether the juvenile is a missing child. All information received by the department of social services, including the identity of the reporter, shall be held in strictest confidence by the department."

SECTION 2. G.S. 7B-500 reads as rewritten:

"§ 7B-500. Taking a juvenile into temporary ~~custody~~; ~~civil and criminal immunity.~~

(a) Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order by a law enforcement officer or a department of social services worker if there are reasonable grounds to believe that the juvenile is abused, neglected, or dependent and that the juvenile would be injured or could not be taken into custody if it were first necessary to obtain a court order. If a department of social services worker takes a juvenile into temporary custody under this section, the worker may arrange for the placement, care, supervision, and transportation of the juvenile.

(b) The following individuals shall, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant:

- (1) A health care provider, as defined under G.S. 90-21.11, who is on duty or at a hospital or at a local or district health department or at a nonprofit community health center.
- (2) A law enforcement officer who is on duty or at a police station or sheriff's department.
- (3) A social services worker who is on duty or at a local department of social services.
- (4) A certified emergency medical service worker who is on duty or at a fire or emergency medical services station.

(c) An individual who takes an infant into temporary custody under subsection (b) of this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law

enforcement agency. Any individual who takes an infant into temporary custody under subsection (b) of this section may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(d) Any adult may, without a court order, take into temporary custody an infant under seven days of age that is voluntarily delivered to the individual by the infant's parent who does not express an intent to return for the infant. Any individual who takes an infant into temporary custody under this section shall perform any act necessary to protect the physical health and well-being of the infant and shall immediately notify the department of social services or a local law enforcement agency. An individual who takes an infant into temporary custody under this subsection may inquire as to the parents' identities and as to any relevant medical history, but the parent is not required to provide the information. The individual shall notify the parent that the parent is not required to provide the information.

(e) An individual described in subsection (b) or (d) of this section is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of any omission or action taken pursuant to the requirements of subsection (c) or (d) of this section as long as that individual was acting in good faith. The immunity established by this subsection does not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable."

SECTION 3. G.S. 7B-1111(a)(7) reads as rewritten:

"(a) The court may terminate the parental rights upon a finding of one or more of the following:

...

(7) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or ~~motion~~-motion, or the parent has voluntarily abandoned an infant pursuant to G.S. 7B-500 for at least 60 consecutive days immediately preceding the filing of the petition or motion."

SECTION 4. G.S. 14-318.2 is amended by adding a new subsection to read:

"(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant."

SECTION 5. G.S. 14-318.4 is amended by adding a new subsection to read:

"(c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3 may be treated as a mitigating factor in sentencing for a conviction under this section involving that infant."

SECTION 6. The Department of Health and Human Services, Division of Public Health, shall develop recommendations for a plan to inform the public as to the provisions of this act. The plan shall contain information on responsible parenting in addition to information about the provisions of the act. The plans shall be targeted at adolescents and young adults, and shall be developed in consultation with law enforcement officials, medical professionals, and representatives of the Department of Public Instruction. Not later than April 1, 2002, the Department of Health and Human Services shall report its recommendations, and the projected cost for implementing its recommendations, to the chairpersons of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Justice and Public Safety, and the House Appropriations Subcommittee on Justice and Public Safety.

SECTION 7. Article 40 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-322.3. Abandonment of an infant under seven days of age.

When a parent abandons an infant less than seven days of age by voluntarily delivering the infant as provided in G.S. 7B-500(b) or G.S. 7B-500(d) and does not express an intent to return for the infant, that parent shall not be prosecuted under G.S. 14-322 or G.S. 14-322.1."

SECTION 8. This act is effective when it becomes law and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 10:47 a.m. on the 19th day of July, 2001.

H.B. 980**SESSION LAW 2001-292**

AN ACT TO ALLOW CHILDREN OF A VOTER TO ACCOMPANY THE VOTER INTO THE VOTING ENCLOSURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-153 reads as rewritten:

"§ 163-153. Access to voting enclosure.

In all counties, only the following persons shall be allowed within the voting enclosure while the polls are open to voting:

- (1) Officers of election, that is, members of the State Board of Elections, members of the county board of elections, directors of elections, and the precinct chief judge, precinct judges of election, and assistants appointed for the precinct under the provisions of G.S. 163-42.
- (2) Voters in the act of voting.
- (3) A near relative of a voter, but except as provided in subdivision (3a) of this section only while assisting the voter as authorized in G.S. 163-152.
- (3a) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.
- (4) Any voter of the precinct called upon to assist another voter, but only while assisting him as authorized in G.S. 163-152.
- (5) Municipal policemen assigned by the municipal authorities to keep the peace at a voting place located within the municipality, but only when requested to come within the voting enclosure by the chief judge and judges for the purpose of preventing disorder; at the request of the chief judge and judges, they shall withdraw from the voting enclosure and remain at least 10 feet from its entrance.
- (6) Any voter of the precinct while entering and explaining a challenge, and any voter of the county who has challenged a voter in that precinct if the challenge is heard at the polls under G.S. 163-87 and 163-88, while entering and explaining a challenge.
- (7) Observers appointed under the provisions of G.S. 163-45.
- (8) Persons working at, supervising, or voting in a simulated election for persons ineligible to vote because of their age."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 8:17 a.m. on the 21st day of July, 2001.

H.B. 558

SESSION LAW 2001-293

AN ACT TO AUTHORIZE THE REAL ESTATE COMMISSION
TO ADOPT RULES TO PERMIT REAL ESTATE BROKERS

TO PAY TRAVEL AGENTS FOR PROCURING POTENTIAL
TENANTS IN VACATION RENTALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-3 is amended by adding a new subsection to read:

"(c1) The provisions of G.S. 93A-1 and G.S. 93A-2 notwithstanding, the Commission may adopt rules to permit a real estate broker to pay a fee or other valuable consideration to a travel agent for the introduction or procurement of tenants or potential tenants in vacation rentals as defined in G.S. 42A-4. Rules adopted pursuant to this subsection may include a definition of the term 'travel agent', may regulate the conduct of permitted transactions, and may limit the amount of the fee or the value of the consideration that may be paid to the travel agent. However, the Commission may not authorize a person or entity not licensed as a broker or salesperson to negotiate any real estate transaction on behalf of another."

SECTION 2. G.S. 93A-3(c) reads as rewritten:

"(c) The Commission shall have power to make reasonable bylaws, rules and regulations that are not inconsistent with the provisions of this Chapter and the General Statutes; provided, however, the Commission shall not make rules or regulations regulating commissions, salaries, or fees to be charged by licensees under this Chapter.

(c2) The Commission shall adopt a seal for its use, which shall bear thereon the words "North Carolina Real Estate Commission." Copies of all records and papers in the office of the Commission duly certified and authenticated by the seal of the Commission shall be received in evidence in all courts and with like effect as the originals."

SECTION 3. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 8:20 a.m. on the 21st day of July, 2001.

H.B. 440**SESSION LAW 2001-294**

AN ACT TO AMEND THE EMBALMERS AND FUNERAL
DIRECTORS LAW OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-210.18(b) reads as rewritten:

~~"(b) The North Carolina Board of Mortuary Science is created as a continuation of the North Carolina Board of Embalmers and Funeral~~

Directors. The Board is the agency for regulation of and shall regulate the practice of funeral service in this State. The Board shall have nine members as follows:

- (1) Four funeral service licensees or persons holding both funeral director's license and an embalmer's license,
- (2) Two persons holding a funeral director's license or a funeral service license, and
- (3) Three public members.

(b1) A member's term shall be three years and shall expire on December 31 or when his or her successor has been duly elected or appointed. No member may serve more than two complete consecutive terms. All members of the Board shall have full voting authority.

(b2) The six seats on the Board for licensees shall be filled in an election in which every person licensed to practice embalming, funeral directing, or funeral service in this State may vote. No licensee may be nominated, elected, or serve unless he holds a North Carolina license in the class designated for the seat and unless ~~he~~ the licensee is engaged in full-time employment in this State in a practice authorized by ~~his~~ the licensee's license. Any vacancy occurring in an elective seat on the Board shall be filled for the unexpired term by majority vote of the remaining Board members.

(b3) The Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives shall each appoint one public member to the Board. The public members of the Board ~~shall have full voting authority. They shall be appointed by the Governor and~~ may neither be licensed under this Article nor employed by a person who is. A vacancy occurring in a public member's seat shall be filled for the unexpired term by the ~~Governor~~ appointing official."

SECTION 2. G.S. 90-210.20 reads as rewritten:

"§ 90-210.20. *Definitions.*

(a) "Advertisement" means the publication, dissemination, circulation or placing before the public, or causing directly or indirectly to be made, published, disseminated or placed before the public, any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label or tag, or over any ~~radio or radio, television station, station, or electronic medium.~~

(b) "Board" means the North Carolina ~~State~~ Board of Mortuary Science.

(c) "Burial" includes interment in any form, cremation and the transportation of the dead human body as necessary therefor.

(c1) "Dead human bodies", as used in this Article includes fetuses beyond the second trimester and the ashes from cremated bodies.

(d) "Embalmer" means any person engaged in the practice of ~~"embalming" as defined below.~~embalming.

(e) "Embalming" means the preservation and disinfection or attempted preservation and disinfection of ~~the~~ dead human bodies by application of chemicals externally or internally or both and the practice of restorative art including the restoration or attempted restoration of the appearance of ~~the a~~ dead human body.

(e1) "Funeral chapel" means a chapel or other facility separate from the funeral establishment premises for the reposing of dead human bodies, visitation or funeral ~~ceremony, which~~ ceremony that is owned, operated, or maintained by a funeral establishment or other licensee under this Article, and ~~which that~~ does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in which or on the premises of which there is not displayed or offered for sale any caskets or other funeral merchandise; in which or on the premises of which there is not located any funeral business office or a preparation room; in which or on the premises of which no funeral sales, financing, or arrangements are made; and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment.

(f) "Funeral directing" means engaging in the practice of funeral service except ~~embalming as hereinbefore defined.~~embalming.

(g) "Funeral director" means any person engaged in the practice of ~~"funeral directing" as defined above.~~funeral directing.

(h) "Funeral establishment" means every place or premises devoted to or used in the care, arrangement and preparation for the funeral and final disposition of dead human bodies and maintained for the convenience of the public in connection with dead human bodies or as the place for carrying on the profession of funeral service.

(i) "Funeral service licensee" means a person who is duly licensed and engaged in the ~~"practice of funeral service" as below defined.~~practice of funeral service.

(j) ~~"Funeral service profession"~~ service means the aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as an organized, purposeful, time-limited, flexible, group-centered response to death.

(k) "Practice of funeral service" means engaging in the care or disposition of dead human bodies or in the practice of disinfecting and preparing by embalming or otherwise dead human bodies for the funeral service, transportation, burial or cremation, or in the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. ~~It~~ "Practice of funeral service" also means engaging in making arrangements for funeral service, selling funeral supplies to the public or making financial

arrangements for the rendering of such services or the sale of such supplies.

(l) "Resident trainee" means a person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as ~~such a resident trainee~~ with the Board."

SECTION 3. G.S. 90-210.25 reads as rewritten:

"§ 90-210.25. *Licensing.*

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

- (1) To be licensed for the practice of funeral directing under this Article, a person must:
 - a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Have completed a minimum of 32 semester hours or 48 quarter hours of ~~instruction in a course of study~~ instruction, including the subjects set out in item sub-part e.1. of this subsection in a mortuary science college approved by the Board, or be a graduate of subdivision, as prescribed by a mortuary science college approved by the Board, Board or a school of mortuary science accredited by the American Board of Funeral Service Education.
 - d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under item sub-subdivision c. of this subsection.
 - e. Have passed an oral or written funeral director examination on the following subjects:
 1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
 2. Repealed by 1997-399, s. 5.
 3. Laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (2) To be licensed for the practice of embalming under this Article, a person must:
 - a. Be at least 18 years of age.

- b. Be of good moral character.
 - c. Be a graduate of a mortuary science college approved by the Board.
 - d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under ~~item-sub-subdivision~~ c. of this subsection-subdivision.
 - e. Have passed an oral or written embalmer examination on the following subjects:
 1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
 2. Repealed by 1997-399, s. 6.
 3. Laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (3) To be licensed for the practice of funeral service under this Article, a person must:
- a. Be at least 18 years of age.
 - b. Be of good moral character.
 - c. Be a graduate of a mortuary science college approved by the ~~Board~~ Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in subpart e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.
 - d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under ~~item-sub-subdivision~~ c. of this subsection-subdivision.
 - e. Have passed an oral or written funeral service examination on the following subjects:
 1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
 2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.

3. Repealed by 1997-399, s. 7.
 4. Laws of North Carolina and rules of the Board of Mortuary Science and other agencies dealing with the care, transportation and disposition of dead human bodies.
- (4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.
- b. When a resident trainee leaves the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.
 - c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for approval, without payment of an additional fee.
 - d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than one time. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the

certificate will be canceled. A penalty, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than three years preceding the examination for a license.

- e. All registered resident trainees shall report to the Board at least once every ~~three months~~ month during traineeship upon forms provided by the Board listing the work which has been completed during the preceding ~~three months~~ month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:
 1. For funeral director trainees, the conduct of any funerals during the relevant time period,
 2. For embalming trainees, the embalming of any bodies during the relevant time period,
 3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.
- f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:
 1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
 2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
 3. That the funeral service trainee has, under supervision assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.

- g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.
 - h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.
 - i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.
 - j., k. Repealed by Session Laws 1991, c. 528, s. 4.
 - l. The Board shall register no more than one resident trainee at a funeral establishment that ~~conducted~~ served 100 or fewer ~~funerals~~ families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 ~~funerals~~ families ~~conducted~~ served at the funeral establishment during the 12 months immediately preceding the date of the application.
- (5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.
- a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.
 - b. The holder of any license issued by the Board who shall fail to renew the same on or before January 31 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the

Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.

- c. All licensees now or hereafter licensed in North Carolina shall take courses of study in subjects relating to the practice of the profession for which they are licensed, to the end that new techniques, scientific and clinical advances, the achievements of research and the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.
- d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.
- e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of

North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who have been licensed in North Carolina for a continuous period of 25 years or more, and for all licensees who are, at the time of renewal, members of the General Assembly. ~~The waiver for 25 year licensees shall apply only to those licensees who, before January 1, 1998, are licensed, begin a course of study in a mortuary science college or a trainee program, or make an application for a license.~~

- f. The Board shall cause to be established and offered to the licensees, each calendar year, at least five hours of continuing education courses in subjects encompassing the license categories of embalming, funeral directing and funeral service. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.
- g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The only activity that a holder of an inactive license may engage in is to vote pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an active license in the same

category, and the Board shall issue an active license if the applicant has completed in North Carolina a total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(b) Persons Licensed under the Laws of Other Jurisdictions. –

- (1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and regulations governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.
- (2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.
- (3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.

(c) Registration, Filing and Transportation. –

- (1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof

provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a conspicuous place in the funeral establishment where the holder renders service.

- (2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless ~~said~~ the body be is accompanied by a removal or shipping burial-transit permit.
- (3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.
- (4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.
- (5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:
- a. Licensees under this Article and their employees.
 - b. Employees of common carriers.

- c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.
 - d. Funeral directors licensed in another state and their employees.
- (6) The following persons shall be exempt from this section:
- a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers.
 - b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.
 - c. State and county medical examiners and their investigators.
 - d. Any individual transporting cremated remains.
 - e. Any individual transporting or removing a dead human body of their immediate family or next of kin.
 - f. Any individual who has exhibited special care and concern for the decedent.
- (7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:
- a. Be at least 18 years of age.
 - b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.
 - c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.
 - d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.
 - e. Be of good moral character.
- (8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars (\$125.00). A fee, not to exceed one hundred dollars (\$100.00), in addition to the renewal fee not to

exceed seventy-five dollars (\$75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.

- (9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall use profanity, indecent, or obscene language in the presence of a dead human body. No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of kin.
- (10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars (\$5,000) per violation.
- (11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the

Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.

- (12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.
- (13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.
- (d) Establishment Permit. –
- (1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.
- (2) A permit shall be issued when:
- It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment.
 - The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.
 - It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.
 - The Board receives payment of the permit fee.
- (3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. A penalty for late renewal, in addition to the regular

renewal fee, shall be charged for renewal of registration received after the first day of February.

~~A penalty for late renewal, in addition to the regular renewal fee, shall be charged for renewal of registration coming after the first day of February.~~

- (4) The Board may suspend or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations.
- (5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment.

(d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

(e) Revocation; Suspension; Compromise; Disclosure. –

- (1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150B:
 - a. Conviction of a felony or a crime involving fraud or moral turpitude.
 - b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.
 - c. False or misleading advertising as the holder of a license.
 - d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.
 - e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or

institutions by whose influence dead human bodies may be turned over to a particular licensee.

- f. The direct or indirect giving of certificates of credit or the payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business.
- g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.
- h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.
- i. Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.
- j. Violating or cooperating with others to violate any of the provisions of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.
- k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.
- l. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof.
- m. Knowingly making any false statement on a certificate of death.
- n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer ~~in compromise~~ to pay a penalty of not more than ~~one~~ five thousand dollars ~~(\$1,000).~~ (\$5,000). The Board may either accept a ~~compromise~~ penalty or revoke or refuse to renew a license, but not both.

- (2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in ~~subsection (e) (1)~~ subdivision (e)(1) of this section but it is determined by

the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with the probation.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent. Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to

the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided ~~pursuant to~~ under the requirements of North Carolina G.S. 90-210.25(e)."

(f) Unlawful Practices. – If any person shall practice or hold himself out as practicing the profession or art of embalming, funeral directing or practice of funeral service without having complied with the licensing provisions of this Article, he shall be guilty of a Class 2 misdemeanor.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

SECTION 4. G.S. 90-210.27A reads as rewritten:

"§ 90-210.27A. *Funeral establishments.*

(a) Every funeral establishment shall contain a preparation room which is strictly private, of suitable size for the embalming of dead bodies. Each preparation room shall:

- (1) Contain one standard type operating table.
- (2) Contain facilities for adequate drainage.
- (3) Contain a sanitary waste receptacle.
- (4) Contain an instrument sterilizer.
- (5) Have wall-to-wall floor covering of tile, concrete, or other material which can be easily cleaned.
- (6) Be kept in sanitary condition and subject to inspection by the Board or its agents at all times.
- (7) Have a placard or sign on the door indicating that the preparation room is private.

(8) Have a proper ventilation or purification system to maintain a nonhazardous level of airborne contamination.

(b) No one is allowed in the preparation room while a dead human body is being prepared except licensees, resident trainees, public officials in the discharge of their duties, members of the medical profession, officials of the funeral home, next of kin, or other legally authorized persons.

(c) Every funeral establishment shall contain a reposing room for dead human bodies, of suitable size to accommodate a casket and visitors.

(d) Repealed by Session Laws 1997-399, s. 14.

(e) If a funeral establishment is solely owned by a natural person, that person must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a partnership, at least one partner must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a corporation, the president, vice-president, or the chairman of the board of directors must be licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a limited liability company, at least one member must be licensed by the Board as a funeral director or a funeral service licensee. The licensee required by this subsection must be actively engaged in the operation of the funeral establishment.

(f) If a funeral establishment uses the name of a living person in the name under which it does business, that person must be licensed by the Board as a funeral director or a funeral service licensee.

(g) No funeral establishment or other licensee under this Article shall own, operate, or maintain a funeral chapel without first having registered the name, location, and ownership thereof with the Board.

(h) All public health laws and rules apply to funeral establishments. In addition, all funeral establishments must comply with all of the standards established by the rules adopted by the Board."

SECTION 5. G.S. 90-210.28 reads as rewritten:

"§ 90-210.28. *Fees.*

The Board may set and collect fees, not to exceed the following amounts:

Establishment permit	
Application.....	\$250.00
Annual renewal	175.00 150.00
Late renewal penalty	100.00
Reinspection fee.....	100.00
<u>Establishment and embalming facility inspection fee.....</u>	<u>100.00</u>
Courtesy card	
Application.....	75.00

Annual renewal	50.00
Out-of-state licensee	
Application.....	200.00
Embalmer, funeral director, funeral service	
Application–North	
Carolina-Resident	150.00
-Non-Resident	200.00
Annual Renewal-embalmer or funeral director.....	50.00 40.00
<u>Total fee, embalmer and funeral director</u>	
<u>when both are held by the same person</u>	60.00
-funeral service.....	100.00 60.00
<u>Inactive Status</u>	50.00
Reinstatement fee.....	50.00
Resident trainee permit	
Application.....	50.00
<u>Voluntary change in supervisor</u>	50.00
Annual renewal	35.00
Late renewal penalty	25.00
Duplicate license certificate.....	25.00
Chapel registration	
Application.....	150.00
Annual renewal	100.00
<u>Late renewal</u>	75.00

The Board shall provide, without charge, one copy of the current statutes and regulations relating to Mortuary Science to every person applying for and paying the appropriate fees for licensing pursuant to this Article. The Board may charge all others requesting copies of the current statutes and regulations, and the licensees or applicants requesting additional copies, a fee equal to the costs of production and distribution of the requested documents."

SECTION 6. G.S. 90-210.29(b) is repealed.

SECTION 7. The title of Article 13D of Chapter 90 of the General Statutes reads as rewritten:

"Preneed Funeral and Burial Trust Funds."

SECTION 8. G.S. 90-210.60(7) reads as rewritten:

"(7) "Preneed funeral funds" means all payments of ~~money~~ cash made to any person, partnership, association, corporation, or other entity upon any preneed funeral contract or any other agreement, contract, or prearrangement insurance policy, or any series or combination of preneed funeral contracts or any other agreements, contracts, or prearrangement insurance policies, but excluding the furnishing of cemetery lots, crypts, niches, and mausoleums, which have for a purpose or which by operation provide for the furnishing

or performance of funeral or burial services, or the furnishing or delivery of personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, to be furnished or delivered at a time determinable by the death of the person whose body is to be disposed of, or the providing of the proceeds of any insurance policy for such use;"

SECTION 9. G.S. 90-210.64 reads as rewritten:

"§ 90-210.64. *Death of preneed funeral contract beneficiary; disposition of funds.*

(a) After the death of a preneed funeral contract beneficiary and full performance of the preneed funeral contract by the preneed licensee, the preneed licensee shall promptly complete a certificate of performance or similar claim form and present it to the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy of the certificate of performance or other claim form to the Board.

(b) Unless otherwise specified in the preneed funeral contract, the preneed licensee shall have no obligation to deliver merchandise or perform any services for which payment in full has not yet been deposited with a financial institution or that will not be provided by the proceeds of a prearrangement insurance policy. Any such amounts received which do not constitute payment in full shall be refunded to the estate of the deceased preneed funeral contract beneficiary or credited against the cost of merchandise or services contracted for by a representative of the deceased. Any balance remaining after payment for the merchandise and services as set forth in the preneed funeral contract shall be paid to the estate of the preneed funeral contract beneficiary or the prearrangement insurance policy beneficiary named to receive any such balance. Provided, however, unless the parties agree to the contrary, there shall be no refund to the estate of the preneed funeral contract beneficiary of an inflation-proof preneed funeral contract.

(c) In the event that any person other than the contracting preneed licensee performs any funeral service or provides any merchandise as a result of the death of the preneed funeral contract beneficiary, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. The preneed

licensee shall, subject to the provisions of G.S. 90-210.65(d), immediately pay the monies so received to the other provider.

(d) When the balance of a preneed funeral fund is one hundred dollars (\$100.00) or less and is payable to the estate of a deceased preneed funeral contract beneficiary and there has been no representative of the estate appointed, the balance due may be paid directly to a beneficiary or to the beneficiaries of the estate. If the balance of a preneed funeral fund exceeds one hundred dollars (\$100.00) or is not payable to the estate, the balance must be paid into the office of the clerk of superior court in the county where probate proceedings could be filed for the deceased preneed funeral contract beneficiary.

(e) Upon the fulfillment of a preneed contract, all of the following items shall be completed within 30 days:

- (1) The contracting preneed licensee must submit a certificate of performance or similar claim form to the financial institution holding the preneed trust funds and close the preneed account.
- (2) The proceeds of this trust account shall be distributed according to the terms of the preneed contract.
- (3) A completed copy of the certificate of performance or similar claim form evidencing the final disposition of any financial institution preneed trust account funds must be filed with the Board by the contracting licensee."

SECTION 10. G.S. 90-210.67(f) is repealed.

SECTION 11. G.S. 90-210.69 reads as rewritten:

"§ 90-210.69. *Rulemaking; enforcement of Article; judicial review.*

(a) The Board is authorized to adopt rules for the carrying out and enforcement of the provisions of this Article. The Board may perform such other acts and exercise such other powers and duties as are authorized by this Article and by Article 13A of this Chapter to carry out its powers and duties.

(b) The Board may administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records in any investigation conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas and other papers given to them by the Board for service in the same manner as process issued by any court of record. Any person who does not obey a subpoena issued by the Board shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of

the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

- (1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.
- (2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
- (3) A crime involving fraud or moral turpitude by conviction thereof.
- (4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.
- (5) False or misleading advertising.
- (6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, adopted or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than ~~one~~ five thousand dollars (\$1,000). (\$5,000). In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars (\$5,000) in conjunction with such probation.

(d) Any proceedings pertaining to or actions against a funeral establishment under this Article may be in addition to any proceedings or actions permitted by G.S. 90-210.25(d)(4). Any proceedings pertaining to or actions against a person licensed for funeral directing or funeral service may be in addition to any proceedings or actions permitted by G.S. 90-210.25 (e)(1) and (2).

(e) Judicial review shall be pursuant to Article 4 of Chapter 150B of the General Statutes.

(f) In determining the amount of any penalty imposed or assessed under Article 13 of Chapter 90 of the General Statutes, the Board shall consider:

- (1) The degree and extent of harm to the public health, safety, and welfare, or to property, or the potential for harm.
- (2) The duration and gravity of the violation.
- (3) Whether the violation was committed willfully or intentionally or reflects a continuing pattern.

- (4) Whether the violation involved elements of fraud or deception either to the public or to the Board, or both.
- (5) The violator's prior disciplinary record with the Board.
- (6) Whether and the extent to which the violator profited by the violation."

SECTION 12. In order to stagger the terms of the public members of the North Carolina Board of Mortuary Science, the public member of the Board, with a second term expiring December 31, 2001, shall have such term extended until December 31, 2002. The public member of the Board whose term expires December 31, 2002, shall be appointed by the Governor. The public member of the board whose term expires December 31, 2001, shall be appointed by the President Pro Tempore of the Senate. The public member of the board whose term expires December 31, 2003, shall be appointed by the Speaker of the House of Representatives.

SECTION 13. This act becomes effective December 1, 2001.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 8:26 a.m. on the 21st day of July, 2001.

S.B. 1023**SESSION LAW 2001-295**

AN ACT TO REVISE THE UNIFORM ELECTRONIC TRANSACTIONS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-312(17) reads as rewritten:

"(17) "Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of consumer, business, commercial, or governmental affairs."

SECTION 2. G.S. 66-313 reads as rewritten:

"§ 66-313. *Scope.*

(a) Except as otherwise provided in subsections ~~(b) and (c)~~ (b), (c), and (e) of this section, this Article applies to electronic records and electronic signatures relating to a transaction.

(b) This Article does not apply to a transaction to the extent it is governed by:

- (1) A law governing the creation and execution of wills, codicils, or testamentary trusts.
- (2) Chapter 25 of the General Statutes other than G.S. 25-1-107 and G.S. 25-1-206, Article 2, and Article 2A.
- (3) Article 11A of Chapter 66 of the General Statutes.

(c) This Article applies to an electronic record or electronic signature otherwise excluded from the application of this Article under subsection (b) of this section to the extent it is governed by a law other than those specified in subsection (b) of this section.

(d) A transaction subject to this Article is also subject to other applicable substantive law.

(e) This Article shall not apply to:

- (1) Any notice of the cancellation or termination of utility services, including water, heat, and power.
- (2) Any notice of default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.
- (3) Any notice of the cancellation or termination of health insurance or benefits, or life insurance or benefits, excluding annuities.
- (4) Any notice of the recall of a product, or material failure of a product that risks endangering health or safety.
- (5) Any document required to accompany the transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials."

SECTION 3. G.S. 66-318(a) reads as rewritten:

"§ 66-318. *Provision of information in writing; presentation of records.*

(a) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient ~~if the~~ if:

- (1) The sender or its information processing system inhibits the ability of the recipient to print or store the electronic ~~record.~~ record; or
- (2) It is not capable of being accurately reproduced for later reference by all parties or persons who are entitled to retain the contract or other record."

SECTION 4. G.S. 66-325 reads as rewritten:

"§ 66-325. *Time and place of sending and receipt.*

(a) ~~Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, Unless otherwise agreed between a sender and a recipient, which in a consumer transaction must be reasonable under the circumstances,~~ an electronic record is sent when it:

- (1) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;
- (2) Is in a form capable of being processed by that system; and
- (3) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(b) ~~Unless the sender and the recipient agree to a different method of sending that is reasonable under the circumstances, Unless otherwise agreed between a sender and a recipient, which in a consumer transaction must be reasonable under the circumstances, an~~ electronic record is received when:

- (1) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and
- (2) It is in a form capable of being processed by that system.

(c) Subsection (b) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d) of this section.

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

- (1) If the sender or recipient has more than one place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.
- (2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) ~~Notwithstanding any other sections of this Article, An~~ electronic record is received under subsection (b) of this section even if no individual is aware of its receipt; provided, however, in a consumer transaction, a record has not been received unless it is received by the intended recipient in a manner in which the sender

has a reasonable basis to believe that the record can be opened and read by the recipient.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(g) If a person is aware that an electronic record purportedly sent under subsection (a) of this section, or purportedly received under subsection (b) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement."

SECTION 5. G.S. 66-327 reads as rewritten:

"§ 66-327. *Consumer transactions; alternative procedures for use or acceptance of electronic records or electronic signatures.*

(a) ~~Consistent with the provisions of Section 102(a)2A of the federal Electronic Signatures in Global and National Commerce Act, the use and acceptance of electronic records or electronic signatures in consumer transactions shall be subject to the requirements set out in this section. The requirements of this section may not be varied by agreement of the parties.~~

(b) ~~Limitation.~~ This Article shall not apply to:

- (1) ~~Any notice of the cancellation or termination of utility services, including water, heat, and power.~~
- (2) ~~Any notice of default, acceleration, repossession, foreclosure or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.~~
- (3) ~~Any notice of the cancellation or termination of health insurance or benefits, or life insurance or benefits (excluding annuities).~~
- (4) ~~Any notice of the recall of a product, or material failure of a product that risks endangering health or safety.~~
- (5) ~~Any document required to accompany the transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.~~

(c) Consent to Electronic Records. – In a consumer ~~transaction,~~ transaction in which a statute, regulation, or rule of law of this State requires that information relating to a transaction or transactions in or affecting commerce be made available in writing or be disclosed to a consumer, the consumer's agreement to conduct a transaction by electronic means shall be evidenced as provided in G.S. 66-315, and shall be found only when accomplished in compliance with this section. ~~The consumer's agreement to conduct the transaction by~~

~~electronic means shall be found only when the following apply:~~ the following provisions:

- (1) The consumer has affirmatively consented to the use of electronic means, and the consumer has not withdrawn consent.
- (2) The consumer, prior to consenting to the use of electronic means, is provided with a clear and conspicuous statement:
 - a. Informing the consumer of any right or option of the consumer to have the record provided or made available on paper or in nonelectronic form.
 - b. Informing the consumer of the right to withdraw consent to have the record provided or made available in an electronic form and of any conditions or consequences of such withdrawal. Those consequences may include termination of the parties' relationship but may not include the imposition of fees.
 - c. Informing the consumer of whether the consent to have the record provided or made available in an electronic form applies only to the particular transaction which gave rise to the obligation to provide the record, or to identified categories of records that may be provided or made available during the course of the parties' relationship.
 - d. Describing the procedures the consumer must use to withdraw consent as provided in sub-subdivision (2)b. of this subsection or to update information needed to contact the consumer electronically.
 - e. Informing the consumer how, after the consent to have the record provided or made available in an electronic form, the consumer may request and obtain a paper copy of an electronic record.
- (3) The consumer, prior to consenting to the use of electronic means, is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and the consumer consents electronically, or confirms his or her consent electronically, in a manner that reasonably demonstrates that the consumer can access information in the electronic form that will be used to provide the information that is the subject of the consent.
- (4) After the consent of a consumer in accordance with subdivision (1) of this subsection, if a change in the hardware or software requirements needed to access or

retain electronic records creates a material risk that the consumer will not be able to access or retain a subsequent electronic record that was the subject of the consent, the person providing the electronic record provides the consumer with a statement of the revised hardware and software requirements for access to and retention of the electronic records, provides a statement of the right to withdraw consent without the imposition of any condition or consequence that was not disclosed under sub-subdivision (2)b. of this subsection, and again complies with subdivision (3) of this subsection.

(d) Written Copy Required. – Notwithstanding G.S. 66-315(b), in a consumer transaction in which a statute, regulation, or rule of law of this State requires that information relating to a transaction or transactions be made available in writing or be disclosed to a consumer, where the consumer conducts the transaction on electronic equipment provided by or through the seller, the consumer shall be given a written copy of the contract or disclosure which is not in electronic form. A consumer's consent to receive future notices regarding the transaction in an electronic form is valid only if the consumer confirms electronically, using equipment other than that provided by the seller, that (i) the consumer has the software specified by the seller as necessary to read future notices, and (ii) the consumer agrees to receive the notices in an electronic form. ~~If an individual enters into a consumer transaction that is created or documented by an electronic record, the transaction shall be deemed to have been made or to have occurred at the individual's residence.~~

(e) Oral Communications. – An oral communication or a recording of an oral communication shall not qualify as an electronic record for purposes of this section, except as other provided under applicable law.

(f) Consumer Transaction Entered Into in North Carolina. – If a consumer located in North Carolina enters into a consumer transaction which is created or documented by an electronic record, the transaction shall be deemed to have been entered into in North Carolina for purpose of G.S. 22B-3 which shall apply to the transaction."

SECTION 6. Article 40 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ 66-328. *Procedures consistent with federal law.*

Consistent with the provisions of section 7002(a) of the Electronic Signatures in the Global and National Commerce Act, 15 U.S.C. § 7002(a), this Article sets forth alternative procedures or requirements for the use of electronic records to establish the legal effect or validity of records in electronic transactions."

SECTION 7. Article 40 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ 66-329. Choice of law in computer information agreement.

A choice of law provision in a computer information agreement which provides that the contract is to be interpreted pursuant to the laws of a state that has enacted the Uniform Computer Information Transactions Act, as proposed by the National Conference of Commissioners on Uniform State Laws, or any substantially similar law, is voidable and the agreement shall be interpreted pursuant to the laws of this State if the party against whom enforcement of the choice of law provisions is sought is a resident of this State or has its principal place of business located in this State. For purposes of this section, a "computer information agreement" means an agreement that would be governed by the Uniform Computer Information Transactions Act or substantially similar law as enacted in the state specified in the choice of law provisions if that state's law were applied to the agreement. This section may not be varied by agreement of the parties. This section shall remain in force until such time as the North Carolina General Assembly enacts the Uniform Computer Information Transactions Act or any substantially similar law and that law becomes effective."

SECTION 8. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 10th day of July, 2001.

Became law upon approval of the Governor at 8:30 a.m. on the 21st day of July, 2001.

H.B. 824

SESSION LAW 2001-296

AN ACT TO REQUIRE THE INSTALLATION OF AN ACCESSIBLE CLEANOUT AT THE JUNCTION OF THE PUBLIC SEWER LINE AND THE HOUSE OR BUILDING SEWER LINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-10(b1) reads as rewritten:

"(b1) Public utilities contractors constructing house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall, at the junction of the public sewer line and the house or building sewer line, install as an extension of the public sewer line a cleanout at or near the property line that terminates at or above the finished grade. Public utilities contractors constructing water service lines and house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate ~~said~~ the water service lines at a valve, box,

~~meter, or manhole or cleanout or meter~~ at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code."

SECTION 2. This act becomes effective October 1, 2001, and applies to the installation of house and building sewer lines that occur on or after that date.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 8:30 a.m. on the 21st day of July, 2001.

H.B. 593**SESSION LAW 2001-297**

AN ACT TO PROVIDE FOR DIRECT PAYMENT OF LICENSED PROFESSIONAL COUNSELORS UNDER HEALTH INSURANCE POLICIES AND PLANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30 reads as rewritten:

"§ 58-50-30. ~~Discrimination forbidden; right~~ Right to choose services of optometrist, podiatrist, certified clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, or physician assistant.

(a) ~~Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited.~~

(a1) Whenever any policy of insurance governed by Articles 1 through ~~6465~~ of this Chapter provides for payment of or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or an advanced practice registered

nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the services, whether the services be performed by a duly licensed physician, ~~a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee based practicing pastoral counselor, or an advanced practice registered nurse, or a provider listed in this subsection,~~ notwithstanding any provision contained in the policy.

(a2) Whenever any policy of insurance governed by Articles 1 through ~~6465~~ of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, ~~a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed psychologist, a duly certified fee based practicing pastoral counselor, or an advanced practice registered nurse, or a provider listed in this subsection,~~ notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute.

(a3) Whenever any policy of insurance provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a "duly licensed psychologist" ~~shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Service Providers in Psychology. After January 1,~~

~~1995, a duly licensed psychologist shall be defined as~~ is a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a "duly certified clinical social worker" is a "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

(c1) For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

(c2) For purposes of this section, a "duly certified substance abuse professional" is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(c3) For purposes of this section, a "duly licensed professional counselor" is a person licensed by the North Carolina Board of Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

- (1) The service performed is within the nurse's lawful scope of practice;
- (2) The policy currently provides benefits for identical services performed by other licensed health care providers;
- (3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;
- (4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
- (5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.

For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

- (1) The service performed is within the lawful scope of practice of the pharmacist;
- (2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
- (3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

- (1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;
- (2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section, a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1."

SECTION 2. Article 65 of Chapter 58 is amended by adding a new section to read:

"§ 58-65-1.1. *Regulation and definitions; application of other laws; profit and foreign corporations prohibited.*

(a) Any corporation ~~heretofore or hereafter~~ organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital ~~and/or~~ or medical ~~and/or~~ or dental service plan whereby hospital care ~~and/or~~ or medical ~~and/or~~ or dental service may be provided in whole or in part by ~~said the corporation or by hospitals and/or physicians and/or~~ hospitals, physicians, or dentists participating in ~~such the plan, or plans,~~ shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this ~~State, heretofore enacted~~ State, unless otherwise provided.

~~specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.~~

The term "hospital service plan" as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations ~~and/or or any and all~~ other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association ~~and/or or~~ the American Medical Association.

The term "medical service plan" as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical ~~and/or or~~ any other professional services authorized or permitted to be furnished by a duly licensed ~~physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified substance abuse professional, a duly certified fee based practicing pastoral counselor, a duly licensed physician assistant, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly certified clinical social worker, a duly certified substance abuse professional, a duly certified fee based practicing pastoral counselor, a duly licensed physician assistant, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. physician or other provider listed in G.S. 58-50-30.~~ The term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

~~(b) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:~~

- ~~(1) The service performed is within the nurse's lawful scope of practice;~~
- ~~(2) The policy currently provides benefits for identical services performed by other licensed health care providers;~~

- (3) ~~The service is not performed while the nurse is a regular employee in an office of a licensed physician;~~
- (4) ~~The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and~~
- (5) ~~Nothing in this section is intended to authorize payment to more than one provider for the same service.~~

~~No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this provision.~~

~~(b1) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:~~

- (1) ~~The service performed is within the lawful scope of practice of the pharmacist;~~
- (2) ~~The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;~~
- (3) ~~The policy currently provides reimbursement for identical services performed by other licensed health care providers; and~~
- (4) ~~The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.~~

~~Nothing in this subsection authorizes payment to more than one provider for the same service.~~

~~(b2) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:~~

- (1) ~~The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board, pursuant to G.S. 90-18.1;~~
- (2) ~~The policy currently provides reimbursement for identical services performed by other licensed health care providers; and~~
- (3) ~~The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.~~

~~Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1.~~

~~(c) For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.~~

For the purposes of this section, a "duly certified clinical social worker" is a "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

For purposes of this section, a "duly certified fee based practicing pastoral counselor" shall be defined only to include fee based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

For the purposes of this section, a "duly licensed psychologist" shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

For purposes of this section, a "duly certified substance abuse professional" is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

The term "dental service plan" as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental ~~and/or~~ or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every "medical service plan" and of every "dental service plan," as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term "hospital service corporation" as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital ~~and/or~~ or medical ~~and/or~~ or dental service plan, as ~~herein defined~~ defined in this section. Any corporation ~~heretofore or hereafter~~ organized and ~~coming within~~ subject to the provisions of this Article and Article 66 of this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical ~~and/or~~ or dental service plan, or any or all

of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical ~~and/or~~ or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians ~~and/or~~ or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical ~~and/or~~ or dental service plan, or any or all of them.

The term "preferred provider" as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by ~~regulations~~ rules promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

(d) No foreign or alien hospital or medical ~~and/or~~ or dental service corporation as herein defined shall be authorized to do business in this State."

SECTION 3. G.S. 58-50-56(c) reads as rewritten:

"(c) At the initial offering of a preferred provider plan to the public, health care providers may submit proposals for participation in accordance with the terms of the preferred provider plan within 30 days after that offering. After that time period, any health care provider may submit a proposal, and the insurer offering the preferred provider benefit plan shall consider all pending applications for participation and give reasons for any rejections or failure to act on an application on at least an annual basis. Any health care provider seeking to participate in the preferred provider benefit plan, whether upon the initial offering or subsequently, may be permitted to do so in the discretion of the insurer offering the preferred provider benefit plan. ~~The second and third paragraphs of G.S. 58-50-30(a) apply to preferred provider benefit plans. G.S. 58-50-30 applies to preferred provider benefit plans.~~"

SECTION 4. G.S. 58-3-120 reads as rewritten:

"§ 58-3-120. *Discrimination forbidden.*

(a) No company doing the business of insurance as defined in G.S. 58-7-15 shall make any discrimination in favor of any person.

(b) Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance

covered by Articles 50 through 55 of this Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited."

SECTION 5. This act becomes effective October 1, 2001, and applies to claims for payment or reimbursement for services rendered on or after that date.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

Became law upon approval of the Governor at 8:32 a.m. on the 21st day of July, 2001.

H.B. 1067 SESSION LAW 2001-298

AN ACT TO CLARIFY THE AUTOMOTIVE BILL OF RIGHTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-354.1 reads as rewritten:
"§ 20-354.1. *Scope and application.*

This act shall apply to all motor vehicle repair shops in North Carolina, except:

- ...
- (7) When an insurer has authorized a motor vehicle repair shop to perform the repair and had agreed to pay the cost of the repair, a third party has waived in writing the right to receive written estimates from the motor vehicle repair shop; the third party indicates to the motor vehicle repair shop that the repairs will be paid for by the third party under an insurance policy, service contract, mechanical breakdown contract, or manufacturer's warranty; and the third party further indicates that the customer's share of the cost of repairs, if any, will not exceed three hundred fifty dollars (\$350.00)."

SECTION 2. G.S. 20-354.3(d) reads as rewritten:

"(d) If the customer leaves his or her motor vehicle at a motor vehicle repair shop during hours when the shop is not open open, or if the motor vehicle repair shop reasonably believes that an accurate estimate of the cost of repairs cannot be made until after the diagnostic work has been completed, or if the customer permits the shop or another person to deliver the motor vehicle to the shop, there shall be an implied partial waiver of the written estimate; however, upon completion of the diagnostic work necessary to estimate the cost of repair, the shop shall notify the customer as required by G.S. 20-354.5(a)."

SECTION 3. G.S. 20-354.5(b) reads as rewritten:

"(b) If a customer cancels the order for repair or, after diagnostic work is performed, decides not to have the repairs performed, and if the customer authorizes the motor vehicle repair shop to reassemble the motor vehicle, the shop shall expeditiously reassemble the motor vehicle in a condition reasonably similar to the condition in which it was ~~received unless the reassembled vehicle would be unsafe.~~received.

After cancellation of the repair order or a decision by the customer not to have repairs made after diagnostic work has been performed, the shop may charge for and the customer is obligated to pay the cost of repairs actually completed that were authorized by the written repair estimate as well as the cost of diagnostic work and teardown, the cost of parts and labor to replace items that were destroyed by teardown, and the cost to reassemble the component or the vehicle, provided the customer was notified of these possible costs in the written repair estimate or at the time the customer authorized the motor vehicle repair shop to reassemble the motor vehicle."

SECTION 4. G.S. 20-354.5(e) reads as rewritten:

"(e) Upon request made at the time the repair work is authorized by the customer, the customer is entitled to inspect parts removed from his or her vehicle or, if the shop has no warranty arrangement or exchange parts program with a manufacturer, supplier, or distributor, have them returned to him or her. A motor vehicle repair shop may discard parts removed from a customer's vehicle or sell them and retain the proceeds for the shop's own account if the customer fails to take possession of the parts at the shop within two business days after taking delivery of the repaired vehicle."

SECTION 5. G.S. 20-354.6 reads as rewritten:

"§ 20-354.6. *Invoice required of motor vehicle repair shop.*

The motor vehicle repair shop shall provide each customer, upon completion of any repair, with a legible copy of an invoice for such repair. The invoice shall include the following information:

- (1) A statement indicating what was done to correct the problem or a description of the service provided.
- (2) An itemized description of all labor, parts, and merchandise supplied and ~~the costs thereof, indicating what is supplied to the customer without cost or at a reduced cost because of a shop or manufacturer's warranty.~~the costs of all labor, parts, and merchandise supplied. No itemized description is required to be provided to the consumer for labor, parts, and merchandise supplied when a third party has indicated to the motor vehicle repair shop that the repairs will be paid for under a service contract, under a mechanical

breakdown contract, or under a manufacturer's warranty, without charge to the consumer.

- (3) A statement identifying any replacement part as being used, rebuilt, or reconditioned, as the case may be."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

Became law upon approval of the Governor at 1:11 p.m. on the 21st day of July, 2001.

S.B. 367

SESSION LAW 2001-299

AN ACT TO EXEMPT THE NORTH CAROLINA FEDERAL TAX REFORM ALLOCATION COMMITTEE AND THE NORTH CAROLINA HOUSING FINANCE AGENCY FROM THE RULE-MAKING REQUIREMENTS OF THE ADMINISTRATIVE PROCEDURE ACT WITH REGARD TO ADOPTION OF THE QUALIFIED ALLOCATION PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.
- (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- (3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.
- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.
- (7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.

- (8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan."

SECTION 1.1. G.S 143-433.9 reads as rewritten:

"§ 143-433.9. *Allocation.*

(a) To provide for the orderly and prompt issuance of private activity bonds there are hereby proclaimed formulas for allocating the unified volume limitation and the state housing credit ceiling. The unified volume limitation for all issues in North Carolina shall be considered as a single resource to be allocated under this Article. The Committee shall issue allocations of the unified volume limitation and shall issue allocations of the State Housing Credit Ceiling. The Committee shall set forth procedures for making such allocations and in the making of such allocations shall take into consideration the best interest of the State of North Carolina with regard to the economic development and general prosperity of the people of North Carolina.

(b) In administering the low-income housing credit program, the Committee shall adopt a Qualified Allocation Plan (the Plan) as required by 26 U.S.C. § 42(m) annually. Solely with respect to the adoption of the Plan, the Committee is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes. Prior to adoption or amendment of the Plan, the Committee shall:

- (1) Publish the proposed Plan in the North Carolina Register at least 30 days prior to the adoption of the final Plan;
- (2) Notify any person who has applied for the low-income housing credit in the previous year and any other interested parties of its intent to adopt the Plan;
- (3) Accept oral and written comments on the proposed Plan;
and
- (4) Hold at least one public hearing on the proposed Plan."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

Became law upon approval of the Governor at 1:12 p.m. on the 21st day of July, 2001.

H.B. 968

SESSION LAW 2001-300

AN ACT TO CLARIFY THE AUTHORITY OF COUNTIES AND CITIES TO PROVIDE FOR THE DEFENSE OF AND TO PAY JUDGMENTS AGAINST SOIL AND WATER CONSERVATION SUPERVISORS AND EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-97 reads as rewritten:

"§ 153A-97. *Defense of officers, employees and others.*

A county may, pursuant to G.S. 160A-167, provide for the defense of:

- (1) Any county officer or employee, including the county board of elections or any county election ~~official;~~ official.
- (2) Any member of a volunteer fire department or rescue squad which receives public ~~funds;~~ and funds.
- (2a) Any soil and water conservation supervisor, and any local soil and water conservation employee, whether the employee is a county employee or an employee of a soil and water conservation district.
- (3) Any person or professional association who at the request of the board of county commissioners provides medical or dental services to inmates in the custody of the sheriff and is sued pursuant to 42 U.S.C. § 1983 with respect to the services."

SECTION 2. G.S. 160A-167 reads as rewritten:

"§ 160A-167. *Defense of employees and officers; payment of judgments.*

(a) Upon request made by or in behalf of any member or former member of the governing body of any authority, or any city, county, or authority employee or officer, or former employee or officer, any soil and water conservation supervisor or any local soil and water conservation employee, whether the employee is a district or county employee, or any member of a volunteer fire department or rescue squad which receives public funds, any city, authority, ~~county~~ county, soil and water conservation district, or county alcoholic beverage control board may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as an employee or officer of the city, authority, county or county alcoholic beverage control board. The defense may be provided by the city, authority, county or county alcoholic beverage control board by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Providing for a defense pursuant to this section is hereby declared to be for a public purpose, and the expenditure of funds therefor is hereby declared to be a necessary expense. Nothing in this section shall be deemed to require any city, authority, county or county alcoholic beverage control board to provide for the defense of any action or proceeding of any nature.

(b) Any city council or board of county commissioners may appropriate funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or former members of the governing body of any authority, or any city, county, or authority employees or officers, or former employees or officers, or any soil and water conservation supervisor or any local soil and water conservation employee, whether the employee is a district or county employee, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his employment or duty as ~~an members or former members~~ ~~[a member or former member]~~ a member or former member of the governing body of any authority, or any city, county, district, or authority employee or officer of the city, authority, district, or county; provided, however, that nothing in this section shall authorize any city, authority, district, or county to appropriate funds for the purpose of paying any claim made or civil judgment entered against any of its members or former members of the governing body of any authority, or any city, county, district, or authority employees or officers or former employees or officers if the city council or board of county commissioners finds that such members or former members of the governing body of any authority, or any city, county, or authority employee or officer acted or failed to act because of actual fraud, corruption or actual malice on his part. Any city, authority, or county may purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any city, authority, or county to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) shall not authorize any city, authority, or county to pay all or part of a claim made or civil judgment entered unless (1) notice of the claim or litigation is given to the city council, authority governing board, or board of county commissioners as the case may be prior to the time that the claim is settled or civil judgment is entered, and (2) the city council, authority governing board, or board of county commissioners as the case may be shall have adopted, and made available for public inspection, uniform standards under which claims made or civil judgments entered against members or former members of the governing body of any authority, or any city, county, or authority employees or officers, or former employees or officers, shall be paid.

(d) For the purposes of this section, "authority" means an authority organized under Article 1 of Chapter 162A of the General Statutes, the North Carolina Water and Sewer Authorities Act. "District" means a soil and water conservation district organized under Chapter 139 of the General Statutes."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

Became law upon approval of the Governor at 1:15 p.m. on the 21st day of July, 2001.

H.B. 236

SESSION LAW 2001-301

AN ACT TO ALLOW CERTAIN SANITARY DISTRICTS TO MAKE SATELLITE ANNEXATIONS IN CONJUNCTION WITH SIMILAR ANNEXATIONS MADE BY MUNICIPALITIES LOCATED WITHIN THE SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-70.1. *Satellite annexation in conjunction with municipal annexation in certain sanitary districts.*

(a) This section only applies to a sanitary district where one or more municipalities lie within its boundaries.

(b) Whenever a municipality which lies within a sanitary district receives a petition for annexation under Part 4 of Article 4A of Chapter 160A of the General Statutes, the municipality may petition the sanitary district for that sanitary district to also annex the same area. In such case, the sanitary district may, by resolution, annex the same area, but the annexation shall only become effective if the territory is annexed by the requesting municipality.

(c) If G.S. 160A-58.5 allows the municipality to fix and enforce schedules of rents, rates, fees, charges, and penalties in excess of those fixed and enforced within the primary corporate limits, the sanitary district may do likewise as if G.S. 160A-58.5 applied to it.

(d) If the annexed area contains utility lines constructed or operated by the county and the sanitary district is to assume control, operation, or management of those lines, the sanitary district and county may by contract agree for the sanitary district to assume the pro rata or otherwise mutually agreeable portion of indebtedness incurred by the county for such purpose, or to contractually agree with the county to reimburse the county for any debt service."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 1:19 p.m. on the 21st day of July, 2001.

H.B. 1286 SESSION LAW 2001-302

AN ACT REPEALING THE REQUIREMENT OF THE CONFERENCE OF DISTRICT ATTORNEYS TO MAINTAIN A REPOSITORY RELATING TO VICTIMS' INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-835(e) is repealed.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

Became law upon approval of the Governor at 1:21 p.m. on the 21st day of July, 2001.

S.B. 836 SESSION LAW 2001-303

AN ACT TO MODIFY THE PUBLIC SCHOOL RESIDENCY REQUIREMENT FOR CHILDREN RESIDING IN PRE-ADOPTIVE HOMES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-366.2 reads as rewritten:

"§ 115C-366.2. *Applicability to certain persons.*

For the purposes of G.S. 115C-366 and 115C-366.1 for any person who is a resident of a place which is not the person's place of domicile, because: (i) of the residence of a parent, guardian, or legal custodian who is a student, employee or faculty member, of a college or university, or a visiting scholar at the National Humanities Center; or (ii) the child is placed in or assigned to a group home, foster home, or other similar facility or institution, other than a child covered by G.S. 115C-140.1(a); or (iii) the child resides with a legal custodian who is not the child's parent or guardian, or (iv) the child resides in a pre-adoptive home following placement by a county department of social services or a licensed child-placing agency, those sections shall be applied by substituting the word "residing" for the word "domiciled," by substituting the word "residence" for the word "domicile," and by substituting the word "residents" for the word "domiciliaries." For purposes of this section, "legal custodian" means the person or agency that has been awarded legal custody of the child by a court.

2001]

S.L. 2001-304

This section shall not be construed to affect the ability of any person to acquire a new domicile."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of July, 2001.

Became law upon approval of the Governor at 1:22 p.m. on the 21st day of July, 2001.

S.B. 407

SESSION LAW 2001-304

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO ALLOW THAT CITY TO USE QUICK TAKE PROCEDURE FOR ACQUISITION OF PROPERTY TO BE USED FOR STORMWATER AND PUBLIC TRANSPORTATION SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7.81(a) of the Charter of the City of Charlotte, being S.L. 2000-26, as amended by S.L. 2000-89, reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property to be used for streets and highways, water supply and distribution systems, sewage collection and disposal systems, economic development purposes authorized by law within the territory described in subsection (c) of this section, structural and natural stormwater and drainage systems of all types, public transportation systems, and airports, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes, as now or hereafter amended; provided further, that whenever therein any reference is made to the State of North Carolina or any agency thereof, such reference shall be deemed to include the City, and whenever therein any reference is made to any official of the state of North Carolina, such reference shall be deemed to include the City Manager; provided further that nothing herein shall be construed to enlarge the power of the City to condemn property already devoted to public use."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2001.

Became law on the date it was ratified.

H.B. 757

SESSION LAW 2001-305

AN ACT TO AUTHORIZE WASHINGTON COUNTY TO INCREASE ITS ROOM OCCUPANCY TAX FOR TOURISM PROMOTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 821 of the 1991 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. The Washington County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by:

- (1) Nonprofit charitable, educational, or religious organizations.
- (2) A business that offers to rent fewer than five units.
- (3) Summer camps.

(a1) Additional tax. – In addition to the tax authorized by subsection (a) of this section, the Washington County Board of Commissioners may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this subsection shall be in accordance with this section. Washington County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary

forms for filing returns and instructions to ensure the full collection of the tax.

~~(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the civil penalties imposed by this subsection.~~

Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

~~(e) Distribution and use of tax revenue. Washington County shall deposit the proceeds of the tax in its general fund. The proceeds may be used only to further the development of travel, tourism, and conventions in the county. shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Washington Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Washington County and shall use the remainder for tourism-related expenditures.~~

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars

(\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Washington County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

Sec. 2. Washington Tourism Development Authority. (a) Appointment and membership. When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Washington County shall be the ex officio finance officer of the Authority.

(b) Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2, Sec. 3. This act is effective upon ratification."

SECTION 2. G.S. 153A-155 reads as rewritten:
"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall,

on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Transylvania, and Washington Counties."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law on the date it was ratified.

**AN ACT TO MAKE LOCAL MODIFICATIONS IN THE
FOOTHILLS REGION CONCERNING AIRPORTS AND IN
MITCHELL COUNTY CONCERNING ELECTIONS.**

The General Assembly of North Carolina enacts:

SECTION 1. Creation. – There is created the "Special Airport District for Burke and Caldwell Counties" (for brevity herein referred to as the "Special Airport District" or "District") which on the effective date hereof shall be both a body politic and corporate and except as amended herein shall have all of the powers and authority

granted under Article 8 of Chapter 63 of the General Statutes of North Carolina (the "North Carolina Special Airport Districts Act").

SECTION 2. Description of District. – The Airport District shall be located in Caldwell County and Burke County and the District boundaries shall be described as follows:

BEGINNING on a axle found in the southeastern property corner of the Antioch Baptist Church Cemetery; thence with the southern property line of the Antioch Baptist Church Cemetery, North 87° 58' 12" West 164.56 feet to an iron pipe found; thence North 01° 43' 27" East 80.40 feet to a point in the centerline of Antioch Road (SR 1501); thence with the centerline of Antioch Road (SR 1501) South 52° 16' 30" West 201.91 feet; thence leaving the centerline of Antioch Road (SR 1501) and with the Vulcan Franklin property, South 39° 53' 00" East 495 feet to an iron pipe set; thence continuing with the Vulcan Franklin property South 01° 43' 54" West 519.75 feet to a point; thence with the Mamie North property South 04° 19' 45" West 219.50 feet to a marked tree; thence with the Larry Joe Abernethy property South 04° 19' 45" West 292.30 feet to an iron pipe found; thence with the Michael Ray Powell property South 00° 58' 33" West 62.58 feet to an iron pipe found; thence continuing with the Michael Ray Powell property South 02° 12' 29" West 228 feet to a point; thence with the Curtis Crump property line the following courses and distances: South 02° 12' 29" West 185.31 feet to a point in the centerline of F.R. Coffey Road (SR 1502); thence South 02° 12' 29" West 313 feet to a point at the end of the pavement of F.R. Coffey Road (SR 1502); thence South 02° 12' 29" West 156.40 feet to a point; thence South 02° 12' 29" West 368 feet to a $\frac{3}{4}$ " iron pipe found in a stump, said point being a common property corner of the Morganton-Lenoir Airport property and Curtis B. Crump; thence continuing with the Curtis B. Crump property lines the following courses and distances: South 72° 22' 30" East 1501.41 feet to a $\frac{3}{4}$ " iron pipe found; thence North 08° 44' 22" East 405.37 feet to a 1 $\frac{1}{2}$ " iron pipe found; thence South 75° 39' 57" East 1,012.80 feet to a $\frac{3}{4}$ " iron pipe found, said iron pipe found being in the northwestern right-of-way limit boundary line of Old Amherst Road (SR 1513); thence crossing Old Amherst Road (SR 1513) South 80° 01' 30" East 52 feet to an iron pipe found; thence with the Mildred H. Franklin property South 85° 52' 13" East 141.68 feet to an iron pipe found; thence with the Blue Ridge Finchers, Inc. property, section two recorded in the Burke County Registry in the Plat Book 5, Page 181 the following courses and distances: North 32° 00' 07" East 150.29 feet to a marked tree; thence North 32° 00' 07" East 391.86 feet to an iron pipe found; thence North 30° 35' 07" East 287.30 feet to a point in the southwestern right-of-way limit boundary line of SR 2206; thence with the southwestern right-of-way limit boundary line of SR

2206 North 59° 24' 53" West 98 feet to a point in the centerline of Old Amherst Road (SR 1513); thence with the centerline of Old Amherst Road (SR 1513) North 30° 35' 07" East 60.12 feet to a point; thence leaving the centerline of Old Amherst Road (SR 1513) and with the northeastern right-of-way limit line of SR 2206 South 59° 24' 53" East 98.0 feet; thence North 30° 35' 07" East 285.61 feet to an iron pipe found; thence South 65° 17' 08" East 60.32 feet to an iron pipe found; thence with the Blue Ridge Adventures, Inc. property, section one and recorded in the Plat Book 5, Page 152 of the Burke County Registry the following courses and distances: North 30° 34' 19" East 359.51 feet to a point in the southwestern right-of-way limit line of SR 2205; thence North 72° 57' 09" West 61.07 feet to a point; thence North 30° 34' 58" East 71.70 feet to a point; thence South 72° 55' 07" East 61.70 feet to a point; thence North 18° 36' 08" East 289.04 feet to an iron pipe set; thence South 84° 23' 43" East 150 feet to an iron pipe found; thence South 84° 29' 24" East 150.12 feet to an iron pipe found; thence South 84° 26' 36" East 200.18 feet to an iron pipe found; thence South 84° 26' 36" East 295.66 feet to a point; thence following the meanders of a creek the following courses and distances: South 09° 10' 27" West 55.10 feet to a point; thence South 30° 02' 27" West 51.79 feet to a point; thence South 62° 12' 27" West 35.28 feet to a point; thence South 39° 55' 33" East 35.20 feet to a point; thence South 23° 08' 33" East 43.65 feet to a point; thence South 86° 56' 27" West 35 feet to a point; thence South 00° 45' 27" West 15.03 feet to a point; thence South 19° 33' 33" East 28.16 feet to a point; thence South 37° 52' 33" East 28.30 feet to a point; thence South 46° 20' 27" West 36.88 feet to a point; thence South 43° 13' 33" East 58.30 feet to a point; thence South 61° 07' 27" West 34.44 feet to a point; thence South 01° 01' 27" West 62.58 feet to a point; thence South 29° 37' 33" East 21.57 feet to a point; thence South 32° 03' 27" West 45.41 feet to a point; thence South 00° 40' 33" East 34.07 feet to a point; thence South 36° 45' 33" East 34.54 feet to a point; thence South 13° 04' 27" West 29.97 feet to a point; thence South 08° 21' 33" East 120.34 feet to a point; thence South 44° 00' 33" East 53.34 feet to a point; thence South 23° 31' 27" West 54.82 feet to a point; thence South 55° 39' 33" East 48.92 feet to a point; thence South 18° 16' 27" West 51.31 feet to a point; thence South 42° 06' 33" East 105.79 feet to a point; thence South 18° 08' 27" West 37.64 feet to a point; thence South 36° 05' 33" East 59.52 feet to a point; thence South 19° 10' 33" East 67.40 feet to a point; thence North 85° 40' 27" East 24 feet to a point; thence South 15° 18' 33" East 36.86 feet to a point; thence South 62° 38' 33" East 26.02 feet to a point; thence South 02° 26' 18" East 35.70 feet to a point; thence South 23° 25' 17" East 36.70 feet to a point; thence South 56° 06' 17" East 263.57 feet to a point; thence South 08° 33' 17" East 42.94 feet to a point; thence South 54° 30' 17" East 39.79 feet to

a point; thence South 50° 49' 47" East 21.17 feet to a point; thence South 50° 49' 47" East 25 feet to a point; thence South 29° 17' 17" East 66.04 feet to a point; thence South 04° 20' 43" West 87.06 feet to a point; thence South 03° 28' 17" East 14.87 feet to a point; thence South 48° 41' 17" East 25.50 feet to a point; thence South 06° 20' 17" East 55.36 feet to a point; thence South 36° 43' 17" East 63.79 feet to a point; thence South 59° 09' 17" East 27.02 feet to a point; thence South 21° 02' 17" East 82.05 feet to a point; thence South 00° 34' 43" West 44.79 feet to a point; thence South 23° 07' 47" East 21.21 feet to an iron pipe found; thence South 86° 45' 38" East 325.16 feet to a concrete monument found, said concrete monument being a common property corner of the Morganton-Lenoir Airport, Mildred H. Franklin and Carolina Centers LLC; thence with the common property line of the Morganton-Lenoir Airport and Carolina Centers LLC, South 89° 58' 52" East 125.72 feet to an iron pipe set; thence North 02° 55' 30" East 1,602.99 feet to a stone found; thence with the Miller property North 02° 03' 45" East 1,787.45 feet to an axle found, said axle found being South 52° 30' 14" East 3,237.54 feet from North Carolina Geological Survey monument named Morport; thence South 88° 38' 05" East 1,091.36 feet to a ¾" iron pipe found; thence South 86° 13' 45" East 2,407.10 feet to a 2" iron pipe found; thence North 01° 36' 19" East 1,708.94 feet to an iron pipe set; thence North 82° 18' 05" West 688.49 feet to a rebar found; thence North 07° 38' 35" East 130.63 feet to a rebar found; thence with the Nancy Hall property, North 07° 30' 32" East 1,039.05 feet to a stone found; thence with the Jimmy Barns property, North 08° 04' 30" East 263.59 feet to a rebar found; thence with the Jacob Reid property, North 07° 38' 33" East 539.06 feet to a ¾" iron pipe found; thence North 07° 37' 09" East 200.04 feet to a stone found; thence with the Broyhill Management property, North 88° 19' 24" West 2,000.87 feet to a ¾" iron pipe found, said iron pipe found being along the southeastern edge of Old Amherst Road (SR 1513); thence crossing Old Amherst Road (SR 1513) and with the Homer Miller property, North 88° 07' 42" West 976.16 feet to a stone found; thence with the William Corpening property South 44° 54' 36" West 879.09 feet to a ¾" iron pipe found; thence with the William Austin property, North 64° 05' 19" West 1416.95 feet to an iron pipe set; thence North 25° 45' 24" West 480.25 feet to an iron pipe found at a stone; thence South 36° 28' 17" West 600.88 feet to an iron pipe set; thence North 47° 51' 33" West 629.74 feet to an iron pipe found at a stone; thence with the Vivian Hyde property, South 65° 49' 57" West 414.07 feet to an axle found at a stone; thence North 21° 40' 00" West 436.67 feet to a 24" oak tree; thence with the Ross Watson property, South 86° 42' 26" West 943.46 feet to a 2" iron pipe found at a stone; thence South 26° 27' 15" West 119.46 feet to a point; thence with the Ben Griffin property, South 12°

09' 09" East 639.13 feet to a stone corner found; thence South 50° 32' 04" West 626.78 feet to a stone corner found; thence with the Helen Blankenship property South 05° 21' 37" East 2,114.17 feet to a ¾" iron pipe found, said ¾" iron pipe found, being located South 66° 59' 58" West 2,035.81 feet from a North Carolina Geological Survey monument named Morport; thence continuing with the Helen Blankenship property, North 87° 00' 23" West 828.88 feet to a ¾" iron pipe found, said iron pipe found being in the eastern right-of-way limit line of Race Track Road (SR 1567); thence crossing Race Track Road (SR 1567) North 87° 02' 07" West 384.16 feet to a stone corner found; thence with the Conley C. Mull property, North 88° 40' 32" West 378.65 feet to a ¾" iron pipe found; thence with the Timothy Newton property, North 88° 40' 32" West 630.74 feet to an iron pipe set, said point being the common property corner of the Morganton-Lenoir Airport, James Burns and Edgar Mabe; thence with the Edgar Mabe property, South 35° 22' 25" East 228.38 feet to a 1" iron pipe found; thence South 35° 15' 00" East 280.36 feet to a point in the southern right-of-way limit line of Antioch Road (SR 1501); thence along the southern right-of-way limit line of Antioch Road, North 71° 37' 45" East 120 feet to a point; thence leaving the southern right-of-way limit line of Antioch Road (SR 1501), South 36° 21' 00" East 120 feet to a point; thence South 71° 17' 59" West 120 feet to a point; thence with the Marilyn Boyd property, South 35° 14' 59" East 459.35 feet to a ¾" iron pipe found; thence with the Jimmy Abernathy property, South 37° 18' 35" East 65.59 feet to an iron pipe set; thence South 35° 57' 47" East 184.58 feet to an iron pipe found, said point being a common property corner of the Morganton-Lenoir Airport, Antioch Baptist Church and Jimmy Abernathy; thence with the Antioch Baptist Church property, North 46° 51' 33" East 342.56 feet to a rebar found; thence North 77° 45' 43" East 280.55 feet to a point in the western right-of-way limit line of Antioch Road (SR 1501); thence crossing Antioch Road (SR 1501), North 77° 45' 43" East 44.84 feet to a point East of the pavement of Antioch Road (SR 1501) and within the right-of-way of Antioch Road (SR 1501); thence within the right-of-way of Antioch Road (SR 1501), South 01° 43' 27" West 200 feet to a point solid iron pipe found; thence leaving the right-of-way of Antioch Road (SR 1501), South 01° 43' 27" West 363.28 feet to an axle found, the point of beginning and containing 1,076.25 acres.

Reference is hereby made to a survey prepared by the City of Morganton Engineering Dept. dated August 30, 1996, under Drawing No. 1053-96 and stamped by a Registered Land Surveyor, Jerry R. Duckworth, license # L-1401.

SECTION 3. Other Lands Added to District. – The boundary of the Airport District may be extended and additional lands

added to the District upon the adoption of a resolution by the Board of Commissioners for the county in which such lands are located provided that only lands that are adjacent boundaries of the existing District may be incorporated into the District and under no circumstances may satellite areas be included in the District.

SECTION 3.1. No part of the area described in Section 2 of this act may be annexed by any municipality under Article 4A of Chapter 160A of the General Statutes.

SECTION 3.2. The Foothills Regional Airport Authority may, with the approval of the boards of commissioners of all the counties in which the district is located, apply Article 22 of Chapter 105 of the General Statutes as if the district was a city located in more than one county and as if it were the governing board of a city.

SECTION 4. District Board. – The Foothills Regional Airport Authority separately authorized by S.L. 2000-9 shall for all purposes be the District Board and shall have all of the powers and authorities granted to the District in accordance with G.S. 63-83, as amended from time to time, specifically including, but not limited to, the authority to levy and collect taxes on all taxable property within the Special Airport District in accordance with the procedures established by the North Carolina Special Airport Districts Act (Article 8 of Chapter 63 of the General Statutes) except that the tax rate shall not exceed fifteen cents (15¢) per one hundred dollars (\$100.00) valuation of assessed valuation of property in the Special Airport District from year to year.

SECTION 5. Joint Authority. – Upon the effective date of this act, the term "District Board" shall be deemed to be the Foothills Regional Airport Authority and the business of the Special Airport District may, for all purposes, be transacted under the name "Foothills Regional Airport Authority".

SECTION 6. Public Purpose. – All taxes levied, collected, and expended by the Airport Authority shall be and are hereby declared to be levied, collected, and expended for the public purpose of constructing and financing aeronautical facilities and enhancing the security of any bonds or other debt issued by the Authority for such public purpose.

SECTION 7. Dissolution. – The Tax District may be dissolved by a joint resolution to be presented to and acted on by each of the governing bodies having authority to appoint the members of the airport authority.

SECTION 8. Section 1 of Chapter 677, Session Laws of 1975, as rewritten by Chapter 328 of the 1985 Session Laws, reads as rewritten:

"Section 1. (a) Beginning with the ~~1988-2004~~ General Election and ~~quadrennially~~ biennially thereafter, there shall be elected three

members to the Mitchell County Board of Commissioners from the county at large. The two persons receiving the highest numbers of votes are elected to four-year terms, and the person receiving the third highest number of votes is elected to a two-year term.

(b) ~~Beginning with the 1990~~ In the 2002 General Election ~~and quadrennially thereafter,~~ there shall be elected two members to the Mitchell County Board of Commissioners from the county at ~~large.~~ large for four-year terms.

(c) The qualified voters of the entire county shall nominate candidates and elect the members apportioned to the county at large."

SECTION 9. This act is effective when it becomes law. Section 8 of this act does not affect the term of office of any person elected in 1998 or 2000.

In the General Assembly read three times and ratified this the 26th day of July, 2001.

Became law on the date it was ratified.

H.B. 1174**SESSION LAW 2001-307**

AN ACT TO INCREASE THE CRIMINAL PENALTY FOR THE SALE OF DRUGS IN PUBLIC PARKS AND PLAYGROUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(e) reads as rewritten:

"(e) The prescribed punishment and degree of any offense under this Article shall be subject to the following conditions, but the punishment for an offense may be increased only by the maximum authorized under any one of the applicable conditions:

- (1), (2) Repealed by Session Laws 1979, c. 760, s. 5.
- (3) If any person commits a Class 1 misdemeanor under this Article and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be punished as a Class I felon. The prior conviction used to raise the current offense to a Class I felony shall not be used to calculate the prior record level.
- (4) If any person commits a Class 2 misdemeanor, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 1 misdemeanor. The prior conviction used to raise the current offense to a Class 1

misdemeanor shall not be used to calculate the prior conviction level.

- (5) Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under 16 years of age but more than 13 years of age or a pregnant female shall be punished as a Class D felon. Any person 18 years of age or over who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person who is 13 years of age or younger shall be punished as a Class C felon. Mistake of age is not a defense to a prosecution under this section. It shall not be a defense that the defendant did not know that the recipient was pregnant.
- (6) For the purpose of increasing punishment under G.S. 90-95(e)(3) and (e)(4), previous convictions for offenses shall be counted by the number of separate trials at which final convictions were obtained and not by the number of charges at a single trial.
- (7) If any person commits an offense under this Article for which the prescribed punishment requires that any sentence of imprisonment be suspended, and if he has previously been convicted for one or more offenses under any law of North Carolina or any law of the United States or any other state, which offenses are punishable under any provision of this Article, he shall be guilty of a Class 2 misdemeanor.
- (8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for an elementary or secondary school or within 300 feet of the boundary of real property used for an elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1).
- (9) Any person who violates G.S. 90-95(a)(3) on the premises of a penal institution or local confinement facility shall be guilty of a Class H felony.
- (10) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property that is a playground in a public park or within 300 feet of the boundary of real property that is a playground in a public park shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). For purposes of

this subdivision the term "playground" means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation open to the public, and with any portion thereof containing three or more separate apparatuses intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards."

SECTION 2. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 18th day of July, 2001.

Became law upon approval of the Governor at 10:26 a.m. on the 26th day of July, 2001.

H.B. 42 SESSION LAW 2001-308

AN ACT TO PROVIDE PROPERTY TAX REDUCTIONS BY AUTHORIZING LOCAL GOVERNMENTS TO REDUCE PROPERTY TAXES IN LIGHT OF THE GOVERNOR'S UNANTICIPATED RELEASE OF WITHHELD REIMBURSEMENTS AND BY EXPANDING HOMESTEAD PROPERTY TAX RELIEF FOR ELDERLY AND DISABLED HOMEOWNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.1 reads as rewritten:

"§ 105-277.1. Property ~~classified for taxation at reduced valuation-~~ tax homestead exclusion.

(a) Exclusion. – The following class of property A permanent residence owned and occupied by a qualifying owner is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The first twenty thousand dollars (\$20,000) in appraised value of a permanent residence owned and occupied by a qualifying owner is excluded from taxation. is taxable in accordance with this section. The amount of the appraised value of the residence equal to the exclusion amount is excluded from taxation. The exclusion amount is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. A qualifying owner is an owner who meets all of the following requirements as of January 1 preceding the taxable year for which the benefit is claimed:

- (1) Is at least 65 years of age or totally and permanently disabled.

- (2) Has an income for the preceding calendar year of not more than ~~fifteen thousand dollars (\$15,000)~~; the income eligibility limit.
- (3) Is a North Carolina resident.

(a1) Temporary Absence. – An otherwise qualifying owner does not lose the benefit of this exclusion because of a temporary absence from his or her permanent residence for reasons of health, or because of an extended absence while confined to a rest home or nursing home, so long as the residence is unoccupied or occupied by the owner's spouse or other dependent.

(a2) Income Eligibility Limit. – Until July 1, 2003, the income eligibility limit is eighteen thousand dollars (\$18,000). For taxable years beginning on or after July 1, 2003, the income eligibility limit is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage of any cost-of-living adjustment made to the benefits under Titles II and XVI of the Social Security Act for the preceding calendar year, rounded to the nearest one hundred dollars (\$100.00). On or before July 1 of each year, the Department of Revenue must determine the income eligibility amount to be in effect for the taxable year beginning the following July 1 and must notify the assessor of each county of the amount to be in effect for that taxable year.

(b) Definitions. – ~~When used in this section, the following definitions shall apply:~~ The following definitions apply in this section:

- (1) Code. – The Internal Revenue Code, as defined in G.S. 105-228.90.
- (1a) Income. – Adjusted gross income, as defined in section 62 of the Code, plus all other moneys received from every source other than gifts or inheritances received from a spouse, lineal ancestor, or lineal descendant. For married applicants residing with their spouses, the income of both spouses must be included, whether or not the property is in both names.
- (1b) Owner. – A person who holds legal or equitable title, whether individually, as a tenant by the entirety, a joint tenant, or a tenant in common, or as the holder of a life estate or an estate for the life of another. A manufactured home jointly owned by husband and wife is considered property held by the entirety.
- (2) Repealed by Session Laws 1993, c. 360, s. 1.
- (2a) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 982, s. 20.
- (3) Permanent residence. – A person's legal residence. It includes the dwelling, the dwelling site, not to exceed

one acre, and related improvements. The dwelling may be a single family residence, a unit in a multi-family residential complex, or a manufactured home.

- (4) Totally and permanently disabled. – A person is totally and permanently disabled if the person has a physical or mental impairment that substantially precludes him or her from obtaining gainful employment and appears reasonably certain to continue without substantial improvement throughout his or her life.

(c) Application. – An application for the exclusion provided by this section should be filed during the regular listing period, but may be filed and must be accepted at any time up to and through ~~April 15~~ June 1 preceding the tax year for which the exclusion is claimed. When property is owned by two or more persons other than husband and wife and one or more of them qualifies for this exclusion, each owner ~~shall~~ must apply separately for his or her proportionate share of the exclusion.

- (1) Elderly Applicants. – Persons 65 years of age or older may apply for this exclusion by entering the appropriate information on a form made available by the assessor under G.S. 105-282.1.
- (2) Disabled Applicants. – Persons who are totally and permanently disabled may apply for this exclusion by (i) entering the appropriate information on a form made available by the assessor under G.S. 105-282.1 and (ii) furnishing acceptable proof of their disability. The proof ~~shall~~ must be in the form of a certificate from a physician licensed to practice medicine in North Carolina or from a governmental agency authorized to determine qualification for disability benefits. After a disabled applicant has qualified for this classification, ~~he or she shall not be~~ the applicant is not required to furnish an additional certificate unless the applicant's disability is reduced to the extent that the applicant could no longer be certified for the taxation at reduced valuation.

(d) Multiple Ownership. – A permanent residence owned and occupied by husband and wife as tenants by the entirety is entitled to the full benefit of this exclusion notwithstanding that only one of them meets the age or disability requirements of this section. When a permanent residence is owned and occupied by two or more persons other than husband and wife and one or more of the owners qualifies for this exclusion, each qualifying owner is entitled to the full amount of the exclusion not to exceed his or her proportionate share of the valuation of the property. No part of an exclusion available to one co-owner may be claimed by any other co-owner and in no event may

the total exclusion allowed for a permanent residence exceed the exclusion amount provided in this section."

SECTION 2. G.S. 105-309(f) reads as rewritten:

"(f) ~~The following information shall~~ notice set out below must appear on each abstract or on an information sheet distributed with the abstract. The abstract or sheet must include the address and telephone number of the assessor below the ~~notice required by this subsection. The notice shall read as follows:~~ notice:

'PROPERTY TAX ~~RELIEF~~ HOMESTEAD EXCLUSION FOR ELDERLY AND OR PERMANENTLY DISABLED PERSONS.

North Carolina excludes from property taxes ~~the first twenty thousand dollars (\$20,000) in a portion of the~~ appraised value of a permanent residence owned and occupied by North Carolina residents aged 65 or older or totally and permanently disabled whose income does not exceed ~~fifteen thousand dollars (\$15,000)~~. (assessor insert amount). The amount of the appraised value of the residence that may be excluded from taxation is the greater of twenty thousand dollars (\$20,000) or fifty percent (50%) of the appraised value of the residence. Income means the owner's adjusted gross income as determined for federal income tax purposes, plus all moneys received other than gifts or inheritances received from a spouse, lineal ancestor or lineal descendant.

If you received this exclusion in (assessor insert previous year), you do not need to apply again unless you have changed your permanent residence. If you received the exclusion in (assessor insert previous year) and your income in (assessor insert previous year) was above ~~fifteen thousand dollars (\$15,000)~~, (assessor insert amount), you must notify the assessor. If you received the exclusion in (assessor insert previous year) because you were totally and permanently disabled and you are no longer totally and permanently disabled, you must notify the assessor. If the person receiving the exclusion in (assessor insert previous year) has died, the person required by law to list the property must notify the assessor. Failure to make any of the notices required by this paragraph before ~~April 15~~ June 1 will result in penalties and interest.

If you did not receive the exclusion in (assessor insert previous year) but are now eligible, you may obtain a copy of an application from the assessor. It must be filed by ~~April 15~~ June 1. "

SECTION 3. G.S. 159-15 reads as rewritten:

"§ 159-15. *Amendments to the budget ordinance.*

Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after the ordinance's adoption in any manner, so long as the ordinance, as amended, continues to

satisfy the requirements of G.S. 159-8 and 159-13. However, except as otherwise provided in this section, no amendment may increase or reduce a property tax levy or in any manner alter a property taxpayer's liability, unless the board is ordered to do so by a court of competent jurisdiction, or by a State agency having the power to compel the levy of taxes by the board.

If after July 1 the local government receives additional and unanticipated revenues, the governing body may amend the budget ordinance to reduce the property tax levy to account for the unanticipated revenues.

The governing board by appropriate resolution or ordinance may authorize the budget officer to transfer moneys from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the governing board at its next regular meeting and shall be entered in the minutes."

SECTION 4. Section 3 of this act becomes effective July 1, 2001, and expires October 1, 2001. The remainder of this act becomes effective for taxes imposed for taxable years beginning on or after July 1, 2002.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 10:49 a.m. on the 26th day of July, 2001.

S.B. 715**SESSION LAW 2001-309**

AN ACT TO REQUIRE COLLABORATION BETWEEN THE DIVISION OF SOCIAL SERVICES AND THE COMMISSION OF INDIAN AFFAIRS AND THE NORTH CAROLINA DIRECTORS OF SOCIAL SERVICES ASSOCIATION ON INDIAN CHILD WELFARE ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1. The Division of Social Services, Department of Health and Human Services, shall work in collaboration with the Commission of Indian Affairs, Department of Administration, and the North Carolina Directors of Social Services Association to develop, in a manner consistent with federal law, an effective process through which the following can be accomplished:

- (1) Establishment of a relationship between the Division of Social Services and the Indian tribes set forth in G.S. 143B-407(a), either separately or through a central entity, that will enable these tribes, in general, and tribal councils or other tribal organizations, in particular, to

receive reasonable notice of identified Indian children who are being placed in foster care or adoption or who otherwise enter the child protective services system, and to be consulted on policies and other matters pertinent to placement of Indian children in foster care or adoption.

- (2) Agreement on a process by which North Carolina Indians might be identified and recruited for purposes of becoming foster care and adoptive parents.
- (3) Agreement on a process by which the cultural, social, and historical perspective and significance associated with Indian life may be taught to appropriate child welfare workers and to foster and adoptive parents.
- (4) Identification or formation of Indian child welfare advocacy, placement and training entities with which the Department of Health and Human Services might contract or otherwise form partnerships for the purpose of implementing the provisions of this act.
- (5) Development of a valid and reliable process through which Indian children within the child welfare system can be identified.
- (6) Identify the appropriate roles of the State and of Indian tribes, organizations and agencies to ensure successful means for securing the best interests of Indian children.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of July, 2001.

Became law upon approval of the Governor at 10:38 p.m. on the 27th day of July, 2001.

H.B. 34 SESSION LAW 2001-310

AN ACT TO BAN BUTTERFLY AND PUNCH-CARD BALLOTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-140.3. Punch-Card ballots.

(a) No ballot may be used in any referendum, primary, or other election as an official ballot if it requires the voter to punch out a hole with a stylus or other tool.

(b) In any counties that used punch-card ballots as official ballots in the election of November 2000, and in any municipalities located in those counties, this section becomes effective January 1, 2006. It is the intent of the General Assembly that any county that uses county

funds to replace voting equipment to satisfy this section shall be given priority in appropriations to counties for voting equipment."

SECTION 2. Article 13 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-140.4. Butterfly ballots.

No butterfly ballot may be used as an official ballot in any referendum, primary, or other election. The term 'butterfly ballot' means a ballot having more than one column listing ballot choices that share a common column for designating those choices."

SECTION 3. If Senate Bill 17, 2001 Regular Session of the General Assembly, becomes law, then effective January 1, 2002, G.S. 163-140.3, as enacted by this act, is recodified as G.S. 163-165.4A, and G.S. 163-140.4, as enacted by this act, is recodified as G.S. 163-165.4B.

SECTION 4. Section 1 of this act is effective when it becomes law and applies to primaries, elections, and referenda conducted on or after that date. Nothing in this act shall obligate the General Assembly to appropriate funds to implement this act. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:20 p.m. on the 28th day of July, 2001.

S.B. 690

SESSION LAW 2001-311

AN ACT TO AMEND THE FACILITY AUTHORITY ACT SO AS TO CLARIFY THAT THE CHANCELLOR REPRESENTS THE INTEREST OF A CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-480.3(g) reads as rewritten:

"(g) Conflicts. – If any member, officer, or employee of an Authority shall be:

- (1) Interested either directly or indirectly; or
- (2) An officer or employee of or have an ownership interest in any firm or corporation, not including units of local government or the Chancellor of the main campus of a constituent institution of The University of North Carolina within the county, or the Chancellor's designee, interested directly or indirectly,

in any contract with that Authority, the interest shall be disclosed to the Authority and shall be set forth in the minutes of the Authority. The member, officer, or employee having an interest shall not

participate on behalf of the Authority in the authorization of such contract. Other provisions of law notwithstanding, failure to take any or all actions necessary to carry out the purposes of this subsection do not affect the validity of any bonds or notes issued under this Chapter.

It is not a violation of this subsection for the Chancellor of the main campus of a constituent institution of The University of North Carolina within the county, or the Chancellor's designee, to participate in discussion of or to vote on any matter, including but not limited to the execution of any contract by the Authority, where the matter relates to the interest of a constituent institution of The University of North Carolina within the county."

SECTION 2. G.S. 160A-480.3(d) reads as rewritten:

"(d) Charter and Bylaws. – The act creating an authority and any amendments to it is the Authority's charter. The charter of an authority shall include the name of the Authority. An authority may adopt bylaws. Any bylaw that conflicts with the declared public policy of the State as expressed by law is void and unenforceable. The bylaws which may do any one or more of the following:

- (1) Limit the powers, duties, and functions that the Authority may exercise and perform.
- (2) Prescribe the compensation and allowances not to exceed those provided by G.S. 93B-5, if any, to be paid to the members of the Authority.
- (3) Contain rules for the conduct of Authority business and any other matter pertaining to the organization, powers, and functioning of the Authority that the members consider appropriate."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of July, 2001.

Became law upon approval of the Governor at 12:21 p.m. on the 28th day of July, 2001.

H.B. 1246

SESSION LAW 2001-312

AN ACT TO DIRECT THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA, IN COOPERATION WITH THE STATE BOARD OF EDUCATION AND THE STATE BOARD OF COMMUNITY COLLEGES, TO STUDY THE MEASURES USED FOR ADMISSIONS, PLACEMENT, AND ADVANCED PLACEMENT DECISIONS BY THE CONSTITUENT INSTITUTIONS OF THE STATE'S UNIVERSITY SYSTEM, TO ALLOW INTELLECTUALLY GIFTED YOUTHS TO ATTEND COMMUNITY COLLEGES,

AND TO ALLOW CERTAIN YOUTHS TO BE EMPLOYED
BY INSTITUTIONS OF HIGHER EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Board of Governors of The University of North Carolina, in cooperation with the State Board of Education and the State Board of Community Colleges, shall study the measures used by the constituent institutions to make admissions, placement, and advanced placement decisions regarding incoming freshmen and shall assess the various uses made of those measures and the validity of those measures with regard to a student's academic performance and as predictors of a student's future academic performance. They shall also assess whether other alternative measures may be equally valid or more accurate as indicators of a student's academic performance. In the study, particular consideration should be given to whether or not to eliminate, continue, or change the emphasis placed on the Scholastic Aptitude Test (SAT) and ACT Assessment for North Carolina students as a mandatory university admissions measure. The study should review incorporating the State's testing program into admissions, placement, and advanced placement decisions. Based on its findings, the Board of Governors of The University of North Carolina, in cooperation with the State Board of Education and the State Board of Community Colleges, may develop recommendations to improve the measures used to assess a student's academic performance, to adopt alternative measures, or to use various combinations of both to determine more accurately a student's academic knowledge and performance.

SECTION 1.(b) The study required by subsection 1(a) of this act may address all of the following:

- (1) Admissions. – The Board of Governors may examine the key elements used for making admissions decisions in the State's University System. Included in the factors to be studied are grade point average, class rank, and the SAT and ACT Assessment. Each element may be studied for reliability and validity independently and as used together. The Board of Governors may also compare the State's end-of-course testing with the SAT and ACT Assessment, assess how each reflects a student's academic performance, and consider shifting the emphasis currently placed on the SAT and ACT Assessment as an admissions measure to the State's end-of-course tests or other available tests as an admissions measure. In its study, the Board of Governors may consider eliminating, continuing, or changing the emphasis placed on the SAT and ACT

Assessment as an admissions measure for North Carolina students applying to the State's constituent institutions. The Board of Governors may also consider methods for accurately comparing the academic performance of applicants who do not have the benefit of the State's end-of-course testing program with applicants who do have the State's testing program.

Recommendations should be made to improve the consistency and fairness of each measure independently and as used together for admissions decisions. These recommendations may include the use of North Carolina end-of-course tests as an element in admissions decisions alone or in combination with a change of the weight of emphasis on the SAT and ACT Assessment. The recommendations may also include maintaining the current process.

The Board of Governors may review with the State Board of Education recommendations that incorporate end-of-course testing as part of the admissions process. The State Board of Education may develop recommendations to improve the alignment of end-of-course tests and secondary coursework with the expectations of the constituent institutions and the State Board of Community Colleges.

- (2) Placement. – The Board of Governors may consider reviewing the assessment methods currently used by constituent institutions for remediation placement decisions. Recommendations may be developed to provide greater consistency, reliability, and validity for remediation decisions. North Carolina end-of-course tests may be considered for use in these decisions.
- (3) Advanced placement testing. – The Board of Governors may review the use of test scores in granting college-level course credit by constituent institutions.
- (4) Other relevant issues. – The Board of Governors may study any other issues relevant to college and university admissions, placement, and advanced placement measures.

SECTION 1.(c) The Board of Governors may make an interim report regarding its studies and plans to the Joint Legislative Education Oversight Committee no later than March 1, 2002, and shall submit a final report to that Committee by December 1, 2003. It is recommended that the study continue beyond the final report date. Interim and final reports of the Committee may include recommended legislation.

SECTION 2. Article 1 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"§ 115D-1.1. Discretion in admissions.

(a) Notwithstanding G.S. 115D-1, a student under the age of 16 may enroll in a community college if the following conditions are met:

- (1) The president of the community college or the president's designee finds, based on criteria established by the State Board of Community Colleges, that the student is intellectually gifted and that the student has the maturity to justify admission to the community college; and
- (2) One of the following persons approves the student's enrollment in a community college:
 - a. The local board of education, or the board's designee, for the public school administrative unit in which the student is enrolled.
 - b. The administrator, or the administrator's designee, of the nonpublic school in which the student is enrolled.
 - c. The person who provides the academic instruction in the home school in which the student is enrolled.
 - d. The designee of the board of directors of the charter school in which the student is enrolled.

(b) The State Board of Community Colleges, in consultation with the Department of Public Instruction, shall adopt rules to implement this section."

SECTION 3. G.S. 95-25.5 is amended by adding a new subsection to read:

"(m) Notwithstanding any other provision of this section, youths who are enrolled at an institution of higher education may be employed by the institution provided the employment is not hazardous. As used in this subsection, "institution of higher education" means any constituent institution of The University of North Carolina, any North Carolina community college, or any college or university that awards postsecondary degrees."

SECTION 4. Section 2 of this act is effective when it becomes law, and shall apply to the 2001-2002 academic year. Section 2 of this act expires September 1, 2004. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2001.

Became law upon approval of the Governor at 12:21 p.m. on the 28th day of July, 2001.

S.B. 628

SESSION LAW 2001-313

AN ACT REQUIRING OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTANTS TO NOTIFY THE STATE BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS WHEN THEY PERFORM WORK IN THIS STATE, AUTHORIZING THE BOARD TO INCREASE FEES, AND AMENDING CERTAIN PROVISIONS RELATING TO CERTIFIED PUBLIC ACCOUNTANTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93-10 reads as rewritten:

"§ 93-10. *Persons certified in other states.*

An individual ~~who holds a valid and unrevoked certificate as a certified public accountant, or its equivalent, issued under authority of any state, or the District of Columbia, and who resides without the State of North Carolina, may perform work within the State:~~ Provided, that he register with the State Board of Certified Public Accountant Examiners and comply with its rules regarding such registration whose principal place of business is outside this State may be granted the privilege to perform or offer to perform services in this State as a certified public accountant if the individual meets all of the following conditions:

- (1) Holds a valid and unrevoked certificate as a certified public accountant, or its equivalent, issued by another state, a territory of the United States, or the District of Columbia.
- (2) Holds a valid and unrevoked license or permit to practice as a certified public accountant issued by another state, a territory of the United States, or the District of Columbia and that jurisdiction's requirements for licensure are substantially equivalent to the requirements of this Chapter.
- (3) Notifies the State Board of Certified Public Accountant Examiners that the person intends to perform or offers to perform services in this State as a certified public accountant.
- (4) Agrees to comply with the provisions of this Chapter and the rules adopted by the Board regarding notification and practice.
- (5) Consents to have an administrative notice of hearing served on the licensing board in the individual's principal state of business, notwithstanding the individual notice requirements of G.S. 150B-38.
- (6) Pays an annual fee not to exceed fifty dollars (\$50.00)."

SECTION 2. G.S. 93-12(7) reads as rewritten:

"(7) To charge for each examination provided for in this Chapter a fee not exceeding ~~two~~four hundred dollars ~~(\$200.00); (\$400.00)~~. ~~This fee shall be payable to the secretary treasurer of the Board by the applicant at the time of filing application. In no case shall the examination fee be refunded, unless in the discretion of the Board the applicant shall be deemed ineligible for examination.~~In addition to the examination fee, if the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services. The applicant shall pay all fees and costs associated with the examination at the time the application is filed with the Board. Examination fees and costs shall not be refunded unless the Board deems the applicant ineligible for examination."

SECTION 3. G.S. 93-12(7a) reads as rewritten:

"(7a) To charge for each initial certificate of qualification provided for in this Chapter a fee not exceeding ~~seventy five dollars (\$75.00); one hundred fifty dollars (\$150.00)~~."

SECTION 4. G.S. 93-12(8) reads as rewritten:

"(8) To require the renewal of all certificates of qualification annually on the first day of July, and to charge an annual renewal fee not to exceed ~~fifty dollars (\$50.00); one hundred dollars (\$100.00)~~."

SECTION 5. G.S. 93-12(8c)f. reads as rewritten:

"f. For purposes of this section, a firm means an entity, ~~individual~~sole proprietorship, partnership, registered limited liability partnership, professional limited liability company, or professional association~~corporation~~ through which one or more certificate holder ~~engages~~holders engage in the public practice of accountancy through an ~~office or offices~~office."

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:24 p.m. on the 28th day of July, 2001.

H.B. 1193**SESSION LAW 2001-314**

AN ACT TO ALLOW VOTERS TO REPORT CHANGES OF ADDRESS BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.15(a) reads as rewritten:

"(a) Registrant's Duty to Report. – No registered voter shall be required to re-register upon moving from one precinct to another within the same county. Instead, a registrant shall notify the county board of the change of address by the close of registration for an election as set out in G.S. 163-82.6(c). In addition to any other method allowed by G.S. 163-82.6, the form may be submitted by electronic facsimile, under the same deadlines as if it had been submitted in person. The registrant shall make the notification by means of a voter registration form as described in G.S. 163-82.3, or by another written notice, signed by the registrant, that includes the registrant's full name, former residence address, new residence address, and date of moving from the old to the new address."

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:25 p.m. on the 28th day of July, 2001.

H.B. 1186

SESSION LAW 2001-315

AN ACT TO ALLOW CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REGISTER TO VOTE BY FAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.6 reads as rewritten:

"§ 163-82.6. *Acceptance of application forms.*

(a) How the Form May Be Submitted. – The county board of elections shall accept any form described in G.S. 163-82.3 if the applicant submits the form by ~~mail~~ mail, facsimile transmission, or in person. The applicant may delegate the submission of the form to another person. Any person who communicates to an applicant acceptance of that delegation shall deliver that form so that it is received by the appropriate county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be a Class 2 misdemeanor for any person to communicate to the applicant acceptance of that delegation and then fail to make a good faith effort to deliver the form so that it is received by the county board of elections in time to satisfy the registration deadline in subdivision (1) or (2) of subsection (c) of this section for the next election. It shall be an affirmative defense to a charge of failing to make a good faith effort to deliver a delegated form by the registration deadline that the delegatee informed the applicant that the form would not likely be

delivered in time for the applicant to vote in the next election. It shall be a Class 2 misdemeanor for any person to sell or attempt to sell a completed voter registration form or to condition its delivery upon payment.

(b) Signature. – The form shall be valid only if signed by the applicant.

(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

- (1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,
- (2) If submitted in ~~person,~~ person or by facsimile transmission, must be received by the county board of elections by 5:00 p.m. on the twenty-fifth day before the election,
- (3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section.

(c1) If the application is submitted by facsimile transmission, a permanent copy of the completed, signed form shall be delivered to the county board no later than 20 days before the election.

(d) Instances When Person May Register and Vote on Election Day. – If a person has become qualified to register and vote between the twenty-fifth day before an election and election-day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

- (1) A member of the county board of elections;
- (2) The county director of elections; or
- (3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person

shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election-day applications to register. No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.

(e) For purposes of subsection (d) of this section, persons who "become qualified to register and vote" during a time period:

- (1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but
- (2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period."

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:25 p.m. on the 28th day of July, 2001.

H.B. 1126

SESSION LAW 2001-316

AN ACT TO CLARIFY THE DEFINITION OF RESIDENCY FOR PERSONS ENGAGING IN THE SERVICE OF STATE GOVERNMENT, AND TO MAKE OTHER TECHNICAL CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-57 reads as rewritten:
"§ 163-57. *Residence defined for registration and voting.*

All election officials in determining the residence of a person offering to register or vote, shall be governed by the following rules, so far as they may apply:

- (1) That place shall be considered the residence of a person in which ~~his~~that person's habitation is fixed, and to which, whenever ~~he~~that person is absent, ~~he~~ has the intention of returning.
- (2) A person shall not be considered to have lost ~~his~~that person's residence ~~who~~if that person leaves ~~his~~ home and goes into another state or county of this State, for temporary purposes only, with the intention of returning.
- (3) A person shall not be considered to have gained a residence in any county of this State, into which ~~he~~that

person comes for temporary purposes only, without the intention of making ~~such-that~~ county ~~his-a~~ permanent place of abode.

- (4) If a person removes to another state or county within this State, with the intention of making ~~such-that~~ state or county ~~his-a~~ permanent residence, ~~he-that~~ person shall be considered to have lost ~~his-residence~~ in the state or county from which ~~he-that~~ person has removed.
- (5) If a person removes to another state or county within this State, with the intention of remaining there an indefinite time and making ~~such-that~~ state or county ~~his-that~~ person's place of residence, ~~he-that~~ person shall be considered to have lost ~~his-that~~ person's place of residence in this State or the county from which ~~he-that~~ person has removed, notwithstanding ~~he-that~~ person may entertain an intention to return at some future time.
- (6) If a person goes into another state or county, or into the District of Columbia, and while there exercises the right of a citizen by voting in an election, ~~he-that~~ person shall be considered to have lost ~~his-residence~~ in this State or county.
- (7) School teachers who remove to a county for the purpose of teaching in the schools of that county temporarily and with the intention or expectation of returning during vacation periods to live in the county in which their parents or other relatives reside, and who do not have the intention of becoming residents of the county to which they have moved to teach, for purposes of registration and voting shall be considered residents of the county in which their parents or other relatives reside.
- (8) If a person removes to the District of Columbia or other federal territory to engage in the government service, ~~he~~ that person shall not be considered to have lost ~~his~~ residence in this State during the period of such service unless ~~he-that~~ person votes ~~there, in the place to which the person removed,~~ and the place at which ~~he-that~~ person resided at the time of ~~his-that~~ person's removal shall be considered and held to be ~~his-the~~ place of residence.
- (9) If a person removes to a county to engage in the service of the State government, ~~he-that~~ person shall not be considered to have lost ~~his-residence~~ in the county from which ~~he-that~~ person removed, unless ~~he demonstrates a contrary intention-that~~ person votes in the place to which ~~the person removed,~~ and the place at which ~~that~~ person

resided at the time of that person's removal shall be considered and held to be the place of residence.

(9a) The establishment of a secondary residence by an elected official outside the district of the elected official shall not constitute prima facie evidence of a change of residence.

(10) For the purpose of voting a spouse shall be eligible to establish a separate domicile.

(11) So long as a student intends to make ~~his~~the student's home in the community where ~~he~~the student is physically present for the purpose of attending school while ~~he~~the student is attending school and has no intent to return to ~~his~~the student's former home after graduation, ~~he~~the student may claim the college community as ~~his~~the student's domicile. ~~He~~The student need not also intend to stay in the college community beyond graduation in order to establish ~~his~~domicile there. This subdivision is intended to codify the case law."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:25 p.m. on the 28th day of July, 2001.

H.B. 57 SESSION LAW 2001-317

AN ACT TO PROVIDE REASONABLE AND PRACTICAL REQUIREMENTS FOR THE LABELING OF CAMPAIGN ADS; AND TO CLARIFY MEDIA LIABILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.39(b) reads as rewritten:

"(b) Size Requirements. – In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. In an advertisement in a newspaper or a newspaper insert, the total height of the disclosure statement need not constitute five percent of the printed space of the advertisement if the type of the disclosure statement is at least 28 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual

disclosure legend shall constitute 32 scan lines in size. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least ~~three seconds~~, two seconds, provided the statement is spoken so that its contents may be easily understood."

SECTION 2. G.S. 163-278.39A(h) reads as rewritten:

"(h) No Additional Liability of Television or Radio Outlets. – Television or radio outlets shall not be liable under this ~~section-Part~~ for carriage of political advertisements that fail to include the disclosure requirements provided for in this ~~section-Part~~."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:26 p.m. on the 28th day of July, 2001.

H.B. 897**SESSION LAW 2001-318**

AN ACT TO PROVIDE FOR REPRESENTATION OF THE TRIANGLE NATIVE AMERICAN SOCIETY ON THE NORTH CAROLINA COMMISSION OF INDIAN AFFAIRS, THE NORTH CAROLINA INDIAN HOUSING AUTHORITY, AND THE BOARD OF THE NORTH CAROLINA INDIAN CULTURAL CENTER, INCORPORATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-407 reads as rewritten:

"§ 143B-407. *North Carolina State Commission of Indian Affairs – membership; term of office; chairman; compensation.*

(a) The State Commission of Indian Affairs shall consist of two persons appointed by the General Assembly, the Secretary of Health and Human Services, the Director of the State Employment Security Commission, the Secretary of Administration, the Secretary of Environment and Natural Resources, the Commissioner of Labor or their designees and ~~19-20~~ representatives of the Indian community. These Indian members shall be selected by tribal or community consent from the Indian groups that are recognized by the State of North Carolina and are principally geographically located as follows: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa Saponi of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke and Scotland Counties; the Meherrin of Hertford County; the Waccamaw-Siouan from Columbus and Bladen Counties; the Indians of Person County; and the Native Americans located in Cumberland, ~~Guilford and Mecklenburg~~ Guilford, Johnston, Mecklenburg, Orange, and Wake Counties. The Coharie shall have two members; the Eastern Band of Cherokees,

two; the Haliwa Saponi, two; the Lumbees, three; the Meherrin, one; the Waccamaw-Siouan, two; the Indians of Person County, one; the Cumberland County Association for Indian People, two; the Guilford Native Americans, two; the Metrolina Native Americans, ~~two~~ two; the Triangle Native American Society, one. Of the two appointments made by the General Assembly, one shall be made upon the recommendation of the Speaker, and one shall be made upon recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121 and vacancies shall be filled in accordance with G.S. 120-122.

(b) Members serving by virtue of their office within State government shall serve so long as they hold that office. Members representing Indian tribes and groups shall be elected by the tribe or group concerned and shall serve for three-year terms except that at the first election of Commission members by tribes and groups one member from each tribe or group shall be elected to a one-year term, one member from each tribe or group to a two-year term, and one member from the Lumbees to a three-year term. The initial appointment from the Indians of Person County shall expire on June 30, 1999. The initial appointment from the Triangle Native American Society shall expire June 30, 2003. Thereafter, all Commission members will be elected to three-year terms. All members shall hold their offices until their successors are appointed and qualified. Vacancies occurring on the Commission shall be filled by the tribal council or governing body concerned. Any member appointed to fill a vacancy shall be appointed for the remainder of the term of the member causing the vacancy. The Governor shall appoint a chairman of the Commission from among the Indian members of the Commission, subject to ratification by the full Commission. The initial appointments by the General Assembly shall expire on June 30, 1983. Thereafter, successors shall serve for terms of two years.

(c) Commission members who are seated by virtue of their office within the State government shall be compensated at the rate specified in G.S. 138-6. Commission members who are members of the General Assembly shall be compensated at the rate specified in G.S. 120-3.1. Indian members of the commission shall be compensated at the rate specified in G.S. 138-5."

SECTION 2. G.S. 157-68 reads as rewritten:

"§ 157-68. *Commissioners of Authority.*

The Authority shall consist of not less than five nor more than ~~15~~ 16 commissioners (the number to be set by the North Carolina State Commission of Indian Affairs) who shall be appointed by the Governor, after receiving nominations from the North Carolina State Commission of Indian Affairs. For each vacancy, the Governor must

appoint one person from a list of two eligible persons so nominated. Commissioners shall be selected from the major groups of North Carolina Indians that elect members to the North Carolina State Commission of Indian Affairs under G.S. 143B-407. No person shall be barred from serving as a commissioner because he is a tenant or home buyer in an Indian housing project."

SECTION 3. Subsection (b) of Section 2 of Chapter 41 of the 1997 Session Laws, as amended by S.L. 1998-19, reads as rewritten:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of ~~46~~ 17 members, appointed as follows:

- (1) One member representing each of the following Indian groups recognized by the State of North Carolina: the Coharie of Sampson and Harnett Counties; the Eastern Band of Cherokees; the Haliwa of Halifax, Warren, and adjoining counties; the Lumbees of Robeson, Hoke, and Scotland Counties; the Meherrin of Hertford County; the Indians of Person County; and the Waccamaw-Siouan from Columbus and Bladen Counties;
- (2) One member each from the following Indian organizations: the Cumberland County Association for Indian People, the Guilford Native Americans, ~~and the~~ Metrolina Native Americans;—Americans, and the Triangle Native American Society;
- (3) One member representing the education community of the State;
- (4) Two members representing the business community of the State;
- (5) Two members representing the government of the State of North Carolina; and
- (6) One member representing the federal government.

Each member designated in subdivisions (1) and (2) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the group or organization to be represented by that member. Each member designated in subdivisions (3) through (6) above shall be appointed by the North Carolina Commission of Indian Affairs from two prioritized nominations submitted by the Board of the North Carolina Indian Cultural Center, Inc. If the nominating group or organization submits only one nomination or fails to submit nominations for any reason within 30 days after the date designated for submission by the Commission, the Commission shall appoint a member of its choice to fill the requirement. The Board of the North Carolina Indian Cultural Center, Inc., shall appoint a chair from the Board membership.

Members shall serve two-year terms, except that the initial terms of:

- (1) The members representing the Coharie of Sampson and Harnett Counties, the Eastern Band of Cherokees, the Indians of Person County; and the Meherrin of Hertford County; the member representing the Metrolina Native Americans; the member representing the education community of the State; one member representing the government of the State of North Carolina; and one member representing the business community shall be for one year; and
- (2) The members representing the Haliwa of Halifax, Warren, and adjoining counties, the Lumbees of Robeson, Hoke, and Scotland Counties, and the Waccamaw-Siouan from Columbus and Bladen Counties; the members representing the Cumberland County Association for Indian People and the Guilford Native Americans; one member representing the business community of the State; one member representing the government of the State of North Carolina; and one member representing the federal government shall be for two years."

SECTION 4. In order to provide for appropriate staggering of terms, the term of the member added to the Board of the North Carolina Indian Cultural Center, Inc., pursuant to Section 3 of this act, to represent the Triangle Native American Society shall run concurrently with the terms of the members whose initial terms were for two years.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:26 p.m. on the 28th day of July, 2001.

H.B. 831

SESSION LAW 2001-319

AN ACT TO PROVIDE A GREATER ROLE FOR THE STATE BOARD OF ELECTIONS IN PERSONNEL DECISIONS CONCERNING COUNTY ELECTION DIRECTORS; TO ENHANCE THE CERTIFICATION PROGRAM FOR ELECTION OFFICIALS; TO REMOVE LIMITATIONS ON TWO PROVISIONS CONCERNING PRECINCTS; TO CHANGE THE LENGTH OF THE ONE-STOP VOTING PERIOD; TO ALLOW COUNTY BOARDS OF ELECTIONS TO USE OTHER ONE-STOP SITES INSTEAD OF THE

COUNTY BOARD OFFICE AS LONG AS A NEARBY SITE IS PROVIDED; TO ALLOW LATER ACCEPTANCE OF VOTER REGISTRATION APPLICATIONS; TO PROVIDE FOR ELECTRONIC TRANSFER OF VOTER REGISTRATION APPLICATIONS FROM THE DIVISION OF MOTOR VEHICLES; TO UPDATE THE STATUTES CONCERNING VOTER REGISTRATION LIST MAINTENANCE; TO REQUIRE PERMANENT VOTER REGISTRATION NUMBERS; TO APPLY THE WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS; TO CORRECT A REFERENCE IN THE CAMPAIGN FINANCE LAW; TO REQUIRE THAT ALL NEW PRECINCT LINES FOLLOW CENSUS BLOCK LINES UNLESS THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF ELECTIONS GRANTS A WAIVER AFTER MAKING CERTAIN FINDINGS; AND TO RENAME THE EXECUTIVE SECRETARY-DIRECTOR OF THE STATE BOARD OF ELECTIONS THE "EXECUTIVE DIRECTOR".

The General Assembly of North Carolina enacts:

--CHANGES CONCERNING COUNTY ELECTION DIRECTORS.

SECTION 1.(a) G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Secretary-Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Secretary-Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Secretary-Director shall forward a copy of ~~same~~ the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to ~~said~~ the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the

expiration of the time period allowed for the filing of ~~said~~the reply, the State Executive Secretary-Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Secretary-Director of the State Board of Elections shall be final unless ~~such~~the decision shall, ~~is~~, within 20 days from the official date on which it was made, ~~be~~ deferred by the State Board of ~~Elections~~, Elections, ~~in which event a public hearing shall be conducted by State Board or any single member designated by the remaining four members, in the county seat of the county involved. Following the conduct of public hearing and a decision by the State Board of Elections, the chairman of said Board shall notify the Executive Secretary Director of the State Board of Elections, in writing, of the decision resulting from the public hearing. If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Director of its decision in writing. If the decision, rendered by the State Board of Elections, results in concurrence with the decision entered by the Executive Secretary-Director, the decision becomes final. If the decision rendered by the Board is contrary to that entered by the Executive Secretary-Director, then the Executive Secretary-Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of Elections. The employment of any director of elections presently employed or hereafter employed shall not be terminated except in compliance with the procedures herein prescribed. For the purposes of this subsection the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~

Upon majority vote on the recommendation of the Executive Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses, and provide information to the State Board. The State Board of Elections shall notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to

service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. For the purposes of this subsection, the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23."

SECTION 1.(b) G.S. 163-35 is amended by adding a new subsection to read:

"(e) Training and Certification. – The State Board of Elections shall conduct a training program consisting of four weeks for each new county director of elections. The director shall complete that program. Each director appointed after May 1995 shall successfully complete a certification program as provided in G.S. 163-82.24(b) within three years after appointment or by January 1, 2003, whichever occurs later."

SECTION 1.(c) This section becomes effective January 1, 2002.

--CERTIFICATION OF ELECTION OFFICIALS.

SECTION 2.(a) G.S. 163-82.24 reads as rewritten:

"§ 163-82.24. *Statewide training and certification for election officials.*

(a) Training. – The State Board of Elections shall conduct training programs in election law and procedures. Every county elections director shall receive training conducted by the State Board at least as often as required in the following schedule:

- (1) Once during each odd-numbered year before the municipal election held in the county;
- (2) Once during each even-numbered year before the first partisan primary; and
- (3) Once during each even-numbered year after the partisan primaries but before the general election.

Every member of a county board of elections shall receive training conducted by the State Board at least once during the six months after the member's initial appointment and at least once again during the

first two years of the member's service. The State Board of Elections shall promulgate rules for the training of precinct officials, which shall be followed by the county boards of elections.

(b) Certification. – The State Board of Elections shall conduct a program for certification of election officials. The program shall include training in election law and procedures. Before issuing certification to an election official, the State Board shall administer an examination designed to determine the proficiency of the official in election law and procedures. The State Board shall set adequate standards for the passage of the examination."

SECTION 2.(b) This section is effective when this act becomes law.

--REMOVE SUNSET FROM OUT-OF-PRECINCT VOTING PLACE PROVISION.

SECTION 3.(a) Section 3(b) of S.L. 1999-426 reads as rewritten:

"Section 3.(b) This section is effective when this act becomes law and expires January 1, 2002, law."

SECTION 3.(b) This section is effective when this act becomes law.

--REMOVE SUNSET AND 3-COUNTY PILOT LIMITATION FROM 2-VOTING-PLACE-PER-PRECINCT PROVISION.

SECTION 4.(a) G.S. 163-130.2 reads as rewritten:

"§ 163-130.2. *Temporary use of two voting places for certain precincts; pilot program.* ~~precincts.~~"

A county board of elections, by unanimous vote of all its members, may propose to designate two voting places to be used temporarily for the same precinct. The temporary designation of a voting place shall continue only for the term of office of the county board of elections making the designation. For any precinct that is temporarily given two voting places, the county board shall assign every voter to one or the other of those voting places.

The county board's proposal is subject to approval by the Executive Secretary-Director of the State Board of Elections. The county board shall submit its proposal in writing to the Executive Secretary-Director. ~~The Executive Secretary-Director may approve a proposal under this section in not more than three counties, to be a pilot program.~~ The Executive Secretary-Director shall approve that proposal only if it finds all of the following:

- (1) That the precinct has more registered voters than can adequately be accommodated by any single potential voting place available for the precinct.
- (2) That no boundary line that complies with Article 12A of this Chapter can be identified that adequately divides the precinct.

- (3) That the county board can account for, by street address number, the location of every registered voter in the precinct and fix that voter's residence with certainty on a map.
- (4) That no more than three other precincts in the same county will have two voting places.
- (5) That both voting places for the precinct would have adequate facilities for the elderly and disabled.
- (6) That the proposal provides adequately for security against fraud.
- (7) That the proposal does not unfairly favor or disfavor voters with regard to race or party affiliation.

The county board shall designate a full set of precinct officials, in the manner set forth in Article 5 of this Chapter, for each voting place designated for the precinct."

SECTION 4.(b) Section 4(b) of S.L. 1999-426 reads as rewritten:

"Section 4.(b) This section becomes effective January 2, 2000, and expires January 2, 2002. 2000. The Executive Secretary-Director of the State Board of Elections shall study the operation and consequences of the pilot program created by this section and report findings and recommendations to the 2001 General Assembly by February 1, 2001."

SECTION 4.(c) This section is effective when this act becomes law.

--CHANGES CONCERNING ONE-STOP VOTING.

SECTION 5.(a) G.S. 163-227.2(b) reads as rewritten:

"(b) Not earlier than the ~~first business day after the twenty fifth day~~ third Thursday before an election, in which absentee ballots are authorized, in which a voter seeks to vote and not later than ~~5:00~~ 1:00 p.m.P.M. on the ~~Friday prior to~~ last Saturday before that election, the voter shall appear in person only at the office of the county board of elections, except as provided in subsection ~~(f1)~~ (g) of this section. A county board of elections shall conduct one-stop voting on the last Saturday before the election until 1:00 P.M. and may conduct it until 5:00 P.M. on that Saturday. That voter shall enter the voting enclosure at the board office through the appropriate entrance and shall at once state his or her name and place of residence to an authorized member or employee of the board.

In a primary election, the voter shall also state the political party with which the voter affiliates and in whose primary the voter desires to vote, or if the voter is an unaffiliated voter permitted to vote in the primary of a particular party under G.S. 163-119, the voter shall state the name of the authorizing political party in whose primary he wishes to vote. The board member or employee to whom the voter

gives this information shall announce the name and residence of the voter in a distinct tone of voice. After examining the registration records, an employee of the board shall state whether the person seeking to vote is duly registered. If the voter is found to be registered that voter may request that the authorized member or employee of the board furnish the voter with an application form as specified in G.S. 163-227. The voter shall complete the application in the presence of the authorized member or employee of the board, and shall deliver the application to that person."

SECTION 5.(b) G.S. 163-227.2(f) reads as rewritten:

"(f) Notwithstanding the exception specified in G.S. 163-36, counties which operate a modified full-time office shall remain open five days each week during regular business hours consistent with daily hours presently observed by the county board of elections, commencing with the date prescribed in G.S. 163-227.2(b) and continuing until 5:00 ~~p.m.~~ P.M. on the Friday prior to that election ~~or primary.~~ and shall also be open on the last Saturday before the election. A county board may conduct one-stop absentee voting during evenings or on weekends, as long as the hours are part of a plan submitted and approved according to subsection (g) of this section. The boards of county commissioners shall provide necessary funds for the additional operation of the office during that time."

SECTION 5.(c) G.S. 163-227.2(g) reads as rewritten:

"(g) Notwithstanding any other provision of this section, a county board of elections by unanimous vote of all its members may provide for one or more sites in that county for absentee ballots to be applied for and cast under this section. Any site other than the county board of elections office shall be in any building or part of a building that the county board of elections is entitled under G.S. 163-129 to demand and use as a voting place. Every individual staffing any of those sites shall be a member or full-time employee of the county board of elections or an employee of the county board of elections whom the board has given training equivalent to that given a full-time employee. Those sites must be approved by the State Board of Elections as part of a Plan for Implementation approved by both the county board of elections and by the State Board of Elections which shall also provide adequate security of the ballots and provisions to avoid allowing persons to vote who have already voted. The Plan for Implementation shall include a provision for the presence of political party observers at each one-stop site equivalent to the provisions in G.S. 163-45 for party observers at voting places on election day. A county board of elections may propose in its Plan not to offer one-stop voting at the county board of elections office; the State Board may approve that proposal in a Plan only if the Plan includes at least one site reasonably proximate to the county board of elections office

and the State Board finds that the sites in the Plan as a whole provide adequate coverage of the county's electorate. If a county board of elections has considered a proposed Plan or Plans for Implementation and has been unable to reach unanimity in favor of a Plan, a member or members of that county board of elections may petition the State Board of Elections to adopt a plan for it. If petitioned, the State Board may also receive and consider alternative petitions from another member or members of that county board. The State Board of Elections may adopt a Plan for that county. The State Board, in that plan, shall take into consideration factors including geographic, demographic, and partisan interests of that county."

SECTION 5.(d) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--LATER REGISTRATION DEADLINE ON FINAL DAY.

SECTION 6.(a) G.S. 163-82.6(c) reads as rewritten:

"(c) Registration Deadlines for an Election. – In order to be valid for an election, the form:

- (1) If submitted by mail, must be postmarked at least 25 days before the election, except that any mailed application on which the postmark is missing or unclear is validly submitted if received in the mail not later than 20 days before the election,
- (2) If submitted in person, must be received by the county board of elections by ~~5:00 p.m.~~ a time established by that board, but no earlier than 5:00 P.M., on the twenty-fifth day before the election,
- (3) If submitted through a delegatee who violates the duty set forth in subsection (a) of this section, must be signed by the applicant and given to the delegatee not later than 25 days before the election, except as provided in subsection (d) of this section."

SECTION 6.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--ELECTRONIC TRANSFER OF DMV REGISTRATIONS.

SECTION 7.(a) G.S. 163-82.19 reads as rewritten:

"§ 163-82.19. *Voter registration at drivers license offices.*

The Division of Motor Vehicles shall, pursuant to the rules adopted by the State Board of Elections, modify its forms so that any eligible person who applies for original issuance, renewal or correction of a drivers license, or special identification card issued under G.S. 20-37.7 may, on a part of the form, complete an application to register to vote or to update his registration if the voter has changed his address or moved from one precinct to another or from one county to another. The person taking the application shall ask if the applicant is a citizen of the United States. If the applicant

states that the applicant is not a citizen of the United States, or declines to answer the question, the person taking the application shall inform the applicant that it is a felony for a person who is not a citizen of the United States to apply to register to vote. Any person who willfully and knowingly and with fraudulent intent gives false information on the application is guilty of a Class I felony. The application shall state in clear language the penalty for violation of this section. The necessary forms shall be prescribed by the State Board of Elections. The form must ask for the previous voter registration address of the voter, if any. If a previous address is listed, and it is not in the county of residence of the applicant, the appropriate county board of elections shall treat the application as an authorization to cancel the previous registration and also process it as such under the procedures of G.S. 163-82.9. If a previous address is listed and that address is in the county where the voter applies to register, the application shall be processed as if it had been submitted under G.S. 163-82.9.

Registration shall become effective as provided in G.S. 163-82.7. Applications to register to vote accepted at a drivers license office under this section until the deadline established in G.S. 163-82.6(c)(2) shall be treated as timely made for an election, and no person who completes an application at that drivers license office shall be denied the vote in that election for failure to apply earlier than that deadline.

All applications shall be forwarded by the Department of Transportation to the appropriate board of elections not later than five business days after the date of acceptance, according to rules which shall be promulgated by the State Board of Elections. Those rules shall provide for a paperless, instant, electronic transfer of applications to the appropriate county board of elections."

SECTION 7.(b) This section becomes effective with respect to primaries and elections held on or after January 1, 2002.

--UPDATING OF VOTER REGISTRATION LIST MAINTENANCE PROVISION TO REFLECT CURRENT FEDERALLY APPROVED PRACTICE.

SECTION 8.(a) G.S. 163-82.14(d) reads as rewritten:

"(d) Change of Address. – A county board of elections shall conduct a systematic program to remove from its list of registered voters those who have moved out of the county, and to update the registration records of persons who have moved within the county. The county board shall remove a person from its list if the registrant:

- (1) Gives confirmation in writing of a change of address for voting purposes out of the county. "Confirmation in writing" for purposes of this subdivision shall include:
 - a. A report to the county board from the Department of Transportation or from a voter registration

agency listed in G.S. 163-82.20 that the voter has reported a change of address for voting purposes outside the county;

- b. A notice of cancellation received under G.S. 163-82.9; or
 - c. A notice of cancellation received from an election jurisdiction outside the State.
- (2) Fails to respond to a confirmation mailing sent by the county board in accordance with this subdivision and does not vote or appear to vote in an election beginning on the date of the notice and ending on the day after the date of the second general election for the United States House of Representatives that occurs after the date of the notice. A county board sends a confirmation notice in accordance with this subdivision if the notice:
- a. Is a postage prepaid and preaddressed return card, sent by forwardable mail, on which the registrant may state current address;
 - b. Contains or is accompanied by a notice to the effect that if the registrant did not change residence but remained in the county, the registrant should return the card not later than the deadline for registration by mail in G.S. 163-82.6(c)(1); and
 - c. Contains or is accompanied by information as to how the registrant may continue to be eligible to vote if the registrant has moved outside the county.

A county board shall send a confirmation mailing in accordance with this subdivision ~~if the~~ to every ~~registrant remains on the list, the registrant has not voted in two successive presidential elections or in any election in between, and~~ after every congressional election if the county board has not confirmed the registrant's address by another means. ~~The county board may send a confirmation mailing in accordance with this subdivision if the registrant has been identified as residing outside the county through change of address information supplied by the Postal Service through its licenses."~~

SECTION 8.(b) This section is effective when this act becomes law.

--PERMANENT VOTER REGISTRATION NUMBERS.

SECTION 8.1.(a) Article 7A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-82.10A. Permanent voter registration numbers.

Each county board of elections shall assign to each voter a registration number. That number shall be permanent for that voter and shall not be changed or reassigned by the county board of elections."

SECTION 8.1.(b) This section becomes effective January 1, 2002.

--APPLYING WRITE-IN STATUTE TO SUPERIOR COURT JUDGE ELECTIONS.

SECTION 9.(a) G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not apply to nonpartisan ~~elections~~elections except for superior court judge elections under Article 25 of this Chapter."

SECTION 9.(b) This section is effective when this act becomes law.

--CORRECTING REFERENCE TO FUND FOR RETURNING ILLEGAL CONTRIBUTIONS.

SECTION 10.(a) G.S. 163-278.14(a) reads as rewritten:

"(a) No individual, political committee, or other entity shall make any contribution anonymously, except as provided in G.S. 163-278.8(d), or in the name of another. No candidate, political committee, referendum committee, political party, or treasurer shall knowingly accept any contribution made by any individual or person in the name of another individual or person or made anonymously except as provided in G.S. 163-278.8(d). If a candidate, political committee, referendum committee, political party, or treasurer receives anonymous contributions or contributions determined to have been made in the name of another, he shall pay the money over to the Board, by check, and all such moneys received by the Board shall be deposited in the ~~general fund~~Civil Penalty and Forfeiture Fund of the State of North Carolina."

SECTION 10.(b) This section is effective when this act becomes law.

--PRECINCTS TO FOLLOW CENSUS BLOCK BOUNDARIES.

SECTION 10.1. G.S. 163-132.3(a) reads as rewritten:

"§ 163-132.3. *Alterations to approved precinct boundaries.*

(a) No county board of elections may change any precinct boundary unless the proposed new precinct consists solely of contiguous territory and its new boundaries are coterminous with those of:

- (1) ~~Townships, as certified by the county manager, or the chairman of the board of county commissioners if there is not a county manager, on the official map of the county;~~

- (2) ~~The of census blocks established under the latest U.S. Census or the boundaries contained on the latest preliminary U.S. Census maps, issued under P.L. 94-171, whichever occurs later;~~
- (3) ~~The following visible physical features, readily distinguishable upon the ground:~~
- a. ~~Roads or streets;~~
 - b. ~~Water features or drainage features;~~
 - c. ~~Ridgelines;~~
 - d., e. ~~Repealed by Session Laws 1999-227, s. 1.~~
 - f. ~~Rail features;~~
 - g. ~~Major above ground power lines; or~~
 - h. ~~Major footpaths~~
- ~~as certified by the North Carolina Department of Transportation on its highway maps or the county manager of the relevant county or, if there is no county manager, the chair of the county board of commissioners, on official county maps.~~
- (4) ~~Municipalities, as certified by the city clerk on the official map of the city; or~~
- (5) ~~A combination of these boundaries. Census.~~

The county boards of elections shall report precinct boundary changes by filing with the Legislative Services Office on current official census maps or maps certified by the North Carolina Department of Transportation or the county's planning department or on other maps or electronic databases approved by the Executive Secretary-Director the new boundaries of these precincts. The Executive Secretary-Director may require a county board of elections to file a written description of the boundaries of any precinct or part thereof. No newly created or altered precinct boundary is effective until approved by the Executive Secretary-Director of the State Board as being in compliance with this subsection. No precinct may be changed under this section between the date its boundaries become effective under G.S. 163-132.1(c) and January 2, 2002. Any changes to precincts during that period shall be made as provided in G.S. 163-132.1(d).

(b) The Executive Secretary-Director of the State Board of Elections and the Legislative Services Office shall examine the maps of the proposed new or altered precincts and any required written descriptions. After its examination of the maps and their written descriptions, the Legislative Services Office shall submit to the Executive Secretary-Director of the State Board of Elections its opinion as to whether all of the proposed precinct boundaries are in compliance with subsection (a) of this section, with notations as to where those boundaries do not comply with these standards. If the

Executive Secretary-Director of the State Board determines that all precinct boundaries are in compliance with this section, the Executive Secretary-Director of the State Board shall approve the maps and written descriptions as filed and these precincts shall be the official precincts.

(c) If the Executive Secretary-Director of the State Board determines that the proposed precinct boundaries are not in compliance with subsection (a) of this section, ~~he~~ the Executive Director shall not approve those precinct boundaries. ~~He~~ The Executive Director shall notify the county board of elections of his disapproval specifying the reasons. The county board of elections may then resubmit new precinct maps and written descriptions to cure the reasons for their disapproval.

(d) Upon a determination that restricting the county board to using Census block boundaries would force the county board to draw a precinct without an adequate voting place or otherwise to draw a precinct in such a way that the administration of elections would be seriously hindered, the Executive Director may permit a county board of elections to designate a precinct boundary on a line that is not a Census block boundary of the most recent federal decennial Census if both the following conditions exist:

- (1) The feature desired by the county board to be the precinct boundary meets at least one of the following:
 - a. Is likely to be designated by the Census Bureau as a block boundary in the next federal decennial Census.
 - b. Is a visible physical feature, readily distinguishable upon the ground, as certified by the North Carolina Department of Transportation on its highway maps or by the county manager of the relevant county or if there is no county manager the chair of the county board of commissioners on official county maps, of the following nature:
 1. Roads or streets.
 2. Water features or drainage features.
 3. Ridgelines.
 4. Rail features.
 5. Major aboveground power lines.
 6. Major footpaths.
 - c. Is a municipalities boundary, as certified by the city clerk on the official map of the city.
 - d. Is a township boundary, as certified by the county manager, or the chair of the county board of commissioners if there is no county manager, on the official map of the county.

- (2) All the following are true:
- a. The precincts of which the line is a boundary which could be combined into a unit whose outer boundaries would be Census blocks, similar to the Combined Reporting Unit permitted by G.S. 163-132.1(c)(6).
 - b. That combined unit would be reasonable in size.
 - c. That combined unit, together with all other such combined units, would not undermine the coverage of the State's precincts in the next Census."

--NAME CHANGE TO EXECUTIVE DIRECTOR.

SECTION 11. The Revisor of Statutes shall change the term "Executive Secretary-Director" and the term "State Executive Secretary-Director" to "Executive Director" wherever it appears in the General Statutes in reference to the State Board of Elections Executive Secretary-Director.

SECTION 12. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 13. Except as otherwise provided in each section, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:26 p.m. on the 28th day of July, 2001.

H.B. 668

SESSION LAW 2001-320

AN ACT TO ESTABLISH MEDIATED SETTLEMENT PROCEDURES IN DISTRICT COURT ACTIONS INVOLVING FAMILY FINANCIAL ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-38.4 is repealed.

SECTION 2. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-38.4A. Settlement procedures in district court actions.

(a) The General Assembly finds that a system of settlement events should be established to facilitate the settlement of district court actions involving equitable distribution, alimony, or support and to make that litigation more economical, efficient, and satisfactory to the parties, their representatives, and the State. District courts should be able to require parties to those actions and their representatives to attend a pretrial mediated settlement conference or other settlement

procedure conducted under this section and rules adopted by the Supreme Court to implement this section.

(b) The definitions in G.S. 7A-38.1(b)(2) and (b)(3) apply in this section.

(c) Any chief district court judge in a judicial district may order a mediated settlement conference or another settlement procedure, as provided under subsection (g) of this section, for any action pending in that district involving issues of equitable distribution, alimony, child or post separation support, or claims arising out of contracts between the parties under G.S. 52-10, G.S. 52-10.1, or Chapter 52B of the General Statutes. The chief district court judge may adopt local rules that order settlement procedures in all of the foregoing actions and designate other district court judges or administrative personnel to issue orders implementing those settlement procedures. However, local rules adopted by a chief district court judge shall not be inconsistent with any rules adopted by the Supreme Court.

(d) The parties to a district court action where a mediated settlement conference or other settlement procedure is ordered, their attorneys, and other persons or entities with authority, by law or contract, to settle a party's claim, shall attend the mediated settlement conference or other settlement procedure, unless the rules ordering the settlement procedure provide otherwise. No party or other participant in a mediated settlement conference or other settlement procedure is required to make a settlement offer or demand that the party or participant deems contrary to that party's or participant's best interests. Parties who have been victims of domestic violence may be excused from physically attending or participating in a mediated settlement conference or other settlement procedure.

(e) Any person required to attend a mediated settlement conference or other settlement procedure under this section who, without good cause fails to attend, is subject to any appropriate monetary sanction imposed by a district court judge, including the payment of attorneys' fees, mediator fees, and expenses incurred in attending the settlement procedure. If the court imposes sanctions, it shall do so, after notice and hearing, in a written order, making findings of fact and conclusions of law. An order imposing sanctions shall be reviewable upon appeal, and the entire record shall be reviewed to determine whether the order is supported by substantial evidence.

(f) The parties to a district court action in which a mediated settlement conference is to be held under this section shall have the right to designate a mediator. Upon failure of the parties to designate within the time established by the rules adopted by the Supreme Court, a mediator shall be appointed by a district court judge.

(g) A chief district court judge or that judge's designee, at the request of a party and with the consent of all parties, may order the parties to attend and participate in any other settlement procedure authorized by rules adopted by the Supreme Court or adopted by local district court rules, in lieu of attending a mediated settlement conference. Neutrals acting under this section shall be selected and compensated in accordance with rules adopted by the Supreme Court. Nothing herein shall prohibit the parties from participating in other dispute resolution procedures, including arbitration, to the extent authorized under State or federal law. Nothing herein shall prohibit the parties from participating in mediation at a community mediation center operating under G.S. 7A-38.5.

(h) Mediators and other neutrals acting under this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except that mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court under G.S. 7A-38.2.

(i) Costs of mediated settlement conferences and other settlement procedures shall be borne by the parties. Unless otherwise ordered by the court or agreed to by the parties, the mediator's fees shall be paid in equal shares by the parties. The rules adopted by the Supreme Court shall set out a method whereby a party found by the court to be unable to pay the costs of settlement procedures is afforded an opportunity to participate without cost to that party and without expenditure of State funds.

(j) Evidence of statements made and conduct occurring in a settlement proceeding conducted under this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim, except in proceedings for sanctions or proceedings to enforce a settlement of the action. No settlement proceeding conducted under this section shall be enforceable unless it has been reduced to writing and signed by the parties and in all other respects complies with the requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a settlement proceeding.

No mediator, or other neutral conducting a settlement procedure under this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediated settlement conference or other settlement procedure in any civil proceeding for any purpose, including proceedings to enforce a settlement of the action, except to attest to the signing of any of these agreements, and except proceedings for sanctions under this section, disciplinary hearings before the State Bar or any agency established

to enforce standards of conduct for mediators, and proceedings to enforce laws concerning juvenile or elder abuse.

(k) The Supreme Court may adopt standards for the certification and conduct of mediators and other neutrals who participate in settlement procedures conducted under this section. The standards may also regulate mediator training programs. The Supreme Court may adopt procedures for the enforcement of those standards. The administration of mediator certification, regulation of mediator conduct, and decertification shall be conducted through the Dispute Resolution Commission.

(l) An administrative fee not to exceed two hundred dollars (\$200.00) may be charged by the Administrative Office of the Courts to applicants for certification and annual renewal of certification for mediators and mediator training programs operating under this section. The fees collected may be used by the Director of the Administrative Office of the Courts to establish and maintain the operations of the Commission and its staff. The administrative fee shall be set by the Director of the Administrative Office of the Courts in consultation with the Dispute Resolution Commission.

(m) The Administrative Office of the Courts, in consultation with the Dispute Resolution Commission, may require the chief district court judge of any district to report statistical data about settlement procedures conducted under this section for administrative purposes.

(n) Nothing in this section or in rules adopted by the Supreme Court implementing this section shall restrict a party's right to a trial by jury.

(o) The Supreme Court may adopt rules to implement this section."

SECTION 3. G.S. 7A-38.4A(o), as enacted by Section 2 of this act, becomes effective July 1, 2001. The remainder of this act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

Became law upon approval of the Governor at 12:27 p.m. on the 28th day of July, 2001.

H.B. 765

SESSION LAW 2001-321

AN ACT TO AUTHORIZE VANCE COUNTY TO LEVY AN ADDITIONAL THREE PERCENT ROOM OCCUPANCY TAX AND TO MAKE OTHER CHANGES TO THE VANCE COUNTY ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1067 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. ~~— The Vance County Board of Commissioners may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Authorization of additional tax. — In addition to the tax authorized by subsection (a) of this section, the Vance County Board of Commissioners may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Vance County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(c) Administration. — A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.~~

~~(c) Administration. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county tax administrator in monthly installments on or before the 15th day of the month following the month in which the tax~~

accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county tax administrator under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and use of tax revenue. — Vance County shall set aside in a special account fifty percent (50%) of shall, on a quarterly basis, remit the net proceeds of the occupancy tax and may spend these funds only to promote travel and tourism in Vance County, to sponsor tourist oriented events and activities in Vance County, and to finance tourist related capital projects in Vance County. Vance County shall remit the remaining net proceeds of the tax to its general fund; Vance County may use these funds for any lawful purpose. As used in this subsection, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, to the Vance Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Vance County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. — Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars

(\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Vance County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

Sec. 2. Vance Tourism Development Authority. (a) Appointment and membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county and at least one being a member of the consuming public. The board of commissioners shall designate one member of the Authority as chair

and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Vance County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

See. 2. Sec. 3. This act is effective upon ratification."

SECTION 2. G.S. 153A-155 reads as rewritten:

"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues.

Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, ~~and Transylvania~~ Transylvania, and Vance Counties."

SECTION 3. If House Bill 757, 2001 Session becomes law, then instead of the amendment to G.S. 153A-155(g) proposed by Section 2 of this act, G.S. 153A-155(g) is amended by adding "Vance," immediately before "and Washington".

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law on the date it was ratified.

S.B. 34

SESSION LAW 2001-322

AN ACT TO EXTEND THE EXPIRATION DATE OF THE LEGISLATION AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2001, AND EXTENDING EXPIRING PROVISIONS OF LAW; TO APPROPRIATE FUNDS FOR THE

STATE EMPLOYEE HEALTH BENEFIT PLAN; TO EXTEND ESTABLISHED PAYMENTS FOR MEDICAL TREATMENTS AND SERVICES TO WORKERS' COMPENSATION PATIENTS; TO CLARIFY STATUTORY SALARY INCREASES; AND TO AUTHORIZE PRISON CONSTRUCTION.

The General Assembly of North Carolina enacts:

PART I. EXTEND CONTINUING BUDGET AUTHORITY.

SECTION 1. Section 8 of S.L. 2001-250, as amended by S.L. 2001-287, reads as rewritten:

"SECTION 8. Except as otherwise provided, this act becomes effective July 1, 2001. This act expires ~~July 31, 2001~~, August 29, 2001."

PART II. APPROPRIATE FUNDS FOR THE STATE EMPLOYEE HEALTH BENEFIT PLAN.

SECTION 2. There is appropriated from the General Fund to the State Employee Health Benefit Plan the sum of thirty-six million dollars (\$36,000,000) for the 2001-2002 fiscal year to be used to fund the Plan's cash requirements.

PART III. EXTEND ESTABLISHED PAYMENTS FOR MEDICAL TREATMENTS AND SERVICES TO WORKERS' COMPENSATION PATIENTS.

SECTION 3. Section 2 of S.L. 2001-253 reads as rewritten:

"SECTION 2. Notwithstanding G.S. 97-26, payment for medical treatment and services rendered to workers' compensation patients by a hospital on or after July 1, 2001, and before ~~August 1, 2001~~, September 1, 2001, shall be equal to the payment the hospital would have received for such treatment and services on June 30, 2001."

PART IV. CLARIFY STATUTORY SALARY INCREASES.

SECTION 4. Section 3 of S.L. 2001-250 reads as rewritten:

"SECTION 3. The salary schedules and specific salaries established for the 2000-2001 fiscal year by or under S.L. 2000-67 for offices and positions shall remain in effect until the effective date of the Current Operations and Capital Improvements Appropriations Act of 2001.

Notwithstanding G.S. 7A-102(c), 7A-171.1, 20-187.3, and any other provision of law, Teachers teachers and all other State-funded employees shall not move up on these salary schedules or receive automatic, annual, performance, merit, or merit increases, statutory

salary increases, or any other salary increments until authorized by the General Assembly."

PART V. AUTHORIZE PRISON CONSTRUCTION.

SECTION 5. The Department of Administration and the Department of Correction may contract for the construction of three new close-custody correctional facilities. The contract price for the three prisons shall not exceed the total bid price submitted by the selected vendor on April 17, 2001. The sites for the three prisons shall be Anson, Alexander, and Scotland Counties. The final contract proposal for the three prisons shall be subject to review and approval of the Council of State.

PART VI. EFFECTIVE DATE.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 31st day of July, 2001.

S.B. 398 SESSION LAW 2001-323

AN ACT TO DELAY THE SUNSET OF THE PROVISIONS OF THE CHECK CASHER ACT AUTHORIZING POSTDATED OR DELAYED DEPOSIT CHECKS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 1997-391 reads as rewritten:

"Section 3. This act becomes effective October 1, 1997, and the provisions of G.S. 53-281 shall expire on ~~July 31, 2001.~~August 31, 2001."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2001.

Became law upon approval of the Governor at 8:15 p.m. on the 31st day of July, 2001.

S.B. 817 SESSION LAW 2001-324

AN ACT TO AMEND THE STATE BUILDING CODE REGARDING DOOR LOCK REQUIREMENTS IN CERTAIN SITUATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-143.4. Door lock exemption for certain businesses.

(a) Notwithstanding this Article or any other law to the contrary, any business entity licensed to sell automatic weapons as a federal firearms dealer that is in the business of selling firearms or ammunition and that operates a firing range which rents firearms and sells ammunition shall be exempt from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code when issued a permit to that effect by the Department of Insurance in accordance with this section.

(b) The Department of Insurance shall issue a permit to a business entity specified in subsection (a) of this section for an exemption from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code if all of the following conditions are met:

- (1) The building or facility in which business is conducted has a sales floor and customer occupancy space that is contained on one floor and is no larger than 15,000 square feet of retail sales space. Retail sales space is that area where firearms or ammunition are displayed and merchandised for sale to the public.
- (2) The building or facility in which business is conducted is equipped with an approved smoke, fire, and break-in alarm system installed and operated in accordance with rules adopted by the Department of Insurance. An approved smoke, fire, or break-in alarm system does not have to include an automatic door unlocking mechanism triggered when the smoke, fire, or break-in alarm system is triggered.
- (3) The owner or operator of the business will provide to all applicable employees within 10 days of the issuance of the permit under this section or at the time the employee is hired, whichever time is later, a written facility locking plan applicable for the close of business each day.
- (4) Each entrance to the building or facility in which business is conducted is posted with a sign conspicuously located that warns that the building is exempt from the door lock requirements of the State Building Code, and that after business hours the building or facility's doors will remain locked from the inside even in the case of fire.
- (5) Payment of a permit fee of five hundred dollars (\$500.00) to the Department of Insurance.

(c) The Department of Insurance shall file a copy of the permit issued in accordance with subsection (b) of this section with all local law enforcement and fire protection agencies that provide protection for the business entity.

(d) The Department of Insurance shall be responsible for any inspections necessary for the issuance of permits under this section and, in conjunction with local inspection departments, shall be responsible for periodic inspections to ensure compliance with the requirements of this section. The Department of Insurance may contract with local inspection departments to conduct inspections under this subsection.

(e) The Department of Insurance shall revoke a permit issued under this section upon a finding that the requirements for the original issuance of the permit are not being complied with.

(f) Appeals of decisions of the Department of Insurance regarding the issuance or revocation of permits under this section shall be in accordance with Chapter 150B of the General Statutes.

(g) For the purposes of this section, 'business entity' has the same meaning as in G.S. 59-102.

(h) In addition to the provisions of G.S. 143-138(h), the owner or operator of any business entity who is issued a permit as a door lock exempt business in accordance with subsection (b) of this section who fails to comply with the permit requirements of subsection (b) of this section shall be subject to a civil penalty of five hundred dollars (\$500.00) for the first offense, one thousand dollars (\$1,000) for the second offense, and five thousand dollars (\$5,000) for the third and subsequent offenses, except when the building or facility in which business is conducted is in compliance with the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code. Penalties authorized in this subsection shall be imposed by the city or county in which the violation occurs. Each day the building or facility in which business is conducted is not in compliance with the provisions of this subsection constitutes a separate offense.

(i) The Department of Insurance shall adopt rules to implement this section."

SECTION 2. Article 79 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-79-22. Door lock exemption permit.

Any business entity licensed to sell automatic weapons as a federal firearms dealer that is in the business of selling firearms or ammunition and that operates a firing range which rents firearms and sells ammunition that desires to be exempt from the door lock requirements of Chapter 10 of Volume 1 of the North Carolina State Building Code may apply for a permit to do so with the Department

in accordance with G.S. 143-143.4 and rules adopted by the Department. The Department shall charge a permit fee of five hundred dollars (\$500.00) for the issuance of a permit issued pursuant to G.S. 143-143.4."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law upon approval of the Governor at 8:16 p.m. on the 31st day of July, 2001.

H.B. 868 SESSION LAW 2001-325

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF NAVASSA, AND TO AMEND THE CHARTER OF THE TOWN OF NAVASSA TO CHANGE THE TERM OF OFFICE OF THE MAYOR AND ALLOW FOR DISTRICT ELECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following described property is added to the corporate limits of the Town of Navassa:

Beginning at a point where the existing Town limits intersect at Mill Creek and Joe's Slough; thence from the Beginning in a northwest direction approximately 7,000 feet ± with the run of Mill Creek to SR 1432 – Old Mill Road; thence in a northwardly direction with the run of Rowel Branch a scaled distance of 7,800 feet ± to the intersection of SR 1426 – Mt. Misery Road; thence with the centerline of SR 1426 – Mt. Misery Road in a northwardly direction to the property line intersection of E. I. Dupont Denemours & Co. (Map Book 8, Page 74); thence with Dupont eastern property line in a northeast direction to the corner of Mulberry Creek; thence in a southeasterly direction 3200 feet ± to the centerline of Daniels Road; thence in a northerly direction 500 ± feet along the centerline of Daniels Road to the Dupont property line; thence with the Dupont property line in an easterly direction to the Brunswick County line in the centerline of the Cape Fear River; thence with the Brunswick County line (Cape Fear River) a southeasterly direction a scaled distance of 57,300 feet ± to the intersection of Cape Fear River and Davis Creek (existing Navassa town limits); thence with Davis Creek (existing Navassa town limits) in a westerly direction a scale distance of 9,300 feet ± to Joe's Slough; thence with Joe's Slough in a southerly direction a scaled distance of 7,000 feet ± to the Beginning and containing 8,300 acres plus or minus as plan meters and scales by G. Douglas Jeffreys, L1432, from a Brunswick County, State of North Carolina Quadrangle Map produced by USGS.

SECTION 1.(b) This section becomes effective December 31, 2001. Real and personal property in the territory annexed pursuant to this section is subject to municipal taxes as provided in G.S. 160A-58.10.

SECTION 2. Section 3 of Chapter 77 of the 1977 Session Laws reads as rewritten:

"Sec. 3. The Board of Commissioners of the Town of Navassa shall consist of five members. The mayor of the town shall be elected for a term of ~~two~~ four years beginning in 2001, and the members of the board shall be elected as herein provided for staggered terms of four years."

SECTION 3. Section 4 of Chapter 77 of the 1977 Session Laws, as amended by Chapter 424 of the 1979 Session Laws, reads as rewritten:

"Sec. 4. ~~(a) Beginning with the regular municipal election to be held in Navassa in 1979, the three candidates for town commissioner receiving the highest number of votes shall be elected for terms of four years, and the two candidates receiving the next highest number of votes shall be elected for terms of two years. In the 2001 municipal election, two members of the board of commissioners are elected for four-year terms.~~

(b) In the 2005 municipal election and quadrennially thereafter, two members of the board of commissioners are elected for four-year terms from District 1 by all the qualified voters of the town, and the candidates shall reside in and represent the district.

(c) In the 2003 municipal election and quadrennially thereafter, three members of the board of commissioners are elected for four-year terms. One member shall be elected each from Districts 1, 2, and 3 by all the qualified voters of the town, and the candidates shall reside in and represent the district. Thereafter, as the terms of each member expire, their successors shall be elected for terms of four years.

(d) Until changed in accordance with law, the boundaries of the districts are as follows:

- (1) District 1 consists of the boundaries of the Town of Navassa on December 30, 2001.
- (2) District 2 consists of the area annexed to the town on December 31, 2001, which is south of the CSX Railroad tracks.
- (3) District 3 consists of the area annexed to the town on December 31, 2001, which is north of the CSX Railroad tracks."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2001.

Became law on the date it was ratified.

S.B. 848 SESSION LAW 2001-326

AN ACT TO INCLUDE PUBLIC LIVESTOCK MARKETS WITHIN THE DEFINITION OF ANIMAL OPERATIONS FOR THE PURPOSE OF REGULATING THE ANIMAL WASTE MANAGEMENT SYSTEMS THAT SERVE THESE MARKETS AND TO PROVIDE THAT AN ANIMAL WASTE MANAGEMENT SYSTEM THAT SERVES A PUBLIC LIVESTOCK MARKET MAY BE PERMITTED EITHER AS AN ANIMAL OPERATION OR UNDER THE STATE'S GENERAL WATER QUALITY STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.10B reads as rewritten:

"§ 143-215.10B. *Definitions.*

As used in this Part:

- (1) 'Animal operation' means any agricultural farming activity involving 250 or more swine, 100 or more confined cattle, 75 or more horses, 1,000 or more sheep, or 30,000 or more confined poultry with a liquid animal waste management system. ~~Public livestock markets or sales regulated under Articles 35 and 35A of Chapter 106 of the General Statutes shall not be considered animal operations for purposes of this Part.~~ A public livestock market regulated under Article 35 of Chapter 106 of the General Statutes is an animal operation for purposes of this Part.
- (2) 'Animal waste' means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter, or other materials from an animal operation.
- (3) 'Animal waste management system' means a combination of structures and nonstructural practices serving a feedlot that provide for the collection, treatment, storage, or land application of animal waste.
- (4) 'Division' means the Division of Water Quality of the Department.
- (5) 'Feedlot' means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot

is not a feedlot unless animals are confined for 45 or more days, which may or may not be consecutive, in a 12-month period. Pastures shall not be considered feedlots for purposes of this Part.

- (6) 'Technical specialist' means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans."

SECTION 2. G.S. 143-215.10C is amended by adding a new subsection to read:

"(i) A person who obtains an individual permit under G.S. 143-215.1 for an animal waste management system that serves a public livestock market shall not be required to obtain a permit under this Part and is not subject to the requirements of this Part."

SECTION 3. This act becomes effective 1 August 2001.

In the General Assembly read three times and ratified this the 31st day of July, 2001.

Became law upon approval of the Governor at 7:58 a.m. on the 1st day of August, 2001.

H.B. 1157

SESSION LAW 2001-327

AN ACT TO COMBAT TAX FRAUD, ENHANCE CORPORATE COMPLIANCE WITH TAXES ON TRADEMARK INCOME, ASSURE THAT FRANCHISE TAX APPLIES EQUALLY TO CORPORATE ASSETS, AND CONFORM CORPORATE DIVIDEND TREATMENT TO THE GENERALLY ACCEPTED FORMULA USED IN OTHER STATES.

The General Assembly of North Carolina enacts:

ROYALTY REPORTING OPTION

SECTION 1.(a) The General Assembly finds that most corporations engaged in manufacturing and retailing activities in this State comply with the State tax on income generated from using trademarks in those activities. Taxpayers who do not comply, however, create an unfair burden on these corporate citizens. It is the intent of this section to reward taxpayers who comply, by giving them an option on how to file tax returns involving royalty income.

SECTION 1.(b) Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.7A. Royalty income reporting option.

(a) Purpose. – Royalty payments received for the use of trademarks in this State are income derived from doing business in this State. This section provides taxpayers with an option concerning

the method by which these royalties can be reported for taxation when the recipient and the payer are related members. As provided in this section, these royalty payments can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient.

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

- (1) Component member. – Defined in section 1563(b) of the Code.
- (2) North Carolina royalty. – An amount charged that is for, related to, or in connection with the use in this State of a trademark. The term includes royalty and technical fees, licensing fees, and other similar charges.
- (3) Own. – To own directly, indirectly, beneficially, or constructively. The attribution rules of section 318 of the Code apply in determining ownership under this section.
- (4) Related entity. – Any of the following:
 - a. A stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the Code, if the stockholder and the members of the stockholder's family own in the aggregate at least eighty percent (80%) of the value of the taxpayer's outstanding stock.
 - b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations are component members with respect to the taxpayer.
 - c. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Code, if the taxpayer owns at least eighty percent (80%) of the value of the corporation's outstanding stock.
- (5) Related member. – A person that, with respect to the taxpayer during any part of the taxable year, is one or more of the following:
 - a. A related entity.
 - b. A component member.
 - c. A person to or from whom there would be attribution of stock ownership in accordance with section 1563(e) of the Code if the phrase '5 percent

or more' were replaced by 'twenty percent (20%) or more' each place it appears in that section.

- (6) Royalty payment. – Either of the following:
- a. Expenses, losses, and costs paid, accrued, or incurred for North Carolina royalties, to the extent the amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Code.
 - b. Amounts directly or indirectly allowed as deductions under section 163 of the Code, to the extent the amounts are paid, accrued, or incurred for a time price differential charged for the late payment of any expenses, losses, or costs described in this subdivision.
- (7) Trademark. – A trademark, trade name, service mark, or other similar type of intangible asset.
- (8) Use. – Use of a trademark includes direct or indirect maintenance, management, ownership, sale, exchange, or disposition of the trademark.

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments that meets either of the following conditions:

- (1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).
- (2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.

(d) Indirect Transactions. – For the purpose of this section, an indirect transaction or relationship has the same effect as if it were direct."

SECTION 1.(c) G.S. 105-130.4(a)(4) reads as rewritten:

"(4) 'Excluded corporation' means any corporation engaged in business as a building or construction contractor, a securities dealer, or a loan company or a corporation ~~which that~~ receives more than fifty percent (50%) of its ordinary gross income from ~~investments in and/or dealing in~~ intangible property."

SECTION 1.(d) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...
(14) Royalty payments required to be added by G.S. 105-130.7A, to the extent deducted in calculating federal taxable income."

SECTION 1.(e) G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...
(20) Royalty payments received from a related member who added the payments to income under G.S. 105-130.7A for the same taxable year."

SECTION 1.(f) This section is effective for taxable years beginning on or after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of corporation income tax by a payer of royalties who adds the payments to State net income pursuant to G.S. 105-130.7A(c), to the extent the underpayment was created or increased by this section.

EQUALIZE FRANCHISE TAX ON CORPORATE-AFFILIATED LLCS

SECTION 2.(a) The General Assembly finds that most corporations engaged in business in this State comply with the State franchise tax on corporate assets. Some taxpayers, however, take advantage of an unintended loophole in the law and avoid franchise tax by transferring their assets to a controlled limited liability company. This tax avoidance creates an unfair burden on corporate citizens that pay the franchise tax on their assets. It is the intent of this section to apply the franchise tax equally to assets held by corporations and assets held by corporate-affiliated limited liability companies. It is also the intent of this section to provide that a criminal penalty applies to taxpayers who fraudulently evade the tax.

SECTION 2.(b) G.S. 105-114 is amended by adding a new subsection to read:

"(c) Limited Liability Companies. – If a corporation is a member of a limited liability company and the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the member corporation or to includible corporations of

an affiliated group in which the member corporation is includible, then (i) a percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that member corporation and must be included in the member corporation's computation of tax under this Article, and (ii) the member corporation's investment in the limited liability company is not included in the member corporation's computation of tax under this Article. The attributable percentage is equal to the percentage of the limited liability company's assets, after payments to creditors, that would be distributable to the member corporation under the limited liability company's governing law if the limited liability company dissolved as of the last day of the member corporation's taxable year. In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a member corporation under this Article. A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable. The definitions in section 1504 of the Code apply in this subsection.

A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this subsection is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 2.(c) This section becomes effective January 1, 2002, and applies to taxes due on or after that date.

CONFORM NORTH CAROLINA'S SUBSIDIARY DIVIDEND DEDUCTION TO THE GENERALLY ACCEPTED TREATMENT USED IN OTHER STATES

SECTION 3.(a) G.S. 105-130.5(a)(7) and G.S. 105-130.7(b) are repealed.

SECTION 3.(b) G.S. 105-130.5(b) is amended by adding two new subdivisions to read:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

...

(3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, to the extent included in federal taxable income.

(3b) Any amount included in federal taxable income under section 78 or section 951 of the Code."

SECTION 3.(c) This section is effective for taxable years beginning on or after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of corporation

income tax to the extent the underpayment was created or increased by this section.

MONITORING

SECTION 4.(a) The Department of Revenue must report to the Revenue Laws Study Committee by December 1, 2001, on its plans and actions to implement the provisions of this act. In addition, the Department of Revenue must report to the Revenue Laws Study Committee by May 1, 2002, and December 1, 2002, on the effects of this act. These reports must include any recommendations the Department has for changes to this act or to other similar provisions in the Revenue Act.

SECTION 4.(b) This section is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2001.

Became law upon approval of the Governor at 8:01 a.m. on the 2nd day of August, 2001.

H.B. 1169

SESSION LAW 2001-328

AN ACT AMENDING THE LOCAL GOVERNMENT PURCHASING LAWS UNDER THE LAWS RELATING TO PUBLIC CONTRACTS AND THE SALE OF PROPERTY FOR CITIES AND TOWNS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-129 reads as rewritten:

"§ 143-129. *Procedure for letting of public ~~contracts; purchases from federal government by State, counties, etc.~~contracts.*

(a) Bidding Required. – No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than one hundred thousand dollars (\$100,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ~~thirty thousand dollars (\$30,000), except in cases of group purchases made by hospitals through a competitive bidding purchasing program or in cases of special emergency involving the health and safety of the people or their property, shall~~fifty thousand dollars (\$50,000) may be performed, nor ~~shall~~may any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any ~~county, city, town, or other~~political subdivision of the State, unless the provisions of this section are complied with. ~~For purposes of this Article, a competitive bidding group purchasing program is a formally organized program that offers purchasing~~

~~services at discount prices to two or more hospital facilities. The limitation contained in this paragraph shall not apply to construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section. Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131.~~

For purchases of apparatus, supplies, materials, or equipment, the governing body of any ~~municipality, county, or other~~ political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager or the chief purchasing ~~official~~official, or both, the authority to award contracts, reject bids, or readvertise to receive bids on behalf of the ~~unit, or waive bid bonds or deposits, or performance and payment bond requirements.~~unit. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body.

~~(b) Advertisement of the letting of such contracts shall be as follows:~~Letting of Contracts. – Where the contract is to be let by a board or governing body of the State ~~government,~~government or of a State institution, ~~as distinguished from a board or governing body of a subdivision of the State,~~ proposals shall be invited by advertisement at least one week before the time specified for the opening of said ~~proposals~~ in a newspaper having general circulation in the State of North Carolina. Where the contract is to be let by a political subdivision of the State, proposals shall be invited by advertisement in a newspaper having general circulation in the political subdivision or by electronic means, or both. A decision to advertise solely by electronic means, whether for particular contracts or generally for all contracts that are subject to this Article, shall be approved by the governing board of the political subdivision of the State at a regular meeting of the board. ~~Provided that the~~

The advertisements for bidders required by this section shall ~~be published~~appear at such a time ~~that~~where at least seven full days shall lapse between the date of ~~publication~~on which the notice appears and the date of the opening of bids. The advertisement shall: (i) state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials, or equipment may be had; (ii) state the time and place for opening of the proposals; and (iii) reserve to the board or governing body the right to reject any or all proposals.

~~Where the contract is to be let by a county, city, town or other subdivision of the State, proposals shall be invited by advertisement at least one week before the time specified for the opening of said~~

proposals in a newspaper having general circulation in such county, city, town or other subdivision.

~~Such advertisement shall state the time and place where plans and specifications of proposed work or a complete description of the apparatus, supplies, materials or equipment may be had, and the time and place for opening of the proposals, and shall reserve to said board or governing body the right to reject any or all such proposals.~~

Proposals ~~shall not~~may be rejected for any reason determined by the board or governing body to be in the best interest of the unit. However, the proposal shall not be rejected for the purpose of evading the provisions of this Article. No board or governing body of the State or political subdivision thereof ~~shall~~may assume responsibility for construction or purchase contracts, or guarantee the payments of labor or materials therefor except under provisions of this Article.

All proposals shall be opened in public and ~~shall be recorded on the minutes of the board or governing body and the award shall be made~~the board or governing body shall award the contract to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract. ~~In~~

In the event the lowest responsible bids are in excess of the funds available for the ~~project,~~project or purchase, the responsible board or governing body is authorized to enter into negotiations with the lowest responsible bidder above mentioned, making reasonable changes in the plans and specifications as may be necessary to bring the contract price within the funds available, and may award a contract to such bidder upon recommendation of the Department of Administration in the case of the State government or of a State institution or agency, or upon recommendation of the responsible commission, council or board in the case of a subdivision of the State, if such bidder will agree to perform the work or provide the apparatus, supplies, materials, or equipment at the negotiated price within the funds available therefor. If a contract cannot be let under the above conditions, the board or governing body is authorized to readvertise, as herein provided, after having made such changes in plans and specifications as may be necessary to bring the cost of the project or purchase within the funds available therefor. The procedure above specified may be repeated if necessary in order to secure an acceptable contract within the funds available therefor.

No proposal ~~shall for construction or repair work may~~ be considered or accepted by said board or governing body unless at the time of its filing the same shall be accompanied by a deposit with said board or governing body of cash, or a cashier's check, or a certified check on some bank or trust company insured by the Federal Deposit

Insurance Corporation in an amount equal to not less than five percent (5%) of the proposal. In lieu of making the cash deposit as above provided, such bidder may file a bid bond executed by a corporate surety licensed under the laws of North Carolina to execute such bonds, conditioned that the surety will upon demand forthwith make payment to the obligee upon said bond if the bidder fails to execute the contract in accordance with the bid bond. This deposit shall be retained if the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory surety as required herein. ~~In the case of proposals for the purchase of apparatus, supplies, materials, or equipment, the board or governing body may waive the requirement for a bid bond or other deposit.~~

Bids shall be sealed and the opening of an envelope or package with knowledge that it contains a bid or the disclosure or exhibition of the contents of any bid by anyone without the permission of the bidder prior to the time set for opening in the invitation to bid shall constitute a Class 1 misdemeanor.

(c) Contract Execution and Security. – All contracts to which this section applies shall be executed in ~~writing, and the writing.~~ The board or governing body shall require the person to whom the award of a contract for construction or repair work is made to furnish bond as required by Article 3 of Chapter 44A; or require a deposit of money, certified check or government securities for the full amount of said contract to secure the faithful performance of the terms of said contract and the payment of all sums due for labor and materials in a manner consistent with Article 3 of Chapter 44A; and ~~no such~~ the contract shall not be altered except by written agreement of the ~~contractor, the sureties on his bond,~~ contractor and the board or governing body. ~~Such~~ The surety bond or deposit required herein shall be deposited with the board or governing body for which the work is to be performed. When a deposit, other than a surety bond, is made with the board or governing body, ~~said~~ the board or governing body assumes all the liabilities, obligations and duties of a surety as provided in Article 3 of Chapter 44A to the extent of said deposit. ~~In the case of contracts for the purchase of apparatus, supplies, materials, or equipment, the board or governing body may waive the requirement for a surety bond or other deposit.~~

The owning agency or the Department of Administration, in contracts involving a State agency, and the owning agency or the governing board, in contracts involving a political subdivision of the State, may reject the bonds of any surety company against which there is pending any unsettled claim or complaint made by a State agency or the owning agency or governing board of any political subdivision of the State arising out of any contract under which State funds, in contracts with the State, or funds of political subdivisions of

the State, in contracts with such political subdivision, were expended, provided such claim or complaint has been pending more than 180 days.

(d) Use of Unemployment Relief Labor. – Nothing in this section shall operate so as to require any public agency to enter into a contract which will prevent the use of unemployment relief labor paid for in whole or in part by appropriations or funds furnished by the State or federal government.

(e) Exceptions. – The requirements of this Article do not apply to:

- (1) Any board or governing body of the State or any institution of the State government or of any county, city, town, or other subdivision of the State may enter into any contract withThe purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment from: (i) the United States of America or any agency thereof, thereof; or (ii) any other government unit or agency thereof within the United States, for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment without regard to the foregoing provisions of this section or to the provisions of any other section of this Article.States. The Secretary of Administration or the governing board of any political subdivision of the State may designate any officer or employee of the State or political subdivision to enter a bid or bids in its behalf at any sale of apparatus, supplies, materials, equipment, or other property owned by: (i) the United States of America or any agency thereof; or (ii) any other governmental unit or agency thereof within the United States. The Secretary of Administration or the governing board of any political subdivision of the State may authorize the officer or employee to make any partial or down payment or payment in full that may be required by regulations of the governmental unit or agency disposing of the property.
- (2) Cases of special emergency involving the health and safety of the people or their property.
- (3) Purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively bid purchasing services at discount prices to two or more public agencies.

- (4) Construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section.
- (5) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. These purchases are subject to G.S. 143-131.
- (6) Purchases of apparatus, supplies, materials, or equipment when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract.

In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when: (i) a particular medical item or prosthetic appliance is needed; (ii) a particular product is ordered by an attending physician for his patients; (iii) additional products are needed to complete an ongoing job or task; (iv) products are purchased for "over-the-counter" resale; (v) a particular product is needed or desired for experimental, developmental, or research work; or (vi) equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital shall keep a record of all purchases made pursuant to this subsection. These records are subject to public inspection.

- (7) Purchases of information technology through contracts established by the State Office of Information Technology Services as provided in G.S. 147-33.82(b) and G.S. 147-33.92(b).
- (8) Guaranteed energy savings contracts, which are governed by Article 3B of Chapter 143 of the General Statutes.
- (9) Purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, or conditions as established in the State contract.

(10) Purchase of used apparatus, supplies, materials, or equipment. For purposes of this subdivision, remanufactured or refabricated apparatus, supplies, materials, or equipment are not included in the exception.

~~The Secretary of Administration or the governing board of any county, city, town, or other subdivision of the State may designate any officer or employee of the State, county, city, town or subdivision to enter a bid or bids in its behalf at any sale of apparatus, supplies, materials, equipment or other property owned by (i) the United States of America or any agency thereof, or (ii) any other governmental unit or agency thereof within the United States, and may authorize such officer or employee to make any partial or down payment or payment in full that may be required by regulations of the government or agency disposing of such property.~~

~~(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for "over the counter" resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this subsection. These records are subject to public inspection.~~

~~(g) Waiver of Bidding for Previously Bid Contracts. – When the governing board of any municipality, county, or other political subdivision of the State, or the manager or purchasing official delegated authority under subsection (a) of this section, determines that it is in the best interest of the unit, the requirements of this section may be waived for the purchase of apparatus, supplies, materials, or equipment from any person or entity that has, within the~~

previous 12 months, after having completed a public, formal bid process substantially similar to that required by this Article, contracted to furnish the apparatus, supplies, materials, or equipment to:

- (1) The United States of America or any federal agency;
- (2) The State of North Carolina or any agency or political subdivision of the State; or
- (3) Any other state or any agency or political subdivision of that state,

if the person or entity is willing to furnish the items at the same or more favorable prices, terms, and conditions as those provided under the contract with the other unit or agency. Notwithstanding any other provision of this section, any purchase made under this subsection shall be approved by the governing body of the purchasing ~~municipality, county, or other~~ political subdivision of the State at a regularly scheduled meeting of the governing body no fewer than 10 days after publication of notice, in a newspaper of general circulation in the area served by the governing body, that a waiver of the bid procedure will be considered in order to contract with a qualified supplier pursuant to this section. Rules issued by the Secretary of Administration pursuant to G.S. 143-49(6) shall apply with respect to participation in State term contracts.

(h) Transportation Authority Purchases. – Notwithstanding any other provision of this section, any board or governing body of any regional public transportation authority, hereafter referred to as a "RPTA," created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority, hereafter referred to as a "RTA," created pursuant to Article 27 of Chapter 160A of the General Statutes, may approve the entering into of any contract for the purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment without competitive bidding and without meeting the requirements of subsection (b) of this section if the following procurement by competitive proposal (Request for Proposal) method is followed.

The competitive proposal method of procurement is normally conducted with more than one source submitting an offer or proposal. Either a fixed price or cost reimbursement type contract is awarded. This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. If this procurement method is used, all of the following requirements apply:

- (1) Requests for proposals shall be publicized. All evaluation factors shall be identified along with their relative importance.
- (2) Proposals shall be solicited from an adequate number of qualified sources.

- (3) RPTAs or RTAs shall have a method in place for conducting technical evaluations of proposals received and selecting awardees, with the goal of promoting fairness and competition without requiring strict adherence to specifications or price in determining the most advantageous proposal.
- (4) The award may be based upon initial proposals without further discussion or negotiation or, in the discretion of the evaluators, discussions or negotiations may be conducted either with all offerors or with those offerors determined to be within the competitive range, and one or more revised proposals or a best and final offer may be requested of all remaining offerors. The details and deficiencies of an offeror's proposal may not be disclosed to other offerors during any period of negotiation or discussion.
- (5) The award shall be made to the responsible firm whose proposal is most advantageous to the RPTA's or the RTA's program with price and other factors considered.

The contents of the proposals shall not be public records until 14 days before the award of the contract.

The board or governing body of the RPTA or the RTA shall, at the regularly scheduled meeting, by formal motion make findings of fact that the procurement by competitive proposal (Request for Proposals) method of procuring the particular apparatus, supplies, materials, or equipment is the most appropriate acquisition method prior to the issuance of the requests for proposals and shall by formal motion certify that the requirements of this subsection have been followed before approving the contract.

Nothing in this subsection subjects a procurement by competitive proposal under this subsection to G.S. 143-49, 143-52, or 143-53.

RPTAs and RTAs may adopt regulations to implement this subsection."

SECTION 2. G.S. 143-129.1 reads as rewritten:

"§ 143-129.1. *Withdrawal of bid.*

A public agency may allow a bidder submitting a bid pursuant to ~~North Carolina~~ G.S. 143-129 for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment to withdraw his bid from consideration after the bid opening without forfeiture of his bid security if the price bid was based upon a mistake, which constituted a substantial error, provided the bid was submitted in good faith, and the bidder submits credible evidence that the mistake was clerical in nature as opposed to a judgment error, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor,

~~material or apparatus, supplies, materials, equipment, or services made~~ directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents or materials used in the preparation of the bid sought to be withdrawn. A request to withdraw a bid must be made in writing to the public agency which invited the proposals for the work prior to the award of the contract, but not later than 72 hours after the opening of ~~bids.~~ bids, or for a longer period as may be specified in the instructions to bidders provided prior to the opening of bids.

If a request to withdraw a bid has been made in accordance with the provisions of this section, action on the remaining bids shall be considered, in accordance with North Carolina G.S. 143-129, as though said bid had not been received. Notwithstanding the foregoing, such bid shall be deemed to have been received for the purpose of complying with the requirements of G.S. 143-132. ~~Provided, however, in the event~~ If the work or purchase is relet for bids, under no circumstances shall ~~may~~ the bidder who has filed a request to withdraw be permitted to rebid the ~~work-work or purchase.~~

If a bidder files a request to withdraw his bid, the agency shall promptly hold a hearing thereon. The agency shall give to the withdrawing bidder reasonable notice of the time and place of any such hearing. The bidder, either in person or through counsel, may appear at the hearing and present any additional facts and arguments in support of his request to withdraw his bid. The agency shall issue a written ruling allowing or denying the request to withdraw within five days after the hearing. If the agency finds that the price bid was based upon a mistake of the type described in the first paragraph of this section, then the agency shall issue a ruling permitting the bidder to withdraw without forfeiture of the bidder's security. If the agency finds that the price bid was based upon a mistake not of the type described in the first paragraph of this section, then the agency shall issue a ruling denying the request to withdraw and requiring the forfeiture of the bidder's security. A denial by the agency of the request to withdraw a bid shall have the same effect as if an award had been made to the bidder and a refusal by the bidder to accept had been made, or as if there had been a refusal to enter into the contract, and the bidder's bid deposit or bid bond shall be forfeited.

In the event said ruling denies the request to withdraw the bid, the bidder shall have the right, within 20 days after receipt of said ruling, to contest the matter by the filing of a civil action in any court of competent jurisdiction of the State of North Carolina. The procedure shall be the same as in all civil actions except all issues of law and fact and every other issue shall be tried de novo by the judge without jury; provided that the matter may be referred in the instances and in

the manner provided for by North Carolina G.S. 1A-1, Rule 53, as amended. Notwithstanding the foregoing, if the public agency involved is the Department of Administration, it may follow its normal rules and regulations with respect to contested matters, as opposed to following the administrative procedures set forth herein. If it is finally determined that the bidder did not have the right to withdraw his bid pursuant to the provisions of this section, the bidder's security shall be forfeited. Every bid bond or bid deposit given by a bidder to a public agency pursuant to G.S. 143-129 shall be conclusively presumed to have been given in accordance with this section, whether or not it be so drawn as to conform to this section. This section shall be conclusively presumed to have been written into every bid bond given pursuant to G.S. 143-129.

Neither the agency nor any elected or appointed official, employee, representative or agent of such agency shall incur any liability or surcharge, in the absence of fraud or collusion, by permitting the withdrawal of a bid pursuant to the provisions of this section.

No withdrawal of the bid which would result in the award of the contract on another bid of the same bidder, his partner, or to a corporation or business venture owned by or in which he has an interest shall be permitted. No bidder who is permitted to withdraw a bid shall supply any material or labor to, or perform any subcontract or work agreement for, any person to whom a contract or subcontract is awarded in the performance of the contract for which the withdrawn bid was submitted, without the prior written approval of the agency. Whoever violates the provisions of the foregoing sentence shall be guilty of a Class 1 misdemeanor."

SECTION 3. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-129.8. Purchase of information technology goods and services.

(a) In recognition of the complex and innovative nature of information technology goods and services and of the desirability of a single point of responsibility for contracts that include combinations of purchase of goods, design, installation, training, operation, maintenance, and related services, a political subdivision of the State may contract for information technology, as defined in G.S. 147-33.81(2), using the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law.

(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with G.S. 143-129(a).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals.

(c) The awarding authority may use procurement methods set forth in G.S. 143-135.9 in developing and evaluating requests for proposals under this section. The awarding authority may negotiate with any proposer in order to obtain a final contract that best meets the needs of the awarding authority. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that: (i) deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and (ii) would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(d) Proposals submitted under this section shall not be subject to public inspection until a contract is awarded."

SECTION 4. G.S. 160A-266 is amended by adding a new subsection to read:

"(d) A city may discard any personal property that: (i) is determined to have no value; (ii) remains unsold or unclaimed after the city has exhausted efforts to sell the property using any applicable procedure under this Article; or (iii) poses a potential threat to the public health or safety."

SECTION 5. G.S. 160A-270 is amended by adding a new subsection to read:

"(c) The council may conduct auctions of real or personal property electronically by authorizing the establishment of an electronic auction procedure or by authorizing the use of existing private or public electronic auction services. Notice of an electronic auction of property shall identify, in addition to the information required in subsections (a) and (b) of this section, the electronic address where information about the property to be sold can be found and the electronic address where electronic bids may be posted. All requirements of subsections (a) and (b) of this section apply to electronic auctions."

SECTION 6. G.S. 160A-274(b) reads as rewritten:

"(b) Any governmental unit may, upon such terms and conditions as it deems wise, with or without consideration, exchange with, lease to, lease from, sell to, or purchase from, or enter into agreements regarding the joint use by from any other governmental unit of any interest in real or personal property that it may own property."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 8:40 a.m. on the 2nd day of August, 2001.

S.B. 405 SESSION LAW 2001-329

AN ACT CONCERNING PUBLIC-PRIVATE REIMBURSEMENT AGREEMENTS FOR INFRASTRUCTURE DEVELOPMENT BY THE CITY OF CHARLOTTE.

The General Assembly of North Carolina enacts:

SECTION 1. A city may enter into reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure that is included on the city's Capital Improvement Plan and serves the developer or property owner. For the purpose of this act, municipal infrastructure includes, without limitation, water mains, sanitary sewer lines, lift stations, stormwater lines, streets, curb and gutter, sidewalks, traffic control devices, and other associated facilities.

SECTION 2. A city shall enact ordinances setting forth procedures and terms under which such agreements may be approved.

SECTION 3. A city may provide for such reimbursements to be paid from any lawful source.

SECTION 4. No reimbursement pursuant to an agreement authorized by this act shall be deemed to be construction subject to Article 8 of Chapter 143 of the General Statutes or to be deemed to be a violation or evasion of any provision of said Article. Notwithstanding the foregoing provisions of this section, a construction contract subject to a reimbursement agreement authorized by this act shall not be awarded by a developer or property owner who is a party to such reimbursement agreement without complying with the requirements of G.S. 143-129 and G.S. 143-128(f) relating to public advertising and bid opening requirements which would be applicable if the construction contract had been awarded by the city.

SECTION 5. This act applies only to the City of Charlotte.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law on the date it was ratified.

S.B. 420 SESSION LAW 2001-330

AN ACT TO ELIMINATE THE RESIDENCY REQUIREMENT FOR POLICE OFFICERS OF THE CITY OF ROCKY MOUNT;

TO REGULATE CENTER-FIRED RIFLE HUNTING IN PERQUIMANS COUNTY; AND TO PROHIBIT HUNTING ON THE LAND OF ANOTHER WITHOUT WRITTEN PERMISSION IN PERQUIMANS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 140(a) of the Charter of the City of Rocky Mount, being Chapter 938 of the 1963 Session Laws, as amended by Chapter 427 of the 1969 Session Laws, reads as rewritten:

"(a) The City Manager shall appoint the Chief of Police. The Chief of Police, acting under the City Manager, shall appoint the other police officers of the City and shall have supervision and control of the police force and shall enforce discipline therein. ~~Police officers shall be residents of Nash or Edgecombe Counties, but need not be residents of the City.~~"

SECTION 2. It is unlawful to hunt with a center-fired rifle except from a stand at least eight feet above ground level.

SECTION 3. It is unlawful to hunt on the land of another without the written permission of the owner or lessee of the land, dated for the current hunting season.

SECTION 4. Penalties for violation of Section 2 or 3 of this act are those provided in G.S. 113-135(a).

SECTION 5. Sections 2 and 3 of this act are enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 6. Section 1 of this act applies only in the City of Rocky Mount. Sections 2 through 4 of this act apply only to Perquimans County.

SECTION 7. Section 1 of this act is effective when it becomes law. Sections 2 through 5 of this act become effective October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law on the date it was ratified.

H.B. 774

SESSION LAW 2001-331

AN ACT TO PROVIDE FOR HOW DRIVERS SHALL OPERATE THEIR MOTOR VEHICLES WHEN PASSING PARKED OR STANDING EMERGENCY VEHICLES THAT HAVE THEIR EMERGENCY LIGHTS ILLUMINATED, AND TO REQUIRE RENTAL CAR COMPANIES TO NOTIFY RENTERS OF THE

LAW FORBIDDING PASSING OF A STOPPED SCHOOL BUS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-157 is amended by adding a new subsection to read:

"(f) When an authorized emergency vehicle as described in subsection (a) of this section is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

- (1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle and continue traveling in that lane until safely clear of the authorized emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.
- (2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed until completely past the authorized emergency vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

Violation of this subsection shall not be negligence per se."

SECTION 2. Article 28 of Chapter 66 of the General Statutes is amended by adding a new section to read:

"§ 66-207. Rental car companies assist in publicizing law.

(a) A rental car company shall notify renters of the law requiring motorists to stop for and not pass stopped school buses that are properly marked and designated and that are receiving or discharging passengers. The Division of Motor Vehicles shall design a written notification in English, French, German, Japanese, and Spanish and the notification shall be no more than one side of a page. The Division of Motor Vehicles shall also develop a design for use on placards under subdivisions (b)(2) and (b)(3) of this section. The design may be used or adapted by the rental car company. The placards shall consist of the words "It is unlawful in North Carolina to pass a school bus that is stopped and receiving or discharging passengers.", or a visual symbol indicating passing a stopped school bus is unlawful in North Carolina, or both. The Division of Motor

Vehicles shall publish the written notification and the design for placards on the Internet and rental car companies shall obtain both by downloading and printing them from that source.

(b) The notification required under subsection (a) of this section may be made either:

- (1) By handing each renter who presents an International Driver Permit with a copy of the written notification prepared by the Division of Motor Vehicles under subsection (a) of this section;
- (2) If the rental car company operates airport shuttle buses to transport renters to pick up vehicles, by posting on each bus at least one placard containing a written notification or visual symbol, or both; or
- (3) If the rental car company operates a counter at which renters pick up documentation, by posting on that counter or at a place easily visible from the counter at least one placard containing a written notification or visual symbol, or both.

Each placard that contains a written notification shall provide that information in all the languages listed in subsection (a) of this section.

(c) There shall be no civil or criminal liability in negligence nor shall an action under G.S. 66-206 apply for any car rental company that fails to provide the information or post the placard required by this section."

SECTION 3. Section 2 of this act becomes effective December 1, 2001. The remaining sections of this act become effective October 1, 2001.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 11:26 a.m. on the 2nd day of August, 2001.

S.B. 751**SESSION LAW 2001-332**

AN ACT TO INCREASE THE PUNISHMENT FOR DRUG OFFENSES COMMITTED AT OR NEAR CHILD CARE CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(e)(8) reads as rewritten:

- "(8) Any person 21 years of age or older who commits an offense under G.S. 90-95(a)(1) on property used for a child care center, or for an elementary or secondary school or within 300 feet of the boundary of real property used for a child care center, or for an

elementary or secondary school shall be punished as a Class E felon. For purposes of this subdivision, the transfer of less than five grams of marijuana for no remuneration shall not constitute a delivery in violation of G.S. 90-95(a)(1). For purposes of this subdivision, a child care center is as defined in G.S. 110-86(3)a., and that is licensed by the Secretary of the Department of Health and Human Services."

SECTION 2. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 23rd day of July, 2001.

Became law upon approval of the Governor at 11:30 a.m. on the 3rd day of August, 2001.

S.B. 476 SESSION LAW 2001-333

AN ACT TO REALIGN SUPERIOR COURT DISTRICTS IN GUILFORD AND WAKE COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-41(b) reads as rewritten:

"(b) For superior court districts of less than a whole county, or with part of one county with part of another, the composition of the district and the number of judges is as follows:

- (1) Superior Court District 7B consists of County Commissioner Districts 1, 2 and 3 of Wilson County, Blocks 127 and 128 of Census Tract 6 of Wilson County, and Townships 12 and 14 of Edgecombe County. It has one judge.
- (2) Superior Court District 7C consists of the remainder of Edgecombe and Wilson Counties not in Judicial District 7B. It has one judge.
- (3) Superior Court District 10A consists of Raleigh Precincts 12, 13, 14, 18, 19, 20, 22, 25, 26, 28, 34, 35, and 40, and St. Matthews #3, except that if the Wake County Board of Elections provides that the area in Raleigh Township which was incorrectly placed in a St. Mary's precinct shall be in Raleigh Precinct 40, that area shall be considered to be in Raleigh Precinct 40 for district purposes. Wake County Precincts 01-12, 01-13, 01-14, 01-18, 01-19, 01-20, 01-22, 01-25, 01-26, 01-28, 01-34, 01-35, 01-40, 01-50, 17-03, and 17-07. It has ~~one~~ two judges.

- (4) Superior Court District 10B consists of ~~Buekhorn Precinct, Cary Precincts 1, 2, 3, 4, 5, 6, and 7, Cedar Fork Precinct, Holly Springs Precinct, House Creek Precinct #1, Meredith Precinct, Middle Creek Township, Raleigh Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 21, 23, 24, 27, 29, 31, 32, 33, 36, and 41, Swift Creek Precinct #1 and #2 and White Oak Township.~~ Wake County Precincts 01-01, 01-02, 01-03, 01-04, 01-05, 01-06, 01-07, 01-07A, 01-09, 01-10, 01-11, 01-16, 01-21, 01-23, 01-27, 01-29, 01-31, 01-32, 01-33, 01-36, 01-41, 01-48, 01-49, 03-00, 04-01, 04-02, 04-03, 04-04, 04-05, 04-06, 04-07, 04-08, 04-09, 04-10, 04-11, 04-12, 04-13, 04-14, 04-15, 04-16, 04-17, 04-18, 04-19, 04-20, 05-01, 05-02, 06-01, 06-02, 06-03, 07-01, 07-10, 11-01, 11-02, 12-01, 12-02, 12-03, 12-04, 12-05, 12-06, 18-01, 18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-08, 20-01, 20-02, 20-03, 20-04, 20-05, 20-06, 20-07, 20-08, 20-09, and 20-10. It has two judges.
- (5) Superior Court District 10C consists of ~~Barton's Creek Precinct, Leesville Precinct, House Creek Precinct #2, Little River Township, Marks Creek Township, New Light Township, Panther Branch Township, St. Mary's Precincts #1, #2, #3, #4, #5, and #6, and Wake Forest Township.~~ Wake County Precincts 02-01, 02-02, 02-03, 02-04, 02-05, 02-06, 07-02, 07-12, 08-01, 08-02, 08-03, 08-04, 08-05, 08-06, 08-07, 08-08, 09-01, 09-02, 09-03, 10-01, 10-02, 10-03, 10-04, 14-01, 14-02, 15-01, 15-02, 15-03, 15-04, 16-01, 16-02, 16-03, 16-04, 16-05, 16-06, 16-07, 19-01, 19-02, 19-03, 19-04, 19-05, 19-06, 19-07, and 19-08. It has one judge.
- (6) Superior Court District 10D consists of ~~the remainder of Wake County not in Superior Court Districts 10A, 10B or 10C.~~ Wake County Precincts 01-15, 01-17, 01-30, 01-37, 01-38, 01-39, 01-42, 01-43, 01-44, 01-45, 01-46, 01-47, 01-51, 07-03, 07-04, 07-05, 07-06, 07-07, 07-07A, 07-09, 07-11, 13-01, 13-02, 13-03, 13-04, 13-05, 17-01, 17-02, 17-04, 17-05, 17-06, and 17-08. It has one judge.
- (7) Superior Court District 12A consists of that part of Cross Creek Precinct #18 north of Raeford Road, Montclair Precinct, that part of Precinct 71-1 not in Judicial District 12B, Precinct 71-2, Morganton #2 Precinct, Cottonade Precinct, Cumberland Precincts 1 and 2, and Brentwood Precinct. It has one judge.
- (8) Superior Court District 12B consists of all of State House of Representatives District 17, except for

- Westarea Precinct, and it also includes that part of Cross Creek Precinct #15 east of Village Drive. It has one judge.
- (9) Superior Court District 12C consists of the remainder of Cumberland County not in Superior Court Districts 12A or 12B. It has two judges.
 - (10) Superior Court District 14A consists of Durham Precincts 9, 11, 12, 13, 14, 15, 18, 34, 40, 41, and 42, and that part of Durham Precinct 39 east of North Carolina Highway #751. It has one judge.
 - (11) Superior Court District 14B consists of the remainder of Durham County not in Superior Court District 14A. It has three judges.
 - (12) Superior Court District 18A consists of ~~Greensboro Precincts 5, 6, 7, 8, 9, 19, 25, 29, 30, 44, and 45 and Clay and Fentress Precincts.~~ Fentress Precincts 1 and 2; Greensboro Precincts 4, 5, 6, 46, 52, 67, 68, 69, 70, 71, 72, 73, 74, and 75; North Clay Precinct; Pleasant Garden Precincts 1 and 2; and South Clay Precinct. It has one judge.
 - (13) Superior Court District 18B consists of High Point Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, and 21, ~~Deep River Precinct, and Jamestown Precincts 1 and 3.~~ 19, 20, 21, 22, 23, 24, 25, 26, and 27; HP Precinct; Jamestown Precincts 1 and 5; North Deep River Precinct; and South Deep River Precinct. It has one judge.
 - (14) Superior Court District 18C consists of ~~Greensboro Precincts 20, 27, 31, 32, 34, 37, 38, 39, and 43, High Point Precinct 19, Stokesdale, Oak Ridge, Bruce, Friendship I, Friendship II, Jamestown II, South Center Grove, North Center Grove, and North Monroe Precincts.~~ Center Grove Precincts 1, 2, and 3; Friendship Precincts 1, 2, 3, 4, and 5; Greensboro Precincts 17, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40A, 40B, 41, 42, 43, 64, 65, and 66; Jamestown Precincts 2, 3, and 4; Monroe Precinct 3; North Center Grove Precinct; Oak Ridge Precincts 1 and 2; Summerfield Precincts 1, 2, 3, and 4; and Stokesdale Precinct. It has one judge.
 - (15) Superior Court District 18D consists of Greensboro Precincts 4, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 26, 36, and 42, and ~~North and South Sumner Precincts.~~ 1, 11, 12, 13, 14, 15, 16, 19, 35, 44, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63; and Sumner Precincts 1, 2, 3, and 4. It has one judge.

- (16) Superior Court District 18E consists of ~~the remainder of Guilford County not in Superior Court Districts 18A, 18B, 18C, or 18D.~~ Gibsonville Precinct; Greene Precinct; Greensboro Precincts 2, 3, 7, 8, 9, 10, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; Jefferson Precincts 1, 2, 3, and 4; Monroe Precincts 1 and 2; North Madison Precinct; North Washington Precinct; Rock Creek Precincts 1 and 2; South Madison Precinct; and South Washington Precinct. It has one judge.
- (17) Superior Court District 21A consists of the Southwest Ward of Winston-Salem, and Precincts 80-6, 80-7, 80-8, 3-1, 9-1, 13-1, 13-2, 13-3, 7-1, 7-2, 7-3, 5-1, 5-2, 5-3, 12-2, and 12-3. It has one judge.
- (18) Superior Court District 21B consists of the Northwest Ward, the South Ward, and the Southeast Ward of Winston-Salem, and Precincts 4-1 and 4-2. It has one judge.
- (19) Superior Court District 21C consists of Precincts 80-1, 80-2, 80-3, 80-4, 80-5, 80-9, 10-2, 10-3, 3-2, 3-3, 11-1, 11-2, 2-1, 6-1, 6-2, 6-3, 6-4, 1-1, 1-2, and 1-3. It has one judge.
- (20) Superior Court District 21D consists of the North Ward, the Northeast Ward, and the East Ward of Winston-Salem, and Precincts 8-2 and 8-3. It has one judge.
- (21) Superior Court District 26A consists of Charlotte Precincts 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 31, 33, 39, 41, 42, 46, 52, 54, 55, 56, 58, 60, 77, 78, and 82, and Long Creek Precinct #2 of Mecklenburg County. It has two judges.
- (22) Superior Court District 26B consists of Charlotte Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 20, 21, 28, 29, 30, 32, 34, 35, 36, 37, 38, 43, 44, 45, 47, 51, 61, 62, 63, 65, 66, 67, 68, 69, 71, 74, 83, 84, and 86, Crab Orchard Precincts 1 and 2, and Mallard Creek Precinct 1. It has two judges.
- (23) Superior Court District 26C consists of the remainder of Mecklenburg County not in Superior Court Districts 26A or 26B. It has two judges.
- (24) Superior Court District 19B1 consists of all of Montgomery County except for Star Precinct, the following precincts of Moore County: #8 West End, #9 Eastwood, #11 Vass, #12 Little River, #14 Taylortown, #17 South Southern Pines, #19 North Southern Pines; #20 West Aberdeen, #21 East Aberdeen, #22 Pinedene,

#23 Pinebluff, and the remainder of Randolph County not in Superior Court District 19B2. It has one judge.

- (25) Superior Court District 19B2 consists of Star Precinct in Montgomery County, the remainder of Moore County not in Superior Court District 19B1, and the following precincts of Randolph County: Archdale I, Archdale II, Archdale III, Brower, Coleridge, Franklinville, Grant, Level Cross, Liberty, New Market North, New Market South, Pleasant Grove, Prospect, Providence, Ramseur, Richland, Staley, Trinity East, and Trinity West. It has one judge."

SECTION 2. G.S. 7A-41(c) reads as rewritten:

"(c) In subsection (b) above:

- (1) ~~the~~ The names and boundaries of townships are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 U.S. Census;
- (2) ~~for Guilford County, precinct boundaries are as shown on maps in use by the Guilford County Board of Elections on April 15, 1987; For Guilford County, the~~ precincts are as they were legally defined and recognized as voting districts of the same name in the 2000 U.S. Census, except Greensboro Precincts 40A and 40B are as they were modified by the Guilford County Board of Elections and are as shown on the Legislative Services Office's redistricting computer database on May 1, 2001;
- (2a) For Wake County, the precincts are as they were adopted by the Wake County Board of Elections and in effect as of January 1, 2001.
- (3) ~~for Mecklenburg, Wake, For Mecklenburg~~ and Durham Counties, precinct boundaries are as shown on the current maps in use by the appropriate county board of elections as of January 31, 1984, in accordance with G.S. 163-128(b);
- (4) ~~for~~ For Wilson County, commissioner districts are those in use for election of members of the county board of commissioners as of January 1, 1987;
- (5) ~~for~~ For Cumberland County, House District 17 is in accordance with the boundaries in effect on January 1, 1987. Precincts are in accordance with those as approved by the United States Department of Justice on February 28, 1986; ~~and~~
- (6) ~~for~~ For Forsyth County, the boundaries of wards and precincts are those in effect on "WARD MAP 1985", published November 1985 by the City of Winston-Salem and Forsyth ~~County. County; and~~

- (7) The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999.

If any changes in precinct boundaries, wards, commissioner districts, or House of Representative districts have been made since the dates specified, or are made, those changes shall not change the boundaries of the superior court districts; provided that if any of those boundaries have changed, a precinct is divided by a superior court judicial district boundary, and the precinct was not so divided at the time of enactment of this section in 1987, the boundaries of the superior court judicial district are changed to place the entirety of the precinct in the superior court judicial district where the majority of the residents of the precinct reside, according to the 1990 Federal Census if:

- (1) Such change does not result in placing a superior court judge in another superior court district;
- (2) Such change does not make a district that has an effective racial minority electorate not have an effective racial minority electorate; and
- (3) The change is approved by the county board of elections where the precinct is located, State Board of Elections and by the Secretary of State upon finding that the change:
 - a. Will improve election administration; and
 - b. Complies with subdivisions (1) and (2) of this subsection."

SECTION 3. As to a district in a county not subject to section 5 of the Voting Rights Act of 1965, as amended, this act is effective when it becomes law. As to a district in a county subject to section 5 of the Voting Rights Act of 1965, as amended, this act becomes effective when the district is precleared pursuant to section 5 of the Voting Rights Act of 1965, as amended.

In the General Assembly read three times and ratified this the 23rd day of July, 2001.

Became law upon approval of the Governor at 11:32 a.m. on the 3rd day of August, 2001.

H.B. 360**SESSION LAW 2001-334**

AN ACT TO CLARIFY THE LAW ON STIPULATIONS AS TO JURISDICTION AND LIMITATIONS OF ACTION AND THE PREFERRED PROVIDER PLAN LAW; AMEND THE SMALL EMPLOYER RATE GUARANTEE LAW; PROVIDE FOR THE PROMOTION OF ALCOHOL AND NARCOTIC SCREENING AND INTERVENTION; AMEND THE LAW ON NEWBORN

AND FOSTER CHILD COVERAGE; PROVIDE FOR SUCCESSOR HEALTH PLAN COVERAGE FOR CONFINEMENT OR PREGNANCY; PROVIDE FOR A HEALTH INSURANCE CONTINUATION ELECTION PERIOD; REQUIRE AN HMO GROUP COVERAGE PREMIUM CHANGE NOTICE; CLARIFY THE HMO POINT-OF-SERVICE LAW; PROVIDE FOR SUCCESSOR HEALTH PLAN COVERAGE FOR CONDITIONS FIRST DIAGNOSED UNDER PREVIOUS COVERAGE; EXPAND MEDICARE SUPPLEMENT GUARANTEED ISSUANCE FOR DISABLED PERSONS; ALLOW THE INSURANCE COMMISSIONER TO ADOPT TEMPORARY RULES FOR MEDICARE SUPPLEMENT AND LONG-TERM CARE INSURANCE TO IMPLEMENT FEDERAL REQUIREMENTS; MAKE TECHNICAL CORRECTIONS TO REFLECT REPEALS OF LAWS; CLARIFY THE LAWS ON RECONSTRUCTIVE SURGERY NOTICES; CLARIFY THE LAW ON DEEMER PROVISIONS; CODIFY A RULE ON CLAIM STATUS UPDATES; MAKE TECHNICAL CHANGES IN MORTGAGE GUARANTY INSURANCE RESERVING LAWS; AUTHORIZE THE ADOPTION OF LIFE AND HEALTH ACTUARIAL RULES; AND CLARIFY LAWS ON LOCAL GOVERNMENT RISK POOLING.

The General Assembly of North Carolina enacts:

PART I. JURISDICTION AND LIMITATION OF ACTIONS IN HEALTH INSURANCE POLICIES

SECTION 1. G.S. 58-3-35 reads as rewritten:

"§ 58-3-35. *Stipulations as to jurisdiction and limitation of actions.*

(a) ~~No company or order, domestic or foreign, authorized to do business in this State under Articles 1 through 64 of~~ No insurer, self-insurer, service corporation, HMO, or MEWA licensed under this Chapter, may Chapter shall make any condition or stipulation in its insurance contracts or policies concerning the court or jurisdiction ~~wherein in which~~ any suit or action ~~thereon~~ on the contract may be brought.

(b) ~~may be brought, nor may it~~ No insurer, self-insurer, service corporation, HMO, or MEWA licensed under this Chapter shall limit the time within which such any suit or action referred to in subsection (a) of this section may be commenced to less than one year after the cause of action accrues or to less than six months from any time at which a plaintiff takes a nonsuit to an action begun within the legal time. All conditions and stipulations forbidden by this section are void. the period prescribed by law.

(c) All conditions and stipulations forbidden by this section are void."

PART II. PREFERRED PROVIDER PLAN CLARIFICATION

SECTION 2.1. G.S. 58-50-56(a)(3) reads as rewritten:

"(3) "Preferred provider benefit plan" means a health benefit plan offered by an insurer in which covered services are available from health care providers who are under a contract with the insurer in accordance with this section and in which enrollees are given incentives through differentials in deductibles, coinsurance, or copayments to obtain covered health care services from contracted health care providers. both of the following features are present:

- a. ~~Utilization review or quality management programs are used to manage the provision of covered health care services; and~~
- b. ~~Enrollees are given incentives through benefit differentials to limit the receipt of covered health care services to those furnished by participating providers, and health care services are provided by preferred providers under a contract pursuant to this section."~~

SECTION 2.2. G.S. 58-3-191(c) reads as rewritten:

"(c) For purposes of this section, "health benefit plan" or "plan" means (i) health maintenance organization (HMO) subscriber contracts and (ii) insurance company or hospital and medical service corporation preferred provider benefit plans ~~in which utilization review or quality management programs are used to manage the provision of covered health care services, and enrollees are given incentives through benefit differentials to limit the receipt of covered health care services to those provided by participating providers as defined in G.S. 58-50-56."~~

PART III. SMALL EMPLOYER RATE GUARANTEES

SECTION 3. G.S. 58-50-130(b)(3) reads as rewritten:

"(3) ~~Small employer carriers~~ A small employer carrier shall not modify the premium rate for charged to a small employer or a small employer group member, including changes in rates related to the increasing age of a group member, for 12 months from the initial issue date or renewal date, unless the group is composite rated and composition of the group changed by twenty percent

(20%) or more or benefits are changed. The percentage increase in the premium rate charged to a small employer for a new rating period ~~may~~shall not exceed the sum of the following:

- a. The percentage change in the adjusted community rate as measured from the first day of the prior rating period to the first day of the new rating period, and
- b. Any adjustment, not to exceed fifteen percent (15%) annually, due to claim experience, health status, or duration of coverage of the employees or dependents of the small employer, and
- c. Any adjustment because of change in coverage or change in case characteristics of the small employer group."

PART IV. INTOXICANTS AND NARCOTICS

SECTION 4.1. G.S. 58-51-15(b)(11) is repealed.

SECTION 4.2. Article 51 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-51-16. Intoxicants and narcotics.

(a) Except for the payment of benefits for the necessary care and treatment of chemical dependency as provided by law, an accident and health insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

(b) The provision in subsection (a) of this section may not be used with respect to a medical expense policy.

(c) For purposes of this section, 'medical expense policy' means an accident and health insurance policy that provides hospital, medical, and surgical expense coverage."

PART V. NEWBORN, FOSTER CHILD, AND ADOPTED CHILD COVERAGE

SECTION 5. G.S. 58-51-30 reads as rewritten:

"§ 58-51-30. Policies to cover newborn ~~infants and infants,~~ foster ~~children~~ children, and adopted children.

(a) As used in this section:

- (1) "Foster child" means a minor (i) over whom a guardian has been appointed by the clerk of superior court of any county in North Carolina; or (ii) the primary or sole

custody of whom has been assigned by order of a court of competent jurisdiction.

- (2) "Placement in the foster home" means physically residing with a person appointed as guardian or custodian of a foster child as long as that guardian or custodian has assumed the legal obligation for total or partial support of the foster child with the intent that the foster child reside with the guardian or custodian on more than a temporary or short-term basis.
- (3) "Placement for adoption" has the same meaning as defined in G.S. 58-51-125(a)(2).

(b) Every health benefit plan, as defined in ~~G.S. 58-51-115(a)(1), G.S. 58-3-167,~~ that provides benefits for any sickness, illness, or disability of any minor child or that provides benefits for any medical treatment or service furnished by a health care provider or institution to any minor child shall provide the benefits for those occurrences beginning with the moment of the child's birth if the birth occurs while the plan is in force. Every health benefit plan shall extend coverage to a newborn child without requirements for prior notification unless an additional premium charge to add the dependent is due. If an additional premium charge is due to cover the dependent, the health benefit plan shall cover the newborn child from the moment of birth if the newborn is enrolled within 30 days after the date of birth. Foster children and adopted children shall be treated the same as newborn infants and eligible for coverage on the same basis upon placement in the foster home, home or placement for adoption. Every health benefit plan shall extend coverage to a foster child or adopted child without requirements for prior notification unless an additional premium charge to add the foster child or adopted child is due. If an additional premium charge is due to cover the foster child or adopted child, the health benefit plan shall cover the foster child or adopted child upon placement in the foster home or placement for adoption if the foster child or adopted child is enrolled within 30 days after the placement in the foster home or placement for adoption.

(c) Benefits in such plans shall be the same for congenital defects or anomalies as are provided for most sicknesses or illnesses suffered by minor children that are covered by the plans. Benefits for congenital defects or anomalies shall specifically include, but not be limited to, all necessary treatment and care needed by individuals born with cleft lip or cleft palate.

(d) No plan shall be approved by the Commissioner under this Chapter that does not comply with this section.

(e) This section applies to insurers governed by Articles 1 through 63 of this Chapter and to corporations governed by Articles 65, 66, and 67 of this Chapter.

(f) This section and G.S. 58-51-125 shall be construed in pari materia."

PART VI. SUCCESSOR PLAN COVERAGE FOR CONFINEMENT OR PREGNANCY

SECTION 6. G.S. 58-51-110(b) reads as rewritten:

"(b) Whenever a contract described in subsection (a) of this section is replaced by another group contract within 15 days of termination of coverage of the previous group contract, the liability of the succeeding insurer for insuring persons covered under the previous group contract is:

- (1) Each person who is eligible for coverage in accordance with the succeeding insurer's plan of ~~benefits with respect to classes eligible and activity at work and noneconfinement rules must~~ benefits, regardless of any other provisions of the new group contract relating to active employment or hospital confinement or pregnancy, shall be covered by the succeeding insurer's plan of benefits; and
- (2) Each person not covered under the succeeding insurer's plan of benefits in accordance with subdivision (b)(1) of this section must nevertheless be covered by the succeeding insurer if that person was validly covered, including benefit extension, under the prior plan on the date of discontinuance and if the person is a member of the class of persons eligible for coverage under the succeeding insurer's plan."

PART VII. CONTINUATION ELECTION PERIOD

SECTION 7.1. G.S. 58-53-10 reads as rewritten:

"§ 58-53-10. *Eligibility.*

Continuation shall only be available to an employee or member who has been continuously insured under the group policy, or for similar benefits under any other group policy that it replaced, during the period of three consecutive months immediately ~~prior to~~ before the date of termination. The employee or member may elect continuation for a period of not fewer than 60 days after the date of termination or loss of eligibility. The employee or member shall make the first contribution upon the election to continue coverage, and the coverage shall be retroactive to the date of termination or loss of eligibility."

SECTION 7.2. G.S. 58-53-30 reads as rewritten:

"§ 58-53-30. *Payment of premiums.*

An employee or member electing continuation must pay to the group policyholder or his employer, in advance, the amount of contribution required by the policyholder or employer, but not more than one hundred two percent (102%) of the full group rate for the insurance applicable under the group policy on the due date of each payment. The employee or member may not be required to pay the amount of the contribution less often than monthly. In order to be eligible for continuation of coverage, the employee or member must make a written election of continuation, on a form furnished by the group policyholder, and pay the first contribution, in advance, to the policyholder or employer on or before the date on which employee's or member's insurance would otherwise terminate. policyholder or by the insurer."

PART VIII. HMO GROUP COVERAGE PREMIUM CHANGE NOTICE

SECTION 8.1. G.S. 58-67-50(b) reads as rewritten:

- "(b)(1) Premium approval. – No schedule of premiums for ~~enrollee~~ coverage for health care services, or any amendment thereto, may to the schedule, shall be used in conjunction with any health care plan until a copy of such schedule, or amendment thereto, the schedule or amendment has been filed with and approved by the Commissioner.
- (2) Individual coverage. – Premiums shall ~~Such premiums may~~ be established in accordance with actuarial principles for various categories of ~~enrollees, provided that premiums enrollees.~~ Premiums applicable to an enrollee shall not be individually determined based on the status of ~~his~~ the enrollee's health. ~~However, the premiums~~ Premiums shall not be excessive, inadequate, or unfairly discriminatory; and ~~must~~ shall exhibit a reasonable relationship to the benefits provided by the evidence of coverage. ~~Such~~ The premiums or any revisions ~~thereto to the premiums~~ with respect to nongroup enrollee coverage shall be guaranteed, as to every enrollee covered under the same category of enrollee coverage, for a period of not less than 12 ~~months; or as an~~ months. As an alternative to giving ~~such this~~ guarantee ~~with respect only to~~ for nongroup enrollee coverage, ~~such the~~ premium or premium revisions may be made applicable to all similar category of enrollee coverage at one time if the health maintenance organization chooses to apply for ~~such the~~

premium revision with respect to such categories of coverages no more frequently than once in any 12-month period. ~~Such~~ The premium revision shall be applicable to all categories of nongroup enrollee coverage of the same type; provided that no premium revision may become effective for any category of enrollee coverage unless the ~~corporation~~ HMO has given written notice of the premium revision to the enrollee 45 days ~~prior to~~ before the effective date of ~~such~~ the revision. The enrollee thereafter must pay the revised premium in order to continue the contract in force. The Commissioner may ~~promulgate~~ adopt reasonable rules, after notice and hearing, to require the ~~submission~~ submittal of supporting data and such information ~~as is deemed~~ as the Commissioner considers necessary to determine whether ~~such~~ the rate revisions meet ~~these~~ the standards in this subdivision.

- (3) Group coverage. – Employer group premiums shall be established in accordance with actuarial principles for various categories of enrollees, provided that premiums applicable to an enrollee shall not be individually determined based on the status of the enrollee's health. Premiums shall not be excessive, inadequate, or unfairly discriminatory, and shall exhibit a reasonable relationship to the benefits provided by the evidence of coverage. The premiums or any revisions to the premiums for employer group coverage shall be guaranteed for a period of not less than 12 months. No premium revision shall become effective for any category of group coverage unless the HMO has given written notice of the premium revision to the master group contract holder upon receipt of the group's finalized benefits or 45 days before the effective date of the revision, whichever is earlier. The master group contract holder thereafter must pay the revised premium in order to continue the contract in force. The Commissioner may adopt reasonable rules, after notice and hearing, to require the submittal of supporting data and such information as the Commissioner considers necessary to determine whether the rate revisions meet the standards in this subdivision."

SECTION 8.2. G.S. 58-67-35(a)(6) reads as rewritten:

- "(6) The offering and contracting for the provision or arranging of, in addition to health care services, of:
- a. Additional health care services;

- b. Indemnity benefits, covering out-of-area or emergency services;
- c. Indemnity benefits, in addition to those relating to out-of-area and emergency services, provided through insurers or hospital or medical service corporations; and
- d. Point-of-service products, for which an HMO may precertify out-of-plan covered services on the same basis as it precertifies in-plan covered services, and for which the Commissioner shall adopt rules governing:
 - 1. The percentage of an HMO's total health care expenditures for out-of-plan covered services for all of its members that may be spent on those services, which may not exceed twenty percent (20%);
 - 2. Product limitations, which may provide for payment differentials for services rendered by providers who are not in an HMO network, subject to G.S. 58-3-200(d).
 - 3. Deposit and other financial requirements; and
 - 4. Other requirements for marketing and administering those products."

PART IX. HIPAA COVERAGE FOR CONDITIONS FIRST DIAGNOSED UNDER PREVIOUS COVERAGE

SECTION 9. G.S. 58-68-30(d) reads as rewritten:

"(d) Exceptions. –

- (1) Exclusion not applicable to certain newborns. – Subject to subdivision (4) of this subsection, a group health insurer shall not impose any preexisting condition exclusion in the case of an individual who, as of the last day of the 30-day period beginning with the individual's date of birth, is covered under creditable coverage.
- (2) Exclusion not applicable to certain adopted children. – Subject to subdivision (4) of this subsection, a group health insurer shall not impose any preexisting condition exclusion in the case of a child who is adopted or placed for adoption before attaining 18 years of age and who, as of the last day of the 30-day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence does not apply to coverage before the date of the adoption or placement for adoption.

- (3) Exclusion not applicable to pregnancy. – A group health insurer shall not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition.
- (4) Loss if break in coverage. – Subdivisions (1) and (2) of this subsection shall no longer apply to an individual after the end of the first 63-day period during all of which the individual was not covered under any creditable coverage.
- (5) Condition first diagnosed under previous coverage. – A group health insurer shall not impose any preexisting condition exclusion for a condition for which medical advice, diagnosis, care, or treatment was recommended or received for the first time while the covered person held qualifying previous coverage or prior creditable coverage and the condition was covered under the qualifying previous coverage or prior creditable coverage; provided that the qualifying previous coverage or prior creditable coverage was continuous to a date not more than 63 days before the enrollment date for the new coverage."

PART X. MEDICARE SUPPLEMENT GUARANTEED ISSUANCE

SECTION 10.1. G.S. 58-54-45 reads as rewritten:

"§ 58-54-45. *By reason of disability.*

(a) In addition to any rule adopted under this Article that is directly or indirectly related to open enrollment, an insurer shall at least make standardized Medicare Supplement ~~Plan A~~ Plans A, C, and J available to persons eligible for Medicare by reason of disability before age 65. This action shall be taken without regard to medical condition, claims experience, or health status. To be eligible, a person must submit an application during the six-month period beginning with the first month the person first enrolls in Medicare Part B.

(b) Persons eligible for Medicare by reason of disability before age 65 who are enrolled in a managed care plan and whose coverage under the managed care plan is terminated through cancellation, nonrenewal, or disenrollment have the guaranteed right to purchase Medicare Supplement Plans A and C from any insurer within 63 days after the date of termination or disenrollment.

(c) An insurer may develop premium rates specific to the disabled population. No insurer shall discriminate in the pricing of the Medicare supplement plans referred to in this section because of the health status, claims experience, receipt of health care, or medical

condition of an applicant where an application for the plan is submitted during an open enrollment or is submitted within 63 days after the managed care plan is terminated. The rates and any applicable rating factors for the Medicare supplement plans referred to in this section shall be filed with and approved by the Commissioner."

SECTION 10.2. Section 39 of S.L. 1998-211 reads as rewritten:

"Section 39. Except as otherwise provided herein, this act is effective as follows: this section and Sections 1, 2, 3, 4, 5, 6, 7, 9.1, 10, 11, 14, 15, 17, 18, 22, 27, 29, 32, 33, 34, 37.1, and 38 of this act are effective when they become law. Sections 9, 12, 13, 19, 20, 21, 23, 24, 25, 28, 30, 31, 35, 36, and 37 of this act become effective November 1, 1998. Sections 8, 16, and 26 of this act become effective January 1, 1999. ~~G.S. 58-54-45, as enacted by Section 13 of this act, expires November 1, 2001.~~"

PART XI. MEDICARE SUPPLEMENT AND LONG-TERM CARE RULES

SECTION 11.1. G.S. 58-54-50 reads as rewritten:

"§ 58-54-50. Rules for compliance with federal law and regulations.

The Commissioner may adopt temporary rules necessary to conform Medicare supplement policies and certificates to the requirements of federal law and regulations, including:

- (1) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements.
- (2) Establishing a uniform methodology for calculating and reporting loss ratios.
- (3) Assuring public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance.
- (4) Establishing standards for Medicare Select policies and certificates.
- (5) Any other changes required by Congress or the U.S. Department of Health and Human Services, or any successor agency."

SECTION 11.2. Article 55 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-55-50. Rules for compliance with federal law and regulations.

The Commissioner may adopt temporary rules necessary to conform long-term care policies and certificates to the requirements of federal law and regulations, including any changes required by Congress or the U.S. Department of Health and Human Services, or any successor agencies."

PART XII. SHPPA REPEAL TECHNICAL CORRECTIONS

SECTION 12.1. G.S. 58-50-110(1) is repealed.

SECTION 12.2. G.S. 58-50-110(14) reads as rewritten:

"(14) 'Late enrollee' has the same meaning as defined in G.S. 58-68-30(b)(2); provided that the initial enrollment period shall be a period of at least 30 consecutive calendar days. In addition to the special enrollment provisions in G.S. 58-68-30(f), an eligible employee or dependent shall not be considered a late enrollee under a small employer health benefit plan if:

- a. Repealed by Session Laws 1998-211, s. 9.
 - 1, 2. Repealed by Session Laws 1998-211, s. 9.
 - 3, 4. Repealed by Session Laws 1993, c. 529, s. 3.3.
- b. The individual elects a different health benefit plan offered ~~through the Alliance or~~ by the small employer during an open enrollment period;
- c. Repealed by Session Laws 1998-211, s. 9.
- d. A court has ordered coverage be provided for a spouse or minor child under a covered employee's health benefit plan and the request for enrollment for a spouse is made within 30 days after issuance of the court order. A minor child shall be enrolled in accordance with the requirements of G.S. 58-51-120; or
- e. Repealed by Session Laws 1998-211, s. 9."

SECTION 12.3. G.S. 58-50-130(a)(4a) reads as rewritten:

"(4a) A carrier may continue to enforce reasonable employer participation and contribution requirements on small employers applying for coverage; however, participation and contribution requirements may vary among small employers only by the size of the small employer group and shall not differ because of the health benefit plan involved. In applying minimum participation requirements to a small employer, a small employer carrier shall not consider employees or dependents who have qualifying existing coverage in determining whether an applicable participation level is met. "Qualifying existing coverage" means benefits or coverage provided under: (i) Medicare, Medicaid, and other government funded programs; or (ii) an employer-based health insurance or health benefit arrangement, including a self-insured plan, that provides benefits similar to or in excess of benefits

provided under the basic health care plan. ~~An accountable health carrier shall not enforce participation or contribution requirements on member small employers, as defined in G.S. 143-622(18), unless those requirements meet with the standards adopted by the State Health Plan Purchasing Alliance Board."~~

PART XIII. RECONSTRUCTIVE SURGERY NOTICES

SECTION 13.1. G.S. 58-51-62(d) reads as rewritten:

"(d) Written notice of the availability of the coverage provided by this section shall be delivered to every ~~individual person insured~~ policyholder under the an individual policy, contract, or plan and to every certificate holder under a group policy, contract, or plan upon initial coverage under the policy, contract, or plan and annually thereafter. The notice required by this subsection may be included as a part of any yearly informational packet sent to the policyholder or certificate holder."

SECTION 13.2. G.S. 58-65-96(d) reads as rewritten:

"(d) Written notice of the availability of the coverage provided by this section shall be delivered to every ~~individual person insured~~ subscriber under the an individual certificate, contract, or plan and to every certificate holder under a group policy, contract, or plan upon initial coverage under the certificate, contract, or plan and annually thereafter. The notice required by this subsection may be included as a part of any yearly informational packet sent to the subscriber or certificate holder."

SECTION 13.3. G.S. 58-67-79(d) reads as rewritten:

"(d) Written notice of the availability of the coverage provided by this section shall be delivered to every ~~individual person insured~~ subscriber under the plan upon enrollment and annually thereafter. The notice required by this subsection may be included as a part of any yearly informational packet sent to the subscriber."

PART XIV. DEEMER PROVISIONS

SECTION 14. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-151. Deemer provisions.

No entity subject to the Commissioner's jurisdiction and regulation shall be fined or penalized by the Commissioner for using forms, contracts, schedules of premiums, or other documents required to be filed and approved under this Chapter or for executing contracts required to be filed and approved under this Chapter if those forms,

contracts, schedules of premiums, or other documents have been by law deemed to have been approved, and the entity has notified the Commissioner before using the filing or executing the contract that the law has deemed the filing or the contract to be approved."

PART XV. ACCIDENT, HEALTH, AND DISABILITY CLAIMS

SECTION 15. G.S. 58-3-100(c) reads as rewritten:

"(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an HMO, service corporation, MEWA, or insurer fails to acknowledge a claim within 30 days after receiving written or electronic notice of the claim, but only if the notice contains sufficient information for the insurer to identify the specific coverage involved. Acknowledgement of the claim shall be made to the claimant or his legal representative advising that the claim is being investigated; or shall be a payment of the claim; or shall be a bona fide written offer of settlement; or shall be a written denial of the claim. A claimant includes an insured, a health care provider, or a health care facility that is responsible for directly making the claim with an insurer. With respect to a claim under an accident, health, or disability policy, if the acknowledgement sent to the claimant indicates that the claim remains under investigation, within 45 days after receipt by the insurer of the initial claim, the insurer shall send a claim status report to the insured and every 45 days thereafter until the claim is paid or denied. The report shall give details sufficient for the insured to understand why processing of the claim has not been completed and whether the insurer needs additional information to process the claim. If the claim acknowledgement includes information about why processing of the claim has not been completed and indicates whether additional information is needed, it may satisfy the requirement for the initial claim status report. This subsection does not apply to insurers subject to G.S. 58-3-225."

PART XVI. MORTGAGE GUARANTY INSURANCE RESERVES

SECTION 16.1. G.S. 58-10-130 reads as rewritten:

"§ 58-10-130. *Unearned premium reserve.*

- (a) The unearned premium reserve shall be computed as follows:
 - (1) The unearned premium reserve for premiums paid in advance annually shall be calculated on the monthly pro rata fractional basis.

- (2) Premiums paid in advance for 10-year coverage shall be placed in the unearned premium reserve and shall be released from this reserve as follows:
 - a. 1st month - 1/132;
 - b. 2nd through 12th month - 2/132 each month;
 - c. 13th month - 3/264;
 - d. 14th through 120th month - 1/132 per month;
 - e. 121st month - 1/264.
- (3) Premiums paid in advance for periods in excess of 10 years. During the first 10 years of coverage the unearned portion of the premium shall be the premium collected minus an amount equal to the premium that would have been earned had the applicable premium for 10 years of coverage been received. The premium remaining after 10 years shall be released from the unearned premium reserve monthly pro rata over the remaining term of coverage.

~~(b) Fifty percent (50%) of the premium remaining after establishment of the premium reserve specified in subsection (a) of this section shall be maintained as a special contingency reservation of premium and reported in the financial statement as a liability.~~

(c) The case basis method shall be used to determine the loss reserve which shall include a reserve for claims reported and unpaid and a reserve for claims incurred but not reported."

SECTION 16.2. G.S. 58-10-135(c) reads as rewritten:

"(c) The contingency reserve established by this section shall be maintained for ~~120 months.~~ months and reported in the financial statements as a liability. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve."

SECTION 16.3. G.S. 58-10-135(d) reads as rewritten:

"(d) With the approval of the Commissioner, withdrawals may be made from the contingency reserve when incurred losses and incurred loss expenses exceed the greater of either thirty-five percent (35%) of the net earned premium or seventy percent (70%) of the amount which subsection (a) of this section requires to be contributed to the contingency reserve in such year. On a quarterly basis, provisional withdrawals may be made from the contingency reserve in an amount not to exceed seventy-five percent (75%) of the withdrawal calculated in accordance with ~~subdivision (d)(1) of G.S. 58-10-125.~~ this subsection."

PART XVII. ACTUARIAL RULES

SECTION 17.1. G.S. 58-58-50 is amended by adding a new subsection to read:

"(1) The Commissioner may adopt rules for life insurers for the following matters:

- (1) Reserves for contracts issued by insurers.
- (2) Optional smoker/nonsmoker mortality tables permitted for use in determining minimum reserve liabilities and nonforfeiture benefits.
- (3) Optional blended gender mortality tables permitted for use in determining nonforfeiture benefits for individual life policies.
- (4) Optional tables acceptable for use in determining reserves and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

In adopting these rules, the Commissioner may consider model laws and regulations promulgated and amended from time to time by the NAIC."

SECTION 17.2. G.S. 58-7-16(f) reads as rewritten:

"(f) The Commissioner has sole authority to regulate the issuance and sale of funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the Commissioner may adopt rules relating to:

- (1) Standards to be followed in the approval of forms of funding agreements.
- (2) Reserves to be maintained by and valuation rules for insurers issuing funding agreements.
- (3) Accounting and reporting of funds credited under funding agreements.
- (4) Disclosure of information to be given to holders and prospective holders of funding agreements.
- (5) Qualification and compensation of persons selling funding agreements on behalf of insurers.

In determining minimum valuation reserves to be maintained by and valuation rules for insurers issuing funding agreements, the Commissioner may use any relevant actuarial guideline, regulation, interpretation, or paper published by the Society of Actuaries or the American Academy of Actuaries that the Commissioner considers reasonable."

SECTION 17.3. G.S. 58-51-95(f) reads as rewritten:

"(f) An insurer may increase rates chargeable on policies subject to this section, other than noncancellable policies, with the approval of the Commissioner if the Commissioner finds that ~~such~~ the rates are not excessive, not inadequate, and not unfairly discriminatory; and

exhibit a reasonable relationship to the benefits provided by ~~such~~ the policies. ~~Such~~ The approved rates shall be guaranteed by the insurer, as to the policyholders ~~thereby affected,~~ affected by the rates, for a period of not less than 12 months; or as an alternative to the insurer giving ~~such~~ the guarantee, ~~such~~ the approved rates may be applicable to all policyholders at one time if the insurer chooses to apply for ~~such~~ that relief with respect to ~~such~~ those policies no more frequently than once in any 12-month period. ~~Such~~ The rates shall be applicable to all policies of the same type; provided that no rate increase may become effective for any policy unless the insurer has given the policyholder written notice of the rate revision 45 days ~~prior to~~ before the effective date of the revision. The policyholder ~~thereafter~~ then pay the revised rate in order to continue the policy in force. The Commissioner may ~~promulgate~~ adopt reasonable rules, after notice and hearing, to require the submission of supporting data and such information as ~~is deemed~~ the Commissioner considers necessary to determine whether ~~such~~ the rate revisions meet these standards. In adopting the rules under this subsection, the Commissioner may require identification of the types of rating methodologies used by filers and may also address issue age or attained age rating, or both; policy reserves used in rating; and other recognized actuarial principles of the NAIC, the American Academy of Actuaries, and the Society of Actuaries."

SECTION 17.4. G.S. 58-67-50(b) reads as rewritten:

- "(b)(1) No schedule of premiums for enrollee coverage for health care ~~services,~~ services or any amendment ~~thereto,~~ to the schedule may be used in conjunction with any health care plan until a copy of ~~such schedule, or amendment thereto,~~ the schedule or amendment has been filed with and approved by the Commissioner.
- (2) ~~Such~~ The premiums may be established in accordance with actuarial principles for various categories of enrollees, provided that premiums applicable to an enrollee shall not be individually determined based on the status of ~~his~~ the enrollee's health. ~~However, the premiums~~ Premiums shall not be excessive, inadequate, or unfairly discriminatory; and must exhibit a reasonable relationship to the benefits provided by the evidence of coverage. ~~Such premiums~~ Premiums or any premium revisions ~~thereto with respect to~~ for nongroup enrollee coverage shall be guaranteed, as to every enrollee covered under the same category of enrollee coverage, for a period of not less than 12 months; or as an alternative to giving ~~such~~ the guarantee with respect only to nongroup enrollee coverage, ~~such~~ the premium or

premium revisions may be made applicable to all similar category of enrollee coverage at one time if the health maintenance organization chooses to apply for ~~such the~~ such the premium revision with respect to ~~such the~~ such the categories of coverages no more frequently than once in any 12-month period. ~~Such The~~ Such The premium revision shall be applicable to all categories of nongroup enrollee coverage of the same type; provided that no premium revision may become effective for any category of enrollee coverage unless the ~~corporation~~ HMO has given written notice of the premium revision 45 days ~~prior to~~ before the effective date of ~~such the~~ such the revision. The enrollee ~~thereafter~~ then must pay the revised premium in order to continue the contract in force. The Commissioner may ~~promulgate~~ adopt reasonable rules, after notice and hearing, to require the submission of supporting data and such information as ~~is deemed the~~ Commissioner considers necessary to determine whether ~~such the~~ such the rate revisions meet these standards. In adopting the rules under this subsection, the Commissioner may require identification of the types of rating methodologies used by filers and may also address standards for data in HMO rate filings for initial filings, filings by recently licensed HMOs, and rate revision filings; data requirements for service area expansion requests; policy reserves used in rating; incurred loss ratio standards; and other recognized actuarial principles of the NAIC, the American Academy of Actuaries, and the Society of Actuaries."

PART XVIII. LOCAL GOVERNMENT POOLING CLARIFICATION

SECTION 18.1. G.S. 58-49-1 reads as rewritten:

"§ 58-49-1. Purposes.

The purposes of this section and G.S. 58-49-5 through G.S. 58-49-25 are: To give the State jurisdiction over providers of health care benefits; to indicate how each provider of health care benefits may show under what jurisdiction it falls; to allow for examinations by the State if the provider of health care benefits is unable to show it is subject to the exclusive jurisdiction of another governmental agency; to make such a provider of health care benefits subject to the laws of the State if it cannot show that it is subject to the exclusive jurisdiction of another governmental agency; and to disclose the purchasers of such health care benefits whether or not the plans are

fully insured. As used in G.S. 58-49-5 through G.S. 58-49-20, 'person' does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina."

SECTION 18.2. G.S. 58-1-5(9) reads as rewritten:

"(9) 'Person' means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert. ~~'Person' does not mean the State of North Carolina or any county, city, or other political subdivision of the State of North Carolina.~~"

SECTION 18.3. G.S. 58-23-5 reads as rewritten:

"§ 58-23-5. *Local government pooling of property, liability and workers' compensation coverages.*

(a) In addition to other authority granted pursuant to local governments under Chapters 153A and 160A of the General Statutes, Statutes to jointly purchase insurance or pool retention of their risks, two or more local governments may enter into contracts or agreements ~~pursuant to~~ under this Article for the joint purchasing of insurance or to pool retention of their risks for property losses and liability claims and to provide for the payment of such losses or claims made against any member of the pool on a cooperative or contract basis with one another, or may enter into a trust agreement to carry out the provisions of this Article.

(b) In addition to other authority granted pursuant to local governments under Chapters 153A and 160A of the General Statutes, Statutes or under G.S. 97-7 to jointly purchase insurance or pool retention of their risks, two or more local governments may enter into contracts or agreements pursuant to this Article to establish a separate workers' compensation pool to provide for the payment of workers' compensation claims ~~pursuant to~~ under Chapter 97 of the General ~~Statutes or Statutes.~~

(c) In addition to other authority granted to local governments under Chapters 153A and 160A of the General Statutes to pool retention of their risks, two or more local governments may enter into contracts or agreements under this Article to establish pools providing for life or accident and health insurance for their employees on a cooperative or contract basis with one another; or may enter into a trust agreement to carry out the provisions of this Article.

(d) A workers' compensation pool established ~~pursuant to~~ under this Article may only provide coverage for workers' compensation, employers' liability, and occupational disease claims.

(e) ~~Such local~~ Local governments that intend to operate under this Article shall give the Commissioner 30 days' advance written notification, in a form prescribed by the Commissioner, that they intend to organize and operate risk pools pursuant to this Article.

Local governments that jointly purchase insurance or pool retention of their risks under authority granted to them in Chapters 153A and 160A of the General Statutes or under G.S. 97-7 and that do not provide the Commissioner with the notification prescribed by this subsection shall not be subject to regulation by the Commissioner and shall not be under the jurisdiction of the Commissioner."

PART XIX. SEVERABILITY

SECTION 19. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

PART XX. EFFECT OF HEADINGS

SECTION 20. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

PART XXI. EFFECTIVE DATES

SECTION 21. Parts I through X of this act become effective October 1, 2001. Part XV becomes effective July 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2001.

Became law upon approval of the Governor at 11:32 a.m. on the 3rd day of August, 2001.

H.B. 146 SESSION LAW 2001-335

AN ACT TO MODIFY THE PASS-THROUGH DISTRIBUTION OF PARTNERSHIP INCOME TAX CREDITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-269.15(a) reads as rewritten:

"(a) ~~Pass Through of Credit. Qualification.~~ – A partnership may pass through to each of its partners the partner's distributive share of an income tax credit for which the partnership qualifies. Except as otherwise provided in this Chapter, all limitations on an income tax credit apply to the partnership, except the following:

- (1) ~~The limitation that the credit may not exceed the amount of income tax imposed on the taxpayer.~~

(2) ~~A cap on the otherwise allowable amount of the credit, expressed as a specific maximum dollar amount or a specific percentage of tax imposed for the taxable year, that engages in an activity that is eligible for a tax credit qualifies for the credit as an entity and then passes through to each of its partners the partner's distributive share of the credit for which the partnership entity qualifies. Maximum dollar limits and other limitations that apply in determining the amount of a tax credit available to a taxpayer apply to the same extent in determining the amount of a tax credit for which the partnership entity qualifies, with one exception. The exception is a limitation that the tax credit cannot exceed the amount of tax imposed on the taxpayer.~~"

SECTION 2. G.S. 105-151.12 reads as rewritten:
"§ 105-151.12. *Credit for certain real property donations.*

(a) A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated to and accepted by either the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. The credit allowed under this section may not exceed two hundred fifty thousand dollars (\$250,000). To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection.

(b) The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer.

Any unused portion of this credit may be carried forward for the next succeeding five years.

(c) Repealed by Session Laws 1998-212, s. 29A.13(b).

(d) In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file

a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(e) In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003 to qualify for the credit allowed by this section.

(f) Notwithstanding G.S. 105-269.15, the maximum dollar limit that applies in determining the amount of the credit applicable to a partnership that qualifies for the credit applies separately to each partner."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2002. Section 2 of this act expires for taxable years beginning on or after January 1, 2005.

In the General Assembly read three times and ratified this the 25th day of July, 2001.

Became law upon approval of the Governor at 11:33 a.m. on the 3rd day of August, 2001.

S.B. 627**SESSION LAW 2001-336**

AN ACT TO REQUIRE LIABILITY INSURANCE ON MOTOR VEHICLES OPERATED IN THE STATE BY STUDENTS WHO REQUEST A PERMIT TO PARK AT A CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-44.4(d) reads as rewritten:

"(d) Each board of trustees may by ordinance set aside parking lots and other parking facilities on the campus for use by students, faculty, and employees of the University and members of the general public attending schools, conferences, or meetings at the University, visiting or making use of any University facilities, or attending to official business with the University. The board of trustees may issue permits to park in these lots and garages and may charge a fee therefor. The board of trustees may also by ordinance make it unlawful for any person to park a motor vehicle in any lot or other parking facility without procuring the requisite permit and displaying it on the vehicle. No permit to park shall be issued until the student requesting the permit provides the name of the insurer, the policy number under which the student has financial responsibility, and the student certifies that the motor vehicle is insured at the levels set in G.S. 20-279.1(11) or higher. This subsection applies to motor vehicles that are registered in other states as well as motor vehicles

that are registered in this State pursuant to Chapter 20 of the General Statutes."

SECTION 2. This act becomes effective January 1, 2002, and applies to all student requests for permits to park submitted on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 11:34 a.m. on the 3rd day of August, 2001.

H.B. 977**SESSION LAW 2001-337**

AN ACT TO REMOVE THE EXCUSE REQUIREMENT FROM ABSENTEE VOTING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-226 reads as rewritten:
"§ 163-226. *Who may vote an absentee ballot.*

(a) Who May Vote Absentee Ballot; Generally. – Any qualified voter of the State may vote by absentee ballot in a statewide primary, general, or special election on constitutional amendments, referenda or bond proposals, and any qualified voter of a county is authorized to vote by absentee ballot in any primary or election conducted by the county board of elections, in the manner provided in this Article if:

- (1) ~~The voter expects to be absent from the county in which he is registered during the entire period that the polls are open on the day of the specified election in which the voter desires to vote;~~
- (2) ~~The voter is unable to be present at the voting place to vote in person on the day of the specified election in which the voter desires to vote because of the voter's sickness or other physical disability;~~
- (3) ~~The voter is incarcerated, whether in the voter's county of residence or elsewhere, shall be entitled to vote by absentee ballot in the county of the voter's residence in any election, specified herein, in which the voter otherwise would be entitled to vote. Absentee voting shall be in the same manner as provided in this Article. The chief custodian or superintendent of the institution or other place of confinement shall certify that the applicant is not a felon, and the certification shall be as prescribed by the State Board of Elections. The State Board of Elections is authorized to prescribe procedures to carry out the intent and purpose of this subsection;~~

- ~~(3a) The voter because of the observance of a religious holiday pursuant to the tenets of the voter's religion will be unable to cast a ballot at the polling place on the day of the election; or~~
- ~~(4) The voter is an employee of the county board of elections or a precinct official, observer, or ballot counter, in another precinct and the voter's assigned duties on the day of the election will cause the voter to be unable to be present at the voting place to vote in person and provided such employee has the application witnessed by the chairman of the county board of elections. Article.~~

~~(a1) No Excuse Absentee Voting for One Stop in General Elections Only. — The only type of absentee voting that is not subject to the excuse requirements of subsection (a) of this section is one stop voting as provided in G.S. 163-227.2 for elections held on the day of the general elections in November of even numbered years.~~

(b) Absentee Ballots; Exceptions. — Notwithstanding the authority contained in G.S. 163-226(a), absentee ballots shall not be permitted in fire district elections.

(c) The Term 'Election'. — As used in this Subchapter, unless the context clearly requires otherwise, the term "election" includes a general, primary, second primary, runoff election, bond election, referendum, or special election."

SECTION 2. G.S. 163-227.2(a1) is repealed.

SECTION 3. G.S. 163-230.1(a) reads as rewritten:

"(a) A qualified voter who is eligible to vote by absentee ballot under G.S. ~~163-226(a)(1),~~ 163-226(a) or that voter's near relative or verifiable legal guardian, shall request in writing an application for absentee ballots, so that the county board of elections receives the request not later than 5:00 P.M. on the Tuesday before the election. The county board of elections shall enter in the register of absentee requests, applications, and ballots issued the information required in G.S. 163-228 as soon as each item of that information becomes available. Upon receiving the application, the county board of elections shall cause to be mailed to that voter in a single package:

- (1) The official ballots the voter is entitled to vote;
- (2) A container-return envelope for the ballots, printed in accordance with G.S. 163-229; and
- (3) Repealed by Session Laws 1999-455, s. 10.
- (4) An instruction sheet.

The ballots, envelope, and instructions shall be mailed to the voter by the county board's chairman, member, officer, or employee as determined by the board and entered in the register as provided by this Article."

SECTION 4. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 26th day of July, 2001.

Became law upon approval of the Governor at 11:35 a.m. on the 3rd day of August, 2001.

H.B. 332 SESSION LAW 2001-338

AN ACT TO REVISE THE BUSINESS ENERGY IMPROVEMENT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 36 of Chapter 143 of the General Statutes reads as rewritten:

"Part 3. ~~Business~~ Energy Improvement Loan Program.

"§ 143-345.16. *Short title.*

This Part shall be known as the ~~Business~~ Energy Improvement Loan Program.

"§ 143-345.17. *Legislative findings and purpose.*

The General Assembly finds and declares that it is in the best interest of the citizens of North Carolina to promote and encourage energy efficiency within the ~~State's industrial and commercial base State~~ State in order to conserve energy, promote economic competitiveness, and expand employment in the State.

"§ 143-345.18. *Lead agency; powers and duties.*

(a) For the purposes of this Part, the Department of ~~Administration~~ Administration, State Energy Office, is designated as the lead State agency in matters pertaining to ~~industrial and commercial energy conservation~~ energy efficiency.

(b) The Department shall have the following powers and duties with respect to this Part:

- (1) To provide industrial and commercial concerns doing business in North ~~Carolina~~ Carolina, local governmental units, and nonprofit organizations operating in North Carolina with information and assistance in undertaking energy conserving capital improvement projects to enhance ~~industrial and commercial capacity efficiency~~.
- (2) To establish a revolving fund within the Department for the purpose of providing secured loans in amounts not greater than five hundred thousand dollars (\$500,000) per ~~business~~ entity to install energy-efficient capital improvements (i) within businesses or nonprofit organizations located within or translocating to North ~~Carolina~~ Carolina, and (ii) within local governmental

units. In providing these loans, priority shall be given to ~~businesses~~ entities already located in the State.

- (2a) To develop and adopt rules to allow State-regulated financial institutions to provide secured loans to corporate entities, nonprofit organizations, and local governmental units in accordance with terms and criteria established by the Department.
- (3) To work with appropriate State and federal agencies to develop and implement rules and regulations to facilitate this program.

(c) The annual interest rate charged for the use of the funds from the revolving fund established pursuant to subdivision (b)(2) of this section shall be ~~one half of the 90 day rate for United States Treasury Bills, not to exceed five percent (5%) per annum, three percent (3%) per annum,~~ excluding other fees required for loan application review and origination. The term of any loan originated under this section may not be greater than ~~seven~~ 10 years.

(c1) Notwithstanding subsection (c) of this section, the Department shall adopt rules to allow loans to be made from the revolving loan fund and by State-regulated financial institutions at interest rates as low as one percent (1%) per annum for certain energy efficient and conservation projects such as recycling and renewable energy to encourage their development and use.

(d) In accordance with the terms of the Stripper Well Settlement, administrative expenses for activities under this section shall be limited to five percent (5%) of funds appropriated for this purpose.

(e) For purposes of this section:

- (1) 'Local governmental unit' means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.
- (2) 'Nonprofit organization' means an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of July, 2001.

Became law upon approval of the Governor at 11:35 a.m. on the 3rd day of August, 2001.

H.B. 437

SESSION LAW 2001-339

AN ACT TO CLARIFY THAT ANY PLACE, WHETHER LOCATED IN THIS STATE OR OUT-OF-STATE,

DELIVERING OR DISPENSING DEVICES OR MEDICAL EQUIPMENT TO A USER IN THIS STATE SHALL COMPLY WITH THE REGISTRATION REQUIREMENTS OF THE BOARD OF PHARMACY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.22 reads as rewritten:

"§ 90-85.22. *Device and medical equipment permits.*

(a) Devices. – Each place, whether located in this State or out-of-state, where devices are dispensed or delivered to the user in this State shall register annually with the Board on a form provided by the Board and obtain a device permit. A business that has a current pharmacy permit does not have to register and obtain a device permit. Records of devices dispensed in pharmacies or other places shall be kept in accordance with rules adopted by the Board.

(b) Medical Equipment. – Each place, whether located in this State or out-of-state, that delivers medical equipment to the user of the equipment in this State shall register annually with the Board on a form provided by the Board and obtain a medical equipment permit. A business that has a current pharmacy permit or a current device permit does not have to register and obtain a medical equipment permit. Medical equipment shall be delivered only in accordance with requirements established by rules adopted by the Board.

(c) This section shall not apply to either of the following:

- (1) A pharmaceutical manufacturer registered with the Food and Drug Administration.
- (2) A wholly owned subsidiary of a pharmaceutical manufacturer registered with the Food and Drug Administration."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2001.

Became law upon approval of the Governor at 11:36 a.m. on the 3rd day of August, 2001.

S.B. 815

SESSION LAW 2001-340

AN ACT TO REQUIRE LENDERS TO PROVIDE APPLICANTS FOR HOME LOANS WITH AMORTIZATION INFORMATION AND AMORTIZATION CHARTS FOR FIXED RATE HOME LOANS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 24-1.1A is amended by adding a new subsection to read:

"(a1) Subject to federal requirements, at the time a person applies with a lender for a home loan, the lender shall provide the applicant with information and examples of amortization of home loans reflecting various terms in a form made available by the Commissioner of Banks and, for fixed rate home loans only, shall provide the person an amortization schedule for the person's home loan at closing. The Commissioner of Banks shall develop and make available to home loan lenders materials necessary to satisfy the provisions of this subsection."

SECTION 2. This act becomes effective October 1, 2001, and applies to loans applied for on or after that date.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 11:37 a.m. on the 3rd day of August, 2001.

H.B. 686**SESSION LAW 2001-341**

AN ACT TO DEFINE "RECREATION VEHICLE" AND TO INCREASE THE LENGTH AND WIDTH LIMITATIONS FOR THESE VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 is amended by adding a new subdivision to read:

"(32a) Recreation Vehicle. – A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper.

a. Motor home. – As defined in G.S. 20-4.01(27)d2.

b. Travel trailer. – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

c. Fifth-wheel trailer. – A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a

special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

- d. Camping trailer. – A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- e. Truck camper. – A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck."

SECTION 2. G.S. 20-4.01(32a) is recodified as G.S. 20-4.01(32b).

SECTION 3. G.S. 20-116(b) reads as rewritten:

"(b) No passenger-type vehicle or recreational vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof."

SECTION 4. G.S. 20-116(d) reads as rewritten:

"(d) A single vehicle having two axles shall not exceed 40 feet in length of extreme overall dimensions inclusive of front and rear bumpers. A single vehicle having three axles shall not exceed 40 feet in length overall of dimensions inclusive of front and rear bumpers. Provided, however, trucks transporting unprocessed cotton from farm to gin shall not exceed 48 feet in length overall of dimensions inclusive of front and rear bumpers. A truck-tractor and semitrailer shall be regarded as two vehicles for the purpose of determining lawful length and license taxes. Recreation vehicles shall not exceed 45 feet in length overall, excluding bumpers and mirrors."

SECTION 5. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 23rd day of July, 2001.

Became law upon approval of the Governor at 11:37 a.m. on the 3rd day of August, 2001.

S.B. 157

SESSION LAW 2001-342

AN ACT TO AMEND CERTAIN PROVISIONS UNDER THE DIETETICS/NUTRITION PRACTICE ACT AND TO

AUTHORIZE THE BOARD OF DIETETICS/NUTRITION TO INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-354(b) reads as rewritten:

"(b) ~~Of the members initially appointed, the professional member appointed by the Governor, one of the professional members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the professional members appointed by the General Assembly upon the recommendation of the President of the Senate shall be appointed for three year terms; one of the public members appointed by the Governor, one of the professional members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one of the professional members appointed by the General Assembly upon the recommendation of the President of the Senate shall be appointed for two year terms; and one of the public members appointed by the Governor shall be appointed for a one year term. After the initial terms specified in this subsection, members~~Members of the Board shall take office on the first day of July immediately following the expired term of that office and shall serve for a term of three years and until their successors are appointed and qualified."

SECTION 2. G.S. 90-355 reads as rewritten:

"§ 90-355. *Election of officers; meetings of Board.*

(a) ~~Within 30 days after making appointments to the Board, the Governor shall call the first meeting of the Board.~~The Board shall elect a chairman and a vice-chairman who shall hold office according to rules adopted by the Board.

(b) The Board shall hold at least two regular meetings each year as provided by rules adopted by the Board. The Board may hold additional meetings upon the call of the chairman or any two Board members. A majority of the Board membership shall constitute a quorum."

SECTION 3. G.S. 90-356(8) reads as rewritten:

"§ 90-356. *Power and responsibility of Board.*

The Board shall:

- ...
- (8) Conduct administrative hearings in accordance with Article ~~33A~~ of Chapter 150B of the General Statutes when a 'contested case' as defined in G.S. 150B-2(2) arises under this Article;".

SECTION 4. G.S. 90-356(9) reads as rewritten:

"§ 90-356. *Power and responsibility of Board.*

The Board shall:

- ...
- (9) Establish reasonable fees ~~as allowed by this Article~~ for applications for examination; initial, provisional, and renewal licenses; and other services provided by the Board;"

SECTION 5. G.S. 90-364 reads as rewritten:

"§ 90-364. *Fees.*

The Board shall establish fees in accordance with Chapter 150B of the General Statutes ~~in amounts to cover the cost of services rendered~~ for the following purposes:

- (1) For an initial application, a fee not to exceed ~~twenty five dollars (\$25.00);~~ one hundred dollars (\$100.00).
- (2) For examination or reexamination, a fee not to exceed ~~one hundred fifty dollars (\$150.00);~~ two hundred dollars (\$200.00).
- (3) For issuance of a license, a fee not to exceed ~~one hundred dollars (\$100.00);~~ two hundred dollars (\$200.00).
- (4) For the renewal of a license, a fee not to exceed ~~fifty dollars (\$50.00);~~ one hundred twenty-five dollars (\$125.00).
- (5) For the late renewal of a license, an additional late fee not to exceed ~~fifty dollars (\$50.00);~~ one hundred dollars (\$100.00).
- (6) For a provisional license, a fee not to exceed ~~thirty five dollars (\$35.00);~~ and one hundred dollars (\$100.00).
- (7) For copies of Board rules and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 26th day of July, 2001.

Became law upon approval of the Governor at 11:38 a.m. on the 3rd day of August, 2001.

H.B. 1318 SESSION LAW 2001-343

AN ACT TO AMEND AND CLARIFY THE FARM MACHINERY AGREEMENT LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Article 26 of Chapter 66 of the General Statutes reads as rewritten:

"Article 26.

"Farm Machinery ~~Franchises.~~ Agreements.

"§ 66-180. *Definitions.*

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

- (1) "Agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer, or distributor by which the dealer is granted one or more of the following rights:
 - a. To sell or distribute goods or services.
 - b. To use a trade name, trademark, service mark, logo type, or advertising or other commercial symbol.
- (2) "Current model" means a model listed in the wholesaler's, manufacturer's, or distributor's current sales manual or any supplements.
- (3) "Current net price" means the price listed in the supplier's price list or catalog in effect at the time the franchise agreement is terminated, less any applicable discounts allowed.
- (4) "Dealer" means a person engaged in the business of selling at retail farm, construction, utility or industrial, equipment, implements, machinery, attachments, outdoor power equipment, or repair parts.
- (5) "Family member" means a spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild, or a lineal descendant of the dealer or principal owner of the dealership.
- (3) "Franchise agreement" means a written or oral contract or agreement between a dealer and a wholesaler, manufacturer, or distributor by which the dealer is granted the right to sell or distribute goods or services, or use a trade name, trademark, service mark, logo type, or advertising or other commercial symbol.
- (6) "Good cause" means failure by a dealer to comply with requirements imposed upon the dealer by the agreement if the requirements are not different from those imposed on other dealers similarly situated in this State. In addition, good cause exists in any of the following circumstances:
 - a. A petition under bankruptcy or receivership law has been filed against the dealer.
 - b. The dealer has made an intentional misrepresentation with the intent to defraud the supplier.
 - c. Default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier or a revocation or discontinuance of a

- guarantee of a present or future obligation of the retailer to the supplier.
- d. Closeout or sale of a substantial part of the dealer's business related to the handling of goods; the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation; or a change, without the prior written approval of the supplier, which shall not be unreasonably withheld, in the location of the dealer's principal place of business or additional locations set forth in the agreement.
 - e. Withdrawal of an individual proprietor, partner, major shareholder, or manager of the dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written consent of the supplier.
 - f. Revocation or discontinuance of any guarantee of the dealer's present or future obligations to the supplier.
 - g. The dealer has failed to operate in the normal course of business for seven consecutive business days or has otherwise abandoned the business.
 - h. The dealer has pleaded guilty to or has been convicted of a felony affecting the relationship between the dealer and the supplier.
 - i. The dealer transfers an interest in the dealership, or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies, or a substantial reduction occurs in the interest of a partner or major shareholder in the dealership.
- (4)(7) "Inventory" means farm, utility, or industrial equipment, implements, machinery, farm implements and machinery, construction, utility and industrial equipment, consumer products, outdoor power equipment, attachments, or repair parts. These terms do not include heavy construction equipment.
- (5)(8) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location, plus reasonable cost of assembly or disassembly performed by the dealer.

~~(6)~~(9) "Supplier" means a wholesaler, manufacturer, ~~or distributor~~ distributor, or any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, any receiver or assignee, or any trustee of the original manufacturer, wholesaler, or distributor who enters into a franchise an agreement with a dealer.

(10) "Superseded part" means any part that will provide the same function as a currently available part as of the date of cancellation.

~~(7)~~(11) "Termination" of a franchise an agreement means the termination, cancellation, nonrenewal, or noncontinuance of the agreement.

"§ 66-181. *Usage of trade.*

The terms "utility" and "industrial", when used to refer to equipment, implements, machinery, attachments, or repair parts, shall have the meaning commonly used and understood among dealers and suppliers of farm equipment as a usage of trade in accordance with G.S. 25-1-205(2).

"§ 66-182. *Notice of termination of franchise agreements.*

(a) Notwithstanding any agreement to the contrary, a supplier who terminates a franchise agreement with a dealer shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination; however, the supplier may immediately terminate the agreement at any time after the occurrence of any of the following events:

- ~~(1)~~ A petition under bankruptcy or receivership law has been filed against the dealer;
- ~~(2)~~ The dealer has made an intentional misrepresentation with the intent to defraud the supplier;
- ~~(3)~~ Default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;
- ~~(4)~~ Closeout or sale of a substantial part of the dealer's business related to the handling of goods; the commencement or dissolution or liquidation of the dealer if the dealer is a partnership or corporation; or a change, without the prior written approval of the supplier, in the location of the dealer's principal place of business under the agreement;
- ~~(5)~~ Withdrawal of an individual proprietor, partner, major shareholder, or manager of the dealership, or a substantial reduction in interest of a partner or major shareholder, without the prior written consent of the supplier; or

- (6) ~~Revocation or discontinuance of any guarantee of the dealer's present or future obligations to the supplier.~~

No supplier, directly or through an officer, agent, or employee, may terminate, cancel, fail to renew, or substantially change the competitive circumstances of an agreement without good cause.

(b) Notwithstanding any agreement to the contrary, a dealer who terminates ~~a~~ an agreement with a supplier shall notify the supplier of the termination not less than ~~30~~ 90 days prior to the effective date of the termination.

(b1) A supplier shall provide a dealer with at least 90 days' written notice of termination of the agreement and a 60-day right-to-cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation of an agreement is based upon the dealer's failure to capture the share of the market required in the agreement, a minimum 12-month period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. The notice shall state all reasons constituting good cause.

(c) Notification under this section shall be in writing and shall be by certified mail or personally delivered to the recipient. It shall contain all of the following:

- (1) A statement of intention to terminate the ~~franchise,~~ dealership.
- (2) A statement of the reasons for the ~~termination, and~~ termination.
- (3) The date on which the termination takes effect.

"§ 66-183. Supplier's duty to repurchase.

(a) Whenever a dealer enters into ~~a franchise~~ an agreement evidenced by a written or oral contract in which the dealer agrees to maintain an inventory, and the agreement is terminated by either party, the supplier shall repurchase the dealer's inventory as provided in this Article unless the dealer chooses to keep the inventory. If the dealer has any outstanding debts to the supplier, then the repurchase amount may be set off or credited to the retailer's account.

(b) Whenever a dealer enters into ~~a franchise~~ an agreement in which the dealer agrees to maintain an inventory, and the dealer or the majority stockholder of the dealer, if the dealer is a corporation, dies or becomes incompetent, the supplier shall, at the option of the heir, personal representative, or guardian of the dealer, or the person who succeeds to the stock of the majority stockholder, repurchase the inventory as if the agreement had been terminated. The heir, personal representative, guardian, or succeeding stockholder has one year from the date of the death of the dealer or majority stockholder to exercise the option under this Article.

"§ 66-184. Repurchase terms.

(a) The supplier shall repurchase from the dealer within 90 days after termination of the ~~franchise~~ agreement all inventory previously purchased from the supplier that remains unsold on the date of termination of the agreement.

(b) The supplier shall pay the dealer:

- (1) One hundred percent (100%) of the current net cost-price of all new, unused, unsold, undamaged, and complete farm, construction, utility, and industrial equipment, implements, machinery, outdoor power equipment, and attachments, ~~less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location; attachments.~~
- (2) Ninety percent (90%) of the current net price of all new, unused, and undamaged repair parts; and superseded parts.
- (3) ~~Eighty five percent (85%) of the current net price of all new, unused, undamaged, superseded repair parts.~~ Seventy-five percent (75%) of the net cost of all specialized repair tools purchased in the previous three years and fifty percent (50%) of the net cost of all specialized repair tools purchased in the previous four through six years pursuant to the requirements of the supplier and held by the dealer on the date of termination. Such specialized repair tools shall be unique to the supplier's product line and shall be in complete and resalable condition. Farm implements, machinery, utility and industrial equipment, and outdoor power equipment used in demonstrations, including equipment leased primarily for demonstration or lease, shall also be subject to repurchase under this section at its agreed depreciated value, provided the equipment is in new condition and has not been damaged.
- (4) At its amortized value, the price of any specific data processing hardware and software and telecommunications equipment that the supplier required the dealer to purchase within the past five years.

~~(c) The supplier may, within 90 days after the date of termination of the franchise agreement, audit the dealer's books or records to verify the eligibility of the inventory for repurchase.~~

(d) The supplier shall pay the cost of shipping the inventory from the dealer's location and shall pay the dealer ~~five percent (5%)~~ ten percent (10%) of the current net price of all new, unused, undamaged repair parts returned, to cover the cost of handling, packing, and loading. The supplier may perform the handling, packing, and loading instead of paying the ~~five percent (5%)~~ ten percent (10%) for the

services. The dealer and the supplier may each furnish a representative to inspect all parts and certify their acceptability when packed for shipment.

(e) The supplier shall pay the full repurchase amount to the dealer not later than 30 days after receipt of the inventory. If the dealer has any outstanding debts to the supplier, then the repurchase amount may be credited to the dealer's account.

(f) Upon payment of the repurchase amount to the dealer, the title and right of possession to the repurchased inventory shall transfer to the supplier. Annually, at the end of each calendar year, or after termination or cancellation of the agreement, the dealer's reserve account for recourse, retail sale, or lease contracts shall not be debited by a supplier or lender for any deficiency unless the dealer or the heirs of the dealer have been given at least seven business days' notice by certified or registered United States mail, return receipt requested, of any proposed sale of the equipment financed and an opportunity to purchase the equipment. The former dealer or the heirs of the dealer shall be given quarterly status reports on any remaining outstanding recourse contracts. As the recourse contracts are reduced, any reserve account funds shall be returned to the dealer or the heirs of the dealer in direct proportion to the liabilities outstanding.

(g) In the event of the death of the dealer or the majority stockholder of a corporation operating as a dealer, the supplier shall, at the option of the heir, repurchase the inventory from the heir of the dealer or majority stockholder as if the supplier had terminated the agreement. The heir shall have one year from the date of the death of the dealer or majority stockholder to exercise the heir's options under this section. Nothing in this section shall require the repurchase of any inventory if the heir and the supplier enter into a new agreement to operate the retail dealership.

(h) A supplier shall have 90 days in which to consider and make a determination upon a request by a family member to enter into a new agreement to operate the dealership. In the event the supplier determines that the requesting family member is not acceptable, the supplier shall provide the family member with a written notice of its determination with the stated reasons for nonacceptance. This section does not entitle an heir, personal representative, or family member to operate a dealership without the specific written consent of the supplier.

(i) Notwithstanding the provisions of this section, in the event that a supplier and a dealer have executed an agreement concerning succession rights prior to the dealer's death, and if the agreement has not been revoked, that agreement shall be enforced even if it designates someone other than the surviving spouse or heir of the decedent as the successor.

"§ 66-185. *Exceptions to repurchase requirement.*

This Article does not require the repurchase from a dealer of:

- (1) A repair part with a limited storage life or otherwise subject to deterioration, such as gaskets or batteries, except for industrial "press on" or industrial pneumatic ~~tires;tires.~~
- (2) A single repair part that is priced as a set of two or more ~~items;items.~~
- (3) A repair part that, because of its condition, is not resalable as a new part without repackaging or ~~reconditioning;reconditioning.~~
- (3a) Any repair part that is not in new, unused, undamaged condition.
- (4) An item of inventory for which the dealer does not have title free of all claims, liens, and encumbrances other than those of the ~~supplier;supplier.~~
- (5) Any inventory that the dealer chooses to ~~keep;keep.~~
- (6) Any inventory that was ordered by the dealer after either party's receipt of notice of termination of the ~~franchise agreement; and agreement.~~
- (6a) Any farm implements and machinery, construction, utility and industrial equipment, outdoor power equipment, and attachments that are not current models or that are not in new, unused, undamaged, complete condition, provided that the equipment used in demonstrations or leased, as provided in G.S. 66-184, shall be considered new and unused.
- (6b) Any farm implements and machinery, construction, utility and industrial equipment, outdoor power equipment, and attachments that were purchased more than 36 months prior to notice of termination of the agreement.
- (7) Any inventory that was acquired by the dealer from a source other than the supplier.

"§ 66-186. *Uniform commercial practice.*

(a) This Article does not affect a security interest of the supplier in the inventory of the dealer.

(b) A repurchase of inventory under this Article shall not be subject to the bulk sales provisions of Article 6 of Chapter 25 of the General Statutes.

(c) The dealer and supplier shall furnish representatives to inspect all parts and certify their acceptability when packed for shipment. Failure of the supplier to provide a representative within 60 days shall result in automatic acceptance by the supplier of all returned items.

"§ 66-187. *Warranty obligations.*

(a) Whenever a supplier and a dealer enter into ~~a franchise~~ an agreement, the supplier shall pay any warranty claim made by the dealer for warranty parts or service within 30 days after its approval. The supplier shall approve or disapprove a warranty claim within 30 days after its receipt. If a claim is disapproved, the manufacturer, wholesaler, or distributor shall notify the dealer within 30 days stating the specific grounds upon which the disapproval is based. If a claim is not specifically disapproved in writing within 30 days after its receipt it is approved and payment must follow within 30 days.

(b) Whenever a supplier and a dealer enter into ~~a franchise~~ an agreement, the supplier shall indemnify and hold harmless the dealer against any judgment for damages or any settlement agreed to by the supplier, including court costs and a reasonable attorney's fee, arising out of a complaint, claim, or lawsuit including negligence, strict liability, misrepresentation, breach of warranty, or ~~recession~~ rescission of the sale, to the extent the judgment or settlement relates to the manufacture, assembly, or design of inventory, or other conduct of the supplier beyond the dealer's control.

(c) If, after termination of an agreement, the dealer submits a claim to the manufacturer, wholesaler, or distributor for warranty work performed prior to the effective date of the termination, the manufacturer, wholesaler, or distributor shall accept or reject the claim within 30 days of receipt.

(d) If a claim is not paid within the time allowed under this section, interest shall accrue at the maximum lawful interest rate.

(e) Warranty work performed by the dealer shall be compensated in accordance with the reasonable and customary amount of time required to complete the work, expressed in hours and fractions thereof. The cost of the work shall be computed by multiplying the time required to complete the work by the dealer's established customer hourly retail labor rate. The dealer shall inform the manufacturer, wholesaler, or distributor for whom the dealer is performing warranty work of the dealer's established customer hourly retail labor rate before the dealer performs any work.

(f) Expenses expressly excluded under the warranty of the manufacturer, wholesaler, or distributor to the customer shall neither be included nor required to be paid for warranty work performed, even if the dealer requests compensation for the work performed.

(g) The dealer shall be paid for all parts used by the dealer in performing warranty work. Payment shall be in an amount equal to the dealer's net price for the parts, plus a minimum of fifteen percent (15%).

(h) The manufacturer, wholesaler, or distributor has a right to adjust compensation for errors discovered during an audit and, if necessary, to adjust claims paid in error.

(i) The dealer shall have the right to accept the reimbursement terms and conditions of the manufacturer, wholesaler, or distributor in lieu of the terms and conditions of this section.

"§ 66-187.1. Prohibited acts.

No supplier shall do any of the following:

- (1) Coerce any dealer to accept delivery of equipment, parts, or accessories which the dealer has not ordered voluntarily, except as required by any applicable law, or unless the parts or accessories are safety parts or accessories required by the supplier.
- (2) Condition the sale of additional equipment to a dealer upon a requirement that the dealer also purchase other goods or services, except that a supplier may require the dealer to purchase those parts reasonably necessary to maintain the quality of operation in the field of the equipment used in the trade area.
- (3) Coerce a dealer into refusing to purchase equipment manufactured by another supplier.
- (4) Terminate, cancel, or fail to renew or substantially change the competitive circumstances of the retail agreement based on the results of any circumstance beyond the dealer's control, including a natural disaster such as a sustained drought, high unemployment in the dealership market area, or a labor dispute.

"§ 66-188. Failure to repurchase; civil remedy.

(a) If a supplier fails or refuses to repurchase any inventory covered under the provisions of this Article within the time periods established in G.S. 66-184, the supplier is civilly liable for one hundred percent (100%) of the current net price of the inventory, any freight charges paid by the dealer, the dealer's reasonable attorney's fee and court costs, and interest on the current net price of the inventory computed at the legal rate of interest from the 91st day after termination of the franchise agreement.

(b) Notwithstanding any agreement to the contrary, and in addition to any other legal remedies available, any person who suffers monetary loss due to a violation of this Article or because he refuses to accede to a proposal for an arrangement that, if consummated, is in violation of this Article, may bring a civil action to enjoin further violations and to recover damages sustained by him together with the costs of the suit, including a reasonable attorney's fee.

(b) The provisions of G.S. 66-182 through G.S. 66-187.1 shall not be waivable in any contract or agreement, and any such attempted waiver shall be null and void.

(c) A civil action commenced under the provisions of this Article shall be brought within four years after the violation complained of is or reasonably should have been discovered, whichever occurs first."

SECTION 2. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 3. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 11:38 a.m. on the 3rd day of August, 2001.

H.B. 363 SESSION LAW 2001-344

AN ACT TO AUTHORIZE THE NORTH CAROLINA COMMISSION OF INDIAN AFFAIRS TO HOLD LAND IN TRUST FOR STATE-RECOGNIZED INDIAN TRIBES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-405 reads as rewritten:

"§ 143B-405. *North Carolina State Commission of Indian Affairs – purposes for creation.*

The purposes of the Commission shall be as follows:

- (1) ~~to~~ To deal fairly and effectively with Indian affairs;affairs.
- (2) ~~to~~ To bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina;Carolina.
- (3) ~~to~~ To provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships;hardships.
- (4) To hold land in trust for the benefit of State-recognized Indian tribes. This subdivision shall not apply to federally recognized Indian tribes.
- (5) ~~to~~ To assist Indian communities in social and economic development; and development.
- (6) ~~to~~ To promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans."

SECTION 2. G.S. 143B-406 reads as rewritten:

"§ 143B-406. *North Carolina State Commission of Indian Affairs – duties; use of funds.*

(a) The Commission shall have the following duties: ~~It shall be the duty of the Commission~~

- (1) ~~to~~ To study, consider, accumulate, compile, assemble and disseminate information on any aspect of Indian ~~affairs;~~affairs.
- (2) ~~to~~ To investigate relief needs of Indians of North Carolina and to provide technical assistance in the preparation of plans for the alleviation of such ~~needs;~~needs.
- (3) ~~to~~ To confer with appropriate officials of local, State and federal governments and agencies of these governments, and with such congressional committees that may be concerned with Indian affairs to encourage and implement coordination of applicable resources to meet the needs of Indians in North ~~Carolina;~~Carolina.
- (4) ~~to~~ To cooperate with and secure the assistance of the local, State and federal governments or any agencies thereof in formulating any such programs, and to coordinate such programs with any programs regarding Indian affairs adopted or planned by the federal government to the end that the State Commission of Indian Affairs secure the full benefit of such ~~programs;~~programs.
- (5) To act as trustee for any interest in real property that may be transferred to the Commission for the benefit of State-recognized Indian tribes in accordance with a trust agreement approved by the Commission. The Commission shall not hold any interest in real property for the benefit of federally recognized Indian tribes.
- (6) ~~to~~ To review all proposed or pending State legislation and amendments to existing State legislation affecting Indians in North ~~Carolina;~~Carolina.
- (7) ~~to~~ To conduct public hearings on matters relating to Indian affairs and to subpoena any information or documents deemed necessary by the ~~Commission;~~Commission.
- (8) ~~to~~ To study the existing status of recognition of all Indian groups, tribes and communities presently existing in the State of North ~~Carolina;~~Carolina.
- (9) ~~to~~ To establish appropriate procedures to provide for legal recognition by the State of presently unrecognized ~~groups;~~groups.

(10) ~~to~~ To provide for official State recognition by the Commission of such ~~groups; and groups.~~

(11) ~~to~~ To initiate procedures for their recognition by the federal government.

(b) The Commission may adopt rules to implement the provisions of subdivision (a)(5) of this section."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24th day of July, 2001.

Became law upon approval of the Governor at 11:39 a.m. on the 3rd day of August, 2001.

H.B. 432**SESSION LAW 2001-345**

AN ACT TO ESTABLISH CIVIL PENALTIES FOR SELLING CARS IN VIOLATION OF THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW, AND TO ESTABLISH EDUCATIONAL REQUIREMENTS FOR ISSUANCE AND RENEWAL OF LICENSURE FOR USED MOTOR VEHICLE DEALERS.

Whereas, not only the setting of standards to protect purchasers of motor vehicles but also the enforcement of substantial penalties applicable when those standards are not met is one of the most effective means to obtain this protection; and

Whereas, more complex laws governing regulation of the sale and distribution of motor vehicles such as the titling of a vehicle, warranties, collection of consumer debt pursuant to Federal Trade Commission regulations, and applicable tax provisions impose a greater number of duties upon independent automobile dealers; and

Whereas, the most effective and consistent means of informing both applicants for licensure and experienced, licensed motor vehicle dealers of major changes and increasing complexities in the law is to develop a program insuring the development and requirement of appropriate continuing education; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-287 reads as rewritten:

"§ 20-287. ~~Licenses required; required; penalties.~~

(a) License Required. — It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as

a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of each dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who operates as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom.

(b) Civil Penalty for Violations by Licensee. — In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed one thousand dollars (\$1,000) for each violation, against any person who has obtained a license pursuant to this section, if it finds that the licensee has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration.

(c) Civil Penalty for Violations by Person Without a License. — In addition to any other punishment or remedy under the law for any violation of this section, the Division may levy and collect a civil penalty, in an amount not to exceed five thousand dollars (\$5,000) for each violation, against any person who is required to obtain a license under this section and has not obtained the license, if it finds that the person has violated any of the provisions of G.S. 20-285 through G.S. 20-303, Article 15 of this Chapter, or any statute or rule adopted by the Division relating to the sale of vehicles, vehicle titling, or vehicle registration."

SECTION 2. G.S. 20-288 reads as rewritten:

"§ 20-288. *Application for license; license requirements; expiration of license; bond.*

(a) A ~~person~~ new motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler may obtain a license by filing an application with the Division. An application must be on a form provided by the Division and contain the information required by the Division. An application for a license must be accompanied by the required fee and by an application for a dealer license plate.

(a1) A used motor vehicle dealer may obtain a license by filing an application, as prescribed in subsection (a) of this section, and providing the following:

(1) The required fee.

- (2) Proof that the applicant, within the last 12 months, has completed a 12-hour licensing course approved by the Division if the applicant is seeking an initial license and a six-hour course approved by the Division if the applicant is seeking a renewal license. The requirements of this subdivision do not apply to a used motor vehicle dealer the primary business of which is the sale of salvage vehicles on behalf of insurers or to a manufactured home dealer licensed under G.S. 143-143.11 who complies with the continuing education requirements of G.S. 143-143.11B. The requirement of this subdivision does not apply to persons age 62 or older as of July 1, 2002, who are seeking a renewal license.
- (3) If the applicant is an individual, proof that the applicant is at least 18 years of age and proof that all salespersons employed by the dealer are at least 18 years of age.
- (4) The application for a dealer license plate.

(b) The Division shall require in such application, or otherwise, information relating to matters set forth in G.S. 20-294 as grounds for the refusing of licenses, and to other pertinent matters commensurate with the safeguarding of the public interest, all of which shall be considered by the Division in determining the fitness of the applicant to engage in the business for which he seeks a license.

(c) All licenses that are granted shall expire unless sooner revoked or suspended, on June 30 of the year following date of issue.

(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of less than 2500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State.

(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is twenty-five thousand dollars (\$25,000) for one established salesroom of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is twenty-five thousand dollars (\$25,000) for one place of business of the applicant and ten thousand dollars (\$10,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15. A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor vehicle who shall have suffered any loss or damage by any act of a license holder subject to this subsection that constitutes a violation of this Article or Article 15 shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. Such cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or fixed value equivalent thereof, pursuant to G.S. 143-143.12."

SECTION 3. G.S. 20-294 (2) reads as rewritten:

"(2) Willfully and intentionally failing to comply with this Article, Article 15 of this Chapter, or G.S. 20-52.1, 20-75, ~~20-82~~, 20-79.1, 20-108, 20-109, or a rule adopted by the Division under this Article."

SECTION 4. G.S. 20-294 is amended by adding a new subdivision to read:

"(13) Failure to pay a civil penalty imposed under G.S. 20-287."

SECTION 5. This act becomes effective July 1, 2002, and applies to violations and offenses committed on or after that date and licenses issued to used motor vehicle dealers on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2001.

Became law upon approval of the Governor at 11:41 a.m. on the 3rd day of August, 2001.

S.B. 173**SESSION LAW 2001-346**

AN ACT TO PROVIDE THAT A MENTALLY RETARDED PERSON CONVICTED OF FIRST DEGREE MURDER SHALL NOT BE SENTENCED TO DEATH.

The General Assembly of North Carolina enacts:

SECTION 1. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-2005. *Mentally retarded defendants; death sentence prohibited.*"

- (a) (1) The following definitions apply in this section:
- a. Mentally retarded. – Significantly subaverage general intellectual functioning, existing concurrently with significant limitations in adaptive functioning, both of which were manifested before the age of 18.
 - b. Significant limitations in adaptive functioning. – Significant limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure skills and work skills.
 - c. Significantly subaverage general intellectual functioning. – An intelligence quotient of 70 or below.
- (2) The defendant has the burden of proving significantly subaverage general intellectual functioning, significant limitations in adaptive functioning, and that mental retardation was manifested before the age of 18. An intelligence quotient of 70 or below on an individually administered, scientifically recognized standardized intelligence quotient test administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning; however, it

is not sufficient, without evidence of significant limitations in adaptive functioning and without evidence of manifestation before the age of 18, to establish that the defendant is mentally retarded.

(b) Notwithstanding any provision of law to the contrary, no defendant who is mentally retarded shall be sentenced to death.

(c) Upon motion of the defendant, supported by appropriate affidavits, the court may order a pretrial hearing to determine if the defendant is mentally retarded. The court shall order such a hearing with the consent of the State. The defendant has the burden of production and persuasion to demonstrate mental retardation by clear and convincing evidence. If the court determines the defendant to be mentally retarded, the court shall declare the case noncapital, and the State may not seek the death penalty against the defendant.

(d) The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) If the court does not find the defendant to be mentally retarded in the pretrial proceeding, upon the introduction of evidence of the defendant's mental retardation during the sentencing hearing, the court shall submit a special issue to the jury as to whether the defendant is mentally retarded as defined in this section. This special issue shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines the defendant to be mentally retarded, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment.

(f) The defendant has the burden of production and persuasion to demonstrate mental retardation to the jury by a preponderance of the evidence.

(g) If the jury determines that the defendant is not mentally retarded as defined by this section, the jury may consider any evidence of mental retardation presented during the sentencing hearing when determining aggravating or mitigating factors and the defendant's sentence.

(h) The provisions of this section do not preclude the sentencing of a mentally retarded offender to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree."

SECTION 2. G.S. 15A-2000(b) reads as rewritten:

"(b) Sentence Recommendation by the Jury. – Instructions determined by the trial judge to be warranted by the evidence shall be given by the court in its charge to the jury prior to its deliberation in determining sentence. The court shall give appropriate instructions in those cases in which evidence of the defendant's mental retardation requires the consideration by the jury of the provisions of G.S. 15A-2005. In all cases in which the death penalty may be authorized, the

judge shall include in his instructions to the jury that it must consider any aggravating circumstance or circumstances or mitigating circumstance or circumstances from the lists provided in subsections (e) and (f) which may be supported by the evidence, and shall furnish to the jury a written list of issues relating to such aggravating or mitigating circumstance or circumstances.

After hearing the evidence, argument of counsel, and instructions of the court, the jury shall deliberate and render a sentence recommendation to the court, based upon the following matters:

- (1) Whether any sufficient aggravating circumstance or circumstances as enumerated in subsection (e) exist;
- (2) Whether any sufficient mitigating circumstance or circumstances as enumerated in subsection (f), which outweigh the aggravating circumstance or circumstances found, exist; and
- (3) Based on these considerations, whether the defendant should be sentenced to death or to imprisonment in the State's prison for life.

The sentence recommendation must be agreed upon by a unanimous vote of the 12 jurors. Upon delivery of the sentence recommendation by the foreman of the jury, the jury shall be individually polled to establish whether each juror concurs and agrees to the sentence recommendation returned.

If the jury cannot, within a reasonable time, unanimously agree to its sentence recommendation, the judge shall impose a sentence of life imprisonment; provided, however, that the judge shall in no instance impose the death penalty when the jury cannot agree unanimously to its sentence recommendation."

SECTION 3. Article 100 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-2006. Request for postconviction determination of mental retardation.

In cases in which the defendant has been convicted of first-degree murder, sentenced to death, and is in custody awaiting imposition of the death penalty, the following procedures apply:

- (1) Notwithstanding any other provision or time limitation contained in Article 89 of Chapter 15A, a defendant may seek appropriate relief from the defendant's death sentence upon the ground that the defendant was mentally retarded, as defined in G.S. 15A-2005(a), at the time of the commission of the capital crime.
- (2) A motion seeking appropriate relief from a death sentence on the ground that the defendant is mentally retarded, shall be filed:

- a. On or before January 31, 2002, if the defendant's conviction and sentence of death were entered prior to October 1, 2001.
 - b. Within 120 days of the imposition of a sentence of death, if the defendant's trial was in progress on October 1, 2001. For purposes of this section, a trial is considered to be in progress if the process of jury selection has begun.
- (3) The motion, seeking relief from a death sentence upon the ground that the defendant was mentally retarded, shall comply with the provisions of G.S. 15A-1420. The procedures and hearing on the motion shall follow and comply with G.S. 15A-1420."

SECTION 4. Sections 1 and 2 of this act become effective October 1, 2001, and apply to trials docketed to begin on or after that date. Section 3 of this act becomes effective October 1, 2001, and expires October 1, 2002. Section 4 of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of July, 2001.

Became law upon approval of the Governor at 3:14 a.m. on the 4th day of August, 2001.

S.B. 144 SESSION LAW 2001-347

**AN ACT TO ENABLE NORTH CAROLINA TO ENTER THE
STREAMLINED SALES AND USE TAX AGREEMENT.**

The General Assembly of North Carolina enacts:

**PART 1. UNIFORM SALES AND USE TAX ADMINISTRATION
ACT**

SECTION 1.1. Article 5 of Chapter 105 of the General Statutes is amended by adding a new Part 7A to be titled "Uniform Sales and Use Tax Administration Act." The following statutes are recodified in the new Part 7A: G.S. 105-164.43A(a) is recodified as G.S. 105-164.42H(a); G.S. 105-164.43A(b) is recodified as G.S. 105-164.42I(a); G.S. 105-164.43B is recodified as G.S. 105-164.42I(b).

SECTION 1.2. G.S. 105-164.43C is repealed.

SECTION 1.3. Part 7A of Article 5 of Chapter 105 of the General Statutes, as created in Section 1.1 of this act, reads as rewritten:

"Part 7A. Uniform Sales and Use Tax Administration Act.

"§ 105-164.42A. Short title.

This Part is the 'Uniform Sales and Use Tax Administration Act' and may be cited by that name.

"§ 105-164.42B. Definitions.

The following definitions apply in this Part:

- (1) Agreement. – The Streamlined Sales and Use Tax Agreement.
- (2) Certified automated system. – Software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.
- (3) Certified service provider. – An agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions.
- (4) Member state. – A state that has entered into the Agreement.
- (5) Person. – Defined in G.S. 105-228.90.
- (6) Sales tax. The tax levied in G.S. 105-164.4.
- (7) Seller. – A person making sales, leases, or rentals of personal property or services.
- (8) State. – The term "this State" means the State of North Carolina. Otherwise, the term "state" means any state of the United States and the District of Columbia.
- (9) Use tax. – The tax levied in G.S. 105-164.6.

"§ 105-164.42C. Authority to enter Agreement.

The Secretary is authorized to enter into the Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. The Secretary may act jointly with other member states to establish standards for certification of a certified service provider and a certified automated system and to establish performance standards for multistate sellers.

The Secretary is authorized to represent this State before the other member states. The Secretary may take any other actions reasonably required to implement this Part, including the joint procurement with other member states of goods and services in furtherance of the Agreement.

"§ 105-164.42D. Relationship to North Carolina law.

No provision of the Agreement authorized by this Part invalidates or amends any provision of the law of this State. Adoption of the Agreement by this State does not amend or modify any law of this

State. Implementation of a condition of the Agreement in this State must be made pursuant to an act of the General Assembly.

"§ 105-164.42E. Agreement requirements.

The Secretary may not enter into the Agreement unless the Agreement requires each state to abide by the following requirements:

- (1) Uniform state rate. – The Agreement must set restrictions to achieve more uniform state rates through the following:
 - a. Limiting the number of state rates.
 - b. Limiting maximums on the amount of state tax that is due on a transaction.
 - c. Limiting thresholds on the application of a state tax.
- (2) Uniform standards. – The Agreement must establish uniform standards for all of the following:
 - a. The sourcing of transactions to taxing jurisdictions.
 - b. The administration of exempt sales.
 - c. The allowances a seller can take for bad debts.
 - d. Sales and use tax returns and remittances.
- (3) Uniform definitions. – The Agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.
- (4) Central registration. – The Agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.
- (5) No nexus attribution. – The Agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.
- (6) Local sales and use taxes. – The Agreement must provide for reduction of the burdens of complying with local sales and use taxes through one or more of the following:
 - a. Restricting variances between the state and local tax bases.
 - b. Requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions.

- c. Restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes.
- d. Providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.
- (7) Monetary allowances. – The Agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers.
- (8) State compliance. – The Agreement must require each state to certify compliance with the terms of the Agreement before becoming a member and to maintain compliance, under the laws of the member state, with all provisions of the Agreement while a member.
- (9) Consumer privacy. – The Agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.

"§ 105-164.42F. Cooperating sovereigns.

The Agreement authorized by this Part is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the laws of each member state.

"§ 105-164.42G. Effect of Agreement.

Entry of this State into the Agreement does not create a cause of action or a defense to an action. No person may challenge any action or inaction by a department, agency, or other instrumentality of this State, or a political subdivision of this State, on the ground that the action or inaction is inconsistent with the Agreement. No law of this State, or its application, may be declared invalid on the ground that the provision or application is inconsistent with the Agreement.

"§ 105-164.42H. Certification of certified automated system and effect of certification.

(a) Software. Certification. – The Secretary may certify a software program as a certified ~~sales tax collection program~~ automated system if the Secretary determines that the program correctly determines all of the following and that the software can generate reports and returns required by the Secretary:

- (1) The applicable combined State and local sales and use tax rate for a sale, based on a ~~ship to address.~~ the sourcing principles in G.S. 105-164.4B.

- (2) Whether or not an item is exempt from tax, based on a uniform product code or another method.
- (3) Whether or not an exemption certificate offered by a purchaser is a valid certificate, based on the Department's registry of holders of exemption certificates.
- (4) The amount of tax to be remitted for each taxpayer for a reporting period.
- (5) Any other issue necessary for the application or calculation of sales and use tax due.

(b) Liability. – A seller may choose to use a certified automated system in performing its sales tax administration functions. A seller that uses a certified automated system is liable for sales and use taxes due on transactions it processes using the certified automated system except for underpayments of tax attributable to errors in the functioning of the system. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable for underpayments of tax attributable to errors in the functioning of the system.

"§ 105-164.421. *Contract with certified service provider and effect of contract.*

(a) ~~Tax Collector.~~ Certification. – The Secretary may certify an entity as a ~~Certified Sales Tax Collector~~ certified service provider if the entity meets all of the following requirements:

- (1) The entity uses a certified ~~sales tax collection program~~ automated system.
- (2) The entity has agreed to update its program upon notification by the Secretary.
- (3) The entity integrates its certified ~~sales tax collection program~~ automated system with the system of a ~~retailer~~ seller for whom the entity collects tax so that the tax due on a sale is determined at the time of the sale.
- (4) The entity remits the taxes it collects at the time and in the manner specified by the Secretary.
- (5) The entity agrees to file sales and use tax returns on behalf of the ~~retailers~~ sellers for whom it collects tax.
- (6) The entity enters into a contract with the Secretary and agrees to comply with all the conditions of the contract.

(b) Contract. – The Secretary may contract with a ~~Certified Sales Tax Collector~~ certified service provider for the collection and remittance of sales and use taxes. A ~~Certified Sales Tax Collector~~ certified service provider must file with the Secretary a bond or an irrevocable letter of credit in the amount set by the Secretary. A bond must be conditioned upon compliance with the contract, be payable to the State, and be in the form required by the Secretary. The amount a

~~Certified Sales Tax Collector~~ certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected.

(c) Liability. – A seller may contract with a certified service provider to collect and remit sales and use taxes payable to the State on sales made by the seller. A certified service provider with whom a seller contracts is the agent of the seller. As the seller's agent, the certified service provider, rather than the seller, is liable for sales and use taxes due this State on all sales transactions the certified service provider processes for the seller unless the seller misrepresents the type of products it sells or commits fraud. A seller that misrepresents the type of products it sells or commits fraud is liable for taxes not collected as a result of the misrepresentation or fraud.

(d) Audit and Review. – In the absence of misrepresentation or fraud, a seller that contracts with a certified service provider is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The State may perform a system check of a seller and review a seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider. A certified service provider is subject to audit.

"§ 105-164.42J. Performance standard for multistate seller.

The Secretary may establish a performance standard for a seller that is engaged in business in this State and at least 10 other states and has developed a proprietary system to determine the amount of sales and use taxes due on transactions. A seller that enters into an agreement with the Secretary that establishes a performance standard for that system is liable for the failure of the system to meet the performance standard."

PART 2. CONFORMING CHANGES

SECTION 2.1. The introductory language of G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this article, except when the context clearly indicates a different meaning- Article:".

SECTION 2.2. G.S. 105-164.3, as amended by Section 2.1 of this act, is amended by adding the following new subdivisions:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

....

(2a) Candy. – A preparation of sugar, honey, or other natural or artificial sweeteners in combination with

chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces that do not require refrigeration. The term does not include any preparation that contains flour.

....

(4a) Delivery charges. – Charges imposed by the retailer for preparation and delivery of personal property or services to a location designated by the consumer.

....

(4b) Dietary supplement. – A product that is intended to supplement the diet of humans and is required to be labeled as a dietary supplement under federal law, identifiable by the "Supplement Facts" box found on the label.

....

(5a) Food. – Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include alcoholic beverages, as defined in G.S. 105-113.68, or tobacco products, as defined in G.S. 105-113.4.

....

(5b) Food sold through a vending machine. – Food dispensed from a machine or another mechanical device that accepts payment.

....

(12a) Purchase price. – The term has the same meaning as the term "sales price" when applied to an item subject to use tax.

....

(16b) Soft drink. – A nonalcoholic beverage that contains natural or artificial sweeteners. The term does not include beverages that contain one or more of the following:

- a. Milk or milk products.
- b. Soy, rice, or similar milk substitutes.
- c. More than fifty percent (50%) vegetable or fruit juice."

SECTION 2.3. G.S. 105-164.3(11a) reads as rewritten:

"(11a) ~~Prepared food and drink.~~ food. – ~~Meals, food, and beverages to which a retailer has added value or whose state the retailer has altered (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make them available~~

for immediate human consumption. Food that meets at least one of the following conditions:

- a. It is sold in a heated state or it is heated by the retailer.
- b. It consists of two or more foods mixed or combined by the retailer for sale as a single item.
- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws.

The term does not include food the retailer sliced, repackaged, or pasteurized but did not otherwise process."

SECTION 2.4. G.S. 105-164.3(13) reads as rewritten:

"(13) "Retail" shall mean the sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale. Retail sale or sale at retail. – The sale, lease, or rental for any purpose other than for resale, sublease, or subrent."

SECTION 2.5. G.S. 105-164.3(16) reads as rewritten:

"(16) Except as provided in paragraph f., "sales price" means the total amount for which tangible personal property is sold including charges for any services that go into the fabrication, manufacture or delivery of such tangible personal property and that are a part of the sale valued in money whether paid in money or otherwise and includes any amount for which credit is given to the purchaser by the seller without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses or any other expenses whatsoever. Provided, however, that where a manufacturer, producer or contractor erects, installs or affixes tangible personal property upon real property pursuant to a construction or performance type contract with or for the benefit of the owner of such real property, the sales price shall be the cost of such property to the manufacturer, producer or contractor performing the contract. Provided, further:

- a. The cost for labor or services rendered in erecting, installing or applying property sold when separately charged shall not be included as a part of the "sales price";
- b. Finance charges, service charges or interest from credit extended under conditional sales contracts

- ~~or other conditional contracts providing for deferred payments of the purchase price shall not be considered a part of the "sales price" when separately charged;~~
- e. ~~"Sales price" shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or consumer except that any manufacturers' or importers' excise tax shall be included in the term.~~
 - d. ~~"Sales price" shall not include any amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which amounts are refundable or creditable to vendees, whether or not said deposits are separately charged.~~
 - e. ~~"Sales price" shall not include amounts charged as deposits on aeronautic, automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees, whether or not such deposits are separately charged. This subsection shall not be construed to include tires and batteries.~~
 - f. ~~The sales price of tangible personal property sold through a coin-operated vending machine, other than closed container soft drinks or tobacco products, is considered to be fifty percent (50%) of the total amount for which the property is sold in the vending machine.~~

Sales price. – The total amount or consideration for which personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

- a. The term includes all of the following:
 1. The retailer's cost of the property sold.
 2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.

3. Charges by the retailer for any services necessary to complete the sale.
 4. Delivery charges.
 5. Installation charges.
 6. The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.
- b. The term does not include any of the following:
1. Discounts, including cash, term, or coupons, that are not reimbursed by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
 2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
 3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer."

SECTION 2.6. G.S. 105-164.3(18) reads as rewritten:

"(18) "Use" means and includes the exercise of any right or power or dominion whatsoever over tangible personal property by a purchaser thereof and includes, but is not limited to, any withdrawal from storage, distribution, installation, affixation to real or personal property, or exhaustion or consumption of tangible personal property by the owner or purchaser thereof, but ~~shall~~does not include the sale of tangible personal property in the regular course of business."

SECTION 2.7. G.S. 105-164.3(16c) is recodified as G.S. 105-164.3(16d). G.S. 105-164.3(16b) is recodified as G.S. 105-164.3(16c).

SECTION 2.8. G.S. 105-164.4A(2) is repealed.

SECTION 2.9. Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.4B. Sales are sourced based on destination.

(a) Principles. – The following principles apply in determining where to source the sale of a product. These principles apply regardless of the nature of the product.

- (1) Over-the-counter. – When a purchaser receives a product at a business location of the seller, the sale is sourced to that business location.

- (2) Delivery to specified address. – When a purchaser receives a product at a location specified by the purchaser and the location is not a business location of the seller, the sale is sourced to the location where the purchaser receives the product.
- (3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address listed in this subsection that is known to the seller:
 - a. The business or home address of the purchaser.
 - b. The billing address of the purchaser.
 - c. The address of the seller.

(b) Exceptions. – This section does not apply to telecommunications services."

SECTION 2.10. G.S. 105-164.8 reads as rewritten:

"§ 105-164.8. ~~Retailer~~ Retailer's obligation to collect tax regardless of place sale consummated; ~~tax;~~ mail order sales subject to tax.

(a) Sales Tax. – Every retailer engaged in business in this State as defined in this Article shall collect said tax notwithstanding

- (1) That the purchaser's order or the contract of sale is delivered, mailed or otherwise transmitted by the purchaser to the retailer at a point outside this State as a result of solicitation by the retailer through the medium of a catalogue or other written advertisement; or
- (2) That the purchaser's order or the contract of sale is made or closed by acceptance or approval outside this State, or before said tangible personal property enters this State; or
- (3) That the purchaser's order or the contract of sale provides that said property shall be or is in fact procured or manufactured at a point outside this State and shipped directly to the purchaser from the point of origin; or
- (4) That said property is mailed to the purchaser in this State or a point outside this State or delivered to a carrier outside this State f.o.b. or otherwise and directed to the purchaser in this State regardless of whether the cost of transportation is paid by the retailer or by the purchaser; or
- (5) That said property is delivered directly to the purchaser at a point outside this State; or
- (6) Any combination in whole or in part of any two or more of the foregoing statements of fact, if it is

intended that the tangible personal property purchased be brought to this State for storage, use or consumption in this State.

(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if one of the following conditions is met:

- (1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this State;
- (2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or offices;
- (3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of business;
- (4) Repealed by Session Laws 1991, c. 45, s. 16.
- (5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this State;
- (6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing power; or
- (7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.

(c) Use Tax. – A retailer who is required to collect the tax imposed by this Article must collect a local use tax on a transaction if a local sales tax does not apply to the transaction. The sourcing principles in G.S. 105-164.4B determine whether a local sales tax or a local use tax applies to a transaction. A "local sales tax" is a tax imposed under Chapter 1096 of the 1967 Session Laws or by

Subchapter VIII of this Chapter, and a local use tax is a use tax imposed under that act or Subchapter."

SECTION 2.11. G.S. 105-164.12 is repealed.

SECTION 2.12. G.S. 105-164.13 is amended by adding the following new subdivisions:

"§ 105-164.13. *Retail sales and use tax.*

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...
(5a) Mill machinery and mill machinery parts and accessories that are subject to tax under Article 5F of this Chapter.

...
(47) An amount charged as a deposit on a beverage container that is returnable to the vendor for reuse when the amount is refundable or creditable to the vendee, whether or not the deposit is separately charged.

(48) An amount charged as a deposit on an aeronautic, automotive, industrial, marine, or farm replacement part that is returnable to the vendor for rebuilding or remanufacturing when the amount is refundable or creditable to the vendee, whether or not the deposit is separately charged. This exemption does not include tires or batteries.

(49) Installation charges when the charges are separately stated.

(50) Fifty percent (50%) of the sales price of tangible personal property sold through a coin-operated vending machine, other than closed-container soft drinks and tobacco."

SECTION 2.13. G.S. 105-164.13B reads as rewritten:

"§ 105-164.13B. *Food exempt from tax.*

~~The Except as provided in this section, the taxes imposed by this Article do not apply to food that is not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51-~~ food. The tax does apply to all of the following:

- (1) Candy not sold for home consumption.
- (2) Dietary supplements.
- (3) Prepared food not sold for home consumption.
- (4) Food sold through a vending machine.
- (5) Soft drinks not sold for home consumption."

SECTION 2.14. G.S. 105-164.16 reads as rewritten:

"§ 105-164.16. *Report>Returns and payment of taxes.*

(a) ~~Payment. General. – Taxes levied under this Article are due when a return is required to be filed. Every taxpayer liable for the tax imposed by this Article shall, within the specified time after the end of the appropriate reporting period, submit a return to the Secretary on a form prescribed by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent. Sales and use taxes are payable quarterly, monthly, or semimonthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and must be signed by the taxpayer or the taxpayer's agent.~~

A sales tax return must state the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. A use tax return must state the cost price of tangible personal property that was purchased or received during the reporting period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other information required by the Secretary. Returns that do not contain the required information ~~shall~~ will not be accepted. When an unacceptable return is submitted, the Secretary ~~shall~~ must require a corrected return to be filed.

(b) ~~General Reporting Periods. Quarterly. – Returns of taxpayers who are required by this subsection to report on a monthly or quarterly basis are due within 15 days after the end of each monthly or quarterly period. Returns of taxpayers who are required to report on a semimonthly basis are due within 10 days after the end of each semimonthly period.~~

A taxpayer who is consistently liable for less than one hundred dollars (\$100.00) a month in State and local sales and use taxes ~~may, with the approval of the Secretary, must~~ file a return and pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the 15th day of the month following the end of the quarter. A

(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred dollars (\$100.00) but less than twenty thousand dollars (\$20,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 15th day of the month following the month covered by the return.

(b2) Semimonthly. – A taxpayer who is consistently liable for at least twenty thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when directed to do so by the Secretary, file a return on a semimonthly basis. All other taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the last day of March, June, September, and December; monthly reporting periods end on the last day of the month; and semimonthly reporting periods

end on the 15th of each month and the last day of each month must pay the tax twice a month and must file a return on a monthly basis. One semimonthly payment covers the period from the first day of the month through the 15th day of the month. The other semimonthly payment covers the period from the 16th day of the month through the last day of the month. The semimonthly payment for the period that ends on the 15th day of the month is due by the 25th day of that month. The semimonthly payment for the period that ends on the last day of the month is due by the 10th day of the following month. A return covers both semimonthly payment periods. The return is due by the 20th day of the month following the month of the payment periods covered by the return. A taxpayer is not subject to interest on or penalties for an underpayment for a semimonthly payment period if the taxpayer timely pays at least 95% of the amount due for each semimonthly payment period and includes the underpayment with the monthly return for those semimonthly payment periods.

(b3) Category. – The Secretary shall must monitor the amount of tax remitted by a taxpayer and shall direct a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each month to file a return on a semimonthly basis. State and local sales and use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns in accordance with the appropriate schedule. In determining the amount of tax taxes due from a taxpayer for a reporting period taxpayer, the Secretary shall must consider the total amount due from all places of business owned or operated by the same person as the amount due from that person. A taxpayer must file a return and pay tax in accordance with the Secretary's direction until notified in writing to file and pay under a different schedule.

A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but who is unable to gather the information required to submit a complete return for either the first reporting period or both the first and second semimonthly reporting periods may, upon written authorization by the Secretary, file an estimated return for that first reporting period or both periods on the basis prescribed by the Secretary. Once a taxpayer is authorized to file an estimated return for the first period or both periods, the taxpayer may continue to file an estimated return for the first or both periods until the Secretary, by written notification, revokes the taxpayer's authorization to do so. When filing a return for the second semimonthly reporting period, a taxpayer who files an estimated return for the first period but not both periods shall remit the amount of tax due for both the first and second reporting periods, less the amount the taxpayer remitted with the estimated return.

~~A taxpayer who files an estimated return for both periods is considered to have been granted an extension for both the first and second reporting periods. Notwithstanding G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a reconciling return for those periods within ten days of the due date of the return for the second period and any underpayment of estimated taxes remitted with the reconciling return is less than ten percent (10%) of the amount of taxes due for both the first and second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files an estimated return for both periods shall be charged interest at the statutory rate from the due date of the return for the first reporting period to the date the reconciling return is filed.~~

(c) Sales Tax on Utility Services. – ~~A return for taxes~~ Taxes levied under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c) are payable when a return is required to be filed. A return for these taxes is due quarterly or monthly as specified in this subsection. A utility that is allowed to pay tax under G.S. 105-120 on a quarterly basis shall file a quarterly return. All other utilities shall file a monthly return. A quarterly return is due by the last day of the month following the quarter covered by the return. A monthly return is due by the last day of the month following the month in which the taxes accrue, except the return for taxes that accrue in May. A return for taxes that accrue in May is due by June 25.

A utility that is required to file a monthly return may file an estimated return for the first month, the second month, or both the first and second months in a quarter. A utility is not subject to interest on or penalties for an underpayment submitted with an estimated monthly return if the utility timely pays at least ninety-five percent (95%) of the amount due with a monthly return and includes the underpayment with the company's return for the third month in the same quarter.

(d) **(Effective until taxable years beginning on or after January 1, 2003)** Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal property outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14.

(d) **(Effective for taxable years beginning on or after January 1, 2003)** Use Tax on Out-of-State Purchases. – Notwithstanding

subsection (b), an individual who purchases tangible personal property outside the State for a nonbusiness purpose shall file a use tax return on an annual basis. The annual reporting period ends on the last day of the calendar year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return."

SECTION 2.15. G.S. 105-467 reads as rewritten:

"§ 105-467. *Scope of sales tax.*

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the ~~following transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.~~

- (1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).
- (2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).
- (3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).
- (4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).
- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.

~~The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this section.~~

(b) Exemptions and Refunds. – The State exemptions and exclusions contained in G.S. 105-164.13 and the State refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax authorized to be levied and imposed under this Article. A taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax.

(c) Sourcing. – The local sales tax authorized to be imposed and levied under this Article applies to taxable transactions by retailers

whose place of business is located within the taxing county. ~~For the purpose of this Article, the situs of a transaction is the location of the retailer's place of business.~~The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction."

SECTION 2.16. The third paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

- (1) By adding the following sentence immediately after the second sentence in that paragraph:

"The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction."

- (2) By deleting the last sentence in that paragraph.

SECTION 2.17. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 5F.

"Mill Machinery.

"§ 105-187.50. Definitions.

The definitions in G.S. 105-164.3 apply in this Article.

"§ 105-187.51. Tax imposed on mill machinery.

- (a) Scope. – A privilege tax is imposed on the following persons:

(1) A manufacturing industry or plant that purchases mill machinery or mill machinery parts or accessories for storage, use, or consumption in this State. A manufacturing industry or plant does not include a delicatessen, café, cafeteria, restaurant, or another similar retailer that is principally engaged in the retail sale of foods prepared by it for consumption on or off its premises.

(2) A contractor or subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a manufacturing industry or plant.

(3) A subcontractor that purchases mill machinery or mill machinery parts or accessories for use in the performance of a contract with a general contractor that has a contract with a manufacturing industry or plant.

(b) Rate. – The tax is one percent (1%) of the sales price of the machinery, part, or accessory purchased. The maximum tax is eighty dollars (\$80.00) per article.

"§ 105-187.52. Administration.

The privilege tax this Article imposes on a person listed in G.S. 105-187.51 is an additional State use tax. Except as otherwise provided in this Article, the collection and administration of this tax is the same as the State use tax imposed by Article 5 of this Chapter."

SECTION 2.18. Subdivision (b)(5) of Section 5 of Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws, reads as rewritten:

"(b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as they are not inconsistent with the provisions of this Part. In addition, the following definitions apply in this Part:

...

- (5) Prepared Food and Beverages. ~~Any food or beverage which a retailer has added value to or has altered its state (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.~~The term has the same meaning as the term "prepared food" in G.S. 105-164.3."

SECTION 2.19. Subdivision (a)(2) of Section 2 of Chapter 413 of the 1993 Session Laws reads as rewritten:

"Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. In addition, the following definitions apply in this act:

...

- (2) Prepared food and beverages. – ~~Any meals, food, or beverages to which a retailer has added value or has altered its state (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.~~The term has the same meaning as the term "prepared food" in G.S. 105-164.3."

SECTION 2.20. Section 2 of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapter 177 of the 1991 Session Laws, reads as rewritten:

"Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition, the following definitions apply in this act.

- (1) Net proceeds. Gross proceeds less the cost to the county of administering and collecting the tax.
- (2) Prepared food and beverages. ~~Meals, food, and beverages which a retailer has added value to or whose state has been altered (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make them available for immediate consumption.~~The term has the same meaning as the term "prepared food" in G.S. 105-164.3."

SECTION 2.21. Subsection (b) of Section 1 of Chapter 449 of the 1993 Session Laws reads as rewritten:

"(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3 apply to this section to the extent they are not inconsistent with the provisions of this section. In addition, the term "prepared food and beverages" ~~means any meals, food, or beverages to which a retailer has added value or has altered its state (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.~~ has the same meaning as the term "prepared food" in G.S. 105-164.3. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to this section to the extent they are not inconsistent with the provisions of this section."

SECTION 2.22. Subdivision (3) of Section 2 of Chapter 594 of the 1991 Session Laws reads as rewritten:

"Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the provisions of this act. The following definitions also apply in this act:

- ...
- (3) Prepared food and beverage. ~~Any food or beverage to which a retailer has added value or has altered its state (other than by cooling alone) by preparing, combining, dividing, heating, or serving, in order to make the food or beverage available for immediate human consumption.~~ The term has the same meaning as the term "prepared food" in G.S. 105-164.3."

PART 3. EFFECTIVE DATES

SECTION 3.1. Part 1 of this act is effective when it becomes law and expires January 1, 2006, unless one of the following occurs: (i) 15 states have signed the Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined resident population equal to at least ten percent (10%) of the national resident population, as determined by the 2000 federal decennial census, have signed the Agreement.

SECTION 3.2. Section 2.8, G.S. 105-164.13(5a), as enacted by Section 2.12, and Section 2.17 of Part 2 of this act become effective January 1, 2006. The remainder of Part 2 of this act becomes effective January 1, 2002.

SECTION 3.3. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law upon approval of the Governor at 8:20 a.m. on the 8th day of August, 2001.

S.B. 657

SESSION LAW 2001-348

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHAPEL HILL.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Chapel Hill:

Durham County Parcel #478-01-08B

Lot 1

Beginning at a point located N 20° 02' 27" E 85.0 ft. from survey station 33+00 Survey line Y5 AB on Project 8.1457902 and designated as point M on that map entitles State of North Carolina Department of Transportation vs. Irene W. Beal, et vir, Triangle Township Durham County, Project 8.1457902, PSD 127-84-L, dated January 9, 1985, revised March 2, 1988; thence N 81° 56' 16" W 79.87 ft. to a point designated as point N on the above referenced map; thence N 86° 42' 06" W 134.38 ft. to a point designated as point P on the above referenced map; thence along an arc of a curve to the left having a radius of 999.930 ft. an arc distance of 47.97 ft. and a chord bearing and distance of N 81° 04' 31" W 47.97 ft. to a point designated as point H on the above referenced map; thence N 76° 23' 29" E 253.25 ft. to a point designated as point G on the above referenced map; thence S 09° 34' 22" E 87.18 ft. to the point and place of beginning and containing 0.25 acre.

Lot 2

Beginning at a point located 160.0 ft. S 61° 10' 58" W from survey station 770+46.79 survey line L for Project 8.1457902; said point being designated point E on that map entitled State of North Carolina Department of Transportation vs. Irene W. Beal, et vir, Triangle Township, Durham County, Project 8.1457902, PSD 127-84-L, dated January 9, 1985, revised March 2, 1988; thence S 78° 02' 57" W 61.18 ft. to a point designated as point F on the above referenced map; thence N 02° 36' 43" E 111.03 ft. to a point designated as point B on the above referenced map; thence along an arc of a curve to the right having a radius of 11,299.156 an arc distance 112.44 and a chord bearing and distance of S 29° 10' 00" E 112.44 ft. to the point and place of beginning and containing 0.08 acre. The above described are being all of that area designated as 'tract 2' on the Deed from Gordon Pope to the North Carolina Department of Transportation and recorded in Book 1092 at Page 393 in the Durham County Registry.

Lot 3

Beginning at a point located N 01° 58' 22" E 45.07 ft. from Survey Station 35+84 Survey Line Y5AB Project 8.1457902, thence N 01° 58' 22" E 40.13 ft. to a point; thence N 76° 31' 21" E 124.96 ft. to a point; thence N 76° 44' 06" E 100.29 ft. to a point; thence N 78° 02' 57" E 61.18 ft. to a point; thence S 09° 34' 22" E 50.76 ft. to a point; thence S 76° 23' 29" W 253.25 ft. to a point; thence along an arc of a curve to the left having a radius of 999.930 and a chord bearing and distance of N 83° 40' 49" W 42.94 ft. to a point and place of beginning and containing approximately .35 acres.

Durham County Parcel #478-01-007

Beginning at a point on the northern right-of-way of Old Chapel Hill – Durham Road said point being the southeast corner of Lot 1 DB 259/129 thence from said point of beginning and with the northern right-of-way of said road N 80° E 100' to a point; thence with the western property line of Lot 3 (DB 1464, Page 685) N 06° 08' E 111' to a point on the southern right-of-way of Interstate Hwy. 40; thence in a northwesterly direction with the right-of-way of I-40 approximately 172' to a point; thence leaving said right-of-way S 5° 47' W approximately 280' to the place and point of beginning. Containing 0.43 acres more or less.

Durham County Parcel #478-03-019

Beginning at a point in the eastern side of the right-of-way of Huse Street, said point being located 67.50 feet from the southern edge of the right-of-way of Chapel Hill Road, running thence S 08° 03' 38": E 50.98 ft. to a point; thence along a radius of 333.09 feet for a distance of 105.33 feet to a point; thence N 71° 29' 51" W 184.87 ft., to a point; thence N 13° 51' 29" W 72.95 ft. to a point; thence N 15° 29' 12" W 92.94 ft. to a point; thence N 60° 30' 35" W 74.19 ft. to a point; thence along an arc of a curve to the left with a radius of 904.93 ft. for a distance of 75.75 ft. to the place and point of beginning; being a 0.54 acre tract.

Orange County Tax Map 7.94.B.27

*Being a portion of the lands described in DB 1094, Page 524 Exhibit A; Tract IV; Parts One and Two:

Beginning at a point on the eastern right-of-way of Broad Street said point being the southwestern most corner of a tract described above; thence with the right-of-way of Broad Street in a northerly direction crossing the right-of-way limits of Southern Railroad to its centerline; thence with the centerline of Southern Railroad right-of-way in a northeasterly direction to a point on the Chapel Hill/Carrboro Corporate Limits line; thence with the current corporate

limits line in a southerly direction to the northeast corner of a lot, said lot being Tax Map #7.97.F.9; thence with the northern property line of aforementioned lot in a westerly direction to the right-of-way of Broad Street being the point and place of beginning.

Orange County

*Lands adjoining Tax Parcel 7.30.13 and being within Southern Railroad right-of-way. Said tract being a portion of the eastern half of the Southern Railroad right-of-way, an area being more particularly described as follows:

Beginning at intersection point of the centerline of Southern Railroad right-of-way and the northern right-of-way limits of Estes Drive Extension; thence from said point of beginning and with the centerline of said Railroad right-of-way in a northwesterly direction to a point; said point being where the centerline of Bolin Creek crosses under said railroad; thence with the center of Bolin Creek in an easterly direction to a point; said point being where the eastern right-of-way limits of Southern Railroad intersects with the center of Bolin Creek; thence with the eastern right-of-way line of Southern Railroad in a southeasterly direction to a point; said point being on the northern right-of-way of Estes Drive Extension; thence with the northern right-of-way of Estes Drive Extension in a southwesterly direction to a point in the centerline of said railroad right-of-way and being the place and point of beginning. Containing 0.6 acres more or less.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of August, 2001.

Became law on the date it was ratified.

H.B. 583

SESSION LAW 2001-349

AN ACT TO MODIFY THE NASH COUNTY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Sections 1 and 2 of Chapter 32 of the 1987 Session Laws, as amended by S.L. 1993-545 and S.L. 1997-255, read as rewritten:

"Section 1. Occupancy tax. _ (a) Authorization and scope. _ The Nash County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to

accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Authorization of Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Nash County Board of Commissioners may levy an additional room occupancy tax of up to ~~three percent (3%)~~ two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. Nash County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

~~(c)~~ Distribution and use of tax revenue. – Nash County shall, on a quarterly basis, remit the net proceeds of the occupancy ~~taxes-tax~~ levied under subsection (a) of this section to the Nash Tourism Development Authority, itemized by tax Authority and the net proceeds of the occupancy tax levied under subsection (a1) of this section to the City of Rocky Mount. ~~Of the net proceeds of the tax levied under subsection (a) of this section, the~~ The Authority shall spend at least two-thirds of the funds remitted to it only to promote travel and tourism in Nash County, and shall spend the remainder on tourism-related expenditures. The Authority shall spend the net proceeds of the tax levied under subsection (a1) of this section only to construct, maintain, operate, or market a convention center. ~~The City of Rocky Mount shall spend the funds remitted to it only for tourism-related expenditures within Nash County that have been specifically approved in advance by the Nash County Tourism Development Authority.~~ The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year. ~~seven percent (7%) of the amount collected.~~
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes

administrative expenses incurred in engaging in the listed activities.

- (3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to the county and expenditures incurred by the county in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the Authority, will facilitate and support tourism.

"Sec. 2. Tourism Development Authority. – (a) Appointment and membership. – When the Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the Board of Commissioners to appoint the membership of the Authority, for the terms of office of the members, and for the filling of vacancies on the Authority.~~The members of the Authority shall be citizens of Nash County. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county. If the authority~~Authority has an even number of members, then at least one-half of the members shall have experience in the promotion of travel and tourism. If the Authority has an odd number of members, then at least one less than one-half of the members shall have experience in the promotion of travel and tourism. The Board of Commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair or upon a written request signed by at least one-third of its members and shall adopt rules of procedure to govern its meetings. The Finance Officer for Nash County shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall promote travel, tourism, and conventions in the county, and shall expend the net tax proceeds distributed to it under this act for the purposes provided in Section 1(c) of this act. ~~sponsor tourist related events and activities in the county, and finance tourist related capital projects in the county, such as the construction of a civic center and utilities.~~

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of County Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board may require."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of August, 2001.

Became law on the date it was ratified.

H.B. 906

SESSION LAW 2001-350

AN ACT TO MAKE A TECHNICAL CORRECTION TO THE SECTION OF THE CHARTER OF THE CITY OF DURHAM THAT PROVIDES EXEMPTIONS FROM THE CITY'S FAIR HOUSING ORDINANCE, TO EXPAND THE DURHAM COUNTY ABC BOARD TO FIVE MEMBERS, AND ALLOW THE CITY OF DURHAM TO USE THE SINGLE-PRIME CONTRACT SYSTEM FOR THE DESIGN AND CONSTRUCTION OF A TRANSFER FACILITY AND PARKING DECK.

The General Assembly of North Carolina enacts:

SECTION 1. Section 122(5)b. of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by deleting the phrase "not less than sixty (60) days" and substituting the phrase "not more than sixty (60) days."

SECTION 2. Notwithstanding G.S. 18B-700, the Durham County ABC Board consists of five members. The two additional board members authorized by this act shall be appointed by the Board of Commissioners of Durham County. The initial terms of office of those two members shall be established by the Board of Commissioners of Durham County for a duration not to exceed three years. Successors shall serve three-year terms as provided by G.S. 18B-700.

SECTION 3. Notwithstanding the provisions of G.S. 143-128(a)-(e) and (g), 143-129, 143-131, and 143-132, the City of Durham may enter into contracts for the design and construction of a multimodal transit transfer facility and a parking deck to serve the facility using the single-prime contract system.

SECTION 4. Section 3 of this act applies to the City of Durham only.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

Became law on the date it was ratified.

S.B. 461

SESSION LAW 2001-351

AN ACT TO MAKE THE NORTH CAROLINA INSURANCE INFORMATION AND PRIVACY PROTECTION ACT COMPLY WITH THE CONSUMER INFORMATION PRIVACY REQUIREMENTS IN THE FEDERAL GRAMM-LEACH-BLILEY ACT, PUBLIC LAW 106-102.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-39-10 reads as rewritten:

"§ 58-39-10. *Scope.*

(a) The obligations imposed by this Article shall apply to those insurance institutions, agents, or insurance-support organizations ~~that, on or after July 1, 1982; that:~~

(1) In the case of ~~life or accident and health~~ life, health, or disability insurance:

- a. Collect, receive, or maintain information in connection with insurance transactions that pertains to natural persons who are residents of this State; or
- b. Engage in insurance transactions with applicants, individuals, or policyholders who are residents of this State; and

(2) In the case of property or casualty insurance:

- a. Collect, receive, or maintain information in connection with insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State; ~~or~~
- b. Engage in insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this ~~State~~; State;
- c. Engage in transactions involving mortgage guaranty insurance where the mortgage guaranty policies, contracts, or certificates of insurance are delivered, issued for delivery, or renewed in this State.

(b) The rights granted by this Article shall extend to:

- (1) In the case of ~~life or accident and health~~ life, health, or disability insurance, the following persons who are residents of this State:
 - a. Natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions; and

- b. Applicants, individuals, or policyholders who engage in or seek to engage in insurance transactions;
- (2) In the case of property or casualty insurance, the following persons:
 - a. Natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State; and
 - b. Applicants, individuals, or policyholders who engage in or seek to engage in (i) insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State; or (ii) mortgage guaranty insurance transactions involving policies, contracts, or certificates of insurance delivered, issued for delivery, or renewed in this State.

(c) For purposes of this section, a person shall be considered a resident of this State if the person's last known mailing address, as shown in the records of the insurance institution, agent, or insurance-support organization, is located in this State.

(d) Notwithstanding subsections (a) and (b) of this section, this Article shall not apply to information collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this State.

(e) This Article applies to credit insurance that is subject to Article 57 of this Chapter."

SECTION 2. G.S. 58-39-15(1) reads as rewritten:

"(1) "Adverse underwriting decision" means:

- a. Any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:
 1. A declination of insurance coverage;
 2. A termination of insurance coverage;
 3. Failure of an agent to apply for insurance coverage with a specific insurance institution that an agent represents and that is requested by an applicant;
 4. In the case of a property or casualty insurance coverage:
 - I. Placement by an insurance institution or agent of a risk with a residual market

~~mechanism~~ ~~or~~ ~~mechanism~~, an unauthorized insurer, or an insurance institution that specializes in substandard risks; or

II. The charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished; or

5. In the case of a ~~life or accident and health~~ life, health, or disability insurance coverage, an offer to insure at higher than standard rates.

b. Notwithstanding subdivision ~~(1)a~~ (1)a. of this section, the following actions shall not be considered adverse underwriting decisions, but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

1. The termination of an individual policy form on a class or statewide basis;

2. A declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or

3. The rescission of a policy."

SECTION 3. G.S. 58-39-15(9) reads as rewritten:

"(9) "Individual" means any natural person who:

a. In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;

b. In the case of ~~life or accident and health~~ life, health, or disability insurance, is a past, present, or proposed principal insured or certificate holder;

c. Is a past, present or proposed policy owner;

d. Is a past or present applicant;

e. Is a past or present claimant; ~~or~~

f. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this ~~Article.~~ Article; or

g. Is the subject of personal information collected or maintained by an insurance institution, agent, or insurance-support organization in connection with mortgage guaranty insurance."

SECTION 4. Article 39 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-39-26. Federal privacy disclosure notice requirements.

(a) Disclosure Required. – In addition to the notice requirements of G.S. 58-39-25, an insurance institution or agent shall provide, to all applicants and policyholders no later than (i) before the initial disclosure of personal information under G.S. 58-39-75(11) or (ii) the time of the delivery of the insurance policy or certificate, a clear and conspicuous notice, in written or electronic form, of the insurance institution or agent's policies and practices with respect to:

- (1) Disclosing nonpublic personal information to affiliates and nonaffiliated third parties, consistent with section 502 of Public Law 106-102, including the categories of information that may be disclosed.
- (2) Disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution.
- (3) Protecting the nonpublic personal information of consumers.

These disclosures shall be made in accordance with the regulations prescribed under section 505 of Public Law 106-102.

(b) Information to Be Included. – The disclosure required by subsection (a) of this section shall include:

- (1) The policies and practices of the insurance institution or agent with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the insurance institution or agent, consistent with section 502 of Public Law 106-102, and including:
 - a. The categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided under section 502(e) of Public Law 106-102.
 - b. The policies and practices of the insurance institution or agent with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the insurance institution or agent.
- (2) The categories of nonpublic personal information that are collected by the insurance institution or agent.
- (3) The policies that the insurance institution or agent maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501 of Public Law 106-102.
- (4) The disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

(c) In the case of a policyholder, the notice required by this section shall be provided not less than annually during the continuation of the policy. As used in this subsection, 'annually'

means at least once in any period of 12 consecutive months during which the policy is in effect."

SECTION 5. Article 39 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-39-27. Privacy notice and disclosure requirement exceptions.

(a) Under G.S. 58-39-25 and G.S. 58-39-26, an insurance institution or agent may provide a joint notice from the insurance institution or agent and one or more of its affiliates or other financial institutions, as defined in the notice, as long as the notice is accurate with respect to the insurance institution or agent and the other institutions.

(b) An insurance institution or agent may satisfy the notice requirements of G.S. 58-39-25 and G.S. 58-39-26 by providing a single notice if two or more applicants or policyholders jointly obtain or apply for an insurance product.

(c) An insurance institution or agent may satisfy the notice requirements of G.S. 58-39-25 and G.S. 58-39-26 through the use of separate or combined notices.

(d) An insurance institution or agent is not required to provide the notices required by G.S. 58-39-25 and G.S. 58-39-26 to:

- (1) Any applicant or policyholder whose last known address, according to the insurance institution's or agent's records is deemed invalid. The applicant's or policyholder's last known address shall be deemed invalid if mail sent to that address has been returned by the postal authorities as undeliverable and if subsequent reasonable attempts to obtain a current valid address for the applicant or policyholder have been unsuccessful; or
- (2) Any policyholder whose policy is lapsed, expired, or otherwise inactive or dormant under the insurance institution's business practices, and the insurance institution has not communicated with the policyholder about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, or promotional materials.

(e) If an agent does not share information with any person other than the agent's principal or an affiliate of the principal, and if the principal provides all notices required by G.S. 58-39-25 and G.S. 58-39-26, the agent is not required to provide the notices required by G.S. 58-39-25 and G.S. 58-39-26. G.S. 58-39-75 applies to the sharing of information with an affiliate under this subsection.

(f) When an agent discloses a policyholder's personal information, other than medical information, to an insurance institution solely for the purposes of renewal, transfer, replacement, reinstatement, or modification of an existing policy, the agent is not

required to provide the notices required by G.S. 58-39-25 and G.S. 58-39-26.

(g) For the purposes of G.S. 58-39-26 only, the terms 'applicant' or 'policyholder' include respectively a person who applies for, or a certificate holder who obtains, insurance coverage under a group or blanket insurance contract, employee benefit plan, or group annuity contract, regardless of whether the coverage is individually underwritten. An insurance institution or agent that does not disclose personal information about an applicant or policyholder under a group or blanket insurance contract, employee benefit plan, or group annuity contract, except as permitted under G.S. 58-39-75(1) through (10) and G.S. 58-39-75(12) through (21), may satisfy any notice requirement that otherwise exists under G.S. 58-39-26 with respect to that applicant or policyholder by providing a notice of information practices to the holder of the group or blanket insurance or annuity contract or the employee benefit plan sponsor. If an insurance institution or agent discloses personal information about an applicant or policyholder as permitted by G.S. 58-39-75(11), it shall provide the notice required by G.S. 58-39-26 to the applicant or policyholder not less than 30 days before the information is disclosed, and it may satisfy any other notice requirement that otherwise exists under this section with respect to that applicant or policyholder by providing a notice of information practices to the holder of the group or blanket insurance or annuity contract or employee benefit plan sponsor."

SECTION 6. Article 39 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-39-28. *Exception for title and mortgage guaranty insurance.*

(a) A title insurance company shall give notice of its insurance information practices under G.S. 58-39-25 and G.S. 58-39-26 only at the time the final policy of title insurance is issued and is not subject to any annual notice requirement thereafter.

(b) In the case of mortgage guaranty insurance, the notice required by G.S. 58-39-25 and G.S. 58-39-26 shall be provided at the time a master policy is issued and thereafter only if there is a material change in the insurer's policies and practices regarding the use or disclosure of personal information."

SECTION 7. G.S. 58-39-75(1) reads as rewritten:

"(1) With the written authorization of the individual, provided:

- a. If such authorization is submitted by another insurance institution, agent, or insurance-support organization, the authorization meets the requirements of G.S. 58-39-35; or
- b. If such authorization is submitted by a person other than an insurance institution, agent, or

insurance-support organization, the authorization meets the requirements of G.S. 58-39-35 and is:

1. Dated;
2. Signed by the individual; and
3. Obtained one year or less ~~prior to~~ before the date a disclosure is sought pursuant to this paragraph; or".

SECTION 8. G.S. 58-39-75(18) reads as rewritten:

"(18) To a lienholder, mortgagee, assignee, lessor, or other person shown on the records of an insurance institution or agent as having a legal or beneficial interest in a policy of ~~insurance; provided that~~ insurance only if:

- a. No medical record information is disclosed unless the disclosure would otherwise be permitted by this section; and
- b. ~~the~~ The information disclosed is limited to that which is reasonably necessary to permit such person to protect its interest in such policy; or".

SECTION 9. Article 39 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-39-76. Limits on sharing account number information for marketing purposes.

(a) General Prohibition on Disclosure of Account Numbers. – An insurance institution, insurance agent, or insurance-support organization shall not disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) Definitions. – As used in this section:

- (1) 'Account number' means an account number, or similar form of access number or access code, but does not include a number or code in an encrypted form, as long as the insurance institution, insurance agent, or insurance-support organization does not provide the recipient with a means to decode the number or code.
- (2) 'Transaction account' means an account other than a deposit account or credit card account. A transaction account does not include an account to which third parties cannot initiate charges.

(c) Exceptions. – Subsection (a) of this section does not apply if an insurance institution, insurance agent, or insurance-support organization discloses an account number or similar form of access number or access code:

- (1) To the insurance institution's, insurance agent's, or insurance-support organization's agent or service provider solely in order to perform marketing for the insurance institution's, insurance agent's, or insurance-support organization's own products or services, as long as the agent or service provider is not authorized to directly initiate charges to the account; or
- (2) To a participant in a private label credit card program or an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program."

SECTION 10. G.S. 58-39-75(12) reads as rewritten:

- "(12) To an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; ~~or persons;~~ and further provided that no medical record information may be disclosed to the affiliate for the marketing of an insurance product or service; or "

SECTION 11. G.S. 58-39-75(2) reads as rewritten:

- "(2) To a person other than an insurance institution, agent, or insurance-support organization, provided such disclosure is reasonably necessary:
- a. To enable ~~such that~~ that person to perform a business, professional, or insurance function for the disclosing insurance institution, agent, or insurance-support organization, including, but not limited to, performing marketing functions and other functions regarding the provision of information concerning the disclosing institution's own products, services, and programs, and such that person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:
 - 1. Would otherwise be permitted by this section if made by an insurance institution, agent, or insurance-support organization; or
 - 2. Is reasonably necessary for ~~such that~~ that person to perform its function for the disclosing insurance institution, agent, or insurance-support organization; or

- b. To enable ~~such~~ that person to provide information to the disclosing insurance institution, agent, or insurance-support organization for the purpose of:
 1. Determining an individual's eligibility for an insurance benefit or payment; or
 2. Detecting or preventing criminal activity, fraud, material misrepresentation, or material nondisclosure in connection with an insurance transaction; or".

SECTION 12. G.S. 58-39-75 is amended by adding a new subdivision to read:

"(21) To a person whose only use of an applicant's or policyholder's personal information, but not including medical record information, will be in connection with the marketing of a financial product or service intended to be provided by participants in a marketing program where the program participants and the types of information to be shared are identified to the applicant or policyholder when the applicant or policyholder is first offered the financial product or service. As used in this subdivision:

- a. 'Financial institution' means any institution the business of which is engaging in activities that are financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843(k)).
- b. 'Financial product or service' means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such financial activity under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843(k)).
- c. 'Marketing program' includes only those programs established by written agreement by the insurance institution and one or more financial institutions under which they jointly offer, endorse, or sponsor a financial product or service."

SECTION 13. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 14. This act becomes effective January 1, 2002, and applies to policies and contracts newly issued or renewed on and

after that date. For the purposes of the application of this act to policies or contracts renewed on and after January 1, 2002, the renewal of a policy or contract is presumed to occur on each anniversary of the date on which coverage was first effective on the person or persons covered by the policy or contract.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:08 a.m. on the 9th day of August, 2001.

S.B. 278 SESSION LAW 2001-352

AN ACT TO PROVIDE THAT PERSONS CONVICTED OF SECOND OR SUBSEQUENT OFFENSES INVOLVING THE THEFT OF MOTOR FUEL SHALL HAVE THEIR DRIVERS LICENSES REVOKED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-72 is amended by adding a new section to read:

"§ 14-72.5. Larceny of motor fuel.

(a) If any person shall take and carry away motor fuel valued at less than one thousand dollars (\$1,000) from an establishment where motor fuel is offered for retail sale with the intent to steal the motor fuel, that person shall be guilty of a Class 1 misdemeanor.

(b) The term "motor fuel" as used in this section shall have the same meaning as found in G.S. 105-449.60(20).

(c) Conviction Report Sent to Division of Motor Vehicles. – The court shall report final convictions of violations of this section to the Division of Motor Vehicles. The Division of Motor Vehicles shall revoke a person's drivers license for a second or subsequent conviction under this section in accordance with G.S. 20-17(a)(16)."

SECTION 2. G.S. 20-16 is amended by adding a new subsection to read:

"(e2) If the Division revokes a person's drivers license pursuant to G.S. 20-17(a)(16), a judge may allow the licensee a limited driving privilege for a period not to exceed the period of revocation. The limited driving privilege shall be issued in the same manner and under the terms and conditions prescribed in G.S. 20-16.1(b)(1), (2), (3), (4), (5), and (g)."

SECTION 3. G.S. 20-17(a) is amended by adding a new subdivision to read:

"§ 20-17. Mandatory revocation of license by Division.

(a) The Division shall forthwith revoke the license of any driver upon receiving a record of the driver's conviction for any of the following offenses:

- (1) Manslaughter (or negligent homicide) resulting from the operation of a motor vehicle.
- (2) Either of the following impaired driving offenses:
 - a. Impaired driving under G.S. 20-138.1.
 - b. Impaired driving under G.S. 20-138.2.
- (3) Any felony in the commission of which a motor vehicle is used.
- (4) Failure to stop and render aid in violation of G.S. 20-166(a) or (b).
- (5) Perjury or the making of a false affidavit or statement under oath to the Division under this Article or under any other law relating to the ownership of motor vehicles.
- (6) Conviction upon two charges of reckless driving committed within a period of 12 months.
- (7) Conviction upon one charge of reckless driving while engaged in the illegal transportation of intoxicants for the purpose of sale.
- (8) Conviction of using a false or fictitious name or giving a false or fictitious address in any application for a drivers license, or learner's permit, or any renewal or duplicate thereof, or knowingly making a false statement or knowingly concealing a material fact or otherwise committing a fraud in any such application or procuring or knowingly permitting or allowing another to commit any of the foregoing acts.
- (9) Death by vehicle as defined in G.S. 20-141.4.
- (10) Repealed by Session Laws 1997-443, s. 19.26(b).
- (11) Conviction of assault with a motor vehicle.
- (12) A second or subsequent conviction of transporting an open container of alcoholic beverage under G.S. 20-138.7.
- (13) A second or subsequent conviction, as defined in G.S. 20-138.2A(d), of driving a commercial motor vehicle after consuming alcohol under G.S. 20-138.2A.
- (14) A conviction of driving a school bus, school activity bus, or child care vehicle after consuming alcohol under G.S. 20-138.2B.
- (15) A conviction of malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); conspiracy to injure or damage by use of an explosive or incendiary device (G.S. 14-50); making a

false report concerning a destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1)).

(16) A second or subsequent conviction of larceny of motor fuel under G.S. 14-72.5. A conviction for violating G.S. 14-72.5 is a second or subsequent conviction if at the time of the current offense the person has a previous conviction under G.S. 14-72.5 that occurred in the seven years immediately preceding the date of the current offense."

SECTION 4. G.S. 20-19 is amended by adding a new subsection to read:

"(g2) When a license is revoked under G.S. 20-17(a)(16), the period of revocation is 90 days for a second conviction and six months for a third or subsequent conviction. The term "second or subsequent conviction" shall have the same meaning as found in G.S. 20-17(a)(16)."

SECTION 5. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law upon approval of the Governor at 11:40 a.m. on the 10th day of August, 2001.

S.B. 11 SESSION LAW 2001-353

AN ACT TO PROVIDE FOR FILLING VACANCIES IN NOMINATION FOR THE NATIONAL TICKET AND FOR PRESIDENTIAL ELECTOR; TO EXPAND THE NOTICE REQUIREMENT FOR PRECINCT CHANGES; TO CLARIFY THE RIGHT OF MILITARY/OVERSEAS VOTERS TO REGISTER AND VOTE ON ELECTION DAY; TO REQUIRE COUNTY BOARDS OF ELECTIONS TO FOLLOW THE DIRECTION OF THE STATE BOARD OF ELECTIONS IN PRINTING ABSENTEE BALLOTS DURING AND AFTER THE PENDENCY OF APPEALS; TO REPEAL A COURT-DISAPPROVED PROVISION OF THE AD-LABELING LAW; TO TOLL THE VERIFICATION OF MUNICIPAL INCORPORATION PETITIONS DURING A PERIOD

AROUND A PRIMARY OR ELECTION AND TO MAKE OTHER CHANGES TO THE INCORPORATION PETITION STATUTE; TO MAKE TECHNICAL CHANGES TO THE MANDATORY RECOUNT STATUTES; TO REQUIRE PRIVACY FOR THE VOTER TO MARK THE BALLOT; TO STOP THE DAILY CAMPAIGN FINANCE PENALTY AFTER THE POSTMARK DATE AND FOR ANY DAY WHEN THE BOARD OF ELECTIONS IS CLOSED; AND TO CHANGE THE MAILING REQUIREMENT FOR NOTICE OF LATE FILING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-114 reads as rewritten:

"§ 163-114. *Filling vacancies among party nominees occurring after nomination and before election.*

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position

President
Vice President

Vacancy is to be filled by
appointment of national
executive committee of
political party in which
vacancy occurs

Presidential elector or
alternate elector
Any elective State office
United States Senator

Vacancy is to be filled by
appointment of State
executive committee of
political party in which
vacancy occurs

A district office, including:
Member of the United States
House of Representatives
Judge of district court
District Attorney
State Senator in a multi-
county senatorial district
Member of State House of
Representatives in a multi-

Appropriate district executive
committee of political party
in which vacancy occurs

county representative district

State Senator in a single-county senatorial district
Member of State House of Representatives in a Single-county representative district
Any elective county office

County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If any person nominated as a candidate of a vacancy occurs in a nomination of a political party vacates such nomination and such that vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within

the area of the county which is within that multi-county district may vote."

SECTION 2. G.S. 163-128 reads as rewritten:

"§ 163-128. *Election precincts and voting places established or altered.*

(a) Each county shall be divided into a convenient number of precincts for the purpose of voting. Upon a resolution adopted by the county board of elections and approved by the Secretary-Director of the State Board of Elections voters from a given precinct may be temporarily transferred, for the purpose of voting, to an adjacent precinct. Any such transfers shall be for the period of time equal only to the term of office of the county board of elections making such transfer. When such a resolution has been adopted by the county board of elections to assign voters from more than one precinct to the same precinct, then the county board of elections shall maintain separate registration and voting records, consistent with the procedure prescribed by the State Board of Elections, so as to properly identify the precinct in which such voters reside. The polling place for a precinct shall be located within the precinct or on a lot or tract adjoining the precinct.

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse ~~door,~~ door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place.

(b) Each county board of elections shall prepare a map of the county on which the precinct boundaries are drawn or described, shall revise the map when boundaries are changed, and shall keep a copy of the current map on file and posted for public inspection at the office of the Board of Elections, and shall file a copy with the State Board of Elections."

SECTION 3. G.S. 163-254 reads as rewritten:

"§ 163-254. *Registration and voting on primary or election day.*

Notwithstanding any other provisions of Chapter 163 of the General Statutes, ~~any person entitled to vote an absentee ballot pursuant to G.S. 163-245~~ an individual shall be permitted to register in person at any time the office of the board of elections or the voting place is open, including the day of a primary or ~~election.~~ election if that individual was absent on the day the registration records close for an election, but returns to that individual's county of residence in North Carolina thereafter, and if the absence is due to an occupation or status of that individual listed below:

- (1) Individuals serving in the armed forces of the United States, including (but not limited to) the army, the navy, the air force, the marine corps, the coast guard, the Merchant Marine, the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, and members of the national guard and military reserve.
- (2) Spouses of individuals serving in the armed forces of the United States residing outside the counties of their spouses' voting residence.
- (3) Disabled war veterans in United States government hospitals.
- (4) Civilians attached to and serving outside the United States with the armed forces of the United States.
- (5) Members of the Peace Corps.

~~Should such person's eligibility to register or vote as provided in G.S. 163-245 terminate after the twenty fifth day prior to a primary or election, such person, if he appears in person, shall be entitled to register if otherwise qualified after the twenty fifth day before the primary or election, or on the primary or election day, and shall be permitted to vote if such person is otherwise qualified. If an individual so absent on the day registration closes shall appear in person at the voting place on election day and is otherwise eligible to vote, that individual shall be entitled to register and vote at the voting place that day, regardless of whether the person's occupation or status as outlined in subdivisions (1) through (5) of this section has changed since the close of registration."~~

SECTION 4. G.S. 163-227.3 reads as rewritten:

"§ 163-227.3. *Date by which absentee ballots must be available for voting.*

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an

appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence. In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.

(b) Second Primary. – The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined."

SECTION 5. G.S. 163-278.39(a)(3) is repealed.

SECTION 6. G.S. 120-163 reads as rewritten:

"§ 120-163. *Petition.*

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The

petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session."

SECTION 7. G.S. 163-192.1 reads as rewritten:

"§ 163-192.1. *Mandatory recounts.*

(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

- (1) Has received the number of votes necessary to be declared nominated for an office in a primary election with a majority; or
- (2) Received the number of votes necessary to be declared nominated for an office in a second primary election

and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the ~~eight day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that in~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in

fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(b) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who has been declared elected to an office in a general election and the number of votes received by any other candidate in the race shall be not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, or where there is a tie vote between those candidates, the State Board of Elections shall, before certifying the result to the Secretary of State under G.S. 163-193, order a recount of the election if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate (or in the case of a tie, either candidate) shall, by noon on the ~~eight day (Saturdays and Sundays included)~~ second Wednesday following the election, request in writing such a recount. ~~Provided, however, that~~ If, however, in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is ~~at least~~ no greater than one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. ~~Provided further that~~ Further, if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification.

(c) The recount shall be conducted under the supervision of the State Board of Elections.

(d) This section applies to the offices listed in G.S. 163-192."

SECTION 8. G.S. 163-145 reads as rewritten:

"§ 163-145. *Voting booths; description; provision.*

The county board of elections shall furnish each voting place with at least one voting booth for each 100 persons qualified to vote in the precinct. Each voting booth shall be at least three feet square and six feet high; it shall have three sides and a door or curtain in front. The bottom of the door or curtain shall hang two feet above the floor. Each voting booth shall be equipped with a table or shelf on which voters may conveniently mark their ballots.

The provisions of this section shall not apply to voting places at which voting machines are ~~used~~ used, except that at all voting places

there shall be a curtained or otherwise private area where a voter may mark the ballot unobserved."

SECTION 9. G.S. 163-227.2 is amended by adding a new subsection to read:

"(i) At any site where one-stop absentee voting is conducted, there shall be a curtained or otherwise private area where the voter may mark the ballot unobserved."

SECTION 10. G.S. 163-278.34(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.9, all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

- (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and
- (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

If the form is filed by mail, no civil late penalty shall be assessed for any day after the date of postmark. No civil late penalty shall be assessed for any day when the Board office at which the report is due is closed. The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, ~~by registered or certified mail, return receipt requested, by mail,~~ of the penalties under this section."

SECTION 11. Section 6 of this act becomes effective with respect to any petitions submitted on or after December 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of July, 2001.

Became law upon approval of the Governor at 11:41 a.m. on the 10th day of August, 2001.

S.B. 113

SESSION LAW 2001-354

AN ACT TO EXTEND THE CABARRUS COUNTY WORK OVER WELFARE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. S.L. 1998-106 reads as rewritten:

"Section 1. Notwithstanding any law to the contrary, the Department of Health and Human Services shall ~~designate~~ continue designation of Cabarrus County as a pilot county for the purpose of conducting a demonstration ~~Workfare Program~~ welfare reform program for certain Work First and Food Stamp recipients. Immediately upon the ratification of this act, the Department shall ~~seek~~ ensure that all federal waivers necessary to allow this demonstration ~~program~~ program to continue are obtained. To the extent that this act or the program established pursuant to it conflicts with any State law, the program supersedes that law.

Sec. 2. The Cabarrus County demonstration ~~Workfare~~ Work Over Welfare Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment ~~program~~ program;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;
- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity ~~contract~~ agreement outlining the responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part

time, subsidized or unsubsidized, as a condition for continued eligibility for Work First and Food Stamp assistance;

- (8) Require job search training of all participants;
- (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
- ~~(10) Provide child care by allowing Cabarrus County to use grant diversions, consisting of the child day care subsidies that would be paid to otherwise eligible recipients, and transportation as required;~~
- ~~(11)(10) Create a positive work incentive by providing wage incentives to participants who are in compliance with the program, equal to the first thirty dollars (\$30.00) and one third of the remainder of monthly gross income for a period of up to two years; program by using the job bonus as outlined in the Work First Policy Manual for both Work First and Food Stamp benefits;~~
- ~~(12) Provide enhanced Food Stamp benefits after participants are employed and are in program compliance by using the thirty dollar (\$30.00) and one third of the remainder wage incentive as an income exemption;~~
- ~~(13)(11) Provide (i) a pay for performance system that withholds the entire Work First benefits for the household for the month following any month in which it fails to comply with Work First participation requirements and restores these benefits for the month following any month in which it successfully complies with Work First participation requirements, and, to ensure that children in sanctioned households are not harmed, (ii) social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children, as necessary, during the period in which the household is sanctioned; for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in terminated households are not harmed, provide social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring~~

shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of termination.

- (14)(12) Provide automatic Medicaid coverage for children and pregnant adults of sanctioned families by transferring the children administratively to the Medicaid for Indigent Children (MIC) Program and by transferring the pregnant adults administratively to the Medicaid for Pregnant Women (MPW) Program. Provide for all individuals to be evaluated for ongoing Medicaid and children to be evaluated for Health Choice eligibility any time Work First terminates. This act shall not alter any individual's eligibility for Medicaid or Health Choice as set out in State and Federal law or regulation.
- (13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;
- (14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;
- (15) Provide that an applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;
- (16) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;
- (17) In ongoing Work First cases, require family reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family

reassessment may result in benefit diversion, change in services, or termination from Work First program participation;

(18) Not sanction individuals who demonstrate that they cannot meet program requirements because necessary child care is not available.

Sec. 3. This act shall be funded by Cabarrus County using ~~the available~~ grant diversions and administrative transfers, ~~transfers prescribed in Section 2 of this act,~~ together with federal and State administrative funding allocated to Cabarrus County for the public assistance programs.

Sec. 4. The Department of Health and Human Services shall evaluate the Cabarrus County Demonstration Project and report to the General Assembly and to the Joint Legislative Public Assistance Commission on or before September 1, ~~1998~~2002.

Sec. 5. This act becomes effective July 1, 1995 and shall expire on ~~July 1, 2001~~September 30, 2003."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:41 a.m. on the 10th day of August, 2001.

H.B. 570**SESSION LAW 2001-355**

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE ADMINISTRATIVE RULE ENTITLED "TAR-PAMLICO RIVER BASIN-NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: AGRICULTURAL NUTRIENT CONTROL STRATEGY" WITH CERTAIN MODIFICATIONS, TO AUTHORIZE THE ENVIRONMENTAL MANAGEMENT COMMISSION TO INCORPORATE THESE MODIFICATIONS INTO A REVISED ADMINISTRATIVE RULE, AND TO DIRECT THE SOIL AND WATER CONSERVATION COMMISSION TO APPROVE BEST MANAGEMENT PRACTICES AND A NUTRIENT LOADING POINT SYSTEM FOR PASTURE-BASED PRODUCTION AND MANAGEMENT OF LIVESTOCK.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(b), 15A NCAC 2B .0256, (Tar-Pamlico River Basin-Nutrient Sensitive Waters Management Strategy: Agricultural Nutrient Control Strategy), as adopted by the Environmental Management Commission on 12 October 2000 and approved by the Rules Review Commission

on 20 November 2000, shall become effective on 1 September 2001 and shall be implemented as provided in Sections 2 through 4 of this act.

SECTION 2.(a) On or before 1 November 2001, a Local Advisory Committee shall be appointed as provided in this section in each county or watershed, as specified by the Basin Oversight Committee, within the Tar-Pamlico River Basin. The Local Advisory Committees shall terminate upon a finding by the Environmental Management Commission that the long-term maintenance of nutrient loads in the Tar-Pamlico River Basin is assured.

SECTION 2.(b) Each Local Advisory Committee shall consist of:

- (1) One representative of the local Soil and Water Conservation District.
- (2) One local representative of the Natural Resources Conservation Service of the United States Department of Agriculture.
- (3) One local representative of the North Carolina Cooperative Extension Service.
- (4) One local representative of the North Carolina Division of Soil and Water Conservation.
- (5) One local representative of the North Carolina Department of Agriculture and Consumer Services.
- (6) At least five, but not more than 10 farmers who reside in the county or watershed.

SECTION 2.(c) The Director of the Division of Water Quality and the Director of the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall jointly appoint members described in subdivisions (1) through (4) of subsection (b) of this section. The Commissioner of Agriculture shall appoint the members described in subdivisions (5) and (6) of subsection (b) of this section. The Commissioner of Agriculture shall appoint the members described in subdivision (6) of subsection (b) of this section from persons nominated by nongovernmental organizations whose members produce or manage significant agricultural commodities in each county or watershed.

SECTION 2.(d) Members of the Local Advisory Committees serve at the pleasure of their appointing authority.

SECTION 3.(a) For purposes of 15A NCAC 2B .0256 and this act, "agricultural operation" is an activity that relates to any of the following pursuits:

- (1) The commercial production of crops or horticultural products other than trees.

- (2) Research activities in support of the commercial production of crops or horticultural products other than trees.
- (3) The production or management of any of the following number of livestock or poultry, excluding nursing young:
 - a. 20 or more horses.
 - b. 20 or more cattle.
 - c. 150 or more swine.
 - d. 120 or more sheep.
 - e. 130 or more goats.
 - f. 650 or more turkeys.
 - g. 3,500 or more chickens.
 - h. A number of any single species or combination of species of livestock or poultry that exceeds 20,000 pounds of live weight at any time.
- (4) The onetime harvest of trees on land within a riparian buffer described in 15A NCAC 2B .0259 that is open farmland on 1 September 2001. This onetime harvest of trees may be conducted within one tree cropping interval only under a verifiable farm plan that (i) receives final approval on or after 1 September 2001 by a local agricultural agency and (ii) expressly allows the harvest of trees no earlier than 10 years after the trees are established and the return of the land to another agricultural pursuit.
- (5) The onetime harvest of trees on land within a riparian buffer described in 15A NCAC 2B .0259 that has trees established under an agricultural incentive program as of 1 September 2001.

SECTION 3.(b) All harvesting of trees shall comply with Forest Practices Guidelines Related to Water Quality codified at 15A NCAC 1I. The nutrient removal functions that were provided by trees prior to their harvest shall be replaced by other measures that are implemented by the owner of the land from which the trees are harvested.

SECTION 3.(c) As used in 15A NCAC 2B .0256 and this act:

- (1) "Agricultural incentive program" means any of the following programs and any predecessor program to any of the following programs:
 - a. Agriculture Cost Share Program for Nonpoint Source Pollution Control established by G.S. 143-215.74.

- b. Conservation Reserve Enhancement Program established by 7 Code of Federal Regulations Part 1410 (1 January 2001 Edition) and 15A NCAC 6G .0101 through 15A NCAC 6G .0106.
 - c. Conservation Reserve Program established by 7 Code of Federal Regulations Part 1410 (1 January 2001 Edition).
 - d. Environmental Quality Incentives Program established by 7 Code of Federal Regulations Part 1466 (1 January 2001 Edition).
 - e. Wetlands Reserve Program established by 7 Code of Federal Regulations Part 1467 (1 January 2001 Edition).
 - f. Wildlife Habitat Incentives Program established by 7 Code of Federal Regulations Part 636 (1 January 2001 Edition).
- (2) "Commercial" means a pursuit conducted primarily for financial gain or profit.
 - (3) "Local agricultural agency" means the North Carolina Cooperative Extension Service, the Farm Services Agency of the United States Department of Agriculture, the Natural Resources Conservation Service of the United States Department of Agriculture, a Soil and Water Conservation District created pursuant to G.S. 139-5, or their successor agencies.
 - (4) "Open farmland" means the footprint of land used for pasture or for crops or horticultural products other than trees. Open farmland may contain scattered trees if an open canopy exists on 1 September 2001 as determined by the most recent aerial photographs taken for the Farm Services Agency of the United States Department of Agriculture.
 - (5) "Tree" means a woody plant with a diameter equal to or greater than five inches when measured at a height of four and one-half feet above the ground.
 - (6) "Tree cropping interval" means the time required to establish and grow trees that are suitable for harvesting. The tree cropping interval shall be set out in the farm plan and shall be no less than 10 years after the trees are established.

SECTION 4.(a) No person who is subject to 15A NCAC 2B .0256 shall be required to implement a best management practice for pasture-based production or management of livestock until the Soil and Water Conservation Commission has approved best management practices for pasture-based production or management of livestock

and until the Environmental Management Commission approves a nutrient loading accounting methodology that includes credit for reductions in nutrient loading that have been achieved since 1 January 1992.

SECTION 4.(b) The Soil and Water Conservation Commission shall approve initial best management practices for pasture-based production or management of livestock no later than 1 September 2002. The Soil and Water Conservation Commission shall involve persons engaged in pasture-based production or management of livestock and organizations that represent these persons in the development of best management practices.

SECTION 4.(c) The Soil and Water Conservation Commission shall approve a point system applicable to pasture management practices no later than 1 September 2002. The Soil and Water Conservation Commission shall approve the point system based on recommendations from the Technical Review Committee established by G.S. 143-215.74B. The Technical Review Committee shall involve persons engaged in pasture-based production or management of livestock and organizations that represent these persons in the development of recommendations to the Soil and Water Conservation Commission regarding the point system. The Soil and Water Conservation Commission may make subsequent additions or amendments to the point system only by following the process outlined in this section. The objectives of the point system shall be to identify pasture management practices that either individually or in combination represent the best reasonable approximation of a thirty percent (30%) reduction in nitrogen loading and no increase in phosphorus loading as compared to the nutrient loading that would occur in the absence of those practices and to determine the target number of points that would reasonably best approximate that loading. The point system shall identify a range of pasture management practice types that provides point values both greater than and less than this target number. An individual who accumulates and maintains the target number of points shall not be subject to any additional requirement applicable to that individual's pasture-based production or management of livestock under 15A NCAC 2B .0256(c).

SECTION 4.(d). The Basin Oversight Committee shall incorporate the point system into the accounting methodology described in 15A NCAC 2B .0256(f)(3), and Local Advisory Committees shall account for progress by pasture operations using the point system, together with the percentage nitrogen reductions accomplished by non-pasture agricultural operations, as part of its annual reporting required by 15A NCAC 2B .0256(g)(4). In applying the accounting methodology, Local Advisory Committees shall credit

only pasture management practices implemented after 1 January 1992 toward achievement of nitrogen and phosphorus goals.

SECTION 4.(e) The Basin Oversight Committee shall involve persons engaged in pasture-based production or management of livestock and organizations that represent these persons in the development of the nutrient loading accounting methodology described in 15A NCAC 2B .0256(f)(3). The Environmental Management Commission shall approve the nutrient loading accounting methodology no later than 1 March 2003.

SECTION 4.(f) As used in this section, the phrase "shall involve persons engaged in pasture-based production or management of livestock and organizations that represent these persons" means involving those persons and organizations in a manner consistent with the procedures set out in the memorandum dated 16 November 1994 that appears as Page III-12 of the North Carolina Agriculture Cost Share Program Manual (July 1998 Edition) prepared by the Division of Soil and Water Conservation of the Department of Environment and Natural Resources.

SECTION 5.(a) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a).

SECTION 5.(b) The Environmental Management Commission may adopt a temporary rule that incorporates the provisions of Sections 2 and 3 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until a temporary or permanent rule adopted to replace the temporary rule becomes effective.

SECTION 5.(c) If the Environmental Management Commission adopts a temporary rule as provided in subsection (b) of this section, the Commission may thereafter amend the temporary rule to revise the number of livestock or poultry that constitutes an agricultural operation by adopting a temporary rule. In revising the number of livestock or poultry that constitutes an agricultural operation, the Commission shall consider the behavioral characteristics of each species, equivalent nutrient production of each species, and other relevant factors. Prior to the adoption of a temporary rule under this subsection, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be addressed. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 6. Except as provided by Sections 2 and 3 of this act, this act does not limit the authority of the Environmental

Management Commission to adopt rules to improve water quality and to limit nutrient loading from agricultural operations pursuant to Article 21 of Chapter 143 of the General Statutes.

SECTION 7. This act is effective when it becomes law. If the Environmental Management Commission adopts a temporary rule as provided in subsection (b) of Section 5 of this act, Sections 2 and 3 of this act expire when the temporary rule becomes effective. Section 4 of this act expires upon a finding by the Environmental Management Commission that the long-term maintenance of nutrient loads in the Tar-Pamlico River Basin is assured.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:42 a.m. on the 10th day of August, 2001.

H.B. 1052 SESSION LAW 2001-356

AN ACT DEFINING AND REGULATING LOW-SPEED VEHICLES AND OTHERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01 reads as rewritten:
"§ 20-4.01. *Definitions.*

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(12a) Golf Cart. – A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the manufacturer as the maximum loaded weight of a vehicle. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered from the manufacturer's original design, the license weight or the total weight of the vehicle or combination of vehicles may be deemed as the GVWR for the purpose of enforcing this Chapter.

(12c) Hazardous Materials. – Materials designated as hazardous by the United States Secretary of Transportation under 49 U.S.C. § 1803.

...

(48c) Utility Vehicle. – Vehicle designed and manufactured for general maintenance, security, recreational, and landscaping purposes, but does not include vehicles designed and used primarily for the transportation of persons or property on a street or highway."

SECTION 2. G.S. 20-4.01(27) is amended by adding a new sub-subdivision to read:

"(27) Passenger Vehicles. –

...

h. Low-speed vehicle. A four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour."

SECTION 3. G.S. 20-54 is amended by adding a new subdivision to read:

"(8) The vehicle is a golf cart or utility vehicle."

SECTION 4. G.S. 20-87 is amended by adding a new subdivision to read:

"(12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passenger vehicles of not more than 15 passengers."

SECTION 5. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-121.1. Operation of a low-speed vehicle on certain roadways.

The operation of a low-speed vehicle is authorized with the following restrictions:

- (1) A low-speed vehicle may be operated only on streets and highways where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street being crossed has a posted speed limit of more than 35 miles per hour.
- (2) A low-speed vehicle shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number.
- (3) A low-speed vehicle shall be registered and insured in accordance with G.S. 20-50 and G.S. 20-309.
- (4) The Department of Transportation may prohibit the operation of low-speed vehicles on any road or highway if it determines that the prohibition is necessary in the interest of safety.
- (5) Low-speed vehicles must comply with the safety standards in 49 C.F.R. § 571.500."

SECTION 6. Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Town of Lake Waccamaw may, by ordinance, regulate the operation of electric golf carts on any public street or road within the Town that is located south of N.C. 214.

By ordinance, the Town may require the registration of golf carts, charge a fee for the registration, specify the persons authorized to operate golf carts, and specify required equipment, load limits, and the hours and methods of operation of the golf carts.

SECTION 7. This act becomes effective August 1, 2001.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:42 a.m. on the 10th day of August, 2001.

S.B. 783**SESSION LAW 2001-357**

AN ACT TO MAKE CERTAIN CHANGES TO THE LAW REGARDING THE DISPOSAL OF DEMOLITION DEBRIS IN AN ON-SITE LANDFILL HAVING A DISPOSAL AREA OF ONE ACRE OR LESS AND TO EXTEND THE SUNSET OF THIS LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-301.2 reads as rewritten:

"§ 130A-301.2. *Disposal of demolition debris in an on-site landfill having a disposal area of one acre or less.*

(a) A person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from the Department if the requirements of this section are met. A person may not dispose of demolition debris in a landfill to which this section applies unless the board of commissioners of the county in which the landfill is proposed to be located approves the landfill. If the landfill is to be located within a city or within the extraterritorial jurisdiction of a city, the board of commissioners shall consult the governing board of the city before approving the proposed landfill. The board of commissioners shall approve the landfill only if the board finds ~~that~~ that all of the following conditions have been met:

- (1) The landfill is located at least one-quarter mile from any other landfill of any type.
- (2) The perimeter of the landfill is at least 50 feet from the property boundary.
- (3) The perimeter of the landfill is at least 500 feet from the nearest drinking water well.

(3a) The perimeter of the landfill is at least 50 feet from any stream or river.

(4) The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.

(5) The landfill will comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

(b) Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

(c) The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

(d) No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

(e) Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a survey plat of the property that meets the requirements of G.S. 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the ~~Department~~ board of commissioners at the same time that the certified copy of the notice required by subsection (f) of this section is filed with the ~~Department~~ board of commissioners.

(f) Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a notice that a landfill for the disposal of demolition debris has been located on the land. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired

title is located. The notice shall reference the book and page number where the survey plat required by subsection (e) of this section is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the General Statutes. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by subsection (e) of this section, with the ~~Department, and shall pay a filing fee of twenty five dollars (\$25.00) to the Department,~~ board of commissioners within 15 days after the notice is recorded.

(g) When the land, or any portion of the land, on which the landfill is located is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been used as a landfill for the disposal of demolition debris. The statement shall include a reference to this section and to the book and page number where the notice required by subsection (f) of this section is recorded.

(h) The board of commissioners of the county in which a landfill to which this section applies is located shall ensure that the requirements of ~~subsections (a) through (d) of this section~~ are met. In addition, the board of commissioners shall forward to the Department copies of the documents filed with the board of commissioners by the owner or owners of record pursuant to subsections (e) and (f) of this section along with a certification that the requirements of this section have been met."

SECTION 2. Section 4 of Chapter 502 of the 1995 Session Laws reads as rewritten:

"Sec. 4. This act is effective upon ratification. Sections 1 and 2 of this act and the second sentence of G.S. 47-28(a), as enacted by Section 2.1 of this act, expire on ~~30 June 2001~~ 30 September 2003. Section 3 of this act expires on 31 December 1996."

SECTION 3. This act becomes effective 30 June 2001.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:43 a.m. on the 10th day of August, 2001.

H.B. 385 SESSION LAW 2001-358

AN ACT TO CONSOLIDATE IN ONE PLACE IN THE GENERAL STATUTES VARIOUS BUSINESS ASSOCIATION PROVISIONS TO AVOID UNNECESSARY REPETITION, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

PART I. CONSOLIDATION OF FILING REQUIREMENTS.

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 55D.

"Filings for

Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Liability Partnerships.

"Article 1.

"General Provisions.

"§ 55D-1. Applicable definitions.

The following definitions apply in this Chapter:

- (1) 'Corporation' or 'domestic corporation' is defined in G.S. 55-1-40(4).
- (2) 'Deliver' is defined in G.S. 55-1-40(5).
- (3) 'Entity' is defined in G.S. 55-1-40(9).
- (4) 'Foreign corporation' is defined in G.S. 55-1-40(10).
- (5) 'Foreign limited liability company' is defined in G.S. 57C-1-03(8).
- (6) 'Foreign limited liability partnership' is defined in G.S. 59-32(4a).
- (7) 'Foreign limited partnership' is defined in G.S. 59-102(5).
- (8) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40(11).
- (9) 'Individual' is defined in G.S. 55-1-40(13).
- (10) 'Limited liability company' or 'domestic limited liability company' is defined in G.S. 57C-1-03(11).
- (11) 'Limited liability partnership' or 'registered limited liability partnership' means a registered limited liability partnership as defined in G.S. 59-32(7).
- (12) 'Limited partnership' or 'domestic limited partnership' is defined in G.S. 59-102(8).

(13) 'Nonprofit corporation' or 'domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40(5).

(14) 'Person' is defined in G.S. 55-1-40(16).

"§ 55D-2 through 55D-4: *Reserved.*

"§ 55D-5. *Rule-making authority.*

The Secretary of State may adopt rules to implement the Secretary of State's responsibilities under this Chapter."

SECTION 2. Chapter 55D of the General Statutes, as enacted by this act, is amended by adding a new Article to read:

"Article 2.

"Submission of Documents to the Secretary of State for Filing."

SECTION 3.(a) G.S. 55-1-20(a) through (e) and (g) through (i) are recodified as G.S. 55D-10 in Article 2 of Chapter 55D of the General Statutes, as enacted by this act. The section title of G.S. 55D-10, as enacted by this section, is "Filing requirements."

SECTION 3.(b) G.S. 55-1-22.1, 55-1-22.2, 55-1-23, 55-1-24, 55-1-25, 55-1-26, 55-1-27, and 55-1-29 are recodified as G.S. 55D-11, 55D-12, 55D-13, 55D-14, 55D-15, 55D-16, 55D-17, and 55D-18, respectively, in Article 2 of Chapter 55D of the General Statutes.

SECTION 4. Article 2 of Chapter 55D of the General Statutes, as enacted by Section 2 and amended by Section 3 of this act, reads as rewritten:

"Article 2.

"Submission of Documents to the Secretary of State for Filing.

"§ 55D-10. *Filing requirements.*

(a) To be entitled to filing by the Secretary of State under ~~this Chapter,~~ Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, a document must satisfy the requirements of this section, and of any other section of the General Statutes that adds to or varies these requirements.

(b) The document must meet all of the following requirements:

- (1) The document must be one that is required or permitted by ~~this Chapter~~ Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes to be filed in the office of the Secretary of State.
- (e) (2) The document must contain the information required by ~~this Chapter~~ Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes for that document. It may contain other information as well.
- (d) (3) The document must be ~~typewritten or printed.~~ typewritten, printed, or in an electronic form acceptable to the Secretary of State.

- (e) (4) The document must be in the English language. A ~~corporate~~ name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign ~~corporations~~ corporations, foreign nonprofit corporations, foreign limited liability companies, and foreign limited liability partnerships need not be in English if accompanied by a reasonably authenticated English translation.
- (5) A document submitted by an entity must be executed by a person authorized to execute documents (i) under G.S. 55-1-20 if the entity is a domestic or foreign corporation, (ii) under G.S. 55A-1-20 if the entity is a domestic or foreign nonprofit corporation, (iii) under G.S. 57C-1-20 if the entity is a domestic or foreign limited liability company, (iv) under G.S. 59-204 if the entity is a domestic or foreign limited partnership, or (v) under G.S. 59-35.1 if the entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of the State.
- (g) (6) The person executing the document ~~shall~~ must sign it and state beneath or opposite ~~his signature his name~~ the person's signature, the person's name, and the capacity in which he the person signs. Any signature on the document may be a facsimile or an electronic signature in a form acceptable to the Secretary of State. The document may but need not ~~contain:~~
- (1) ~~The corporate seal;~~
 - (2) ~~An attestation by the secretary or an assistant secretary; and~~
 - (3) ~~An acknowledgement, verification, or proof.~~ contain a seal, attestation, acknowledgment, verification, or proof.
- (h) (7) If the Secretary of State has prescribed a mandatory form for the ~~document under G.S. 55-1-21,~~ document, the document must be in or on the prescribed form.
- (i) (8) The document must be delivered to the office of the Secretary of State for filing and must be accompanied by ~~one exact or conformed copy (except as provided in G.S. 55-5-03 and G.S. 55-15-09), and all fees required by this Chapter.~~ the applicable fees.

"§ 55D-11. Expedited filings.

A person submitting a document for filing may request an expedited filing only at the time the document is submitted. The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following

~~additional fees for the expedited filing of a document received in good form; the document if the document is in proper form and accompanied by all applicable fees, including the following fee:~~

- (1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 ~~noon Eastern Standard Time; and noon; or~~
- (2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in this section unless the person submitting the document for filing ~~requests an expedited filing and~~ is informed by the Secretary of State of the fees prior to the filing of the document.

"§ 55D-12. Advisory review of documents.

Upon request, the Secretary of State shall ~~provide for the review of~~ a document prior to its submission for filing to determine whether it satisfies ~~the requirements of this Chapter. applicable filing requirements.~~ Submission of a document for review shall be accompanied by ~~the proper fee—~~ a fee of two hundred dollars (\$200.00) and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this section and filings under ~~G.S. 55-1-22.4. G.S. 55D-11.~~ Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing.

"§ 55D-13. Effective time and date of document.

(a) Except as provided in subsection (b) of this section and ~~G.S. 55-1-24(e); in G.S. 55D-14,~~ a document accepted for filing is effective:

- (1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the ~~original-filed~~ document; or
- (2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 p.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.

(c) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), and 57C-2-20(b), the fact that a document has become effective under this section does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.

"§ 55D-14. *Correcting filed document.*

(a) ~~A domestic or foreign corporation~~ person on whose behalf a document was filed in the Office of the Secretary of State may correct a document filed by the Secretary of State if the document (1) that document if it (i) contains a statement that is incorrect and was incorrect when the document was filed or (2)(ii) was defectively executed, attested, sealed, verified, or acknowledged.

(b) A document is ~~corrected~~; corrected by delivering to the Secretary of State for filing articles of correction that do all of the following:

- (1) ~~By preparing articles of correction that (i) describe~~ Describe the document (including its filing date) or ~~attach a copy of it to the articles, have attached to them a copy of the document.~~
- (2) ~~(ii) specify~~ Specify the incorrect statement and the reason it is incorrect or the ~~manner in which the execution was defective, and~~ nature of the defect.
- (3) ~~(iii) correct~~ Correct the incorrect statement or ~~defective execution; and~~ defect.
- (2) ~~By delivering the articles to the Secretary of State for filing.~~

(c) Articles of correction are effective ~~on the effective as of the effective time and~~ date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

"§ 55D-15. *Filing duty of Secretary of State.*

(a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this ~~Chapter, Chapter and~~ Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, the Secretary of State shall file it. Documents filed with the Secretary of State ~~pursuant to~~ under this Chapter may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Chapter, or under any predecessor ~~aet, law,~~ by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.

(b) The Secretary of State files a document by ~~stamping or otherwise~~ endorsing "Filed", together with the Secretary's name and official title and the date and time of filing, on ~~both the original and~~

~~the document copy. the document.~~ After filing a document, ~~except as provided in G.S. 55-5-03 and G.S. 55-15-09,~~ the Secretary of State shall deliver ~~the a~~ document copy to the ~~domestic or foreign corporation or its representative,~~ person submitting the document for filing and as provided in G.S. 55-5-03, 55-15-09, 55A-5-03, 55A-15-09, 57C-2-42, and 57C-7-09.

(c) If the Secretary of State refuses to file a document, the Secretary shall return it, ~~by personal delivery or by first class mail postage prepaid, to the domestic or foreign corporation or its representative~~ it to the person submitting the document for filing within five days after the document was received, together with a ~~brief,~~ written statement of the date of the refusal and a brief explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing. ~~The authorization to make the corrections shall be confirmed, according to procedures adopted by rule, by the Secretary prior to making the correction.~~

(d) The Secretary of State's duty is to review and file documents that satisfy the requirements of this ~~Chapter.~~ Chapter and of Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes. The Secretary of State's filing or refusing to file a document does ~~not;~~ not do any of the following:

- (1) Except as provided in G.S. 55-2-03(b), 55A-2-03(b), or 57C-2-20(b), affect the validity or invalidity of the document in whole or ~~part;~~ part.
- (2) Relate to the correctness or incorrectness of information contained in the ~~document;~~ document.
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

"§ 55D-16. Appeal from Secretary of State's refusal to file document.

(a) If the Secretary of State refuses to file a document delivered to ~~his~~ the Secretary of State's office for filing, the person tendering the document on whose behalf the document was submitted for filing may, within 30 days after ~~such~~ the date of the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition ~~shall~~ must have attached to it the document to be filed and the Secretary of State's explanation for ~~his~~ the refusal to file. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court is not governed by ~~the Administrative Procedure Act Chapter 150B of the General Statutes, the~~

Administrative Procedure Act, and shall be determined by a judge of the superior court upon such further notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances.

(b) Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment, order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

"§ 55D-17. *Evidentiary effect of copy of filed document.*

A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature (~~which may be in facsimile~~) and the seal of office (both of which may be in facsimile or in any electronic form approved by the Secretary of State) and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed ~~pursuant to this Chapter~~ under this Chapter, Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, or any predecessor act, law, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

"§ 55D-18. *Penalty for signing false document.*

(a) A person commits an offense if ~~he~~ the person signs a document ~~he~~ the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(b) An offense under this section is a Class 1 misdemeanor."

PART II. MISCELLANEOUS AND CONFORMING AMENDMENTS.

SECTION 5.(a) G.S. 55-1-40(9) reads as rewritten:

"(9) "Entity" includes (without limiting the meaning of such term in Article 9) 9 of this Chapter):

a. Any domestic or foreign:

1. Corporation; ~~corporation and foreign corporation;~~ ~~nonprofit corporation;~~ ~~professional corporation;~~
2. Limited liability company;
3. Profit and nonprofit unincorporated association; and
4. Business trust, estate, partnership, trust, and trust;

- b. Two ~~two~~ or more persons having a joint or common economic interest; and
- c. ~~state, The~~ United States, and any state and foreign government."

SECTION 5.(b) G.S. 55A-1-40(10) reads as rewritten:

"(10) "Entity" ~~includes~~ includes:

- a. Any domestic or foreign:
 1. Corporation; ~~corporation and foreign corporation; domestic or foreign business corporation; professional corporation;~~
 2. Limited ~~limited~~ liability company;
 3. Profit ~~profit~~ and nonprofit unincorporated association, chapter or other organizational unit; and
 4. Business ~~business~~ trust, estate, partnership, ~~trust, and trust;~~
- b. Two ~~two~~ or more persons having a joint or common economic interest; and
- c. ~~state, The~~ United States, and any state and foreign government."

SECTION 5A.(a) G.S. 55-14-23(b) reads as rewritten:

"(b) The corporation may appeal the denial of reinstatement to the Superior Court of Wake County within 30 days after service of the notice of denial is perfected. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to set aside the dissolution. The petition shall have attached to it copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement, and the Secretary of State's notice of denial. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court shall be determined by a judge of the superior court upon such further evidence, notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The corporation shall have the burden of establishing that it is entitled to reinstatement."

SECTION 5A.(b) G.S. 55-15-32(a) reads as rewritten:

"(a) A foreign corporation may appeal the Secretary of State's revocation of its certificate of authority to the Superior Court of Wake County within 30 days after the certificate of revocation is mailed to the foreign corporation by the Secretary of State. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to set aside the revocation. The petition shall have attached to it copies of the corporation's certificate of authority and the Secretary of State's certificate of revocation. No service of process on the Secretary of State is required except for the

filing of the petition as set forth in this subsection. The appeal to the superior court shall be determined by a judge of the superior court upon such further evidence, notice and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The foreign corporation shall have the burden of establishing that it is entitled to have the revocation set aside."

SECTION 5A.(c) G.S. 55A-14-23(b) reads as rewritten:

"(b) The corporation may appeal the denial of reinstatement to the Superior Court of Wake County within 30 days after service of the notice of denial is perfected. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to set aside the dissolution. The petition shall have attached to it copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement, and the Secretary of State's notice of denial. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court shall be determined by a judge of the superior court upon such further evidence, notice, and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The corporation shall have the burden of establishing that it is entitled to reinstatement."

SECTION 5A.(d) G.S. 55A-15-32(a) reads as rewritten:

"(a) A foreign corporation may appeal the Secretary of State's revocation of its certificate of authority to the Superior Court of Wake County within 30 days after service of the certificate of revocation is mailed. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to set aside the revocation. The petition shall have attached to it copies of the corporation's certificate of authority and the Secretary of State's certificate of revocation. No service of process on the Secretary of State is required except for the filing of the petition as set forth in this subsection. The appeal to the superior court shall be determined by a judge of the superior court upon such further evidence, notice, and opportunity to be heard, if any, as the court may deem appropriate under the circumstances. The foreign corporation shall have the burden of establishing that it is entitled to have the revocation set aside."

SECTION 6.(a) G.S. 55-1-20, as amended by Section 3 of this act, reads as rewritten:

"§ 55-1-20. *Filing requirements.*

~~(a) through (e). Recodified.~~

~~(f) A document submitted by a domestic or foreign corporation or nonprofit corporation must be executed:~~

~~(1) By the chairman of the board of directors, by its president, or by another of its officers;~~

- (2) ~~If directors have not been selected or the corporation has not been formed, by an incorporator; or~~
- (3) ~~If the corporation is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.~~

~~A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59-73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.~~

~~(g) through (j). Recodified.~~

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a domestic or foreign corporation must be executed:

- (1) By the chair of its board of directors, by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary."

SECTION 6.(b) G.S. 55-1-22(a)(27) is repealed.

SECTION 6.(c) G.S. 55-8-7(a) reads as rewritten:

"(a) A director may resign at any time by communicating his resignation to the board of directors, its ~~chairman,~~ chair, or the corporation."

SECTION 7.(a) G.S. 55A-1-20 reads as rewritten:

"§ 55A-1-20. *Filing requirements.*

~~(a) To be entitled to filing by the Secretary of State under this Chapter, a document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements.~~

~~(b) The document must be one that is required or permitted by this Chapter to be filed in the office of the Secretary of State.~~

~~(c) The document shall contain the information required by this Chapter. It may contain other information as well.~~

~~(d) The document shall be typewritten or printed.~~

~~(e) The document shall be in the English language.~~

~~A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.~~

(f) ~~A document submitted by a domestic or foreign corporation or business corporation shall be executed:~~

- ~~(1) By the presiding officer of the board of directors by its president, or by another of its officers;~~
- ~~(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or~~
- ~~(3) If the corporation is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.~~

~~A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C 1 20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59 204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. 59 73.7(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59 36 whether or not formed under the laws of this State.~~

~~(g) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain:~~

- ~~(1) The corporate seal;~~
- ~~(2) An attestation by the secretary or an assistant secretary; and~~
- ~~(3) An acknowledgment, verification, or proof.~~

~~(h) If the Secretary of State has prescribed a mandatory form for the document under G.S. 55A 1 21, the document shall be in or on the prescribed form.~~

~~(i) The document shall be delivered to the office of the Secretary of State for filing and shall be accompanied by one exact or conformed copy (except as provided in G.S. 55A 5 03 and G.S. 55A 15 09), and all fees required by this Chapter.~~

~~(j) Any signature on any document authorized to be filed with the Secretary of State under any provision of this Chapter may be a facsimile.~~

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a domestic or foreign corporation must be executed:

- (1) By the presiding officer of its board of directors, by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary."

SECTION 7.(b) G.S. 55A-1-22.1, 55A-1-22.2, 55A-1-23, 55A-1-24, 55A-1-25, 55A-1-26, 55A-1-27, and 55A-1-29 are repealed.

SECTION 7.(c) G.S. 55A-1-22(a)(28) is repealed.

SECTION 8.(a) G.S. 57C-1-20 reads as rewritten:

"§ 57C-1-20. *Filing requirements.*

(a) ~~To be entitled to filing by the Secretary of State under this Chapter, a document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements.~~

(b) ~~The document must be one that is required or permitted by this Chapter to be filed in the Office of the Secretary of State.~~

(c) ~~The document must contain the information required by this Chapter. It may contain other information as well.~~

(d) ~~The document must be typewritten or printed.~~

(e) ~~The document must be in the English language. The name of a limited liability company need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign limited liability companies need not be in English if accompanied by a reasonably authenticated English translation.~~

(f) ~~A document submitted by a domestic or foreign limited liability company must be executed:~~

(1) ~~By a manager of the limited liability company;~~

(2) ~~If managers have not been selected, or if the limited liability company does not have a manager other than a member, by any member;~~

(3) ~~If the limited liability company has not been formed or if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by an organizer; or~~

(4) ~~If the limited liability company is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.~~

~~A document submitted by a business entity other than a domestic or foreign limited liability company must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a corporation or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.~~

(g) ~~The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which~~

~~he signs. The document may, but need not, contain an acknowledgement, verification, or proof.~~

~~(h) If the Secretary of State has prescribed a mandatory form for the document under G.S. 57C-1-21, the document must be in or on the prescribed form unless the Secretary of State otherwise permits an alternative form.~~

~~(i) The document must be delivered to the Office of the Secretary of State for filing and must be accompanied by one exact or conformed copy and all fees required by this Chapter.~~

~~(j) Any signature on any document authorized to be filed with the Secretary of State under any provision of this Chapter may be a facsimile.~~

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a domestic or foreign limited liability company must be executed:

- (1) By a manager of the limited liability company;
- (2) If the limited liability company has not been formed or if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by an organizer; or
- (3) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary."

SECTION 8.(b) G.S. 57C-1-22.1, 57C-1-22.2, 57C-1-23, 57C-1-24, 57C-1-25, 57C-1-26, 57C-1-27, and 57C-1-29 are repealed.

SECTION 8.(c) G.S. 57C-1-22(a)(27) is repealed.

SECTION 9. G.S. 59-73.7 is recodified as G.S. 59-35.1 and reads as rewritten:

"§ ~~59-73.7.~~ 59-35.1. Filing of documents.

(a) To be entitled to filing by the Secretary of State, a document submitted pursuant to this Part must meet all of the following requirements:

- ~~(1) The document must contain the information required by this Part. It may contain other information as well.~~
- ~~(2) The document must be typewritten or printed.~~
- ~~(3) The document must be in the English language.~~
- ~~(4) A document submitted by a partnership must be executed by a general partner of the partnership. A document submitted by a business entity other than a partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii)~~

~~pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership.~~

- ~~(5) The person executing the document must sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. Any signature on the document may be a facsimile. The document may, but need not, contain an acknowledgment, verification, or proof.~~
- ~~(6) The document must be delivered to the Office of the Secretary of State for filing and must be accompanied by one exact or conformed copy and by the required filing fee.~~

A document required or permitted by this act to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

~~(b) A partnership may correct a document filed by the Secretary of State pursuant to this Part if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.~~

~~A document is corrected by:~~

- ~~(1) Preparing articles of correction that (i) describe the document (including its filing date) or have attached to them a copy of the document, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and~~
- ~~(2) Delivering the articles of correction to the Secretary of State for filing, accompanied by one exact or conformed copy and the required filing fee.~~

~~Articles of correction are effective on the effective date of the document that is corrected except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.~~

(b) A document submitted under this act for filing by the Secretary of State must be executed by a general partner of the partnership.

(c) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
Articles of Merger	\$50.00
Articles of Correction	\$10.00

~~The Whenever the Secretary of State is deemed appointed as registered agent under this act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Part. State. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.~~

The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

~~(d) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following additional fees for the expedited filing of a document received in good form:~~

- (1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and
- (2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

~~The Secretary of State shall not collect the fees allowed in this subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document.~~

~~(e) Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this Part. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this subsection and filings under subsection (d) of this section. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing.~~

~~(f) Except as provided in this subsection and in subsection (b) of this section, a document accepted for filing is effective:~~

- ~~(1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document; or~~
- ~~(2) At the time specified in the document as its effective time on the date it is filed.~~

~~A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 p.m. on that date. A delayed effective date for a document may not be later than the 90th day after the date it is filed.~~

~~The fact that a document has become effective under this subsection does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.~~

~~(g) If a document delivered to the Office of the Secretary of State for filing satisfies the requirements of this Part, the Secretary of State shall file it. Documents filed with the Secretary of State pursuant to this Part may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Part, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of those documents reproduced.~~

~~The Secretary of State files a document by stamping or otherwise endorsing "Filed", together with the Secretary of State's name and official title and the date and time of filing, on both the original and the document copy. After filing a document, the Secretary of State shall deliver the document copy to the partnership or its representative.~~

~~If the Secretary of State refuses to file a document, the Secretary of State shall return it to the partnership or its representative within five days after the document was received, together with a brief, written explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing. Prior to making the correction, the Secretary shall confirm the authorization to make the corrections according to procedures adopted by rule.~~

~~The Secretary of State's duty is to review and file documents that satisfy the requirements of this Part. The Secretary of State's filing or refusing to file a document does not:~~

- ~~(1) Affect the validity or invalidity of the document in whole or part;~~
- ~~(2) Relate to the correctness or incorrectness of information contained in the document; or~~
- ~~(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.~~

~~(h) If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the person tendering the document for filing may, within 30 days after the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition shall have attached to it the document to be filed and the Secretary of State's explanation for the refusal to file. The appeal to the Superior Court is not governed by Chapter 150B of the General Statutes, the Administrative Procedure Act, and the court shall determine, based upon what is appropriate under the circumstances, any further notice and opportunity to be heard.~~

~~Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment, order the Secretary of State to file the document or take other action the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.~~

~~(i) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature (which may be in facsimile) and the seal of office and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed pursuant to this Part or any predecessor act, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.~~

~~(j) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor.~~

~~(k)(d) Whenever title to real property in this State held by a partnership is vested by operation of law in another entity upon merger, consolidation, or conversion of the partnership, a certificate reciting the merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property is located, or if the property is located in more than one county, then in each county where any portion of the property is located.~~

The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this subsection. In the case of a partnership formed under a law other than the laws of this State, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this subsection.

The certificate required by this subsection ~~shall~~ must be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The former name of the partnership holding title to the real property before the merger, consolidation, or conversion shall appear in the "Grantor" index and the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the "Grantee" index."

SECTION 10.(a) G.S. 59-73.6(b) reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership when the merger takes effect, the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fees required by ~~G.S. 59-73.7(e)~~ G.S. 59-35.1(c). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct

affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

SECTION 10.(b) G.S. 59-204(a) reads as rewritten:

"(a) Each certificate required by this Article to be filed in the office of the Secretary of State shall be executed in the following manner:

- (1) An original certificate of limited partnership must be signed by all general partners;
- (2) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new general partner; and
- (3) A certificate of cancellation must be signed by all general partners.

Any other document submitted by a domestic or foreign limited partnership for filing pursuant to this or any other Chapter must be signed by at least one general partner. ~~Any document submitted by a business entity other than a domestic or foreign limited partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-73.7(a)(4) if the business entity is a partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, other than a domestic or foreign limited partnership."~~

SECTION 10.(c) G.S. 59-204(b1) is repealed.

SECTION 10.(d) G.S. 59-206 reads as rewritten:

"§ 59-206. *Filing requirements.*

(a) A document required or permitted by this Article to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes. Whenever the provisions of this Article require any document relating to a limited partnership to be executed and filed in accordance with this Article, unless otherwise specifically stated in this Article:

- (1) ~~There shall be an original executed document and also one conformed copy.~~

- (2) ~~The original document so signed, together with the conformed copy, shall be delivered to the Secretary of State. If the Secretary finds that it satisfies the requirements of this Article, the Secretary shall, when the proper fees have been tendered, endorse upon the original the word "filed" and the hour, day, month and year of the filing thereof and shall file the same in the Secretary's office. The Secretary of State shall thereupon immediately compare the copy with the original and if the Secretary finds that they are identical the Secretary shall make upon the conformed copy the same endorsement which appears on the original and shall attach to the copy a certificate stating that attached thereto is a true copy of the document, designated by an appropriate title, filed in the Secretary's office and showing the date of the filing. The Secretary shall thereupon return the copy so certified to the limited partnership or its representatives. Any documents filed with the Secretary of State pursuant to this Chapter may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Chapter, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction, and may destroy the originals of the documents reproduced. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing. The authorization to make the corrections shall be confirmed, according to procedures adopted by rule, by the Secretary prior to making the correction.~~
- (2b) ~~A domestic or foreign limited partnership may correct a document filed by the Secretary of State if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.~~
- (3) ~~Repealed by Session Laws 1991, c. 153, s. 2.~~
- (3a) Whenever the name of any domestic or foreign limited partnership holding title to real property in this State is changed upon amendment to the certificate of limited partnership, or whenever title to its real property is vested by operation of law in another entity upon

merger, consolidation, or conversion of the domestic or foreign limited partnership, a certificate reciting the name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.

- (4) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited partnership, a similar certificate by any competent authority of the jurisdiction under which the limited partnership is organized may be registered in accordance with this section.
- (5) The certificate required by subdivision (3a) of this subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the domestic or foreign limited partnership holding title to the real property before the name change, merger, consolidation, or conversion shall appear in the "Grantor" index, and the new name of the domestic or foreign limited partnership or the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion, as applicable, shall appear in the "Grantee" index.

~~(b) Repealed by Session Laws 1991, c. 153, s. 2.~~

~~(b1) Except as provided in subsection (b2), a document accepted for filing is effective:~~

- ~~(1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document; or~~
- ~~(2) At the time specified in the document as its effective time on the date it is filed.~~

~~(b2) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but not time is specified, the document is effective at 11:59:59 p.m. on that date. A delayed effective date for a document may not be later than the ninetieth day after the date it is filed.~~

~~(b3) The fact that a document has become effective under this section does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.~~

(e) ~~It shall be the duty of the Secretary of State, whenever so requested and upon tender of the proper fees, to certify as aforesaid any true copy of any document on file in the office, or if requested, to make or cause to be made typewritten or photostatic copies of the documents and to certify the same as aforesaid."~~

SECTION 10.(e) G.S. 59-206.1 and G.S. 59-206.2 are repealed.

SECTION 10.(f) G.S. 59-1106 reads as rewritten:

"§ 59-1106. ~~Fees; expedited filing.~~ Fees.

The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State:

- (1) For filing a certificate of limited partnership
(G.S. 59-201)\$50.00
- (2) For filing a certificate of amendment
(G.S. 59-202; 59-905)25.00
- (3) For filing a certificate of cancellation
(G.S. 59-203; 59-906)25.00
- (4) For filing an application for reservation of name
(G.S. 59-104(a))10.00
- (5) For filing a transfer of name
(G.S. 59-104(d)).....10.00
- (6) For filing an application for registration
as foreign limited partnership
(G.S. 59-502)50.00
- (7) For preparing and furnishing a copy of any
document, instrument or paper filed or recorded
relating to a limited partnership (G.S. 59-206(c))
For each page1.00
For affixing the certificate and official
seal thereto5.00
- (8) For comparing a copy furnished to him of any
document, instrument or paper filed or recorded
relating to a limited partnership
For each page1.00
- (9) For filing any other document not ~~herein~~ specifically
provided for.....10.00
- ~~(10) For the expedited filing by the end of the same
business day of a document received in good order
by 12:00 noon Eastern Standard Time200.00
additional fee~~
- ~~(11) For the expedited filing of a document received in good
order within 24 hours after receipt, excluding
weekends and holidays.....100.00
additional fee~~
- ~~(12) Advisory review of a document200.00.~~

~~The Secretary of State shall not collect the fees allowed in subdivisions (10) and (11) of this section unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document. Upon receipt of a document in proper form and payment of the required filing fee, the Secretary of State shall guarantee the expedited filing of the document."~~

SECTION 11. G.S. 55B-3 reads as rewritten:

"§ 55B-3. *North Carolina Business Corporation Act* ~~applicable~~applicable; ~~other applicable law.~~

(a) Chapter 55 of the General Statutes, the ~~The~~ North Carolina Business Corporation Act ~~shall be applicable to such Act, applies to~~ professional corporations, including their organization, and professional corporations shall enjoy the powers and privileges and shall be subject to the duties, restrictions and liabilities of other corporations, except insofar as the same may be limited or enlarged by this Chapter. If any provision of this Chapter conflicts with the provisions of Chapter 55 of the General Statutes, the North Carolina Business Corporation Act, the provisions of this Chapter shall prevail.

(b) A document required or permitted by this Chapter to be filed by the Secretary of State shall be filed under Chapter 55D of the General Statutes, Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Liability Partnerships."

PART III. CONSOLIDATION OF PROVISIONS RELATING TO NAMES.

SECTION 12. The title of Chapter 55D of the General Statutes, as enacted in Section 1 of this act, reads as rewritten:

"Chapter 55D.

Filings and Names for

Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Liability Partnerships."

SECTION 13. Chapter 55D of the General Statutes, as enacted by Section 1 and amended by Sections 2 through 4 and Section 12 of this act, is amended by adding a new Article to read:

"Article 3.

"Names."

SECTION 14.(a) G.S. 55-4-01(a), (e), and (f) are recodified as G.S. 55D-20(a), (c), and (d), respectively, in Article 3 of Chapter 55D of the General Statutes. The catch line of G.S. 55D-20, as enacted by this section, is "Name requirements." G.S. 55-4-01(b), (c), and (g) are recodified as G.S. 55D-21(b), (c), and (d), respectively, in Article 3 of Chapter 55D of the General Statutes. The

catch line of G.S. 55D-21, as enacted by this section, is "Entity names on the records of the Secretary of State; availability."

SECTION 14.(b) G.S. 55-4-02, 55-4-03, 55-4-04, and 55-4-05 are recodified as G.S. 55D-23, 55D-24, 55D-25, 55D-26, and 55D-27, respectively, in Article 3 of Chapter 55D of the General Statutes.

SECTION 15. Article 3 of Chapter 55D of the General Statutes, as enacted by Section 13 and amended by Section 14 of this act, reads as rewritten:

"Article 3.

"Names.

"§ 55D-20. *Name requirements.*

(a) In addition to the requirements of any other applicable section of the General Statutes:

- (1) The name of the corporation must A corporate name:
 - (1) ~~Must~~ contain the word 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'ltd.'; ~~and~~
 - (2) ~~May not contain language stating or implying that the corporation is organized for a purpose other than that permitted by G.S. 55-3-01 and its articles of incorporation~~ 'ltd.'.
- (2) The name of a limited liability company must contain the words 'limited liability company' or the abbreviation 'L.L.C.' or 'LLC', or the combination 'ltd. liability co.', 'limited liability co.', or 'ltd. liability company'.
- (3) The name of a limited partnership:
 - a. Must contain the words 'limited partnership', the abbreviation 'L.P.' or 'LP', or the combination 'ltd. partnership'; and
 - b. Shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.
- (4) A registered limited liability partnership's name must contain the words 'registered limited liability partnership' or 'limited liability partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP' or 'RLLP' as the last words or letters of its name.

(b) The name of a corporation, nonprofit corporation, or limited liability company shall not contain language stating or implying that the entity is organized for a purpose other than that permitted by G.S.

55-3-01, 55A-3-01, or 57C-2-01 and by its articles of incorporation or organization.

(c) The use of assumed names or fictitious names, as provided for in Chapter 66, is not affected by this ~~Chapter~~ Chapter or by Chapter 55, 55A, 57C, or 59 of the General Statutes.

(d) ~~Neither the reservation or registration of a corporate name nor the incorporation of any domestic corporation shall~~ The filing of any document, the reservation or registration of any name under this Chapter or under Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, or the issuance of a certificate of authority to transact business or conduct affairs or a statement or foreign registration does not authorize the use in this State of a corporate name in violation of the rights of any third party under the federal trademark act, the trademark act of this State, or other statutory or common law, or be and is not a defense to an action for violation of any such those rights.

"§ 55D-21. Entity names on the records of the Secretary of State; availability.

(a) The following entities are subject to this section:

- (1) Domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, and registered limited liability partnerships.
- (2) Foreign corporations, foreign nonprofit corporations, foreign limited liability companies, and foreign limited partnerships applying for or maintaining a certificate of authority to transact business or conduct affairs in this State.
- (3) Foreign limited liability partnerships applying for or maintaining a statement of foreign registration.

(b) Except as authorized by subsection (c) of this section, a ~~corporate name~~ the name of an entity subject to this section, including a fictitious name for a foreign entity, must be distinguishable upon the records of the Secretary of State from:

- (1) ~~The corporate name of a corporation incorporated or authorized to transact business~~ domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership, or of a foreign corporation, foreign nonprofit corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or conduct affairs in this State, or a foreign limited liability partnership maintaining a statement of foreign registration in this State;
- (2) ~~A corporate name reserved or registered under G.S. 55-4-02 or G.S. 55-4-03;~~ G.S. 55D-23 or registered under G.S. 55D-24; and

- (3) ~~The fictitious name adopted by a foreign corporation authorized to transact business~~ foreign corporation, foreign nonprofit corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or conduct affairs, or a foreign limited liability partnership maintaining a statement of foreign registration in this State because its real name is unavailable;unavailable.
- (4) ~~The corporate name of a nonprofit corporation incorporated or authorized to transact business in this State; and~~
- (5) ~~The name used, reserved, or registered by a limited liability company pursuant to Chapter 57C of the General Statutes or by a limited partnership pursuant to Chapter 59 of the General Statutes.~~

(c) A person may apply to the Secretary of State for authorization to use a name that is not distinguishable upon ~~his~~ the Secretary of State's records from one or more of the names described in subsection (b)-subsection (b) of this section. The Secretary of State shall authorize use of the name applied for if:

- (1) ~~The other corporation-person who has or uses the name or who has reserved or registered the name consents in writing to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applicant; or~~
- (2) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

(d) Except as otherwise provided in this subsection, the ~~The~~ name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, or a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been revoked under G.S. 59-84.4, may not be used by another corporation-entity until:

- (1) In the case of a ~~voluntary dissolution, nonjudicial dissolution other than an administrative dissolution, the expiration of 120 days after the effective date of the dissolution, or~~ dissolution.

- (2) In the case of an administrative dissolution, the expiration of the period within which the ~~corporation~~ entity may be ~~reinstated pursuant to G.S. 55-14-21,~~ reinstated.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

The name of a dissolved entity may be used at any time if the entity ~~unless the dissolved corporation~~ changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other ~~business domestic corporations, nonprofit corporations, limited partnerships, or limited liability companies organized or transacting business companies, limited partnerships, or registered limited liability partnerships or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign registration, in this State.~~

"§ 55D-22. Names of foreign entities.

(a) If the name of a foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership does not satisfy the requirements of G.S. 55D-20 and G.S. 55D-21, then to obtain or maintain a certificate of authority to transact business or conduct affairs in this State or a statement of foreign registration in this State, the entity may:

- (1) If a foreign corporation or foreign nonprofit corporation, add the word 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'Ltd.' to its corporate name for use in this State;
- (2) If a foreign limited liability company, add the words 'limited liability company', or the abbreviation 'L.L.C.', or 'LLC', or the combination 'Ltd. liability co.', 'limited liability co.', or 'Ltd. liability company' to its name for use in this State if the addition will cause the name to satisfy the requirements of G.S. 55D-20 and G.S. 55D-21;
- (3) If a foreign limited partnership, add the words 'limited partnership' or the abbreviation 'L.P.' or 'LP', or the combination 'Ltd. partnership';
- (4) If a foreign limited liability partnership, add the words 'registered limited liability partnership', or 'limited liability partnership' or the abbreviation 'L.L.P.',

'R.L.L.P.', 'LLP', or 'RLLP' as the last words or letters of its name; or

- (5) Use a fictitious name, which includes one or more of the words, abbreviations, or combinations in subdivisions (1) through (4) of this subsection if applicable, to transact business or conduct affairs in this State if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution adopting the fictitious name.

(b) If a foreign corporation, foreign nonprofit corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or conduct affairs in this State, or a foreign limited liability partnership maintaining a statement of foreign registration, changes its name to one that does not satisfy the requirements of this Article, it may not transact business or conduct affairs in this State under the changed name until it adopts a name satisfying the requirements of this Article and obtains an amended certificate of authority or statement of foreign registration under G.S. 55-15-04, 55A-15-04, 57C-7-05, 59-91, or 59-905, as applicable.

"§ 55D-23. Reserved name.

(a) A person may reserve the exclusive use of a ~~corporate name~~, name for an entity, including a fictitious name for a foreign ~~corporation~~ corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership whose ~~corporate name~~ is not available, by filing an application with the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the ~~corporate name~~ applied for is available, ~~he~~ the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable 120-day period.

(b) The owner of a reserved ~~corporate name~~ may transfer the reservation to another person by filing with the Secretary of State a signed notice of the transfer that states the name and address of the transferee.

(c) Any person acquiring the goodwill of a domestic ~~corporation~~ corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership, or of a foreign ~~corporation~~ corporation, foreign nonprofit corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or conduct affairs in this State, or of a foreign limited liability partnership maintaining a statement of foreign registration in this State may, on furnishing the Secretary of State satisfactory evidence of such acquisition, reserve for 10 years the exclusive right to the ~~corporate name of the said corporation~~ for a

period of 10 years; any name that became available as a result of the acquisition.

"§ 55D-24. *Registered name.*

(a) ~~A foreign corporation—corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership~~ may register its corporate name, or its corporate name with any addition required by G.S. 55-15-06, G.S. 55D-22, if the name to be registered is distinguishable upon the records of the Secretary of State from the corporate names that are not available under G.S. 55-4-01(b) (3). G.S. 55D-21(b).

(b) ~~A foreign corporation—An entity~~ registers its corporate name, or its corporate name with any addition required by G.S. 55-15-06, G.S. 55D-22, by filing with the Secretary of State an application:

- (1) Setting forth its ~~corporate name, or its corporate name with any addition required by G.S. 55-15-06, G.S. 55D-22,~~ the state or country and date of its incorporation, organization, or formation, and a brief description of the nature of the business or activities in which it is engaged; and
- (2) Accompanied by a certificate of existence (or a document of a similar import) from the state or country of ~~incorporation; incorporation,~~ organization, or formation.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application and until the end of the calendar year in which it became effective.

(d) ~~A foreign corporation—An entity~~ whose registration is effective may renew it for successive years by filing with the Secretary of State a renewal application, which complies with the requirements of ~~subsection (b), subsection (b) of this section,~~ between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year. Any renewal application filed after the expiration of the registration shall be treated as a new application for registration.

(e) ~~A foreign corporation—An entity~~ whose registration is effective may thereafter qualify become authorized to transact business or conduct affairs as a foreign corporation under that name or consent in writing to the use of that name by: by a corporation thereafter incorporated under this Chapter or by another foreign corporation thereafter authorized to transact business in this State.

- (1) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership thereafter incorporated, organized, or formed in this State under that name;

- (2) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership that changes its name to that name; or
- (3) Another foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that becomes authorized to transact business or conduct affairs in this State under that name.

The registration terminates when the domestic ~~corporation~~ corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership is ~~incorporated~~ incorporated, organized, formed, or changes its name or the foreign ~~corporation~~ corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership qualifies or consents to the qualification of another ~~foreign corporation entity~~ foreign corporation entity under the registered name.

"§ 55D-25. Reserved and registered names, powers of the Secretary of State.

The Secretary of State may revoke any reservation or registration of a ~~corporate~~ name if ~~he~~ the Secretary of State:

- (1) Gives written notice ~~finds, upon a hearing not less than 15 days after the effective date of written notice given by~~ registered or certified mail, return receipt requested, to the person ~~or corporation~~ who made the reservation or registration, ~~registration of the date and time of a hearing;~~
- (2) Conducts a hearing not less that 15 days after receipt of the notice as shown by the return receipt; and
- (3) Finds that the application therefor or any transfer thereof was not made in good faith or that any statement contained in the application for reservation or registration was false when such application was filed or has thereafter become false.

"§ 55D-26. Real property records.

(a) ~~Whenever the name of any domestic or foreign corporation holding title to real property in this State is changed upon amendment to the articles of incorporation~~ A certificate issued by the Secretary of State as described in subsection (b) of this section must be recorded when:

- (1) The name of any domestic corporation, nonprofit corporation, limited liability company, or registered limited liability partnership or foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited

liability partnership that holds title to real property in this State is changed upon amendment to its articles of incorporation or organization, its certificate of limited partnership, or its application for registration as a limited liability partnership; or whenever title to its real property in this State

- (2) Title to real property in this State held by any entity listed in subdivision (1) of this subsection is vested by operation of law in another entity upon merger, consolidation, or conversion of the ~~corporation,~~ entity.

The a—certificate reciting—must recite the name change, merger, consolidation, or conversion and shall—must be recorded in the office of the register of deeds of the county where the property lies, or—lies or, if the property is located in more than one county,—then in each county where any portion of the property lies.

(b) The Secretary of State shall ~~adopt~~ issue uniform certificates ~~to be furnished for registration—recordation~~ in accordance with this section. In the case of a ~~foreign corporation,—foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership,~~ a similar certificate by any competent authority of the jurisdiction of incorporation may be ~~registered—recorded~~ in accordance with this section.

(c) The certificate required by this section ~~shall—must~~ be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name of the ~~corporation—entity~~ holding title to the real property before the name change, merger, consolidation, or conversion shall appear in the "Grantor" index, and the new name of the corporation or the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the "Grantee" index."

PART IV. CONFORMING AMENDMENTS TO PART III.

SECTION 16. G.S. 55-2-02(a)(1) reads as rewritten:

"(1) A corporate name for the corporation that satisfies the requirements of ~~G.S. 55-4-01;~~G.S. 55D-20 and G.S. 55D-21;"

SECTION 17. G.S. 55-15-03(a)(1) reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55-15-06;~~G.S. 55D-22;"

SECTION 18. G.S. 55-15-06 is repealed.

SECTION 19. G.S. 55-14-33(b) reads as rewritten:

"(b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with G.S. 55-14-05 and the notification of claimants in accordance with G.S. 55-14-06 and G.S. 55-14-07. The corporation's name becomes available for use by another entity as provided in G.S. 55D-21."

SECTION 20. G.S. 55A-2-02(a)(1) reads as rewritten:

"(1) A corporate name for the corporation that satisfies the requirements of ~~G.S. 55A-4-04~~; G.S. 55D-20 and G.S. 55D-21;"

SECTION 21. G.S. 55A-15-03(a)(1) reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55A-15-06~~; G.S. 55D-22;"

SECTION 22. G.S. 55A-15-06 is repealed.

SECTION 23. Article 4 of Chapter 55A of the General Statutes is repealed.

SECTION 24. G.S. 55A-14-33(b) reads as rewritten:

"(b) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's affairs in accordance with G.S. 55A-14-06 and the notification of its claimants in accordance with G.S. 55A-14-07 and G.S. 55A-14-08. The corporation's name becomes available for use by another entity as provided in G.S. 55D-21."

SECTION 25. G.S. 55B-5 reads as rewritten:

"§ 55B-5. *Corporate name.*

The corporate name used by professional corporations under this Chapter, except as limited by the licensing acts of the respective professions, shall be governed by the provisions of ~~Chapter 55, the North Carolina Business Corporation Act; Chapter 55D~~, provided that professional corporations may use the words "Professional Association," "P.A.," "Professional Corporation," or "P.C." in lieu of the corporate designations specified in ~~Chapter 55; Chapter 55D~~, and provided further that licensing boards by regulations may make further corporate name requirements or limitations for the respective professions, but such regulations may not prohibit the continued use of any corporate name duly adopted in conformity with the General Statutes and with the pertinent licensing board regulations in effect at the date of such adoption."

SECTION 26. G.S. 57C-2-01(c) reads as rewritten:

"(c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as set forth in this subsection, a domestic

or foreign limited liability company shall engage in rendering professional services only to the extent that a professional corporation acting pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55 of the General Statutes may engage in rendering professional services under the conditions and limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and each applicable licensing statute are deemed amended to provide that professionals licensed under the applicable licensing statute may render professional services through a domestic or foreign limited liability company. For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the applicable licensing statute to domestic and foreign limited liability companies that engage in rendering professional services, (i) unless the context clearly requires otherwise, references to Chapter 55 of the General Statutes (the North Carolina Business Corporation Act) shall be treated as references to this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as references to a limited liability company or foreign limited liability company, respectively, (ii) members shall be treated in the same manner as shareholders of a professional corporation, (iii) managers shall be treated in the same manner as directors of a professional corporation, (iv) the persons signing the articles of organization of a limited liability company shall be treated in the same manner as the incorporators of a professional corporation, and (v) the name of a domestic or foreign limited liability company so engaged shall comply with ~~G.S. 57C 2-30 or G.S. 57C 7-06~~ Article 3 of Chapter 55D of the General Statutes and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute" shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A member or manager of a professional limited liability company is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another member, manager, employee, agent, or other representative of the professional limited liability company; provided, however,

nothing in this Chapter shall affect the liability of a member or manager of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services."

SECTION 27. G.S. 57C-2-21(a)(1) reads as rewritten:

"(1) A name for the limited liability company that satisfies the provisions of ~~G.S. 57C-2-30~~; G.S. 55D-20 and G.S. 55D-21;"

SECTION 28. G.S. 57C-7-04(a)(1) reads as rewritten:

"(1) The name of the foreign limited liability company ~~or~~; ~~if its name is unavailable for use in this State~~; a name that satisfies the requirements of ~~G.S. 57C-7-06~~; Article 3 of Chapter 55D of the General Statutes;"

SECTION 29. G.S. 57C-7-06 is repealed.

SECTION 30. Part 3 of Article 2 of Chapter 57C of the General Statutes is repealed.

SECTION 31. G.S. 57C-6-02.3(b) reads as rewritten:

"(b) After entering the decree of dissolution, the court shall direct the winding up of the limited liability company's business and affairs in accordance with G.S. 57C-6-04 and G.S. 57C-6-05 and the notification of claimants in accordance with G.S. 57C-6-07 and G.S. 57C-6-08. The limited liability company's name becomes available for use by another entity as provided in G.S. 55D-21."

SECTION 32. G.S. 59-103 reads as rewritten:

"§ 59-103. *Name.*

(a) ~~The name of the limited partnership shall contain without abbreviation the words "limited partnership";~~

(b) ~~The limited partnership name shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner;~~

(c) ~~The limited partnership name shall not contain any word or phrase which is likely to mislead the public or which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its certificate of limited partnership;~~

(d) ~~The limited partnership name shall be distinguishable upon the records of the Secretary of State from:~~

(1) ~~The name of a corporation, nonprofit corporation, limited partnership, or limited liability company organized in this State, or a foreign corporation or nonprofit corporation, foreign limited partnership, or foreign limited liability company authorized to transact business in this State;~~

- (2) ~~A name reserved under G.S. 55-4-02, 55-4-03, 55A-4-02, 55A-4-03, 57C-2-31, 57C-2-32, 59-104, or 59-904; and~~
- (3) ~~The fictitious name adopted by a foreign corporation or nonprofit corporation, foreign limited partnership, or foreign limited liability company authorized to transact business in this State because its real name is unavailable.~~

The name of the limited partnership must meet any requirements of Chapter 55D of the General Statutes."

SECTION 33. G.S. 59-104 is repealed.

SECTION 34. G.S. 59-206, as amended in Part II of this act, reads as rewritten:

"§ 59-206. *Filing requirements.*

(a) ~~A document required or permitted by this Article to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes. Whenever the provisions of this Article require any document relating to a limited partnership to be executed and filed in accordance with this Article, unless otherwise specifically stated in this Article:~~

~~(1)(3) Repealed.~~

~~(3a) Whenever the name of any domestic or foreign limited partnership holding title to real property in this State is changed upon amendment to the certificate of limited partnership, or whenever title to its real property is vested by operation of law in another entity upon merger, consolidation, or conversion of the domestic or foreign limited partnership, a certificate reciting the name change, merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property lies, or if the property is located in more than one county, then in each county where any portion of the property lies.~~

~~(4) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited partnership, a similar certificate by any competent authority of the jurisdiction under which the limited partnership is organized may be registered in accordance with this section.~~

~~(5) The certificate required by subdivision (3a) of this subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgement, probate, or approval by any other officer shall be required. The former name~~

~~of the domestic or foreign limited partnership holding title to the real property before the name change, merger, consolidation, or conversion shall appear in the "Grantor" index, and the new name of the domestic or foreign limited partnership or the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion, as applicable, shall appear in the "Grantee" index.~~

~~(b) (c) Repealed.~~

A document required or permitted by this Article to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes."

SECTION 35. G.S. 59-904 reads as rewritten:

"§ 59-904. *Name.*

~~A foreign limited partnership may register with the Secretary of State under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words "limited partnership" and that could be registered by a domestic limited partnership. that meets the requirements of Article 3 of Chapter 55D of the General Statutes."~~

SECTION 36. G.S. 59-802 reads as rewritten:

"§ 59-802. *Judicial dissolution.*

~~On application by or for a partner the court may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business in conformity with the partnership agreement. The limited partnership's name becomes available for use by another entity as provided in G.S. 55D-21."~~

SECTION 37. G.S. 59-1106, as amended in Part II of this act, reads as rewritten:

"§ 59-1106. *Fees.*

The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State:

- (1) For filing a certificate of limited partnership (G.S. 59-201).....\$50.00
- (2) For filing a certificate of amendment (G.S. 59-202; 59-905)25.00
- (3) For filing a certificate of cancellation (G.S. 59-203; 59-906)25.00
- (4) For filing an application for reservation of name ~~(G.S. 59-104(a)) (G.S. 55D-23)~~10.00
- (5) For filing a transfer of name ~~(G.S. 59-104(d)) (G.S. 55D-23)~~10.00
- (5a) For filing an application for registration of name (G.S. 55D-24).....10.00
- (5b) For filing an application for renewal of a registered

- name (G.S. 55D-24)10.00
- (6) For filing an application for registration as foreign limited partnership (G.S. 59-502).....50.00
- (7) For preparing and furnishing a copy of any document, instrument or paper filed or recorded relating to a limited partnership (G.S. 59-206(c))
For each page1.00
For affixing the certificate and official seal thereto ...5.00
- (8) For comparing a copy furnished to him of any document, instrument or paper filed or recorded relating to a limited partnership
For each page1.00
- (9) For filing any other document not herein specifically provided for..... 10.00".

SECTION 38. G.S. 59-35.1, as amended by Part II of this

act, reads as rewritten:

"§ 59-35.1. *Filing of documents.*

(a) A document required or permitted by this Act to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted under this Act for filing by the Secretary of State must be executed by a general partner of the partnership.

(c) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
<u>Application for reserved name</u>	<u>\$10.00</u>
<u>Notice of transfer of reserved name</u>	<u>10.00</u>
<u>Application for registered name</u>	<u>10.00</u>
<u>Application for renewal of registered name</u>	<u>10.00</u>
Articles of Merger <u>merger</u>	\$50.00 <u>50.00</u>
Articles of Correction <u>correction</u>	\$10.00 <u>10.00</u>

Whenever the Secretary of State is deemed appointed as a registered agent under this Act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Act. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

~~(d) Whenever title to real property in this State held by a partnership is vested by operation of law in another entity upon merger, consolidation, or conversion of the partnership, a certificate reciting the merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property is located, or if the property is located in more than one county, then in each county where any portion of the property is located.~~

~~The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this subsection. In the case of a partnership formed under a law other than the laws of this State, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this subsection.~~

~~The certificate required by this subsection shall must be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The former name of the partnership holding title to the real property before the merger, consolidation, or conversion shall appear in the "Grantor" index and the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the "Grantee" index."~~

SECTION 39. G.S. 59-84.3 reads as rewritten:

"§ 59-84.3. *Name of registered limited liability partnerships.*

~~A registered limited liability partnership's name must meet the requirements of G.S. 55D-20 and G.S. 55D-21.contain the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "L.L.P.", "R.L.L.P.", "LLP" or "RLLP" as the last words or letters of its name."~~

SECTION 40. G.S. 59-91(a)(1) reads as rewritten:

~~"(1) The name of the foreign limited liability partnership that satisfies the requirements of the State state or other jurisdiction under whose law it is formed and ends with the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP", meets the requirements of Article 3 of Chapter 55D of the General Statutes."~~

SECTION 41. G.S. 59-62 is amended by adding a new subsection to read:

~~"(c) The name of a registered limited liability company becomes available for use by another entity as provided in G.S. 55D-21."~~

PART V. CONSOLIDATION OF REGISTERED OFFICE AND REGISTERED AGENT PROVISIONS

SECTION 42. The title of Chapter 55D of the General Statutes, as enacted by Section 1 of this act and amended by Section 12 of this act, reads as rewritten:

"Chapter 55D.

~~Filings and Names~~ Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, Limited Liability Companies, Limited Partnerships, and Limited Liability Partnerships."

SECTION 43. Chapter 55D of the General Statutes, as enacted by Section 1 of this act and amended by Sections 2 through 4, 12 through 15, and Section 42 of this act, is amended by adding a new Article to read:

"Article 4.

"Registered Office and Registered Agent."

SECTION 44. G.S. 55-5-01(b) is recodified as G.S. 55D-30(b) in Article 4 of Chapter 55D of the General Statutes. G.S. 55-5-02, 55-5-03, and 55-5-04 are recodified as G.S. 55D-31, 55D-32, and 55D-33, respectively, in Article 4 of Chapter 55D of the General Statutes.

SECTION 45. Article 4 of Chapter 55D of the General Statutes, as enacted by Section 43 and amended by Section 44 of this act, reads as rewritten:

"Article 4.

"Registered Office and Registered Agent.

"§ 55D-30. Registered office and registered agent required.

(a) Each domestic corporation, nonprofit corporation, limited liability company, limited partnership, and limited liability partnership, each foreign limited liability partnership maintaining a statement of foreign registration, and each foreign corporation, nonprofit corporation, limited liability company, and limited partnership authorized to transact business or conduct affairs in this State must continuously maintain in this State:

- (1) A registered office that may be the same as any of its places of business or any place where it conducts affairs; and
- (2) A registered agent, who must be:
 - a. An individual who resides in this State and whose business office is identical with the registered office;
 - b. A domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or

c. A foreign corporation, foreign nonprofit corporation, or foreign limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.

(b) The sole duty of the registered agent to ~~the corporation~~ the entity is to forward to the ~~corporation~~ entity at its last known address any notice, process, or demand that is served on the registered agent.

"§ 55D-31. *Change of registered office or registered agent.*

(a) ~~A corporation~~ An entity required to maintain a registered office and registered agent under G.S. 55D-30 may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets ~~forth~~; forth all of the following:

- (1) The name of the ~~entity~~; corporation;
- (2) The street address, and the mailing address if different from the street address, of ~~the corporation's~~ its current registered office, and the county in which it is ~~located~~; located.
- (3) If the address of the ~~corporation's~~ entity's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office, and the county in which it is ~~located~~; located.
- (4) The name of its current registered ~~agent~~; agent.
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent (either on the statement or attached to it) to the ~~appointment~~; and appointment.
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the address of ~~his~~ the agent's business office, ~~he~~ the agent may change the address of the registered office of any ~~corporation~~ entity for which ~~he~~ the agent is the registered agent in this State by notifying the ~~corporation~~ entity in writing of the change and signing (~~either manually or in facsimile~~) and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (a) of this section and recites that the ~~corporation~~ entity has been notified of the change.

(c) A corporation domestic corporation, limited liability company, registered limited liability partnership, foreign corporation, foreign limited liability company, or foreign limited liability partnership may change its registered office or registered agent by including in its annual report required by ~~G.S. 55-16-22~~ G.S. 55-16-

22, 57C-2-23, or 59-84.4 the information and any written consent required by ~~subsection (a)~~ subsection (a) of this section.

"§ 55D-32. Resignation of registered agent.

(a) ~~A~~ The registered agent of an entity may resign ~~his agency appointment~~ by signing and filing with the Secretary of State ~~the signed original and two exact or conformed copies of~~ a statement of resignation which may include a statement that the registered office is also discontinued. The statement must include or be accompanied by a certification from the registered agent that ~~he~~ the agent has mailed or delivered to the ~~corporation~~ entity at its last known address written notice of this resignation. ~~Such~~ This certification shall include the name and title of the ~~officer~~ individual notified, if any, and the address to which the notice was mailed or delivered.

(b) After filing the statement the Secretary of State shall mail ~~one~~ a copy to the registered office (if not discontinued) and ~~the other~~ a copy to the ~~corporation~~ entity at its ~~principal office shown in its most recent annual report~~ the address contained in the certification included in or accompanying the statement of resignation or, if different, at the address indicated in the latest document filed by the Secretary of State stating the entity's current mailing address.

(c) The agency appointment is terminated, ~~and~~ and, if applicable, the registered office ~~discontinued if so provided,~~ discontinued on the 31st day after the date on which the statement was filed.

"§ 55D-33. Service ~~on corporation~~ on entities.

(a) ~~A corporation's registered agent is an agent of the corporation for service~~ Service of process, notice or demand required or permitted by law to be served on ~~the corporation~~ an entity may be served on the registered agent required by G.S. 55D-30.

(b) ~~Whenever~~ When a corporation shall fail an entity required to maintain a registered office and registered agent under G.S. 55D-30 fails to appoint or maintain a registered agent in this State, or whenever when its registered agent cannot with due diligence be found at the registered office, ~~then~~ or when the Secretary of State revokes a certificate of authority or a statement of foreign registration of a foreign entity authorized to transact business or conduct affairs in this State, the Secretary of State ~~shall be~~ becomes an agent of ~~such corporation~~ the entity upon whom any such process, notice or demand may be served. Service on the Secretary of State of any such process, notice or demand ~~shall be~~ is made by delivering to and leaving with the Secretary of State or ~~with~~ any clerk authorized by the Secretary of State to accept service of process, duplicate copies of ~~such~~ the process, notice or demand and the ~~fee required by G.S. 55-1-22(b)~~ applicable fee. In the event any such process, notice or demand is served on the Secretary of State in the manner provided by this subsection, the Secretary of State shall immediately mail one of the copies thereof,

by registered or certified mail, return receipt requested, to the corporation entity at its principal office or, if there is no mailing address for the principal office on file, to the corporation entity at its registered office. Service on a ~~corporation an~~ entity under this subsection ~~shall be~~ effective for all purposes from and after the date of the service on the Secretary of State.

(c) The Secretary of State shall keep a record of all processes, notices and demands served upon ~~him~~ the Secretary of State under this section and shall record therein the ~~time~~ date of such service and ~~his~~ the Secretary of State's action with reference thereto.

(d) Nothing ~~herein contained shall limit or affect~~ in this section affects the right to serve any process, notice or demand required or permitted by law to be served upon a ~~corporation an~~ entity in any other manner now or hereafter permitted by law."

PART VI. CONFORMING AMENDMENTS TO REGISTERED OFFICE AND REGISTERED AGENT PROVISIONS.

SECTION 46. G.S. 55D-15(b), as enacted in Part I of this act, reads as rewritten:

"(b) The Secretary of State files a document by endorsing 'Filed', together with the Secretary's name and official title and the date and time of filing, on the document. After filing a document, the Secretary of State shall deliver a document copy to the person submitting the document for filing and as provided in ~~G.S. 55-5-03, 55-15-09, 55A-5-03, 55A-15-09, 57C-2-42, and 57C-7-09.~~ G.S. 55D-32."

SECTION 47.(a) G.S. 55-5-01, as amended by Section 44 of this act, reads as rewritten:

"§ 55-5-01. *Registered office and registered agent.*

(a) ~~Each corporation must continuously maintain in this State:~~

- (1) ~~A registered office that may be the same as any of its places of business; and~~
- (2) ~~A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.~~

(b) ~~Recodified.~~

Each corporation must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."

SECTION 47.(b) G.S. 55-15-07 reads as rewritten:

"§ 55-15-07. *Registered office and registered agent of foreign corporation.*

(a) ~~Each foreign corporation authorized to transact business in this State must continuously maintain in this State:~~

- (1) ~~A registered office that may be the same as any of its places of business; and~~
- (2) ~~A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.~~

(b) ~~The sole duty of the registered agent to the foreign corporation is to forward to the corporation at its last known address any notice, process, or demand that is served on the registered agent.~~

Each foreign corporation authorized to transact business in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."

SECTION 47.(c) G.S. 55-15-08, 55-15-09, and 55-15-10 are repealed.

SECTION 47.(d) G.S. 55-14-23(a) reads as rewritten:

"(a) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, he shall serve the corporation under ~~G.S. 55-5-04~~ G.S. 55D-33 with a written notice that explains the reason or reasons for denial."

SECTION 47.(e) G.S. 55-15-30(a) reads as rewritten:

"(a) The Secretary of State may commence a proceeding under G.S. 55-15-31 to revoke the certificate of authority of a foreign corporation authorized to transact business in this State if:

- (1) The foreign corporation is delinquent in delivering its annual report;
- (2) The foreign corporation does not pay within 60 days after they are due any penalties, fees, or other payments due under this Chapter;
- (3) The foreign corporation is without a registered agent or registered office in this State for 60 days or more;
- (4) The foreign corporation does not inform the Secretary of State under ~~G.S. 55-15-08 or G.S. 55-15-09~~ G.S. 55D-31 or G.S. 55D-32 that its registered agent or registered office has changed, that its registered agent has resigned,

- or that its registered office has been discontinued within 60 days of the change, resignation, or discontinuance;
- (5) An incorporator, director, officer, or agent of the foreign corporation signed a document he knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing;
 - (6) The Secretary of State receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger;
 - (7) The corporation is exceeding the authority conferred upon it by this Chapter; or
 - (8) The corporation knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter."

SECTION 47.(f) G.S. 55-15-31(d) reads as rewritten:

"(d) The Secretary of State's revocation of a foreign corporation's certificate of authority appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action arising in this State or arising out of business transacted in this State during the time the foreign corporation was authorized to transact business in this State. The Secretary of State shall then proceed in accordance with ~~G.S. 55-15-10.~~ G.S. 55D-33."

SECTION 47.(g) G.S. 54B-20(b) reads as rewritten:

"(b) Notwithstanding the provisions of subsection (a) of this section, any State association may change its registered office or its registered agent or both in accordance with the provisions of ~~G.S. 55-5-02.~~ G.S. 55D-31. A copy of the statement or certificate certified by the Secretary of State shall be filed in the office of the Administrator."

SECTION 47.(h) G.S. 54C-21(b) reads as rewritten:

"(b) Notwithstanding subsection (a) of this section, a State savings bank may change its registered office or its registered agent, or both, in accordance with ~~G.S. 55-5-02.~~ G.S. 55D-31. The savings bank shall file a copy of the statement or certificate certified by the Secretary of State in the office of the Administrator."

SECTION 48.(a) G.S. 55A-5-01 reads as rewritten:

"§ 55A-5-01. *Registered office and registered agent.*

- (a) ~~Each corporation shall continuously maintain in this State:~~
 - (1) ~~A registered office that may be the same as any place where it conducts affairs; and~~
 - (2) ~~A registered agent, who shall be:~~

- a. ~~An individual who resides in this State and whose office is identical with the registered office;~~
- b. ~~A domestic business corporation, nonprofit corporation, or limited liability company whose office is identical with the registered office; or~~
- c. ~~A foreign business corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose office is identical with the registered office.~~

~~(b) The sole duty of the registered agent to the corporation is to forward to the corporation at its last known address any notice, process, or demand that is served on the registered agent.~~

~~Each corporation must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."~~

SECTION 48.(b) G.S. 55A-15-07 reads as rewritten:

"§ 55A-15-07. *Registered office and registered agent of foreign corporation.*

~~(a) Each foreign corporation authorized to conduct affairs in this State shall continuously maintain in this State:~~

- ~~(1) A registered office that may be the same as any place where it conducts affairs; and~~
- ~~(2) A registered agent, who shall be: (i) an individual who resides in this State and whose office is identical with the registered office; (ii) a domestic business corporation, nonprofit corporation, or limited liability company whose office is identical with the registered office; or (iii) a foreign business corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose office is identical with the registered office.~~

~~(b) The sole duty of the registered agent to the foreign corporation is to forward to the corporation at its last known address any notice, process, or demand that is served on the registered agent.~~

~~Each foreign corporation authorized to conduct affairs in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."~~

SECTION 48.(c) G.S. 55A-5-02, 55A-5-03, 55A-5-04, 55A-15-08, 55A-15-09, and 55A-15-10 are repealed.

SECTION 48.(d) G.S. 55A-5-02.1 is recodified as G.S. 55A-16-23.

SECTION 48.(e) G.S. 55A-14-23(a) reads as rewritten:

~~(a) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution, the Secretary of~~

State shall serve the corporation under ~~G.S. 55A-5-04~~ G.S. 55D-33 with a written notice that explains the reason or reasons for denial."

SECTION 48.(f) G.S. 55A-15-30(a)(4) reads as rewritten:

"(4) The foreign corporation does not inform the Secretary of State under ~~G.S. 55A-15-08~~ or ~~G.S. 55A-15-09~~ G.S. 55D-31 or G.S. 55D-32 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within 60 days of the change, resignation, or discontinuance;"

SECTION 48.(g) G.S. 55A-15-31(d) reads as rewritten:

"(d) The Secretary of State's revocation of a foreign corporation's certificate of authority appoints the Secretary of State the foreign corporation's agent for service of process in any proceeding based on a cause of action arising in this State or arising out of affairs conducted in this State during the time the foreign corporation was authorized to conduct affairs in this State. The Secretary of State shall then proceed in accordance with ~~G.S. 55A-15-10~~ G.S. 55D-33."

SECTION 49.(a) G.S. 57C-2-40 reads as rewritten:

"§ 57C-2-40. *Registered office and registered agent.*

(a) ~~Each limited liability company must continuously maintain in this State:~~

- (1) ~~A registered office that may be the same as any of its places of business; and~~
- (2) ~~A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.~~

(b) ~~The sole duty of the registered agent to the limited liability company is to forward to the limited liability company at its last known address any notice, process, or demand that is served on the registered agent.~~

Each limited liability company must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."

SECTION 49.(b) G.S. 57C-7-07 reads as rewritten:

"§ 57C-7-07. *Registered office and registered agent of foreign limited liability company.*

~~(a) Each foreign limited liability company authorized to transact business in this State must continuously maintain in this State:~~

- ~~(1) A registered office that may be the same as any of its places of business; and~~
- ~~(2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.~~

~~(b) The sole duty of the registered agent to the foreign limited liability company is to forward to the limited liability company at its last known address any notice, process, or demand that is served on the registered agent.~~

Each foreign limited liability company authorized to transact business or conduct affairs in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."

SECTION 49.(c) G.S. 57C-2-41, 57C-2-42, 57C-7-08, 57C-7-09, and 57C-7-10 are repealed.

SECTION 49.(d) G.S. 57C-7-14(c) reads as rewritten:

"(c) Upon the revocation of a foreign limited liability company's certificate of authority, the Secretary of State shall become the foreign limited liability company's agent for service of process in any proceeding based on a cause of action arising in this State or arising out of business transacted in this State during the time the foreign limited liability company was authorized to transact business in this State. The Secretary of State shall then proceed in accordance with G.S. 57C-7-10, G.S. 55D-33."

SECTION 50.(a) G.S. 59-105 reads as rewritten:

"§ 59-105. *Registered office and registered agent.*

~~(a) Each limited partnership shall have and continuously maintain in this State:~~

- ~~(1) A registered office that may be the same as any of its places of business;~~
- ~~(2) A registered agent, who shall be (i) an individual resident of this State whose business office is identical with such registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with such registered office; or (iii) a foreign corporation, nonprofit~~

~~corporation, or limited liability company authorized to transact business or conduct affairs in this State, whose business office is identical with such registered office.~~

~~The sole duty of the registered agent to the limited partnership is to forward to the limited partnership at its last known address any notice, process, or demand that is served on the registered agent.~~

Each limited partnership must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

(b) Limited partnerships formed prior to October 1, 1986, shall file a certificate of limited partnership with the Office of the Secretary of State pursuant to G.S. 59-201(a) designating the address of the registered office of the limited partnership and the identity of the registered agent at such address.

~~(b1) Any process, notice or demand, which is required or permitted by law to be served upon a limited partnership, may be served upon the duly appointed registered agent of the limited partnership. Such service upon the registered agent is deemed to have been made on the limited partnership itself.~~

~~(c) Whenever a limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the limited partnership department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of State, he shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the limited partnership at its registered office. Any such limited partnership so served shall be in court for all purposes from and after the date of such service on the Secretary of State.~~

~~(d) The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.~~

~~(e) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law."~~

SECTION 50.(b) G.S. 59-201(a)(2) reads as rewritten:

"(2) The address, including county and city or town, and street and number, if any, of the registered office and the name of the registered agent at such address for service of process required to be maintained by ~~G.S. 59-405~~G.S. 55D-30."

SECTION 50.(c) G.S. 59-902 reads as rewritten:

"§ 59-902. *Registration.*

(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an original and one conformed copy of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

...

(5) The address, including county and city or town, and street and number, if any, of the proposed registered office of the foreign limited partnership in this State, and the name of its proposed registered agent in this State at such address; ~~the agent must be an individual resident of this State, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this State;~~

...

(b) Without excluding other activities which may not constitute transacting business in this State, a foreign limited partnership shall not be considered to be transacting business in this State, for the purpose of this Article, by reason of carrying on in this State any one or more of the following activities:

...

(c) Each foreign limited partnership authorized to transact business in this State must maintain a registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article. ~~Whenever a foreign limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such foreign limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be~~

made by delivering to and leaving with him, or with any clerk having charge of the limited partnership department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the Secretary of State, he shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, addressed to the foreign limited partnership at its registered office. Any such foreign limited partnership so served shall be in court for all purposes from and after the date of such service on the Secretary of State.

(d) ~~The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.~~

(e) ~~Nothing herein contained shall limit or affect the right to serve any process notice or demand required or permitted by law to be served upon a foreign limited partnership in any other manner now or hereafter permitted by law."~~

SECTION 51.(a) G.S. 59-84.2(i) reads as rewritten:

"(i) Each registered limited liability partnership must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.The registered agent of a registered limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office. The sole duty of the registered agent to the registered limited liability partnership is to forward to the registered limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent."

SECTION 51.(b) G.S. 59-91(b) reads as rewritten:

~~"(b) The registered agent of a foreign limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business in this State whose business office is identical with the registered office. The sole duty of the registered agent to the foreign limited liability partnership is to forward to the foreign limited liability partnership at~~

~~its last known address any notice, process, or demand that is served on the registered agent.~~ Each foreign limited liability partnership maintaining a statement of foreign registration in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article."

SECTION 51.(c) G.S. 59-35.1(c), as amended in Parts II and IV of this act, reads as rewritten:

"(c) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
Application for reserved name	\$10.00
Notice of transfer of reserved name	10.00
Application for registered name	10.00
<u>Statement of change of registered office or registered agent or both</u>	<u>5.00</u>
<u>Agent's statement of change of registered office for each affected partnership</u>	<u>5.00</u>
<u>Agent's statement of resignation</u>	No fee
<u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
Articles of merger	50.00
Articles of correction	10.00

Whenever the Secretary of State is deemed appointed as a registered agent under this Act or under Chapter 55D of The General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate."

PART VII. EFFECTIVE DATE, APPLICABILITY, AND OTHER PROVISIONS.

SECTION 52. The Revisor of Statutes is authorized to transfer, as historical annotations, the Official Comments and the North Carolina Comments to those portions of Chapter 55 of the General Statutes that are recodified by this act to the corresponding

locations in Chapter 55D of the General Statutes, as the Revisor deems appropriate.

SECTION 53. This act becomes effective October 1, 2001, and applies to documents submitted for filing on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law upon approval of the Governor at 11:43 a.m. on the 10th day of August, 2001.

S.B. 895**SESSION LAW 2001-359**

AN ACT TO ESTABLISH THE NORTH CAROLINA
GEOGRAPHIC INFORMATION COORDINATING COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 76.

"North Carolina Geographic Information Coordinating Council.

"§ 143-725. Council established; role of the Center for Geographic Information and Analysis.

(a) Council Established. – The North Carolina Geographic Information Coordinating Council ("Council") is established to develop policies regarding the utilization of geographic information, GIS systems, and other related technologies. The Council shall be responsible for the following:

- (1) Strategic planning.
- (2) Resolution of policy and technology issues.
- (3) Coordination, direction, and oversight of State, local, and private GIS efforts.
- (4) Advising the Governor, the General Assembly, and the Information Resource Management Commission (IRMC) as to needed directions, responsibilities, and funding regarding geographic information.

The purpose of this statewide geographic information coordination effort shall be to further cooperation among State, federal, and local government agencies; academic institutions; and the private sector to improve the quality, access, cost-effectiveness, and utility of North Carolina's geographic information and to promote geographic information as a strategic resource in the State. The Council shall be located in the Office of the Governor for organizational, budgetary, and administrative purposes.

(b) Role of CGIA. – The Center for Geographic Information and Analysis (CGIA) shall staff the Geographic Information and Coordinating Council and its committees. CGIA shall manage and

distribute digital geographic information about North Carolina maintained by numerous State and local government agencies. It shall operate a statewide data clearinghouse and provide Internet access to State geographic information.

"§ 143-726. Council membership; organization.

(a) Members. – The Council shall consist of up to 35 members, or their designees, as set forth in this section. An appointing authority may reappoint a Council member for successive terms.

(b) Governor's Appointments. – The Governor shall appoint the following members:

- (1) The head of an at-large State agency not represented in subsection (d) of this section.
- (2) An employee of a county government, nominated by the North Carolina Association of County Commissioners.
- (3) An employee of a municipal government, nominated by the North Carolina League of Municipalities.
- (4) An employee of the federal government who is stationed in North Carolina.
- (5) A representative from the Lead Regional Organizations.
- (6) A member of the general public.
- (7) Other individuals whom the Governor deems appropriate to enhance the efforts of geographic information coordination.

Members appointed by the Governor shall serve three-year terms. The Governor shall appoint an individual from the membership of the Council to serve as Chair of the Council. The member appointed shall serve as Chair for a term of one year.

(c) General Assembly Appointments. – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint three members to the Council. These members shall serve one-year terms.

(d) Other Members. – Other Council members shall include:

- (1) The Secretary of State.
- (2) The Commissioner of Agriculture.
- (3) The Superintendent of Public Instruction.
- (4) The Secretary of the Department of Environment and Natural Resources.
- (5) The Secretary of the Department of Transportation.
- (6) The Secretary of the Department of Administration.
- (7) The Secretary of the Department of Commerce.
- (8) The Secretary of the Department of Crime Control and Public Safety.
- (9) The Secretary of the Department of Health and Human Services.
- (10) The Secretary of the Department of Revenue.

- (11) The President of the North Carolina Community Colleges System.
- (12) The President of The University of North Carolina System.
- (13) The Chair of the Public Utilities Commission.
- (14) The State Budget Officer.
- (15) The Executive Director of the North Carolina League of Municipalities.
- (16) The Executive Director of the North Carolina Association of County Commissioners.
- (17) One representative from the State Government GIS User Committee.
- (18) One representative elected annually from the Local Government Committee established pursuant to subdivision (h)(2) of this section.
- (19) The State Chief Information Officer who shall serve as a nonvoting member.

Council members serving ex officio pursuant to this subsection shall serve terms coinciding with their respective offices. Members serving by virtue of their appointment by a standing committee of the Council shall serve for the duration of their appointment by the standing committee.

(e) Meetings. – The Council shall meet at least quarterly on the call of the Chair. The Management and Operations Committee shall conduct the Council's business between quarterly meetings.

(f) Administration. – The Director of the CGIA shall be secretary of the Council and provide staff support as it requires.

(g) Reports. – The Council shall report at least annually to the Governor and to the Joint Legislative Commission on Governmental Operations.

(h) Committees. – The Council may establish work groups, as needed, and shall oversee the standing committees created in this subsection. Each standing committee shall adopt bylaws, subject to the Council's approval, to govern its proceedings. Except as otherwise provided, the Chair of the Council shall appoint the standing committee chairs from representatives listed in subsections (b), (c), or (d) of this section. The standing committees are as follows:

- (1) State Government GIS User Committee. – Membership shall consist of representatives from all interested State government departments. The Chair of the Council shall appoint the committee chair from one of the State agencies represented in subsection (d) of this section.
- (2) Local Government Committee. – Membership shall consist of representatives from organizations and professional associations that currently serve or

represent local government GIS users, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and Lead Regional Organizations. The committee shall elect one of its members to the Council.

- (3) Federal Interagency Committee. – Membership shall consist of representatives from all interested federal agencies and Tribal governments with an office located in North Carolina. The appointed federal representative serving pursuant to subdivision (b)(4) of this section shall serve as the Chair of the Federal Interagency Committee.
- (4) Statewide Mapping Advisory Committee. – This committee shall consolidate statewide mapping requirements and attempt to gain statewide support for financing cooperative programs. The committee shall also advise the Council on issues, problems, and opportunities relating to federal, State, and local government geospatial data programs.
- (5) GIS Technical Advisory Committee. – This committee shall develop the statewide technical architecture for GIS and anticipate and respond to GIS technical opportunities and issues affecting State, county, and local governments in North Carolina.
- (6) Management and Operations Committee. – This committee shall consider management and operational matters related to GIS and other matters that are formally requested by the Council. The committee membership shall consist of the Chair of the Council, the State Budget Officer, the chair of each of the standing committees of the Council, and other members of the Council appointed by the Chair.

"§ 143-727. Compensation and expenses of Council members; travel reimbursements.

Members of the Council shall serve without compensation but may receive travel and subsistence as follows:

- (1) Council members who are officials or employees of a State agency or unit of local government, in accordance with G.S. 138-6.
- (2) All other Council members at the rate established in G.S. 138-5."

SECTION 2. The respective appointing authorities shall complete their appointments to the North Carolina Geographic Information Coordinating Council under G.S. 143-726(b) and (c), as

enacted in Section 1 of this act, within 60 days of the date when this act becomes effective.

SECTION 3. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. The provisions of this act shall be implemented from funds otherwise appropriated or available to the Office of the Governor.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law upon approval of the Governor at 11:44 a.m. on the 10th day of August, 2001.

S.B. 1081**SESSION LAW 2001-360**

AN ACT TO MAKE IT A CRIMINAL OFFENSE FOR A PRISONER TO THROW BODILY FLUIDS OR EXCREMENT AT A STATE OR LOCAL GOVERNMENT EMPLOYEE WHILE IN THE PERFORMANCE OF THE EMPLOYEE'S DUTIES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 33 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-258.4. Malicious conduct by prisoner.

(a) Any person in the custody of the Department of Correction, the Department of Juvenile Justice and Delinquency Prevention, any law enforcement officer, or any local confinement facility (as defined in G.S. 153A-217, or G.S. 153A-230.1), including persons pending trial, appellate review, or presentence diagnostic evaluation, who knowingly and willfully throws, emits, or causes to be used as a projectile, bodily fluids or excrement at a person who is an employee of the State or a local government while the employee is in the performance of the employee's duties is guilty of a Class F felony. The provisions of this section apply to violations committed inside or outside of the prison, jail, detention center, or other confinement facility."

SECTION 2. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law upon approval of the Governor at 11:44 a.m. on the 10th day of August, 2001.

H.B. 612 SESSION LAW 2001-361

AN ACT TO SPECIFY THE EFFECTIVE DATE OF THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF CERTAIN WATERS IN THE NEUSE RIVER BASIN BELOW FALLS LAKE DAM THAT WOULD HAVE THE EFFECT OF ALLOWING THE TOWN OF WAKE FOREST TO WITHDRAW ADDITIONAL WATER FROM THE NEUSE RIVER AND TO PROVIDE THAT THE 2004 REGULAR SESSION OF THE 2003 GENERAL ASSEMBLY MAY DISAPPROVE THE RULE.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(b), 15A NCAC 2B.0315 (Neuse River Basin), as amended by the Environmental Management Commission on 12 October 2000 and approved by the Rules Review Commission on 16 November 2000, becomes effective on 1 July 2004 unless the 2004 Regular Session of the 2003 General Assembly specifically disapproves 15A NCAC 2B.0315 (Neuse River Basin), as amended by the Environmental Management Commission on 12 October 2000 and approved by the Rules Review Commission on 16 November 2000, by enactment of a bill as provided in G.S. 150B-21.3(b).

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of August, 2001.

Became law upon approval of the Governor at 11:44 a.m. on the 10th day of August, 2001.

H.B. 1217 SESSION LAW 2001-362

AN ACT TO SPEED THE NOTIFICATION TO LIENHOLDERS WHEN A MOTOR VEHICLE IS SEIZED UNDER DWI FORFEITURE PROVISIONS AND TO SPEED THE RELEASE OF A SEIZED VEHICLE TO INNOCENT OWNERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-28.3(b) reads as rewritten:

"(b) Duty of Officer. – If the charging officer has probable cause to believe that a motor vehicle driven by the defendant may be subject to forfeiture under this section, the officer shall seize the motor vehicle and have it impounded. If the officer determines prior to seizure that the motor vehicle had been reported stolen, the officer shall not seize the motor vehicle pursuant to this section. If the officer

determines prior to seizure that the motor vehicle was a rental vehicle driven by a person not listed as an authorized driver on the rental contract, the officer shall not seize the motor vehicle pursuant to this section, but shall make a reasonable effort to notify the owner of the rental vehicle that the vehicle was stopped and that the driver of the vehicle was not listed as an authorized driver on the rental contract. Probable cause may be based on the officer's personal knowledge, reliable information conveyed by another officer, records of the Division, or other reliable source. The seizing officer shall notify the executive agency designated under subsection (b1) of this section as soon as practical but no later than ~~72~~24 hours after seizure of the motor vehicle of the seizure in accordance with procedures established by the executive agency designated under subsection (b1) of this section."

SECTION 2. G.S. 20-28.3(b1) reads as rewritten:

"(b1) Written Notification of Impoundment. – Within 48 hours of receipt within regular business hours of the notice of seizure, an executive agency designated by the Governor shall issue written notification of impoundment to the Division, to any lienholder of record and to any motor vehicle owner who was not operating the motor vehicle at the time of the offense. A notice of seizure received outside regular business hours shall be considered to have been received at the start of the next business day. ~~This notice~~The notification of impoundment shall be sent by first-class mail to the most recent address contained in the Division's records. If the motor vehicle is registered in another state, notice shall be sent to the address shown on the records of the state where the motor vehicle is registered. This written notification shall provide notice that the motor vehicle has been seized, state the reason for the seizure and the procedure for requesting release of the motor vehicle. Additionally, if the motor vehicle was damaged while the defendant operator was committing an offense involving impaired driving or incident to the seizure, the agency shall issue written notification of the seizure to the owner's insurance company of record and to any other insurance companies that may be insuring other motor vehicles involved in the accident. The Division shall prohibit title to a seized motor vehicle from being transferred by a motor vehicle owner unless authorized by court order."

SECTION 3. G.S. 20-28.3 is amended by adding a new subsection to read:

"(b2) Additional Notification to Lienholders. – In addition to providing written notification pursuant to subsection (b1) of this section, within eight hours of receipt within regular business hours of the notice of seizure, the executive agency designated under subsection (b1) of this section shall notify by facsimile any lienholder

of record that has provided the executive agency with a designated facsimile number for notification of impoundment. The facsimile notification of impoundment shall state that the vehicle has been seized, state the reason for the seizure, and notify the lienholder of the additional written notification that will be provided pursuant to subsection (b1) of this section. The executive agency shall establish procedures to allow a lienholder to provide one designated facsimile number for notification of impoundment for any vehicle for which the lienholder is a lienholder of record and shall maintain a centralized database of the provided facsimile numbers. The lienholder must provide a facsimile number at which the executive agency may give notification of impoundment at any time."

SECTION 4. G.S. 20-28.3(e1) reads as rewritten:

"(e1) Pretrial Release of Motor Vehicle to Innocent Owner. – A nondefendant motor vehicle owner may file a petition with the clerk of court seeking a pretrial determination that the petitioner is an innocent owner. The clerk shall ~~schedule a hearing before a judge to be held within 10 business days or~~ consider the petition and make a determination as soon as ~~thereafter~~ may be feasible. ~~Notice of the hearing shall be given to the petitioner, the district attorney, and the attorney for the county board of education. The clerk shall forward a copy of the petition to the district attorney for the district attorney's review. If, based on available information, the district attorney determines that the petitioner is an innocent owner and that the motor vehicle is not subject to forfeiture, the district attorney may note the State's consent to the release of the motor vehicle on the petition and return the petition to the clerk of court who shall enter an order releasing the motor vehicle to the petitioner subject to the conditions of release as set forth in G.S. 20-28.2(e) and no hearing shall be held. The clerk shall send a copy of the order of release to the county board of education attorney.~~ At any pretrial hearing proceeding conducted pursuant to this subsection, the court clerk is not required to determine the issue of forfeiture, only the issue of whether the petitioner is an innocent owner. Accordingly, the State shall not be required to prove the underlying offense of impaired driving or the existence of a prior drivers license revocation. If the court clerk determines that the petitioner is an innocent owner, the court clerk shall release the motor vehicle to the petitioner subject to the same conditions as if the petitioner were an innocent owner under G.S. 20-28.2(e). The clerk shall send a copy of the order authorizing or denying release of the vehicle to the district attorney and the attorney for the county board of education. An order issued under this subsection finding that the petitioner failed to establish that the petitioner is an innocent owner may be reconsidered by the court as part of the forfeiture hearing conducted pursuant to G.S. 20-28.2(d)."

SECTION 5. G.S. 20-28.3(k) reads as rewritten:

"(k) County Board of Education Right to Appear and Participate in Proceedings. – The attorney for the county board of education shall be given notice of all proceedings regarding offenses involving impaired driving related to a motor vehicle subject to forfeiture. However, the notice requirement under this subsection does not apply to proceedings conducted under G.S. 20-28.3(e1). The attorney for the county board of education shall also have the right to appear and to be heard on all issues relating to the seizure, possession, release, forfeiture, sale, and other matters related to the seized vehicle under this section. With the prior consent of the county board of education, the district attorney may delegate to the attorney for the county board of education any or all of the duties of the district attorney under this section. Clerks of superior court, law enforcement agencies, and all other agencies with information relevant to the seizure, impoundment, release, or forfeiture of motor vehicles are authorized and directed to provide county boards of education with access to that information and to do so by electronic means when existing technology makes this type of transmission possible."

SECTION 6. G.S. 20-28.3 is amended by adding a new subsection to read:

"(n) Any order issued pursuant to this section authorizing the release of a seized vehicle shall require the payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle. This requirement shall not be waived."

SECTION 7. G.S. 20-28.2 is amended by adding a new subsection to read:

"(h) Any order issued pursuant to this section authorizing the release of a seized vehicle shall require the payment of all towing and storage charges incurred as a result of the seizure and impoundment of the motor vehicle. This requirement shall not be waived."

SECTION 8. G.S. 20-28.4 reads as rewritten:

"§ 20-28.4. *Release of impounded motor vehicles by judge.*

Release Upon Conclusion of Trial. – If the driver of a motor vehicle seized pursuant to G.S. 20-28.3:

- (1) Is subsequently not convicted of an offense involving impaired driving due to dismissal or a finding of not guilty; or
- (2) The judge at a forfeiture hearing conducted pursuant to G.S. 20-28.2(d) fails to find that the drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2; and
- (3) The vehicle has not previously been released to a lienholder pursuant to G.S. 20-28.3(e3), the seized motor vehicle or insurance proceeds held by the clerk of court

pursuant to G.S. 20-28.2(c1) or G.S. 20-28.3(h) shall be released to the motor vehicle owner conditioned upon payment of towing and storage costs. The court shall not waive the payment of towing and storage costs. Notwithstanding G.S. 44A-2(d), if the owner of the seized motor vehicle does not obtain release of the vehicle within 30 days from the date of the court's order, the possessor of the seized motor vehicle has a mechanics' lien on the seized motor vehicle for the full amount of the towing and storage charges incurred since the motor vehicle was seized and may dispose of the seized motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes."

SECTION 9. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:45 a.m. on the 10th day of August, 2001.

H.B. 195 SESSION LAW 2001-363

AN ACT TO REQUIRE THE PUBLIC SCHOOLS TO PROVIDE COURSES OF INSTRUCTION ON NORTH CAROLINA HISTORY AND GEOGRAPHY TO STUDENTS IN ELEMENTARY SCHOOL AND TO STUDENTS IN MIDDLE SCHOOL, AND TO ENACT THE STUDENT CITIZEN ACT OF 2001.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-81 is amended by adding a new subsection to read:

"(b1) Both the standard course of study and the Basic Education Program shall include the requirement that the public schools provide to all students two yearlong courses of instruction on North Carolina history and geography. One yearlong course of instruction shall be provided in elementary school, and one yearlong course of instruction shall be provided in middle school. Each course of instruction shall include contributions to the history and geography of the State by the racial and ethnic groups that have contributed to the development and diversity of the State. Each course of instruction may include up to four weeks of instruction relating to the local area in which the students reside."

SECTION 2.(a) This section shall be known as the "Student Citizenship Act of 2001".

SECTION 2.(b) G.S. 115C-81 reads as rewritten:

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

...
(g1) Modifications to the social studies curriculum to instruct students on participation in the democratic process and to give them hands-on experience in participating in the democratic process:

- (1) The State Board of Education shall modify the high school social studies curriculum to include instruction in civic and citizenship education. The State Board of Education is strongly encouraged to include, at a minimum, the following components in the high school civic and citizenship education curriculum:
 - a. That students write to a local, State, or federal elected official about an issue that is important to them;
 - b. Instruction on the importance of voting and otherwise participating in the democratic process;
 - c. Information about current events and governmental structure; and
 - d. Information about the democratic process and how laws are made.
- (2) The State Board of Education shall modify the middle school social studies curriculum to include instruction in civic and citizenship education. The State Board of Education is strongly encouraged to include, at a minimum, the following components in the middle school civic and citizenship education curriculum:
 - a. A tour of representative local government facilities such as the local jail, the courthouse, or a town hall, to help students understand the way their community is governed;
 - b. That students choose and analyze a community problem and offer public policy recommendations on the problem to local officials; and
 - c. Information about getting involved in community groups.

(h) Character Education. – ~~Local boards of education may require the teaching of the following character traits in the public schools.~~ Each local board of education shall develop and implement character education instruction with input from the local community. The instruction shall be incorporated into the standard curriculum and should address the following traits:

- (1) Courage. – Having the determination to do the right thing even when others don't and the strength to follow your conscience rather than the crowd; and attempting difficult things that are worthwhile.

- (2) Good judgment. – Choosing worthy goals and setting proper priorities; thinking through the consequences of your actions; and basing decisions on practical wisdom and good sense.
- (3) Integrity. – Having the inner strength to be truthful, trustworthy, and honest in all things; acting justly and honorably.
- (4) Kindness. – Being considerate, courteous, helpful, and understanding of others; showing care, compassion, friendship, and generosity; and treating others as you would like to be treated.
- (5) Perseverance. – Being persistent in the pursuit of worthy objectives in spite of difficulty, opposition, or discouragement; and exhibiting patience and having the fortitude to try again when confronted with delays, mistakes, or failures.
- (6) Respect. – Showing high regard for authority, for other people, for self, for property, and for country; and understanding that all people have value as human beings.
- (7) Responsibility. – Being dependable in carrying out obligations and duties; showing reliability and consistency in words and conduct; being accountable for your own actions; and being committed to active involvement in your community.
- (8) Self-Discipline. – Demonstrating hard work and commitment to purpose; regulating yourself for improvement and restraining from inappropriate behaviors; being in proper control of your words, actions, impulses, and desires; choosing abstinence from premarital sex, drugs, alcohol, and other harmful substances and behaviors; and doing your best in all situations.

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

- (1) Respect for school personnel. – In the school environment, respect includes holding teachers, school administrators, and all school personnel in high esteem and demonstrating in words and deeds that all school personnel deserve to be treated with courtesy and proper deference.
- (2) Responsibility for school safety. – Helping to create a harmonious school atmosphere that is free from threats, weapons, and violent or disruptive behavior; cultivate an

orderly learning environment in which students and school personnel feel safe and secure; and encourage the resolution of conflicts and disagreements through peaceful means including peer mediation.

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

SECTION 2.(c) G.S. 115C-391(a) reads as rewritten:

"(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. Local boards of education shall include a reasonable dress code for students in these policies.

The policies that shall be adopted for the administration of corporal punishment shall include at a minimum the following conditions:

- (1) Corporal punishment shall not be administered in a classroom with other children present;
- (2) The student body shall be informed beforehand what general types of misconduct could result in corporal punishment;
- (3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the punishment; and
- (4) An appropriate school official shall provide the child's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the child's parent or guardian a written explanation of the reasons and the name of the second school official who was present.

Each local board shall publish all the policies mandated by this subsection and make them available to each student and his parent or guardian at the beginning of each school year.

Notwithstanding any policy adopted pursuant to this section, school personnel may use reasonable force, including corporal punishment, to control behavior or to remove a person from the scene in those situations when necessary:

- (1) To quell a disturbance threatening injury to others;
- (2) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student;
- (3) For self-defense;
- (4) For the protection of persons or property; or
- (5) To maintain order on school property, in the classroom, or at a school-related activity on or off school property."

SECTION 2.(d) G.S. 115C-81(g) is amended by adding a new subdivision to read:

"(3b) A local school administrative unit may display on real property controlled by that local school administrative unit documents and objects of historical significance that have formed and influenced the United States legal or governmental system and that exemplify the development of the rule of law, such as the Magna Carta, the Mecklenburg Declaration, the Ten Commandments, the Justinian Code, and documents set out in subdivision (3a) of this subsection. This display may include, but shall not be limited to, documents that contain words associated with a religion; provided however, no display shall seek to establish or promote religion or to persuade any person to embrace a particular religion, denomination of a religion, or other philosophy. The display of a document containing words associated with a religion shall be in the same manner and appearance generally as other documents and objects displayed and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects. The display also shall be accompanied by a prominent sign quoting the First Amendment of the United States Constitution as follows: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the

people peaceably to assemble, and to petition the government for a redress of grievances.' "

SECTION 3. If any provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 4. This act is effective when it becomes law and applies to all school years beginning with the 2001-2002 school year, except that:

- (1) The State Board of Education shall complete the modifications to the social studies curriculum required by G.S. 115C-81(g1), as enacted in Section 2(b) of this act, by December 15, 2001. The modified curriculum shall begin to be implemented during the 2002-2003 school year.
- (2) Local boards of education shall develop character education instruction in accordance with G.S. 115C-81(h), as rewritten by Section 2(b) of this act, by January 1, 2002, and shall implement this instruction beginning with the 2002-2003 school year. If a local board determines that it would be an economic hardship to begin to implement character education instruction by the beginning of the 2002-2003 school year, the board may request an extension of time from the State Board of Education. The local board shall submit the request for an extension to the State Board on or before April 1, 2002. Local boards are encouraged to include in their character education instruction the responsibilities listed in G.S. 115C-81(h1) of Section 2(b) of this act.

In the General Assembly read three times and ratified this the 30th day of July, 2001.

Became law upon approval of the Governor at 11:46 a.m. on the 10th day of August, 2001.

H.B. 1084**SESSION LAW 2001-364**

AN ACT TO CLARIFY THAT AN ACTION FOR EQUITABLE DISTRIBUTION DOES NOT ABATE UPON THE DEATH OF A PARTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 50-21(a) reads as rewritten:

"(a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed, filed and adjudicated, either as a separate civil action, or together

with any other action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f). Within 90 days after service of a claim for equitable distribution, the party who first asserts the claim shall prepare and serve upon the opposing party an equitable distribution inventory affidavit listing all property claimed by the party to be marital property and all property claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property. Within 30 days after service of the inventory affidavit, the party upon whom service is made shall prepare and serve an inventory affidavit upon the other party. The inventory affidavits prepared and served pursuant to this subsection shall be subject to amendment and shall not be binding at trial as to completeness or value. The court may extend the time limits in this subsection for good cause shown. The affidavits are subject to the requirements of G.S. 1A-1, Rule 11, and are deemed to be in the nature of answers to interrogatories propounded to the parties. Any party failing to supply the information required by this subsection in the affidavit is subject to G.S. 1A-1, Rules 26, 33, and 37. During the pendency of the action for equitable distribution, discovery may proceed, and the court shall enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste, or destruction of marital or separate property or to secure the possession thereof.

Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of G.S. 50-20, and the court may include in its order appropriate provisions to ensure compliance with the order of equitable distribution."

SECTION 2. G.S. 50-20 is amended by adding a new subsection to read:

"(l) A pending action for equitable distribution shall not abate upon the death of a party."

SECTION 3. G.S. 50-20(c) reads as rewritten:

"(c) There shall be an equal division by using net value of marital property and net value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. ~~Factors~~ The court shall consider all of the following factors under this subsection as follows: subsection:

- (1) The income, property, and liabilities of each party at the time the division of property is to become ~~effective;~~ effective.

- (2) Any obligation for support arising out of a prior ~~marriage;~~marriage.
- (3) The duration of the marriage and the age and physical and mental health of both ~~parties;~~parties.
- (4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household ~~effects;~~effects.
- (5) The expectation of pension, retirement, or other deferred compensation rights that are not marital ~~property;~~property.
- (6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or ~~homemaker;~~homemaker.
- (7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other ~~spouse;~~spouse.
- (8) Any direct contribution to an increase in value of separate property which occurs during the course of the ~~marriage;~~marriage.
- (9) The liquid or nonliquid character of all marital property and divisible ~~property;~~property.
- (10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other ~~party;~~party.
- (11) The tax consequences to each ~~party;~~party.
- (11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert the marital property or divisible property, or both, during the period after separation of the parties and before the time of ~~distribution; and~~distribution.
- (11b) In the event of the death of either party prior to the entry of any order for the distribution of property made pursuant to this subsection:
 - a. Property passing to the surviving spouse by will or through intestacy due to the death of a spouse.
 - b. Property held as tenants by the entirety or as joint tenants with rights of survivorship passing to the surviving spouse due to the death of a spouse.
 - c. Property passing to the surviving spouse from life insurance, individual retirement accounts, pension

or profit-sharing plans, any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary (excluding any benefits under the federal social security system), or any other retirement accounts or contracts, due to the death of a spouse.

d. The surviving spouse's right to claim an "elective share" pursuant to G.S. 30-3.1 through G.S. 30-33, unless otherwise waived.

(12) Any other factor which the court finds to be just and proper."

SECTION 4. G.S. 30-3.2(d) reads as rewritten:

"(d) "Total Net Assets" means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, ~~claims, claims other than an equitable distribution of property awarded to the surviving spouse pursuant to G.S. 50-20~~ subsequent to the death of the decedent, and administration expenses, the sum of the following:

- (1) All property to which the decedent had legal and equitable title immediately prior to death;
- (2) All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;
- (3) One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;
- (4) The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;
- (5) The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, or 2040 of the Code.
- (6) Any donative transfers of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:
 - a. Any gifts within the annual exclusion provisions of section 2503 of the Code;
 - b. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and
 - c. Any gifts made prior to marriage;

- (7) Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;
- (8) Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and
- (9) In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

SECTION 5. G.S. 30-3.3(a) reads as rewritten:

"(a) Property Passing to Surviving Spouse. – For purposes of this Article, "Property Passing to Surviving Spouse" means the sum of the following:

- (1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;
- (2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;
- (3) Any year's allowance awarded to the surviving spouse;
- (4) The value of any property renounced by the surviving spouse;
- (5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;
- (6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint

tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made; ~~and~~

- (7) The entire value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving ~~spouse, spouse;~~ and
- (8) The net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent."

SECTION 6. G.S. 29-14 is amended by adding a new subsection to read:

"(c) When an equitable distribution of property is awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, the share of the surviving spouse determined under subsections (a) and (b) of this section shall be first determined as though no property had been awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, and then reduced by the net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent."

SECTION 7. This act is effective when it becomes law and applies to actions pending or filed on or after that date.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

Became law upon approval of the Governor at 11:47 a.m. on the 10th day of August, 2001.

H.B. 834

SESSION LAW 2001-365

AN ACT TO AUTHORIZE THE CITIES OF WASHINGTON AND LEXINGTON TO INCREASE THEIR ROOM OCCUPANCY TAX FOR TOURISM PROMOTION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 158 of the 1991 Session Laws reads as rewritten:

"Section 1. Occupancy Tax.

(a) Authorization and scope. ~~— The Washington City Council may by ordinance, after not less than 10 days public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel,

inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, by summer camps, or by businesses that offer to rent no more than five units.

(a1) Additional tax. – In addition to the tax authorized by subsection (a) of this section, the Washington City Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this subsection shall be in accordance with this section. Washington City Council may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. Collection. – Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.

(c) Administration. – The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. – A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30

days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The city council may, for good cause shown, compromise the civil penalties imposed by this subsection.

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.~~

(e) Distribution and use of tax revenue. ~~—~~ The City of Washington shall, on a monthly basis, remit the net proceeds of the occupancy tax to the City of Washington Tourism Development Authority. ~~The Authority may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in the City of Washington through advertising and promotion, to sponsor tourism oriented events and activities in the City of Washington, and to finance tourist related capital projects in the City of Washington. As used in this subsection, "net proceeds" means gross proceeds less the cost to the city of administering and collecting the tax, which may not exceed five percent (5%) of the gross proceeds. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the area and shall use the remainder for tourism-related expenditures.~~

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the City of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to

attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

~~(f) Effective date of levy.—A tax under this section shall become effective on the date specified in the ordinance levying the tax. That date must be the first day of a calendar month after the date the resolution is adopted.~~

~~(g) Repeal.—A tax levied under this section may be repealed by a resolution adopted by the Washington City Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

SECTION 2. Section 1 of Chapter 602 of the 1993 Session Laws (Regular Session 1994) reads as rewritten:

"Section 1. Occupancy Tax.

(a) Authorization and Scope.

~~The Lexington City Council may by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto, levy a room occupancy tax of not more than three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations. As provided in Chapter 453 of the 1993 Session Laws, if Davidson County is authorized to levy a room occupancy tax, the combined room occupancy tax rates for Davidson County and any city or town located in that county may not exceed six percent (6%).~~

(a1) Authorization of Additional Tax.

In addition to the tax authorized by subsection (a) of this section, the Lexington City Council may levy an additional room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The total rate of tax levied under subsections (a) and (a1) of this section, when combined with the rate of any room occupancy tax that may be levied by Davidson County, may not exceed six percent (6%). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this section. The City of Lexington may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

(b) Administration.

A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

~~(b) Collection.~~

~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration.~~

~~The city shall administer a tax levied under this section. A tax levied under this section is due and payable to the city finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the city finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties.~~

~~A person, firm, corporation, or association who fails or refuses to file the return required by this section is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The Lexington City Council has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

~~(e) Use of Tax Revenue.~~

~~At least two-thirds of the proceeds of a tax levied under this section shall be used only to promote travel and tourism in the city and any remaining proceeds shall be used only for tourism-related expenditures.~~

~~The term 'promote travel and tourism' means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, host and conduct tours for travel industry representatives and travel writers, or engage in similar~~

promotional activities that attract tourists or business travelers to the city; the term includes administrative expenses of the Lexington Tourism ~~Development~~ Authority incurred in engaging in the listed activities.

The term 'tourism-related expenditures' means expenditures that in the judgment of the Lexington Tourism Authority are designed to increase the use of ~~lodging~~ lodging, meeting, and convention facilities in the city ~~or attract~~ by attracting tourists or business travelers to the city ~~and the amount retained by the city for its costs in administering and collecting the tax; the term includes expenditures for the construction or maintenance of a visitors' center, a convention facility, a museum, or an historic attraction but does not include other capital expenditures.~~ city.

(f) Lexington Tourism ~~Development~~ Authority.

The Lexington City Council shall, by resolution, establish the Lexington Tourism ~~Development~~ Authority and ~~appoint members to the Authority.~~ shall require that at least three-fourths of the members of the Authority must be currently active in the promotion of travel and tourism in the city and that at least one-third of the members of the Authority must be affiliated with organizations, such as hotels and motels, that collect the tax. A resolution establishing the Authority shall state the number and qualifications of the members of the Authority, their terms of office, and their duties.

(g) Distribution to Tourism Authority.

The City of Lexington shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Lexington Tourism ~~Development~~ Authority. As used in this subsection, 'net proceeds' means gross proceeds less ~~five percent (5%) of the gross proceeds or the cost to the city of administering and~~ the city's actual cost of collecting the tax, whichever is greater. not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) collected each year plus one percent (1%) of the remainder collected each year. The Lexington Tourism ~~Development~~ Authority shall spend revenue remitted to it under this section in accordance with the restrictions set in subsection (e) of this section. The Lexington Tourism ~~Development~~ Authority shall report at the close of the fiscal year to the city council on its receipts and expenditures for the preceding year in such detail as the council may require.

(h) ~~Effective Date of Levy.~~

~~A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

(i) ~~Repeal.~~

~~A tax levied under this section may be repealed by a resolution adopted by the Lexington City Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

SECTION 3. G.S. 160A-215 reads as rewritten:

"§ 160A-215. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term "city" means a municipality.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not

be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing city has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to the Cities of Goldsboro, Greensboro, Lexington, Lumberton, Mount Airy, Shelby, ~~and~~ Statesville, and Washington, to the Towns of Banner Elk, Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of August, 2001.

Became law on the date it was ratified.

S.B. 255

SESSION LAW 2001-366

AN ACT TO ADD CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF MIDLAND.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Midland:

All that certain tract of land containing thirty (30) acres, known as a part of the Mack F. Sossoman Place in Number 10 Township, Cabarrus County, North Carolina, on the Pine Bluff Church Road as shown on plat by Reece I. Long dated 1937 showing metes and bounds as follows:

Beginning at an iron pin on the East bank of Pine Bluff Church Road (said iron stake being the Northeast corner of William

E. Honeycutt's 36.9 acre tract) and runs with the said Pine Bluff Church Road N4°30' W538 feet to an iron stake on the West bank of Pine Bluff Church Road, an old corner; thence N64°30' W40 feet to a Post Oak, an old corner of Lawrence McInnis land; thence with McInnis line N65°0' W1238.5 feet to an iron stake; thence N65° W375 feet to an iron stake; thence with C.L. Voncannon's line S20°30' W616 feet to an iron stake, Voncannon's corner; thence S19°30' W560 feet with the line of C. Everette Voncannon to an iron stake on line of William E. Honeycutt's land; thence with three lines of Honeycutt as follows: First, N49°45' W219 feet to a stake; Second, S62°30' E427.5 feet to a stake; Third, S 84°45' E1024.0 feet to the point of beginning.

SECTION 2. Real property and personal property in the territory annexed pursuant to Section 1 of this act are subject to municipal taxes as provided in G.S. 160A-58.10.

SECTION 3. Sections 1 and 2 of this act become effective August 31, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of August, 2001.

Became law on the date it was ratified.

H.B. 402

SESSION LAW 2001-367

AN ACT TO REGULATE ROAD HUNTING, TO REGULATE HUNTING ON THE LAND OF ANOTHER, TO PROHIBIT THE TAKING OF DEER FROM A BOAT IN BERTIE COUNTY, AND TO REPEAL EXISTING BERTIE COUNTY LOCAL ACTS INCONSISTENT WITH THESE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to hunt, take, or kill any wild animal or wild bird, or to attempt to hunt, take, or kill any wild animal or wild bird, with the use of a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road, street, or highway.

SECTION 2. It is unlawful for any person to discharge a firearm or bow and arrow from, on, across, or over the roadway of any public road, street, or highway; and it is unlawful for any person to discharge a firearm or bow and arrow from, on, across, or over the right-of-way of any public road, street, or highway, unless the person is the owner or lessee of the land abutting the right-of-way.

SECTION 3. It is unlawful for any person to possess a firearm or bow and arrow outside of the passenger compartment of a vehicle while on the roadway or right-of-way of any public road,

street, or highway unless the person is the owner or lessee of the land abutting the right-of-way.

SECTION 4. It is unlawful to hunt or to possess a firearm or bow and arrow on the land of another without the permission of the landowner or the landowner's lessee.

SECTION 5. It is unlawful to take deer from any vessel in the Roanoke River above the U.S. Highway 17 bridge, whether the vessel is under power or not, except that a vessel may be used for transportation to and from otherwise lawful hunting stands upon land owned or leased by a person or upon which a person has written permission to hunt.

SECTION 6. Violations of Sections 1 through 5 of this act are Class 3 misdemeanors.

SECTION 7. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by peace officers with general subject matter jurisdiction.

SECTION 8. Section 4 of Chapter 1376 of the 1955 Session Laws reads as rewritten:

"Sec. 4. The provisions of this Act shall not apply to any land in Halifax County beginning at the water edge on the southern side of the Roanoke River. River or to any land in Bertie County beginning at the water edge on the northern side of the Roanoke River."

SECTION 9. Section 1 of Chapter 252 of the 1963 Session Laws reads as rewritten:

"Sec. 1. It shall be unlawful for any person to discharge any rifle having a bore larger than .22 caliber or any center fire rifle, on or from the right-of-way of any public highway, roadway or other publicly maintained thoroughfare in Hertford ~~or Bertie Counties,~~ County or from any vehicle, whether moving or standing, upon the right-of-way of said roads."

SECTION 10. Section 3 of Chapter 252 of the 1963 Session Laws reads as rewritten:

"Sec. 3. The prohibitions of this Act shall not apply to enforcement officers on the performance of official duties, and shall not prohibit the use of shotguns. This Act shall apply to the ~~Counties~~ County of Hertford ~~and Bertie~~ only."

SECTION 11. Section 5 of Chapter 1333 of the 1973 Session Laws reads as rewritten:

"Sec. 5. This act shall apply only to the counties of ~~Bertie,~~ Durham, Hertford, Gates and Pasquotank."

SECTION 12. Chapters 287 and 289 of the 1975 Session Laws are repealed.

SECTION 13. This act applies only to Bertie County.

SECTION 14. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

Became law on the date it was ratified.

S.B. 531 SESSION LAW 2001-368

**AN ACT TO EXEMPT CERTAIN COMMUNITY COLLEGE
ACTIVITIES FROM THE UMSTEAD ACT.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-58(c) is amended by adding a new subdivision to read:

"(c) The provisions of subsection (a) shall not prohibit:

...

(3a) The use of community college personnel or facilities, with the consent of the trustees of that college, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for one or more of the following specific services in support of economic development:

a. Small business incubators. – As used in this sub-subdivision, the term 'small business incubators' means sites for new business ventures in the service area of the community college that are in need of the support and assistance provided by the college; and, without which, the likelihood of success of the business would be greatly diminished. The services of the small business incubator shall not extend to any such new business venture for a period of more than 24 months.

b. Product testing services.

c. Videoconferencing services provided to the public for occasional use."

SECTION 2. G.S. 115D-20 is amended by adding a new subdivision to read:

"(12) Notwithstanding the provisions of this Chapter, a community college may permit the use of its personnel or facilities, in support of or by a private business enterprise located on a community college campus or in the service area of a community college for the specific services in support of economic development that are set out in G.S. 66-58(c)(3a). The board of trustees of a community college must specifically approve any use of facilities or personnel under this subdivision. The

State Board shall adopt rules to implement the provisions of this subdivision and G.S. 66-58(c)(3a)."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

Became law upon approval of the Governor at 11:58 a.m. on the 16th day of August, 2001.

H.B. 942 SESSION LAW 2001-369

AN ACT TO ESTABLISH THE LOCKSMITH LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 74F.

"Locksmith Licensing Act.

"§ 74F-1. Short title.

This act shall be known as the North Carolina Locksmith Licensing Act.

"§ 74F-2. Purpose.

Locksmiths have the knowledge and tools to bypass or neutralize security devices in vehicles, homes, and businesses. The laws of this State do not protect citizens from the unscrupulous use and abuse of this knowledge and these tools by persons who are untrained or have criminal intent. Therefore, the licensing of locksmiths is necessary to protect public health, safety, and welfare.

"§ 74F-3. Licenses required.

No person shall perform or offer to perform locksmith services in this State unless the person has been licensed under the provisions of this Chapter. A violation of this section is a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment.

"§ 74F-4. Definitions.

The following definitions apply in this Chapter:

- (1) Board. – The North Carolina Locksmith Licensing Board.
- (2) Code book. – A compilation, in any form, of key codes and combinations.
- (3) License. – A certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services as defined in this Chapter.
- (4) Locksmith. – A person who has been issued a license by the Board.

- (5) Locksmith services. – Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians.
- (6) Locksmith tools. – Any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

"§ 74F-5. North Carolina Locksmith Licensing Board.

(a) Composition and Terms. – The Board shall consist of nine members who shall serve staggered terms. Three members shall represent the public. The initial Board members shall be appointed on or before January 1, 2002, as follows:

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint three locksmiths, two of whom shall serve terms of four years and one of whom shall serve a term of three years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint three locksmiths, one of whom shall serve a term of four years, one of whom shall serve a term of three years, and one of whom shall serve a term of two years. At least one of the locksmiths shall represent a recognized locksmith organization in the State.
- (3) The Governor shall appoint three public members, one of whom shall serve a term of three years and two of whom shall serve terms of two years.

Upon the expiration of the terms of the initial Board members, each member shall be appointed for a term of three years and shall serve until a successor is appointed. No member may serve more than two consecutive terms.

(b) Qualifications. – The locksmith members shall have at least five years' experience in locksmith services and shall be engaged in that business for the duration of their term on the Board. The locksmith members initially appointed to the Board shall immediately become licensed as locksmiths by complying with the provisions of this Chapter. Public members of the Board shall not be trained or experienced in locksmith services, have a financial interest in a locksmith business, or be the spouse of a person who is so trained or experienced or has such an interest. All members of the Board shall reside in this State and shall represent various geographical areas of the State.

(c) Vacancies. – A vacancy shall be filled in the same manner as the original appointment, except that all unexpired terms in seats appointed by the General Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

(d) Removal. – The Board may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a licensee shall be disqualified from participating in the official business of the Board until the charges have been resolved.

(e) Compensation. – Each member of the Board shall receive per diem and reimbursement for travel and subsistence as provided in G.S. 93B-5.

(f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be elected annually during the first meeting of the calendar year by the Board for one-year terms and shall serve until their successors are elected and qualified.

(g) Meetings. – The Board shall hold at least two meetings each year to conduct business and to review the standards and rules for issuing licenses under this Chapter. The Board shall adopt rules governing the calling, holding, and conducting of regular and special meetings. A majority of Board members shall constitute a quorum.

"§ 74F-6. Powers of the Board.

The Board shall have the power and duty to:

- (1) Administer and enforce the provisions of this Chapter.
- (2) Adopt rules as may be necessary to carry out the provisions of this Chapter.
- (3) Examine and determine the qualifications and fitness of applicants for licensure and renewal of licensure.
- (4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary actions authorized by this Chapter.
- (5) Set fees as provided in G.S. 74F-9.
- (6) Establish and approve continuing education requirements for persons licensed under this Chapter.
- (7) Receive and investigate complaints from members of the public.
- (8) Conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining licensees exist.
- (9) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

- (10) Maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board action.
- (11) Maintain a list of the names and addresses of all persons licensed by the Board.
- (12) Employ and fix the compensation of personnel that the Board determines is necessary to carry out the provisions of this Chapter and incur other expenses necessary to perform the duties of the Board.
- (13) Adopt and publish a code of ethics.
- (14) Adopt a seal containing the name of the Board for use on all licenses and official reports issued by the Board.

"§ 74F-7. Qualifications for license.

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

- (1) Is of good moral and ethical character.
- (2) Is at least 18 years of age.
- (3) Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.
- (4) Pays the required fee under G.S. 74F-9.

"§ 74F-8. Licensure based on experience; licensure of nonresident; reciprocity.

(a) The Board may grant, upon application and payment of proper fees, a license to a person who resides in this State and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this Chapter.

(b) The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this Chapter or the person resides in a state that recognizes licenses issued by the Board.

"§ 74F-9. Fees.

The Board shall establish fees not exceeding the following amounts:

- | | |
|----------------------------------|------------------|
| <u>(1) Issuance of a license</u> | <u>\$100.00</u> |
| <u>(2) Renewal of a license</u> | <u>\$100.00</u> |
| <u>(3) Examination</u> | <u>\$200.00</u> |
| <u>(4) Reinstatement</u> | <u>\$150.00</u> |
| <u>(5) Late fees</u> | <u>\$150.00.</u> |

"§ 74F-10. Issuance, renewal, replacement, and transfer of licenses.

(a) The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this Chapter as administered by the Board. Licenses shall show the

full name of the person and an identification number and shall be signed by the chair and one other officer of the Board.

(b) All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by G.S. 74F-9. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by G.S. 74F-9.

(c) The Board shall replace any license that is lost, destroyed, or mutilated subject to rules established by the Board.

(d) A license may not be transferred or assigned.

"§ 74F-11. Photo identification.

Every person licensed under this Chapter shall be issued a photo identification card by the Board. The card shall display a current photograph of the person, the person's name, address, and telephone number. The licensee shall have the photograph identification card available for inspection while performing locksmith services.

"§ 74F-12. Posting licenses; advertisements.

(a) Every locksmith issued a license under this Chapter shall display the license prominently in the locksmith's place of business.

(b) Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

"§ 74F-13. Responsibilities of employers.

Every licensee under this Chapter shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

"§ 74F-14. Customer identification.

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

"§ 74F-15. Disciplinary procedures.

The Board may deny or refuse to renew, suspend, or revoke a license if the licensee or applicant:

- (1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.
- (2) Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to perform locksmith services, that involves

moral turpitude, or that indicates the person has deceived or defrauded the public.

- (3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.
- (4) Has willfully violated any of the provisions of this Chapter.

"§ 74F-16. Exemptions.

The provisions of this Chapter do not apply to:

- (1) An employee of a licensed locksmith when acting under the control and supervision of the licensed locksmith.
- (2) A person working as an apprentice under the supervision of a licensed locksmith while fulfilling the requirements for licensure when acting under the control and supervision of the licensed locksmith.
- (3) A person or business required to be licensed or registered by the North Carolina Alarm Systems Licensing Board pursuant to Chapter 74D of the General Statutes, when acting within the scope and course of the alarm systems license or registration.
- (4) An employee of a towing service, a reposessor, a taxi cab service, a motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of their duties, so long as the employee does not represent himself or herself as a locksmith.
- (5) A property owner, or the owner's employee, when providing locksmith services on the property owner's property, so long as the owner or employee does not represent himself or herself as a locksmith. For purposes of this section, 'property' means, but is not limited to, a hotel, motel, apartment, condominium, commercial rental property, and residential rental property.
- (6) A merchant, or retail or hardware store, when it lawfully duplicates keys or installs, services, repairs, rebuilds, reprograms, rekeys, or maintains locks in the normal course of its business, so long as the merchant or store does not represent itself as a locksmith.
- (7) A member of a law enforcement agency, fire department, or other government agency who, when acting within the scope and course of the member's employment with the agency or department, opens locked doors to vehicles, homes, or businesses.
- (8) A salesperson while demonstrating the use of locksmith tools to persons licensed under this Chapter.

- (9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor license.
- (10) A person or business when lawfully installing or maintaining a safety lock device on a wastewater system when the safety lock device is required by permit or requested by the owner of the wastewater system, provided the person or business does not represent itself as a locksmith. For purposes of this subdivision, 'wastewater system' has the same meaning as in G.S. 130A-334.
- (11) Any person or firm that sells gun safes or locking devices for firearms when acting within the scope and course of the sale of gun safes or locking devices for firearms.
- (12) A person while performing a locksmith service in an emergency situation without receiving any compensation for this service and who does not advertise those services.

"§ 74F-17. Injunctions.

The Board may apply to the superior court for an order enjoining violations of this Chapter. Upon a showing by the Board that any person has violated this Chapter, the court may grant injunctive relief."

SECTION 2. Any person who submits proof to the Board that the person has been actively engaged as a locksmith in this State for at least two consecutive years prior to the effective date of this act and pays the required fee for the issuance of a license under G.S. 74F-9, enacted by Section 1 of this act, shall be licensed without having to satisfy the requirements of G.S. 74F-7(3), enacted by Section 1 of this act. All persons who do not make application to the Board within one year of the effective date of this act shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 74F, enacted by Section 1 of this act.

SECTION 3. G.S. 74F-5 and G.S. 74F-6, as enacted in Section 1 of this act, and Section 3 of this act are effective when the act becomes law. The remainder of the act becomes effective July 1, 2002.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

Became law upon approval of the Governor at 12:08 p.m. on the 16th day of August, 2001.

S.B. 1062

SESSION LAW 2001-370

AN ACT AMENDING THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION ACT AND AUTHORIZING THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL CERTIFICATION BOARD TO REGULATE THE PROVISION OF SUBSTANCE ABUSE SERVICES BY REGISTRANTS AND TO INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-113.31 reads as rewritten:

"§ 90-113.31. *Definitions.*

The following definitions shall apply in this Article:

- (1) Approved supervisor. – A person who provides supervision as required by the Board to persons applying for registration or certification as a substance abuse professional pursuant to this Article.
- ~~(1a)~~ (1a) Board. – The North Carolina Substance Abuse Professional Certification Board.
- ~~(1a)~~ (1b) Certified clinical addictions specialist. – A person certified by the Board to practice as a clinical addictions specialist in accordance with the provisions of this Article.
- ~~(1b)~~ (1c) Certified clinical supervisor. – A person certified by the Board to practice as a clinical supervisor in accordance with the provisions of this Article.
- ~~(1e)~~ (1d) Certified residential facility director. – A person certified by the Board to practice as a residential facility director in accordance with the provisions of this Article.
- (2) Certified substance abuse counselor. – A person certified by the Board to practice as a substance abuse counselor in accordance with the provisions of this Article.
- (3) Repealed by S.L. 1997-492, s. 2.
- (3a) Certified substance abuse prevention consultant. – A person certified by the Board to practice substance abuse prevention in accordance with the provisions of this Article.
- (4) Clinical supervisor intern. – A person designated by the Board to practice as a clinical supervisor intern for a period not to exceed three years without a showing of good cause in accordance with the provisions of this Article.
- (4a) Credentialing body. – A board that licenses, certifies, or regulates a profession or practice.

- (4b) Deemed status. – Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a substance abuse specialist may apply individually for certification as a certified clinical addictions specialist.
- (4c) Human services field. – An area of study that focuses on the biological, psychological, and social aspects of human beings.
- (4d) Repealed by Session Laws 1999-164, s. 1.
- (5) Prevention. – The reduction, delay, or avoidance of alcohol and of other drug use behavior. "Prevention" includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.
- (6) Professional discipline. – A field of study characterized by the technical, educational, and ethical standards of a profession.
- (6a) Registrant. – A person who has initiated a certification process to become a certified substance abuse counselor or a certified clinical addictions specialist pursuant to this Article and is authorized to provide DWI assessments pursuant to G.S. 122C-142.1.
- (7) Substance abuse counseling. – The assessment, evaluation, and provision of counseling to persons suffering from substance, drug, or alcohol abuse or dependency.
- (7a) Substance abuse counselor intern. – A person who successfully completes 300 hours of Board approved supervised practical training and a written examination in pursuit of certification as a substance abuse counselor.
- (8) Substance abuse professional. – A certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director."

SECTION 2. G.S. 90-113.33(2) reads as rewritten:

"The Board shall:

...

- (2) Issue, renew, deny, suspend, or revoke certification or registration to practice in this State or reprimand or

otherwise discipline certificate or registration holders in this State. Denial of an applicant's certification or registration or the granting of certification or registration on a probationary or other conditional status shall be subject to substantially the same rules and procedures prescribed by the Board for review and disciplinary actions against those persons holding ~~certificates, certificates~~ or registrations. Disciplinary actions involving a clinical addictions specialist whose certification is achieved through deemed status shall be initially heard by the specialist's credentialing body. The specialist may appeal the body's decision to the Board. The Board shall, however, have the authority to hear the initial disciplinary action involving a clinical addictions specialist."

SECTION 3. G.S. 90-113.33(8) reads as rewritten:

"The Board shall:

...

(8) Establish fees for applications for examination, registration, certificates of certification and renewal, and other services provided by the Board."

SECTION 4. G.S. 90-113.38 reads as rewritten:

"§ 90-113.38. *Maximums for certain fees.*

(a) The fee to obtain a certificate of certification as a substance abuse counselor, substance abuse prevention consultant, clinical supervisor, or residential facility director may not exceed ~~three hundred twenty five dollars (\$325.00)~~ four hundred seventy-five dollars (\$475.00). The fee to renew a certificate may not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00).

(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to deemed status may not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00). The fee to renew a certificate may not exceed ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00). The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to all other procedures authorized by this Article may not exceed ~~three hundred twenty five dollars (\$325.00)~~ four hundred seventy-five dollars (\$475.00). The fee to renew the certificate may not exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00).

(b1) The fee to obtain a registration as a registrant shall be one hundred fifty dollars (\$150.00). The fee to renew a registration shall be one hundred fifty dollars (\$150.00).

(c) There shall be a reexamination fee of ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) which shall be paid for

each reexamination in addition to the fees required under subsection (a) of this section.

(d) There shall be a fee of twenty-five dollars (\$25.00) to obtain a written verification of certification by the Board."

SECTION 5. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-113.40A. Requirements for registration.

(a) Upon application and payment of the required fee, the Board shall issue a registration designating an applicant as a registrant if the applicant:

- (1) Provides documentation that he or she has received a high school diploma, or the equivalent, and evidence of any baccalaureate or advanced degrees the applicant has received.
- (2) Completes a registration application on a form provided by the Board.
- (3) Provides documentation of three hours of educational training in ethics.
- (4) Signs a form attesting to the applicant's commitment to adhere to the ethical standards adopted by the Board.
- (5) Signs a supervision contract provided by the Board that documents the proposed supervision process by an approved supervisor.

(b) Registrant status shall be maintained for a period of up to five years while the registrant is in the process of completing his or her requirements for certification pursuant to this Article. If at the end of a five-year period a registrant has not obtained certification under this Article, the Board shall renew the registration for up to an additional five-year period after the registrant pays the required fee and complies with all requirements for registration pursuant to G.S. 90-113.40A. The Board shall terminate the registration of any registrant who fails to renew his or her registration."

SECTION 6. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-113.40B. Approved supervision.

The Board shall designate a person as an approved supervisor of individuals applying for registration or certification as a substance abuse professional as follows:

- (1) A certified clinical supervisor shall supervise a clinical supervisor intern.
- (2) A certified clinical supervisor or a clinical supervisor intern shall supervise a residential facility director applicant, a clinical addictions specialist applicant, or a substance abuse counselor applicant.

- (3) A certified clinical supervisor, a clinical supervisor intern, a certified clinical addictions specialist, or a certified substance abuse counselor shall supervise a registrant who provides DWI assessments.
- (4) A certified prevention consultant with a minimum of three years of professional experience, a certified clinical supervisor, or a clinical supervisor intern shall supervise a registrant applying for certification as a prevention consultant.
- (5) Pursuant to the deemed status procedure under G.S. 90-113.41A, the supervision requirements described in subdivisions (1) through (4) of this section shall not apply to persons applying for certification as a certified clinical addictions specialist."

SECTION 7. G.S. 90-113.44 reads as rewritten:

"§ 90-113.44. *Grounds for disciplinary action.*

Grounds for disciplinary action include:

- (1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain certification or registration or renewal of ~~certification~~certification or registration.
- (2) The use of drugs or alcoholic beverages to the extent that professional competency is affected, until proof of rehabilitation can be established.
- (3) Conviction of an offense under any municipal, State, or federal narcotic or controlled substance law, until proof of rehabilitation can be established.
- (4) Conviction of a felony or other public offense involving moral turpitude, until proof of rehabilitation can be established. Conviction of a Class A-E felony shall result in an immediate suspension of certification or registration for a minimum of one year.
- (5) An adjudication of insanity or incompetency, until proof of recovery from this condition can be established.
- (6) Engaging in any act or practice ~~violative in~~ violation of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a violation.
- (7) The commission of an act of malpractice, gross negligence, or incompetence in the practice of substance abuse counseling, substance abuse prevention consulting, clinical supervising, or in serving as a clinical addictions ~~specialist~~ specialist, residential facility ~~director~~director, or a registrant.

- (8) Practicing as a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist or certified residential facility director without a valid ~~certificate~~certificate or practicing as a registrant without a valid registration.
- (9) Engaging in conduct that could result in harm or injury to the public."

SECTION 8. Article 5C of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-113.41B. Change of name or address.

Every person certified or registered under the provisions of this Article shall give written notice to the Board of any change in his or her name or address within 60 business days after the change takes place."

SECTION 9. G.S. 122C-142.1(b) reads as rewritten:

"(b) Assessments. – To conduct a substance abuse assessment, a facility shall give a client a standardized test approved by the Department to determine chemical dependency and shall conduct a clinical interview with the client. Based on the assessment, the facility shall recommend that the client either attend an alcohol and drug education traffic (ADET) school or obtain treatment. A recommendation shall be reviewed and signed by a certified alcoholism, drug abuse, or substance abuse counselor, as defined by the Commission, a Certified Substance Abuse Counselor, or by a physician certified by the American Society of Addiction Medicine (ASAM). The signature on the recommendation shall be the personal signature of the individual authorized to review the recommendation and not the signature of his or her agent. The signature shall reflect that the authorized individual has personally reviewed the recommendation and, with full knowledge of the contents of the recommendation, approved of the recommended treatment."

SECTION 10. This act becomes effective April 1, 2002.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

Became law upon approval of the Governor at 11:54 a.m. on the 17th day of August, 2001.

S.B. 195

SESSION LAW 2001-371

AN ACT TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR LICENSURE AS REGISTERED NURSES OR LICENSED PRACTICAL NURSES

UPON THE REQUEST OF THE NORTH CAROLINA BOARD OF NURSING, TO AUTHORIZE THE BOARD OF NURSING TO REQUIRE CRIMINAL HISTORY RECORD CHECKS OF PERSONS APPLYING TO PRACTICE NURSING IN THE STATE OF NORTH CAROLINA, AND TO AMEND THE POWERS OF THE BOARD OF NURSING TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS UPON THE BOARD'S REQUEST.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"§ 114-19.11. Criminal record checks of applicants for licensure as registered nurses or licensed practical nurses.

The Department of Justice may provide to the North Carolina Board of Nursing from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a registered nurse or licensed practical nurse under Article 9A of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 2. Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-171.48. Criminal history record checks of applicants for licensure.

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

- (1) Applicant. – A person applying for licensure as a registered nurse or licensed practical nurse either by examination pursuant to G.S. 90-171.29 and G.S. 90-171.30 or without examination pursuant to G.S. 90-171.32.

(2) Criminal history. – A history of conviction of a State crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice nursing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

(b) All applicants for licensure shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subsection (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

- (1) The level of seriousness of the crime.
- (2) The date of the crime.
- (3) The age of the person at the time of the conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
- (6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (7) The subsequent commission by the person of a crime listed in subsection (a) of this section.

If, after reviewing the factors, the Board determines that the grounds set forth in subsections (1), (2), (3), (4), (5), or (6) of G.S. 90-171.37 exist, the Board may deny licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure to an applicant based on information provided in the applicant's criminal history record check."

SECTION 3. G.S. 90-171.23(b) is amended by adding a new subdivision to read:

"(b) Duties, powers. The Board is empowered to:

...

- (19) Request that the Department of Justice conduct criminal history record checks of applicants for licensure pursuant to G.S. 114-19.11."

SECTION 4. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 8th day of August, 2001.

Became law upon approval of the Governor at 11:54 a.m. on the 17th day of August, 2001.

S.B. 633**SESSION LAW 2001-372****AN ACT TO ESTABLISH A BUILDING CODE PILOT PROGRAM FOR REHABILITATING EXISTING BUILDINGS.**

The General Assembly of North Carolina enacts:

SECTION 1. There is established a pilot program to utilize building code standards to promote rehabilitation of existing buildings in participating jurisdictions. As part of the pilot program, the lead local jurisdiction, as described in Section 3 of this act, shall develop a pilot rehabilitation building code ("pilot code") based on the New Jersey Uniform Construction Code Rehabilitation Subcode ("New Jersey model code"), codified at Title 5, Chapter 23, Subchapter 6 of the New Jersey Administrative Code, (cited as N.J.A.C. 5: 23-6). The lead local jurisdiction shall develop the pilot code in consultation with the North Carolina Department of Insurance ("Department") and in accordance with procedures established in this act. Within 180 days of the effective date of this act, the lead local jurisdiction shall cross-reference the pilot code to the North Carolina State Building Code (NCSBC), Volumes I, II, III, IV, V, VI, VII, IX, and I-C and deliver the cross-referenced pilot code to the Department for comment. Within 30 days thereafter, the Department shall submit its comments, if any, on the pilot code to the lead local jurisdiction. The comments, if any, shall address insuring proper coordination and cross-referencing of the pilot code to the existing NCSBC chapters but shall not include substantive changes to the standards established by the New Jersey model code. Within 30 days after receipt of comments by the Department or, if no comments are received, upon expiration of the comment period, the lead local jurisdiction shall incorporate any comments as may have been received, and the resulting document shall then become the pilot code for purposes of this act.

SECTION 2. Any eligible local jurisdiction, as defined in Section 3 of this act, may elect to participate in the pilot program by adopting the pilot code and by communicating to the Department and the lead local jurisdiction that its governing body has adopted the pilot code in accordance with this act. Any participating jurisdiction, as defined in Section 3 of this act, shall use the pilot code established by the lead local jurisdiction as set forth in Section 1 of this act. Notwithstanding any other provision of law, during the period of the pilot program established by this act, the pilot code shall be enforced in any participating jurisdiction as if it were statutorily mandated and

approved by the North Carolina Building Code Council ("Building Code Council"). The lead local jurisdiction and other participating jurisdictions, and their officers, directors, and employees enforcing the pilot code shall not be subject to liability for damages to any greater or lesser extent arising from participation in the pilot program than if the lead local jurisdiction and other participating jurisdictions were not participating in the pilot program. In addition, buildings or projects built in compliance with the pilot code shall not be required to be retrofitted to come into compliance with the NCSBC once the pilot program expires.

SECTION 3. For purposes of this act, "eligible local jurisdictions" means cities and counties whose local building inspection departments have been approved by the Building Code Council to do local plan review approval in accordance with Section 602.2.3 of the Administrative Volume of the North Carolina State Building Code, and "participating jurisdictions" means eligible local jurisdictions electing to adopt the pilot code in accordance with this act. Any eligible local jurisdictions having a population of more than 650,000 persons according to the most recent decennial census may qualify as a "lead local jurisdiction" for purposes of this act. If more than one eligible local jurisdiction shall qualify as a lead local jurisdiction, then the responsibilities of the lead local jurisdiction under this act shall be borne jointly by such eligible local jurisdictions. Within 30 days of the effective date of this act, any eligible local jurisdiction that qualifies and intends to act as a lead local jurisdiction shall notify the Department of its intention. Upon the expiration of such time, those eligible local jurisdictions providing notice shall constitute the lead local jurisdictions for all further purposes under this act.

SECTION 4. For each lead local jurisdiction, the period of the pilot program established by this act shall commence upon adoption of the pilot code by the governing body of the lead local jurisdiction. For all other participating jurisdictions, the pilot program shall commence on the date the eligible local jurisdiction communicates to the Department and the lead local jurisdiction that its governing body has adopted the pilot code. The pilot program shall expire for each lead local jurisdiction and all participating jurisdictions on January 1, 2006.

SECTION 5. The lead local jurisdiction shall bear all costs and expenses incurred in developing the pilot code, other than expenses incurred directly by the Department in providing comments and review. Each participating jurisdiction shall bear all expenses associated with administering the pilot code in its jurisdiction. The lead local jurisdiction shall bear all expenses associated with the reporting requirements set forth in Section 6, except that each

participating jurisdiction shall bear the expenses associated with assembling and compiling utilization statistics for that jurisdiction. This act shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. The Department shall carry out its responsibilities under this act with funds available to the Department.

SECTION 6. The lead local jurisdiction shall submit to the Building Code Council, the Department, and to the General Assembly both an interim report on the effectiveness of the pilot program on or before December 1, 2004, and a final report on or before April 1, 2006. The final report shall include:

- (1) A survey and statistics on the utilization of the pilot code in participating jurisdictions;
- (2) An analysis of administrative and cost issues associated with implementing the pilot code in participating jurisdictions;
- (3) Recommendations as to whether the pilot program should be extended or made permanent; and
- (4) Any legislative recommendations, including whether the pilot code standards authorized by this act should be incorporated in the General Statutes as part of the statewide building code.

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of August, 2001.

Became law upon approval of the Governor at 11:55 a.m. on the 17th day of August, 2001.

S.B. 936**SESSION LAW 2001-373**

AN ACT TO AMEND THE LAWS REGARDING SEX OFFENDER REGISTRATION TO COMPLY WITH FEDERAL LAW IN ORDER TO MAINTAIN ELIGIBILITY FOR BYRNE GRANT FUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. *Definitions.*

The following definitions apply in this Article:

- (1a) 'Aggravated offense' means any criminal offense that includes either of the following: (i) engaging in a sexual act involving vaginal, anal, or oral penetration with a victim of any age through the use of force or the threat of serious violence; or (ii) engaging in a sexual act

involving vaginal, anal, or oral penetration with a victim who is less than 12 years old.

- ~~(1a)~~(1b) 'County registry' means the information compiled by the sheriff of a county in compliance with this Article.
- ~~(1b)~~(1c) 'Division' means the Division of Criminal Statistics of the Department of Justice.
- ~~(1e)~~(1d) 'Mental abnormality' means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others.
- (1e) 'Nonresident student' means a person who is not a resident of North Carolina but who is enrolled in any type of school in the State on a part-time or full-time basis.
- (1f) 'Nonresident worker' means a person who is not a resident of North Carolina but who has employment or carries on a vocation in the State, on a part-time or full-time basis, with or without compensation or government or educational benefit, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year.
- ~~(1d)~~(1g) 'Offense against a minor' means any of the following offenses if the offense is committed against a minor, and the person committing the offense is not the minor's parent: G.S. 14-39 (kidnapping), G.S. 14-41 (abduction of children), and G.S. 14-43.3 (felonious restraint). The term also includes the following if the person convicted of the following is not the minor's parent: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (2) 'Penal institution' means:
- a. A detention facility operated under the jurisdiction of the Division of Prisons of the Department of Correction;
 - b. A detention facility operated under the jurisdiction of another state or the federal government; or
 - c. A detention facility operated by a local government in this State or another state.
- (2a) 'Personality disorder' means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment.

- (2b) 'Recidivist' means a person who has a prior conviction for an offense that is described in G.S. 14-208.6(4).
- (3) 'Release' means discharged or paroled.
- (4) 'Reportable conviction' means:
- a. A final conviction for an offense against a minor, a sexually violent offense, or an attempt to commit any of those offenses unless the conviction is for aiding and abetting. A final conviction for aiding and abetting is a reportable conviction only if the court sentencing the individual finds that the registration of that individual under this Article furthers the purposes of this Article as stated in G.S. 14-208.5.
 - b. A final conviction in another state of an offense, which if committed in this State, ~~would have been~~ is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
 - c. A final conviction in a federal jurisdiction (including a court martial) of an offense, which is substantially similar to an offense against a minor or a sexually violent offense as defined by this section.
- (5) 'Sexually violent offense' means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor), or G.S. 14-202.1 (taking indecent liberties with children). The term also includes the following: a solicitation or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.
- (6) 'Sexually violent predator' means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that

makes the person likely to engage in sexually violent offenses directed at strangers or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

- (7) 'Sheriff' means the sheriff of a county in this State.
- (8) 'Statewide registry' means the central registry compiled by the Division in accordance with G.S. 14-208.14."

SECTION 2. G.S. 14-208.6A reads as rewritten:

"§ 14-208.6A. ~~Registration~~Lifetime registration requirements for criminal offenders and for criminal offenders determined to be sexually violent predators.~~offenders.~~

It is the objective of the General Assembly to establish a 10-year registration requirement for persons convicted of certain offenses against minors or sexually violent offenses. It is the further objective of the General Assembly to establish a more stringent set of registration requirements for recidivists, persons who commit aggravated offenses, and for a subclass of highly dangerous sex offenders who are determined by a sentencing court with the assistance of a board of experts to be sexually violent predators.

To accomplish this objective, there are established two registration programs: the Sex Offender and Public Protection Registration Program and the Sexually Violent Predator Registration Program. Any person convicted of an offense against a minor or of a sexually violent offense as defined by this Article shall register as an offender in accordance with Part 2 of this Article. Any person who is a recidivist, who commits an aggravated offense, or who is determined to be a sexually violent predator shall register as such in accordance with Part 3 of this Article.

The information obtained under these programs shall be immediately shared with the appropriate local, State, federal, and out-of-state law enforcement officials and penal institutions. In addition, the information designated under G.S. 14-208.10(a) as public record shall be readily available to and accessible by the public. However, the identity of the victim is not public record and shall not be released as a public record."

SECTION 3. Part 1 of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-208.6C. Discontinuation of registration requirement.

The period of registration required by any of the provisions of this Article shall be discontinued only if the conviction requiring registration is reversed, vacated, or set aside, or if the registrant has been granted an unconditional pardon of innocence for the offense requiring registration."

SECTION 4. G.S. 14-208.7 is amended by adding a new subsection to read:

"(a1) A person who is a nonresident student or a nonresident worker and who has a reportable conviction, or is required to register in the person's state of residency, is required to maintain registration with the sheriff of the county where the person works or attends school. In addition to the information required under subsection (b) of this section, the person shall also provide information regarding the person's school or place of employment as appropriate and the person's address in his or her state of residence."

SECTION 5. G.S. 14-208.9 reads as rewritten:

"§ 14-208.9. Change of address.

(a) If a person required to register changes address, the person shall provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the person had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the person moves to another county in this State, the Division shall inform the sheriff of the new county of the person's new residence.

(b) If a person required to register moves to another state, the person shall provide written notice of the new address not later than 10 days after the change to the sheriff of the county with whom the person had last registered. Upon receipt of the notice, the sheriff shall notify the person that the person must comply with the registration requirements in the new state of residence. The sheriff shall also immediately forward the change of address information to the Division, and the Division shall inform the appropriate state official in the state to which the registrant moves of the person's new address."

SECTION 6. G.S. 14-208.20 reads as rewritten:

"§ 14-208.20. Sexually violent predator determination; notice of intent; presentence investigation.

(a) When a person is charged by indictment or information with the commission of a sexually violent offense, the district attorney shall decide whether to seek classification of the offender as a sexually violent predator if the person is convicted. If the district attorney intends to seek the classification of a sexually violent predator, the district attorney shall within the time provided for the filing of pretrial motions under G.S. 15A-952 file a notice of the district attorney's intent. The court may for good cause shown allow late filing of the notice, grant additional time to the parties to prepare for trial, or make other appropriate orders.

(b) Prior to sentencing a person as a sexually violent predator, the court shall order a presentence investigation in accordance with G.S. 15A-1332(c). However, the study of the defendant and whether the defendant is a sexually violent predator shall be conducted by a board of experts selected by the Department of Correction. The board of

experts shall be composed of at least ~~two people who are~~ four people. Two of the board members shall be experts in the field of the behavior and treatment of sexual offenders, one of whom is ~~shall be~~ selected from a panel of experts in those fields provided by the North Carolina Medical Society and not employed with the Department of Correction or employed on a full-time basis with any other State agency. One of the board members shall be a victims' rights advocate, and one of the board members shall be a representative of law enforcement agencies.

(c) When the defendant is returned from the presentence commitment, the court shall hold a sentencing hearing in accordance with G.S. 15A-1334. At the sentencing hearing, the court shall, after taking the presentencing report under advisement, make written findings as to whether the defendant is classified as a sexually violent predator and the basis for the court's findings."

SECTION 7. G.S. 14-208.21 reads as rewritten:

"§ 14-208.21. ~~Registration procedure for sexually violent predator;~~ Lifetime registration procedure; application of Part 2 of this Article.

~~The~~ Unless provided otherwise by this Part, the provisions of Part 2 of this Article apply to a person classified as a sexually violent predator unless provided otherwise by this Part. predator, a person who is a recidivist, or a person who is convicted of an aggravated offense. The procedure for registering as a sexually violent ~~predator~~ predator, a recidivist, or a person convicted of an aggravated offense is the same as under Part 2 of this Article."

SECTION 8. G.S. 14-208.22 reads as rewritten:

"§ 14-208.22. Additional registration information required.

(a) In addition to the information required by G.S. 14-208.7, the following information shall also be obtained in the same manner as set out in Part 2 of this Article from a person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator:

- (1) Identifying factors.
- (2) Offense history.
- (3) Documentation of any treatment received by the person for the person's mental abnormality or personality disorder.

(b) The Division shall provide each sheriff with forms for registering persons as required by this Article.

(c) The Department of Correction shall also obtain the additional information set out in subsection (a) of this section and shall include this information in the prerelease notice forwarded to the sheriff or other appropriate law enforcement agency."

SECTION 9. G.S. 14-208.23 reads as rewritten:

"§ 14-208.23. *Length of registration.*

~~The requirement that a person who is classified as a sexually violent predator maintain registration shall terminate only upon a determination, made in accordance with this Part, that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.~~A person who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator shall maintain registration for the person's life. Except as provided under G.S. 14-208.6C, the requirement of registration shall not be terminated."

SECTION 10. G.S. 14-208.24 reads as rewritten:

"§ 14-208.24. *Verification of registration information.*

(a) The information in the county registry shall be verified by the sheriff for each registrant who is a recidivist, who is convicted of an aggravated offense, or who is classified as a sexually violent predator every 90 days after the person's initial registration date.

(b) The procedure for verifying the information in the criminal offender registry is the same as under G.S. 14-208.9A, except that verification shall be every 90 days as provided by subsection (a) of this section."

SECTION 11. G.S. 14-208.25 is repealed.

SECTION 12. This act becomes effective October 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 8th day of August, 2001.

Became law upon approval of the Governor at 11:55 a.m. on the 17th day of August, 2001.

S.B. 16 SESSION LAW 2001-374

AN ACT TO ABOLISH MUNICIPAL BOARDS OF ELECTIONS IN MUNICIPALITIES OTHER THAN MORGANTON, GRANITE FALLS, OLD FORT, AND RHODHISS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-280.1. *Municipal boards of elections abolished.*

Municipal boards of elections in all municipalities other than the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss, whether created by general statute or by local act, are abolished. The terms of all members of all such municipal boards of elections which are abolished by this section, and all precinct officials appointed by such municipal boards of elections,

if those terms have not expired prior to January 1, 2002, expire January 1, 2002."

SECTION 2. G.S. 163-285 reads as rewritten:

"§ 163-285. *Administration by county board of elections; optional by municipality. Morganton, Granite Falls, Old Fort, and Rhodhiss.*

(a) ~~Any city, town or incorporated village which conducts its elections on a nonpartisan basis. The City of Morganton, the Town of Old Fort, the Town of Granite Falls, and the Town of Rhodhiss may conduct its their own elections, or it they may request the county board of elections of the county in which it is they are located to conduct its their elections. A county board of elections shall conduct the elections of each city, town or incorporated village municipality so requesting and the city, town or incorporated village municipality shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the city municipal council. The elections for any other municipality shall be conducted by the county board of elections, and the municipality shall pay the cost thereof according to a formula mutually agreed upon by the county board of elections and the municipal council. If a mutual agreement cannot be reached, then the State Board of Elections shall prescribe the agreement, to which both parties are bound, or, in its discretion, the State Board of Elections shall have authority to instruct the county board of elections to decline the administration of the elections for such city, town or incorporated village bound.~~

- (1) ~~The elections of cities, towns or incorporated villages municipalities which lie in more than one county shall be conducted either (i) by the county in which the greater number of the city's municipality's citizens reside, according to the most recent federal census of population, or (ii) jointly by the boards of elections of each county in which such city, town or incorporated village municipality is located, as may be mutually agreed upon by the county boards of elections so affected, or (iii) in the case of the City of Morganton or the Towns of Old Fort, Granite Falls, or Rhodhiss, by a municipal board of elections appointed by the governing body of the municipality. The State Board of Elections shall have authority to promulgate regulations for more detailed administration and conduct of municipal elections by county or municipal boards of elections for cities municipalities situated in more than one county.~~
- (2) ~~Any city, town or incorporated village municipality electing to have its elections conducted by the county board of elections as provided by this section, shall do so~~

no later than January 1, 1973 provided, however, the county board of elections shall be entitled to 90 days' notice prior to the effective date decided upon by the municipality. For efficient administration the State Board of Elections shall have the authority to delay the effective date of all such agreements under this section and shall set a date certain on which such agreements shall commence. The State Board of Elections shall also have the authority to permit any ~~city, town or incorporated village~~ municipality to exercise the options under this Article subsequent to the deadline stated in this section.

- (3) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 762, s. 63.

(b) The county board of elections shall have authority to require maps or definitive outlines of the boundaries constituting any municipality or special district whose elections that county board administers and shall be immediately advised of any change or relocation of such boundaries.

(c) The term 'special district' includes a sanitary district, fire district, or school administrative unit, notwithstanding the fact that the taxes of the special district may be levied by a municipality."

SECTION 3. G.S. 163-304 reads as rewritten:

"§ 163-304. *State Board of Elections to have jurisdiction over municipal elections and election officials, and to advise; emergency and ongoing administration by county board.*

(a) Authority and Duty of State Board. – The State Board of Elections shall have the same authority over municipal elections and election officials as it has over county and State elections and election officials. The State Board of Elections shall advise and assist cities, towns, incorporated villages and special districts, municipal boards of elections, their members and legal officers on the conduct and administration of their elections and registration procedure.

The city-municipal council shall provide written notification to the State Board of Elections of the appointment of each member of its municipal board of elections within five days after the appointment. The municipal board of elections and the city-municipal council shall provide such other information about the municipal board of elections as the State Board may require. Members of the municipal board of elections and municipal elections officials shall participate in training provided by the State Board pursuant to G.S. 163-82.24. The State Board shall provide the same training, materials, and assistance to municipal boards of elections that it provides to county boards of elections.

The county and municipal boards of elections shall be governed by the same rules for settling controversies with respect to counting ballots or certification of the returns of the vote in any municipal or special district election as are in effect for settling such controversies in county and State elections.

(b) ~~Emergency Administration if Municipal Board Is Not Appointed.~~ – If a city-municipal council in a city-municipality that has elected pursuant to G.S. 163-285 to conduct its own elections has not appointed a municipal board of elections and reported the appointments to the Executive Secretary-Director by ~~March-June 1~~ in the year in which the city-municipal election is to occur, the Executive Secretary-Director shall notify the city-municipal council that, unless a municipal board of elections is appointed and the Executive Secretary-Director notified of its appointment by ~~April 1~~ June 15 of that year, the county board of elections shall be ordered to conduct that city's municipality's elections that year on an emergency basis. If the city-municipal council does not so appoint and so notify by ~~April 1, June 15~~, the Executive Secretary-Director shall order the county board of elections to conduct the city's municipality's elections that year on an emergency basis.

(c) ~~Emergency Administration Due to Serious Violations.~~ – If a city-municipal council or municipal board of elections has committed violations of the applicable portions of this Chapter prior to a city-municipal election and those violations are of such magnitude as to give rise to reasonable doubt as to the ability of the municipal board of elections to conduct that election with competence and fairness, the Executive Secretary-Director of the State Board, with the approval of at least four members of the State Board, may order the county board of elections to conduct the remainder of that election on an emergency basis. Before an order is made under this subsection, the city-municipal council and municipal board of elections shall be given an opportunity to be heard by the State Board.

(d) ~~Ongoing-Permanent~~ County Administration. – The State Board of Elections may designate the county board of elections as the ~~ongoing-permanent~~ agency to conduct a city's municipality's elections if all the following conditions are met:

- (1) In more than one election conducted by that city-municipality either (i) the city's municipality's elections have been administered on an emergency basis pursuant to subsection (b) or (c) of this section or (ii) a new election has been ordered because of irregularities in the city's municipality's administration of the election.
- (2) The State Board finds that the interest of the residents of the city-municipality in fair and competent

- administration of elections requires that the city municipality not conduct its own elections.
- (3) The ~~city-municipal~~ council and municipal board of elections are given an opportunity to be heard before the State Board.
 - (4) The State Board by a vote of at least four of its members designates the county board of elections as the ~~ongoing~~ permanent agency to conduct that ~~city's~~ municipality's elections.

The ~~city-municipal~~ council may not elect to conduct its own elections under G.S. 163-285 ~~until every member of the city council has been elected in a election conducted by the county board of elections after the State Board's designation. if the State Board has designated the county board of elections under this subsection as the permanent agency to conduct the municipality's elections.~~

(e) Reimbursement. – If the county board of elections administers a ~~city's~~ municipality's elections pursuant to subsection (b), (c), or (d) of this section, the ~~city-municipality~~ shall reimburse the county board of elections in the manner set forth in G.S. 163-285."

SECTION 4. The State Board of Elections shall inspect the operations of the municipal boards of elections in the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss during September, October, or November of 2001. The State Board shall make subsequent inspections as needed. Those municipalities shall cooperate with the State Board fully. If an inspection generates findings that election laws or regulations have been violated, the State Board shall take appropriate action under G.S. 163-304 or other applicable law.

SECTION 5. This act prevails over local acts.

SECTION 6. Sections 1 and 2 of this act become effective January 1, 2002, and apply to all primaries and elections held on and after that date. Section 3 of this act becomes effective when this act becomes law with respect to the City of Morganton, the Town of Granite Falls, the Town of Old Fort, and the Town of Rhodhiss. Section 3 of this act becomes effective January 1, 2002, with respect to all other municipalities. Section 4 of this act is effective when this act becomes law. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

Became law upon approval of the Governor at 11:56 a.m. on the 17th day of August, 2001.

S.B. 446

SESSION LAW 2001-375

AN ACT TO AMEND THE NORTH CAROLINA PHARMACY PRACTICE ACT BY AUTHORIZING THE BOARD TO ESTABLISH REGISTRATION CRITERIA FOR PHARMACY TECHNICIANS AND TO INCLUDE PHARMACY TECHNICIANS IN BOARD AGREEMENTS WITH SPECIAL PEER REVIEW ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-85.3 is amended by adding the following new subsections to read:

"(q1) 'Pharmacy personnel' means pharmacists and pharmacy technicians.

(q2) 'Pharmacy technician' means a person who may, under the supervision of a pharmacist, perform technical functions to assist the pharmacist in preparing and dispensing prescription medications."

SECTION 2. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-85.15A. Pharmacy technicians.

(a) Registration. – A registration program for pharmacy technicians is established for the purposes of identifying those persons who are employed as pharmacy technicians. The Board must maintain a registry of pharmacy technicians that contains the name of each pharmacy technician, the name and location of the pharmacy in which the pharmacy technician works, the pharmacist-manager who employs the pharmacy technician, and the dates of that employment. The Board must register a pharmacy technician who pays the fee required under G.S. 90-85.24 and completes a required training program. A pharmacy technician must register with the Board within 30 days after the date the pharmacy technician completes a training program conducted by the pharmacy technician's pharmacist-manager. The registration must be renewed annually by paying a registration fee.

(b) Responsibilities of Pharmacist-Manager. – A pharmacist-manager may hire a person who has a high school diploma or equivalent or is currently enrolled in a program that awards a high school diploma or equivalent to work as a pharmacy technician. Pursuant to G.S. 90-85.21, a pharmacist-manager must notify the Board within 30 days of the date the pharmacy technician began employment. The pharmacist-manager must provide a training program for a pharmacy technician that includes pharmacy terminology, pharmacy calculations, dispensing systems and labeling requirements, pharmacy laws and regulations, record keeping and documentation, and the proper handling and storage of medications.

The requirements of a training program may differ depending upon the type of employment. The training program must be provided and completed within 180 days of the date the pharmacy technician began employment unless the pharmacy technician is registered with the Board. If the pharmacy technician is registered with the Board, then the completion of the training program is optional at the discretion of the pharmacist-manager.

(c) Supervision. – A pharmacist may not supervise more than two pharmacy technicians unless the pharmacist-manager receives written approval from the Board. The Board may not allow a pharmacist to supervise more than two pharmacy technicians unless the additional pharmacy technicians have passed a nationally recognized pharmacy technician certification board exam, or its equivalent, that has been approved by the Board. The Board must respond to a request from a pharmacist-manager to allow a pharmacist to supervise more than two pharmacy technicians within 60 days of the date it received the request. The Board must respond to the request in one of three ways:

- (1) Approval of the request.
- (2) Approval of the request as amended by the Board.
- (3) Disapproval of the request. A disapproval of a request must include a reasonable explanation of why the request was not approved.

(d) Disciplinary Action. – The Board may, in accordance with Chapter 150B of the General Statutes and rules adopted by the Board, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew the registration of a pharmacy technician if the pharmacy technician has done one or more of the following:

- (1) Made false representations or withheld material information in connection with registering as a pharmacy technician.
- (2) Been found guilty of or plead guilty or nolo contendere to a felony involving the use or distribution of drugs.
- (3) Indulged in the use of drugs to an extent that it renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.
- (4) Developed a physical or mental disability that renders the pharmacy technician unfit to assist a pharmacist in preparing and dispensing prescription medications.
- (5) Willfully violated any provision of this Article or rules adopted by the Board governing pharmacy technicians.

(e) Exemption. – This section does not apply to pharmacy students who are enrolled in a school of pharmacy approved by the Board under G.S. 90-85.13.

(f) Rule-Making Authority. – The Board may adopt rules necessary to implement this section."

SECTION 3. G.S. 90-85.21(a) reads as rewritten:

"§ 90-85.21. *Pharmacy permit.*

(a) In accordance with Board regulations, each pharmacy in North Carolina shall annually register with the Board on a form provided by the Board. The application shall identify the pharmacist-manager of the pharmacy and all ~~pharmacist~~pharmacy personnel employed in the pharmacy. All pharmacist-managers shall notify the Board of any change in ~~pharmacist~~pharmacy personnel within 30 days of ~~such~~the change."

SECTION 4. G.S. 90-85.24 reads as rewritten:

"§ 90-85.24. *Fees collectible by Board.*

The Board of Pharmacy shall be entitled to charge and collect not more than the following fees: for the examination of an applicant for license as a pharmacist, one hundred sixty dollars (\$160.00) plus the cost of the test material; for renewing the license as a pharmacist, one hundred ten dollars (\$110.00); ~~for renewing the license of an assistant pharmacist, ten dollars (\$10.00);~~for registration of a pharmacy technician, twenty-five dollars (\$25.00); for licenses without examination as provided in G.S. 90-85.20, original, four hundred dollars (\$400.00); for original registration of a pharmacy, three hundred fifty dollars (\$350.00), and renewal thereof, one hundred seventy-five dollars (\$175.00); for annual registration as a dispensing physician under G.S. 90-85.21(b), fifty dollars (\$50.00); for annual registration as a dispensing physician assistant under G.S. 90-18.1, fifty dollars (\$50.00); for annual registration as a dispensing nurse practitioner under G.S. 90-18.2, fifty dollars (\$50.00); for registration of any change in pharmacist personnel as required under G.S. 90-85.21(a), twenty-five dollars (\$25.00); for a duplicate of any license, permit, or registration issued by the Board, twenty-five dollars (\$25.00); for registration to dispense devices, deliver medical equipment, or both, three hundred dollars (\$300.00) per year. All fees shall be paid before any applicant may be admitted to examination or the applicant's name may be placed upon the register of pharmacists or before any license or permit, or any renewal thereof, may be issued by the Board."

SECTION 5. G.S. 90-85.38(a) reads as rewritten:

"(a) The Board may, in accordance with Chapter 150B of the General Statutes, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew a license to practice pharmacy, or require licensees to successfully complete remedial education if the licensee ~~has~~has done any of the following:

- (1) Made false representations or withheld material information in connection with securing a license or ~~permit; permit.~~
- (2) Been found guilty of or plead guilty or nolo contendere to any felony in connection with the practice of pharmacy or the distribution of ~~drugs; drugs.~~
- (3) Indulged in the use of drugs to an extent that renders ~~him the pharmacist~~ unfit to practice ~~pharmacy; pharmacy.~~
- (4) Made false representations in connection with the practice of pharmacy that endanger or are likely to endanger the health or safety of the public, or that defraud any ~~person; person.~~
- (5) ~~A~~Developed a physical or mental disability that renders ~~him the pharmacist~~ unfit to practice pharmacy with reasonable skill, competence and safety to the ~~public; public.~~
- (6) Failed to comply with the laws governing the practice of pharmacy and the distribution of ~~drugs; drugs.~~
- (7) Failed to comply with any provision of this Article or the rules and regulations of adopted by the Board; Board.
- (8) Engaged in, or aided and abetted an individual to engage in, the practice of pharmacy without a ~~license; or license.~~
- (9) ~~Was~~Been negligent in the practice of pharmacy."

SECTION 6. G.S. 90-85.40(a) reads as rewritten:

"(a) It shall be unlawful for any owner or manager of a pharmacy or other place to allow or cause anyone other than a pharmacist to dispense or compound any prescription drug ~~except unless that person is a pharmacy technician or a pharmacy student who is enrolled in a school of pharmacy approved by the Board as an aide to and and is working under the supervision of a pharmacist.~~"

SECTION 7. G.S. 90-85.40(c) reads as rewritten:

"(c) It shall be unlawful for any person not licensed as a pharmacist to compound or dispense any prescription drug, ~~except unless that person is a pharmacy technician or a pharmacy student who is enrolled in a school of pharmacy approved by the Board as an aide to and and is working under the supervision of a pharmacist.~~"

SECTION 8. G.S. 90-85.41 reads as rewritten:

"§ 90-85.41. *Board agreements with special peer review organizations for impaired ~~pharmacists; pharmacy personnel.~~*

(a) The North Carolina Board of Pharmacy may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, enter into agreements with special impaired ~~pharmacist; pharmacy personnel~~ peer review organizations. Peer review activities to be covered by such agreements shall include

investigation, review and evaluation of records, reports, complaints, litigation, and other information about the practices and practice patterns of ~~pharmacists~~ pharmacy personnel licensed or registered by the Board, as such matters may relate to impaired ~~pharmacists~~ pharmacy personnel. Special impaired ~~pharmacist~~ pharmacy personnel peer review organizations may include a statewide supervisory committee and various regional and local components or subgroups.

(b) Agreements authorized under this section shall include provisions for the impaired ~~pharmacist~~ pharmacy personnel peer review organizations to receive relevant information from the Board and other sources, conduct any investigation, review, and evaluation in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the peer review process, make reports of investigations and evaluations to the Board, and to do other related activities for operating and promoting a coordinated and effective peer review process. The agreements shall include provisions assuring basic due process for ~~pharmacists~~ pharmacy personnel that become involved.

(c) The impaired ~~pharmacist~~ pharmacy personnel peer review organizations that enter into agreements with the Board shall establish and maintain a program for impaired ~~pharmacists~~ pharmacy personnel licensed or registered by the Board for the purpose of identifying, reviewing, and evaluating the ability of those pharmacists to function as pharmacists, and pharmacy technicians to function as pharmacy technicians, and to provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired ~~pharmacist~~ pharmacy personnel peer review programs. The Board shall adopt rules to apply to the operation of impaired ~~pharmacist~~ pharmacy personnel peer review programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v) arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; and (viii) assurance of confidentiality of nonpublic information and of the peer review process.

(d) Upon investigation and review of a pharmacist licensed by the Board, or a pharmacy technician registered with the Board, or upon receipt of a complaint or other information, an impaired ~~pharmacist~~ pharmacy personnel peer review organization that enters into a peer review agreement with the Board shall report immediately to the Board detailed information about any pharmacist licensed or pharmacy technician registered by the Board, if:

- (1) The pharmacist or pharmacy technician constitutes an imminent danger to the public or himself or herself.
- (2) The pharmacist or pharmacy technician refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.
- (3) It reasonably appears that there are other grounds for disciplinary action.

(e) Any confidential patient information and other nonpublic information acquired, created, or used in good faith by an impaired ~~pharmacist~~ pharmacy personnel peer review organization pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case. No person participating in good faith in an impaired ~~pharmacist~~ pharmacy personnel peer review program developed under this section shall be required in a civil case to disclose any information (including opinions, recommendations, or evaluations) acquired or developed solely in the course of participating in the program.

(f) Impaired ~~pharmacist~~ pharmacy personnel peer review activities conducted in good faith pursuant to any program developed under this section shall not be grounds for civil action under the laws of this State, and the activities are deemed to be State directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws."

SECTION 9. A person employed as a pharmacy technician prior to January 1, 2002, may register with the Board of Pharmacy as a pharmacy technician without completing the pharmacy technician-training program required under G.S. 90-85.15A, as enacted by this act, if (i) the pharmacist-manager who employs the person certifies to the Board that the person has the training necessary to serve as a pharmacy technician and (ii) the person registers with the Board prior to July 1, 2002.

SECTION 10. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

Became law upon approval of the Governor at 11:57 a.m. on the 17th day of August, 2001.

S.B. 778**SESSION LAW 2001-376**

AN ACT TO MODIFY THE LAW REGARDING CRIMINAL HISTORY CHECKS OF APPLICANTS FOR EMPLOYMENT IN PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-332 reads as rewritten:
 "§ 115C-332. *School personnel criminal history checks.*

...

(d) The local board of education shall review the criminal history it receives on a person. The local board shall determine whether the results of the review indicate that the applicant or employee (i) poses a threat to the physical safety of students or personnel, or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as public school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The local board shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors. The local board may delegate any of the duties in this subsection to the superintendent.

(e) The local board of ~~education~~ education, or the superintendent if designated by the local board of education, shall provide to the State Board of Education the criminal history it receives on a person who is certificated, certified, or licensed by the State Board of Education. The State Board of Education shall review the criminal history and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

(f) All the information received by the local board of education through the checking of the criminal history or by the State Board of Education in accordance with ~~subsection (d) of this section~~ is privileged information and is not a public record but is for the exclusive use of the local board of education or the State Board of Education. The local board of education or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

...

(h) Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor."

SECTION 2. G.S. 115C-325(a)(8) reads as rewritten:
 "(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

(8) "Year" for purposes of computing time as a probationary teacher shall be not less than 120 workdays performed as a probationary teacher in a full-time permanent position in a school year. Workdays performed pending the outcome of a criminal history check as provided in G.S.

115C-332 are included in computing time as a probationary teacher."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

Became law upon approval of the Governor at 11:58 a.m. on the 17th day of August, 2001.

S.B. 780**SESSION LAW 2001-377**

AN ACT TO CLARIFY THE METHOD BY WHICH PHYSICIANS' LIENS ARE PERFECTED AND THE DUTIES OF ATTORNEYS WITH RESPECT TO PHYSICIANS' LIENS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44-49 reads as rewritten:

"§ 44-49. *Lien created; applicable to persons non sui juris.*

(a) From and after March 26, 1935, there is hereby created a lien upon any sums recovered as damages for personal injury in any civil action in this ~~State, the said State.~~ This lien is in favor of any person, corporation, municipal corporation or county to whom the person so recovering, or the person in whose behalf the recovery has been made, may be indebted for any drugs, medical supplies, ambulance services, ~~and medical services rendered by any physician, dentist, trained nurse, or hospitalization, hospital, or hospital attention and/or services attention or services rendered in connection with the injury in compensation for which the ~~said~~ damages have been recovered.~~ Where damages are recovered for and in behalf of minors or persons non compos mentis, ~~such the~~ liens shall attach to the sum recovered as fully as if the ~~said~~ person were sui juris.

(b) ~~Notwithstanding the provisions of paragraph one subsection (a) of this section, no lien therein provided for under subsection (a) of this section shall be is valid with respect to any claims whatsoever unless the person or corporation entitled to the lien therein provided for shall file a claim with the clerk of the court in which said civil action is instituted within 30 days after the institution of such action and further provided that the physician, dentist, trained nurse, hospital hospital, corporation, or such other person as has a lien hereunder shall, entitled to the lien furnishes, without charge to the attorney as a condition precedent to the creation of such the lien, furnish upon request to the attorney representing the person in whose behalf the claim for personal injury is made, an itemized statement, hospital record, or medical report for the use of such the attorney in the negotiation settlement negotiation, settlement, or trial of the claim~~

arising by reason of the personal ~~injury~~injury, and a written notice to the attorney of the lien claimed.

No liens of the character provided for in the first paragraph of this section shall hereafter be valid with respect to money that may be recovered in any pending civil actions in this State unless claims based on such liens are filed with the clerk of the court in which the action is pending within 90 days after April 5, 1947.

(c) No action shall lie against any clerk of court or any surety on any clerk's bond to recover any claims based upon any lien or liens created by the first paragraph under subsection (a) of this section when recovery has ~~heretofore~~ been had by the person injured, and no claims against ~~such~~the recovery were filed with the clerk by any person or corporation, and the clerk has otherwise disbursed according to law the money recovered in ~~such~~the action for personal injuries."

SECTION 2. G.S. 44-50 reads as rewritten:

"§ 44-50. *Receiving person charged with duty of retaining funds for purpose stated; evidence; attorney's fees; charges.*

Such a lien as provided for in A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in compensation for or settlement of the said injuries, whether in litigation or otherwise; and it shall be the duty of any person receiving the same before disbursement thereof to otherwise. If an attorney represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their disbursement, any person that receives those funds shall retain out of any recovery or any compensation so received a sufficient amount to pay the just and bona fide claims for ~~such any~~ drugs, medical supplies, ambulance ~~service and services, medical attention and/or services rendered by any physician, dentist, nurse, or hospital, or hospital service, attention or services,~~ after having received and accepted notice thereof: Provided, that evidence of those claims. Evidence as to the amount of ~~such the~~ charges shall be competent in the trial of any such action: Provided, further, that ~~nothing herein contained~~ the action. Nothing in this section or in G.S. 44-49 shall be construed so as to interfere with any amount due for attorney's ~~services: Provided, further, that the lien hereinbefore services.~~ The lien provided for shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages recovered. Except as provided in G.S. 44-51, a client's instructions for the disbursement of settlement or judgment proceeds are not binding on the disbursing attorney to the extent that the instructions conflict with the requirements of this Article."

SECTION 3. This act becomes effective October 1, 2001, and applies to liens perfected on or after that date.

In the General Assembly read three times and ratified this the 6th day of August, 2001.

Became law upon approval of the Governor at 11:59 a.m. on the 17th day of August, 2001.

S.B. 137 SESSION LAW 2001-378

**AN ACT TO AUTHORIZE CERTAIN PRIVATE
CORRECTIONAL OFFICERS TO USE FORCE AND MAKE
ARRESTS CONSISTENT WITH NORTH CAROLINA LAW.**

The General Assembly of North Carolina enacts:

SECTION 1. Correctional officers and security supervisors employed at private correctional facilities pursuant to a contract between their employer and the Federal Bureau of Prisons may, in the course of their employment as correctional officers or security supervisors, use necessary force and make arrests consistent with the laws applicable to the North Carolina Department of Correction, which force shall not exceed that authorized to Department of Correction officers, provided that the Department of Correction determines that as of the effective date of this act, the employment policies of such private corporations meet the same minimum standards and practices followed by the Department of Correction in employing its correctional personnel, and if:

- (1) Those correctional officers and security supervisors have been certified as correctional officers as provided under Chapter 17C of the General Statutes; or
- (2) Those correctional officers and security supervisors employed by the private corporation at the facility have completed a training curriculum that the Department of Correction has determined meets or exceeds the standards required by the North Carolina Criminal Justice Education and Training Standards Commission for correctional personnel. The Department may require that it be notified of the names and positions of such persons prior to such persons beginning duties at the correctional facility, and the names and positions of those persons already employed at the correctional facility on the effective date of this act and that the Department be notified when any such person is no longer employed in such duties at the correctional facility.

SECTION 2. Any private corporation described in Section 1 of this act shall without limit defend, indemnify, and hold harmless the State, its officers, employees, and agents from any

claims arising out of the operation of the private correctional facility, or the granting of the powers authorized under this act, including any attorneys' fees or other legal costs incurred by the State, its officers, employees, or agents as a result of such claims.

SECTION 2.1. Any private corporation described in Section 1 of this act shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in Section 1 of this act shall immediately notify the sheriff in the county in which the facility is located and shall notify the Department of Correction which shall cause an immediate entry into the State Bureau of Investigation Division of Criminal Information network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility.

SECTION 3. Any private corporation described in Section 1 of this act must maintain in force liability insurance to satisfy any final judgment rendered against the private corporation or the State, its officers, employees, and agents that arises out of the operation of the correctional facility or the indemnification requirements in Section 2 of this act. The minimum amount of liability insurance that will be required under this section is ten million dollars (\$10,000,000) per occurrence, and twenty-five million dollars (\$25,000,000) aggregate per occurrence. The private corporation shall ensure that its insurance company shall provide the Department of Correction with a current Certificate of Insurance evidencing compliance with the requirements of this section within 10 days of the effective date of this act and annually thereafter.

SECTION 4. The Department of Correction shall adopt rules to implement the provisions of this act.

SECTION 5. The authority set forth in this act to use necessary force and make arrests shall be in addition to any existing authority set forth in the statutory or common law of the State, but shall not exceed the authority to use necessary force and make arrests set out in Section 1 of this act.

SECTION 6. A private corporation described in Section 1 of this act shall bear the reasonable costs of services provided by the Department of Correction for the corporation. The amount of the costs shall be determined by the Secretary of the Department.

SECTION 7. This act is effective when it becomes law, applies to private correctional facilities and the employees of those correctional facilities constructed and contracted to be operated by the

effective date of this act, and expires two years after the effective date.

In the General Assembly read three times and ratified this the 7th day of August, 2001.

Became law upon approval of the Governor at 11:30 a.m. on the 18th day of August, 2001.

H.B. 439

SESSION LAW 2001-379

AN ACT TO AMEND THE RULES OF CIVIL PROCEDURE AS RECOMMENDED BY THE CIVIL LITIGATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SUMMONS ALIVE FOR 60 DAYS (RULE 4(c))

SECTION 1. G.S. 1A-1, Rule 4(c) reads as rewritten:

"(c) Summons – Return. – Personal service or substituted personal service of summons as prescribed by Rule 4(j)(1) a and b must be made within ~~30~~60 days after the date of the issuance of ~~summons,~~ ~~except that in tax and assessment foreclosures under G.S. 47-108.25 or G.S. 105-374 the time allowed for service is 60 days.~~ summons. When a summons has been served upon every party named in the summons, it shall be returned immediately to the clerk who issued it, with notation thereon of its service.

Failure to make service within the time allowed or failure to return a summons to the clerk after it has been served on every party named in the summons shall not invalidate the summons. If the summons is not served within the time allowed upon every party named in the summons, it shall be returned immediately upon the expiration of such time by the officer to the clerk of the court who issued it with notation thereon of its nonservice and the reasons therefor as to every such party not served, but failure to comply with this requirement shall not invalidate the summons."

SERVICE BY DESIGNATED DELIVERY SERVICE (RULE 4(j)) AND CONFORMING CHANGES TO PROOF OF SERVICE

SECTION 2. G.S. 1A-1, Rule 4(j) reads as rewritten:

"(j) Process – Manner of service to exercise personal jurisdiction. – In any action commenced in a court of this State having jurisdiction of the subject matter and grounds for personal jurisdiction as provided in G.S. 1-75.4, the manner of service of process within or without the State shall be as follows:

- (1) Natural Person. – Except as provided in subsection (2) below, upon a natural ~~person~~person by one of the following:
 - a. By delivering a copy of the summons and of the complaint to him or by leaving copies thereof at the defendant's dwelling house or usual place of abode with some person of suitable age and discretion then residing ~~therein~~or therein.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the party to be served, and delivering to the addressee.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt.
- (2) Natural Person under Disability. – Upon a natural person under disability by serving process in any manner prescribed in this section (j) for service upon a natural person and, in addition, where required by paragraph a or b below, upon a person therein designated.
 - a. Where the person under disability is a minor, process shall be served separately in any manner prescribed for service upon a natural person upon a parent or guardian having custody of the child, or if there be none, upon any other person having the care and control of the child. If there is no parent, guardian, or other person having care and control of the child when service is made upon the child, then service of process must also be made upon a guardian ad litem who has been appointed pursuant to Rule 17.
 - b. If the plaintiff actually knows that a person under disability is under guardianship of any kind, process shall be served separately upon his guardian in any manner applicable and appropriate under this section (j). If the plaintiff does not actually know that a guardian has been appointed when service is made upon a person known to him to be

incompetent to have charge of his affairs, then service of process must be made upon a guardian ad litem who has been appointed pursuant to Rule 17.

- (3) The State. – Upon the State by personally delivering a copy of the summons and of the complaint to the Attorney General or to a deputy or assistant attorney ~~general or general~~; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or to a deputy or assistant attorney ~~general general~~; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the Attorney General or to a deputy or assistant attorney general, delivering to the addressee, and obtaining a delivery receipt.
- (4) An Agency of the State. –
- a. Upon an agency of the State by personally delivering a copy of the summons and of the complaint to the process agent appointed by the agency in the manner hereinafter ~~provided provided~~; ~~or~~ by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to said process ~~agent agent~~; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the process agent, delivering to the addressee, and obtaining a delivery receipt.
 - b. Every agency of the State shall appoint a process agent by filing with the Attorney General the name and address of an agent upon whom process may be served.
 - c. If any agency of the State fails to comply with paragraph b above, then service upon such agency may be made by personally delivering a copy of the summons and of the complaint to the Attorney General or to a deputy or assistant attorney ~~general or general~~; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General, or to a deputy or assistant attorney ~~general general~~; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint,

- addressed to the Attorney General or to a deputy or assistant attorney general, delivering to the addressee, and obtaining a delivery receipt.
- d. For purposes of this rule, the term "agency of the State" includes every agency, institution, board, commission, bureau, department, division, council, member of Council of State, or officer of the State government of the State of North Carolina, but does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State, county or city boards of education, other local public districts, units, or bodies of any kind, or private corporations created by act of the General Assembly.
- (5) Counties, Cities, Towns, Villages and Other Local Public Bodies. –
- a. Upon a city, town, or village by personally delivering a copy of the summons and of the complaint to its mayor, city manager or ~~clerk~~ ~~or clerk~~; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its mayor, city manager or ~~clerk~~ ~~clerk~~; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the mayor, city manager, or clerk, delivering to the addressee, and obtaining a delivery receipt.
- b. Upon a county by personally delivering a copy of the summons and of the complaint to its county manager or to the chairman, clerk or any member of the board of commissioners for such ~~county~~ ~~or county~~; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to its county manager or to the chairman, clerk, or any member of this board of commissioners for such ~~county~~ ~~county~~; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the county manager or to the chairman, clerk, or any member of the board of commissioners of that county, delivering to the addressee, and obtaining a delivery receipt.

- c. Upon any other political subdivision of the State, any county or city board of education, or other local public district, unit, or body of any kind (i) by personally delivering a copy of the summons and of the complaint to an officer or director thereof, ~~or~~ (ii) by personally delivering a copy of the summons and of the complaint to an agent or attorney-in-fact authorized by appointment or by statute to be served or to accept service in its behalf, ~~or~~ (iii) by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent, or attorney-in-fact as specified in (i) and ~~(ii)~~-(ii), or (iv) by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, agent, or attorney-in-fact as specified in (i) and (ii), delivering to the addressee, and obtaining a delivery receipt.
 - d. In any case where none of the officials, officers or directors specified in paragraphs a, b and c can, after due diligence, be found in the State, and that fact appears by affidavit to the satisfaction of the court, or a judge thereof, such court or judge may grant an order that service upon the party sought to be served may be made by personally delivering a copy of the summons and of the complaint to the Attorney General or any deputy or assistant attorney general of the State of North ~~Carolina, or~~ Carolina; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the Attorney General or any deputy or assistant attorney general of the State of North ~~Carolina, Carolina;~~ or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the Attorney General or any deputy or assistant attorney general of the State of North Carolina, delivering to the addressee, and obtaining a delivery receipt.
- (6) Domestic or Foreign Corporation. – Upon a domestic or foreign ~~corporation; corporation~~ by one of the following:
- a. By delivering a copy of the summons and of the complaint to an officer, director, or managing agent

of the corporation or by leaving copies thereof in the office of such officer, director, or managing agent with the person who is apparently in charge of the ~~office; or~~ office.

- b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service ~~or [of]~~ of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director or agent to be served as specified in paragraphs a and b.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, or agent to be served as specified in paragraphs a. and b., delivering to the addressee, and obtaining a delivery receipt.
- (7) Partnerships. – Upon a general or limited partnership:
- a. By delivering a copy of the summons and of the complaint to any general partner, or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its ~~behalf, or~~ behalf; by mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to any general partner, or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its ~~behalf, or~~ behalf; or by depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to any general partner or to any attorney-in-fact or agent authorized by appointment or by law to be served or to accept service of process in its behalf, delivering to the addressee, and obtaining a delivery receipt; or by leaving copies thereof in the office of such general partner, attorney-in-fact or agent with the person who is apparently in charge of the office.
 - b. If relief is sought against a partner specifically, a copy of the summons and of the complaint must be

served on such partner as provided in this section (j).

- (8) Other Unincorporated Associations and Their Officers. – Upon any unincorporated association, organization, or society other than a ~~partnership~~; partnership by one of the following:
- a. By delivering a copy of the summons and of the complaint to an officer, director, managing agent or member of the governing body of the unincorporated association, organization or society, or by leaving copies thereof in the office of such officer, director, managing agent or member of the governing body with the person who is apparently in charge of the ~~office~~; office.
 - b. By delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to be served or to accept service of process or by serving process upon such agent or the party in a manner specified by any statute.
 - c. By mailing a copy of the summons and of the complaint, registered or certified mail, return receipt requested, addressed to the officer, director, agent or member of the governing body to be served as specified in paragraphs a and b.
 - d. By depositing with a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and complaint, addressed to the officer, director, agent, or member of the governing body to be served as specified in paragraphs a. and b., delivering to the addressee, and obtaining a delivery receipt.
- (9) Service upon a foreign state or a political subdivision, agency, or instrumentality thereof shall be effected pursuant to 28 U.S.C. § 1608."

SECTION 2.1. G.S. 1A-1, Rule 4(j1) reads as rewritten:

"(j1) Service by publication on party that cannot otherwise be served. – A party that cannot with due diligence be served by personal ~~delivery or delivery,~~ registered or certified ~~mail~~ mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) may be served by publication. Except in actions involving jurisdiction in rem or quasi in rem as provided in section (k), service of process by publication shall consist of publishing a notice of service of process by publication once a week for three successive weeks in a newspaper that is qualified for legal advertising in accordance with G.S. 1-597 and G.S. 1-598 and circulated in the area

where the party to be served is believed by the serving party to be located, or if there is no reliable information concerning the location of the party then in a newspaper circulated in the county where the action is pending. If the party's post-office address is known or can with reasonable diligence be ascertained, there shall be mailed to the party at or immediately prior to the first publication a copy of the notice of service of process by publication. The mailing may be omitted if the post-office address cannot be ascertained with reasonable diligence. Upon completion of such service there shall be filed with the court an affidavit showing the publication and mailing in accordance with the requirements of G.S. 1-75.10(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.

The notice of service of process by publication shall (i) designate the court in which the action has been commenced and the title of the action, which title may be indicated sufficiently by the name of the first plaintiff and the first defendant; (ii) be directed to the defendant sought to be served; (iii) state either that a pleading seeking relief against the person to be served has been filed or has been required to be filed therein not later than a date specified in the notice; (iv) state the nature of the relief being sought; (v) require the defendant being so served to make defense to such pleading within 40 days after a date stated in the notice, exclusive of such date, which date so stated shall be the date of the first publication of notice, or the date when the complaint is required to be filed, whichever is later, and notify the defendant that upon his failure to do so the party seeking service of process by publication will apply to the court for the relief sought; (vi) in cases of attachment, state the information required by G.S. 1-440.14; (vii) be subscribed by the party seeking service or his attorney and give the post-office address of such party or his attorney; and (viii) be substantially in the following form:

NOTICE OF SERVICE OF PROCESS BY PUBLICATION
STATE OF NORTH CAROLINA _____ COUNTY
IN THE _____ COURT

[Title of action or special proceeding] [To Person to be served]:

Take notice that a pleading seeking relief against you (has been filed) (is required to be filed not later than _____, ____) in the above-entitled (action) (special proceeding). The nature of the relief being sought is as follows:

(State nature).

You are required to make defense to such pleading not later than (_____, ____) and upon your failure to do so the party seeking service against you will apply to the court for the relief sought.

This, the _____ day of _____, ____

_____ (Attorney) (Party)
 _____ (Address)."

SECTION 2.2. G.S. 1A-1, Rule 4(j2) reads as rewritten:

"(j2)Proof of service. – Proof of service of process shall be as follows:

- (1) Personal Service. – Before judgment by default may be had on personal service, proof of service must be provided in accordance with the requirements of G.S. 1-75.10(1).
- (2) Registered or Certified ~~Mail.~~ Mail or Designated Delivery Service. – Before judgment by default may be had on service by registered or certified ~~mail, mail or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt,~~ the serving party shall file an affidavit with the court showing proof of such service in accordance with the requirements of ~~G.S. 1-75.10(4).~~ G.S. 1-75.10(4) or G.S. 1-75.10(5), as appropriate. This affidavit together with the return or delivery receipt signed by the person who received the mail or delivery if not the addressee raises a presumption that the person who received the mail or delivery and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the addressee's dwelling house or usual place of abode. In the event the presumption described in the preceding sentence is rebutted by proof that the person who received the receipt at the addressee's dwelling house or usual place of abode was not a person of suitable age and discretion residing therein, the statute of limitation may not be pleaded as a defense if the action was initially commenced within the period of limitation and service of process is completed within 60 days from the date the service is declared invalid. Service shall be complete on the day the summons and complaint are delivered to the address.
- (3) Publication. – Before judgment by default may be had on service by publication, the serving party shall file an affidavit with the court showing the circumstances warranting the use of service by publication, information, if any, regarding the location of the party served which was used in determining the area in which service by publication was printed and proof of service in accordance with G.S. 1-75.10(2)."

SECTION 2.3. G.S. 1-75.10 reads as rewritten:

"§ 1-75.10. *Proof of service of summons, defendant appearing in action.*

Where the defendant appears in the action and challenges the service of the summons upon him, proof of the service of process shall be as follows:

- (1) Personal Service or Substituted Personal Service. –
 - a. If served by the sheriff of the county or the lawful process officer in this State where the defendant was found, by the officer's certificate thereof, showing place, time and manner of service; or
 - b. If served by any other person, his affidavit thereof, showing place, time and manner of service; his qualifications to make service under Rule 4(a) or Rule 4(j3) of the Rules of Civil Procedure; that he knew the person served to be the party mentioned in the summons and delivered to and left with him a copy; and if the defendant was not personally served, he shall state in such affidavit when, where and with whom such copy was left. If such service is made outside this State, the proof thereof may in the alternative be made in accordance with the law of the place where such service is made.
- (2) Service of Publication. – In the case of publication, by the affidavit of the publisher or printer, or his foreman or principal clerk, showing the same and specifying the date of the first and last publication, and an affidavit of mailing of a copy of the complaint or notice, as the case may require, made by the person who mailed the same.
- (3) Written Admission of Defendant. – The written admission of the defendant, whose signature or the subscription of whose name to such admission shall be presumptive evidence of genuineness.
- (4) Service by Registered or Certified Mail. – In the case of service by registered or certified mail, by affidavit of the serving party averring:
 - a. That a copy of the summons and complaint was deposited in the post office for mailing by registered or certified mail, return receipt requested;
 - b. That it was in fact received as evidenced by the attached registry receipt or other evidence satisfactory to the court of delivery to the addressee; and
 - c. That the genuine receipt or other evidence of delivery is attached.

- (5) Service by Designated Delivery Service. – In the case of service by designated delivery service, by affidavit of the serving party averring:
- a. That a copy of the summons and complaint was deposited with a designated delivery service as authorized under G.S. 1A-1, Rule 4, delivery receipt requested;
 - b. That it was in fact received as evidenced by the attached delivery receipt or other evidence satisfactory to the court of delivery to the addressee; and
 - c. That the genuine receipt or other evidence of delivery is attached."

SERVICE OF PLEADINGS AND PAPERS BY FAX (RULE 5(b))

SECTION 3. G.S. 1A-1, Rule 5(b) reads as rewritten:

"(b) Service – How made. – A pleading setting forth a counterclaim or cross claim shall be filed with the court and a copy thereof shall be served on the party against whom it is asserted or on ~~his~~ the party's attorney of record. With respect to all pleadings subsequent to the original complaint and other papers required or permitted to be served, service with due return may be made in the manner provided for service and return of process in Rule 4 and may be made upon either the party or, unless service upon the party ~~himself~~ personally is ordered by the court, upon ~~his~~ the party's attorney of record. With respect to such other pleadings and papers, service upon the attorney or upon a party may also be made by delivering a copy to ~~him~~ the party or by mailing it to ~~him~~ the party at ~~his~~ the party's last known address or, if no address is known, by filing it with the clerk of court. Delivery of a copy within this rule means handing it to the attorney or to the ~~party; or party,~~ leaving it at the attorney's office with a partner or ~~employee.~~ employee, or by sending it to the attorney's office by a confirmed telefacsimile transmittal for receipt by 5:00 P.M. Eastern Time on a regular business day, as evidenced by a telefacsimile receipt confirmation. If receipt of delivery by telefacsimile is after 5:00 P.M., service will be deemed to have been completed on the next business day. Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service."

ATTORNEY'S EMPLOYEE NOT DISQUALIFIED FOR VIDEOTAPE DEPOSITION (RULE 28(c))

SECTION 4. G.S. 1A-1, Rule 28(c) reads as rewritten:

"(c) Disqualification for interest. – Unless the parties agree otherwise by stipulation as provided in Rule 29, no deposition shall be taken before a person who is any of the following:

- (1) A relative, employee, or attorney of any of the parties;
- (2) A relative or employee of an attorney of the parties;
- (3) Financially interested in the action; or
- (4) An independent contractor if the contractor or the contractor's principal is under a blanket contract for the court reporting services with an attorney of the parties, party to the action, or party having a financial interest in the action. Notwithstanding the disqualification under this rule, the party desiring to take the deposition under a stipulation shall disclose the disqualification in writing in a Rule 30(b) notice of deposition and shall inform all parties to the litigation on the record of the existence of the disqualification under this rule and of the proposed stipulation waiving the disqualification. Any party opposing the proposed stipulation as provided in the notice of deposition shall give timely written notice of his or her opposition to all parties.

For the purposes of this rule, a blanket contract means a contract to perform court reporting services over a fixed period of time or an indefinite period of time, rather than on a case by case basis, or any other contractual arrangement which compels, guarantees, regulates, or controls the use of particular court reporting services in future cases.

Notwithstanding any other provision of law, a person is prohibited from taking a deposition under any contractual agreement that requires transmission of the original transcript without the transcript having been certified as provided in Rule 30(f) by the person before whom the deposition was taken.

Notwithstanding the provisions of this subsection, a person otherwise disqualified from taking a deposition under this subsection may take a deposition provided that the deposition is taken by videotape in compliance with Rule 30(b)(4) and Rule 30(f), and the notice for the taking of the deposition states the name of the person before whom the deposition will be taken and that person's relationship, if any, to a party or a party's attorney, provided that the deposition is also recorded by stenographic means by a nondisqualified person."

MEDIATION OF DISCOVERY DISPUTES (RULE 37)

SECTION 5. G.S. 1A-1, Rule 37(a) reads as rewritten:

"(a) Motion for order compelling discovery. – A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery as follows:

- (1) Appropriate Court. – An application for an order to a party or a deponent who is not a party may be made to a judge of the court in which the action is pending, or, on matters relating to a deposition where the deposition is being taken in this State, to a judge of the court in the county where the deposition is being taken, as defined by Rule 30(h).
- (2) Motion. – If a deponent fails to answer a question propounded or submitted under Rules 30 or 31, or a corporation or other entity fails to make a designation under Rule 30(b)(6) or 31(a), or a party fails to answer an interrogatory submitted under Rule 33, or if a party, in response to a request for inspection submitted under Rule 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question shall complete the examination on all other matters before he adjourns the examination in order to apply for an order.

If the court denies the motion in whole or in part, it may make such protective order as it would have been empowered to make on a motion made pursuant to Rule 26(c).

- (3) Evasive or Incomplete Answer. – For purposes of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.
- (4) Award of Expenses of Motion. – If the motion is granted, the court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney's fees, unless the court finds that the opposition to the motion

was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is denied, the court shall, after opportunity for hearing, require the moving party to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

If the motion is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner."

PRESERVING EXCEPTIONS TO RULINGS (RULE 46)

SECTION 6. G.S. 1A-1, Rule 46 reads as rewritten:

"Rule 46. Objections and exceptions.

(a) Rulings on admissibility of evidence. –

- (1) When there is objection to the admission of evidence on the ground that the witness is for a specified reason incompetent or not qualified or disqualified, it shall be deemed that a like objection has been made to any subsequent admission of evidence from the witness in question. Similarly, when there is objection to the admission of evidence involving a specified line of questioning, it shall be deemed that a like objection has been taken to any subsequent admission of evidence involving the same line of questioning.
- (2) If there is proper objection to the admission of evidence and the objection is overruled, the ruling of the court shall be deemed excepted to by the party making the objection. If an objection to the admission of evidence is sustained or if the court for any reason excludes evidence offered by a party, the ruling of the court shall be deemed excepted to by the party offering the evidence.
- (3) No objections are necessary with respect to questions propounded to a witness by the court or a juror but it shall be deemed that each such question has been properly objected to and that the objection has been overruled and that an exception has been taken to the ruling of the court by all parties to the action.

(b) ~~Rulings~~ Pretrial rulings, interlocutory orders, trial rulings, and other orders not directed to the admissibility of evidence. – With respect to ~~rulings~~ pretrial rulings, interlocutory orders, trial rulings,

and other orders of the court not directed to the admissibility of evidence, formal objections and exceptions are unnecessary. In order to preserve an exception to any such ruling or order or to the court's failure to make any such ruling or order, it shall be sufficient if a party, at the time the ruling or order is made or sought, makes known to the court ~~his~~ the party's objection to the action of the court or makes known the action ~~which he~~ that the party desires the court to take and ~~his ground therefor;~~ the party's grounds for its position. ~~and if~~ If a party has no opportunity to object or except to a ruling or order at the time it is made, the absence of an objection or exception does not thereafter prejudice ~~him~~ that party.

(e) ~~Instruction.~~ Instruction.— ~~If there is error, either in the refusal of the judge to grant a prayer for instructions, or in granting a prayer, or in his instructions generally, the same is deemed excepted to without the filing of any formal objections."~~

EXPAND CIRCUMSTANCES FOR SUBSTITUTION OF A JUDGE (RULE 63)

SECTION 7. G.S. 1A-1, Rule 63 reads as rewritten:

"Rule 63. Disability of a judge.

If by reason of death, ~~sickness,~~ sickness or other disability, resignation, retirement, expiration of term, removal from office, or other reason, a judge before whom an action has been tried or a hearing has been held is unable to perform the duties to be performed by the court under these rules after a verdict is returned or ~~findings of fact and conclusions of law are filed,~~ a trial or hearing is otherwise concluded, then those ~~duties~~ duties, including entry of judgment, may be performed:

- (1) In actions in the superior court by the judge senior in point of continuous service on the superior court regularly holding the courts of the district. If ~~such this~~ judge is ~~himself~~ under a disability, then the resident judge of the district senior in point of service on the superior court may perform those duties. If a resident judge, while holding court in ~~his~~ the judge's own district suffers disability and there is no other resident judge of the district, such duties may be performed by a judge of the superior court designated by the Chief Justice of the Supreme Court.
- (2) In actions in the district court, by the chief judge of the district, or if the chief judge is disabled, by any judge of the district court designated by the Director of the Administrative Office of the Courts.

If the substituted judge is satisfied that he or she cannot perform those duties because ~~he~~ the judge did not preside at the trial or hearing

or for any other reason, ~~he the judge may in his discretion may, in the judge's discretion,~~ grant a new ~~trial.~~ trial or hearing."

ENHANCED NOTICE FOR TEMPORARY RESTRAINING ORDER (RULE 65)

SECTION 8. G.S. 1A-1, Rule 65(b) reads as rewritten:

"(b) Temporary restraining order; notice; hearing; duration. – A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (i) it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. the adverse party or that party's attorney can be heard in opposition, and (ii) the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the judge fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice and a motion for a preliminary injunction is made, it shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and when the motion comes on for hearing, the party who obtained the temporary restraining order shall proceed with a motion for a preliminary injunction, and, if he does not do so, the judge shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the judge may prescribe, the adverse party may appear and move its dissolution or modification and in that event the judge shall proceed to hear and determine such motion as expeditiously as the ends of justice require. Damages may be awarded in an order for dissolution as provided in section (e)."

EFFECTIVE DATE

SECTION 9. Section 7 of this act is effective when it becomes law and applies to actions pending on or after that date. The remainder of this act becomes effective October 1, 2001, and applies to actions filed on or after that date.

In the General Assembly read three times and ratified this the 13th day of August, 2001.

Became law upon approval of the Governor at 11:31 a.m. on the 18th day of August, 2001.

S.B. 353 SESSION LAW 2001-380

**AN ACT TO PROVIDE A PERMANENT MECHANISM FOR THE
COLLECTION OF TAX DEBTS.**

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that the Department of Revenue has documented that the State's cost of collecting overdue tax debts exceeds twenty percent (20%) of the amount of the overdue tax debts. The General Assembly finds that the cost of collecting overdue tax debts is currently borne by taxpayers who pay their taxes on time. It is the intent of the General Assembly by this act to shift this cost to the delinquent taxpayers who owe overdue tax debts.

SECTION 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-243.1. Collection of tax debts.

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

(1) Overdue tax debt. – Any part of a tax debt that remains unpaid 90 days or more after the notice of final assessment was mailed to the taxpayer. The term does not include a tax debt, however, if the taxpayer entered into an installment agreement for the tax debt under G.S. 105-237 within 90 days after the notice of final assessment was mailed and has not failed to make any payments due under the installment agreement.

(2) Tax debt. – The total amount of tax, penalty, and interest due for which a notice of final assessment has been mailed to a taxpayer after the taxpayer no longer has the right to contest the debt.

(b) Outsourcing. – The Secretary may contract for the collection of tax debts. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed.

(c) Secrecy. – A contract for the collection of tax debts is conditioned on compliance with G.S. 105-259. If a contractor violates G.S. 105-259, the contract is terminated, and the Secretary must notify the contractor of the termination. A contractor whose contract is terminated for violation of G.S. 105-259 is not eligible for an award

of another contract under this section for a period of five years from the termination. These sanctions are in addition to the criminal penalties set out in G.S. 105-259.

(d) Fee. – A collection assistance fee is imposed on an overdue tax debt that remains unpaid 30 days or more after the fee notice required by this subsection is mailed to the taxpayer. In order to impose a collection assistance fee on a tax debt, the Department must notify the taxpayer that the fee will be imposed if the tax debt is not paid in full within 30 days after the date the fee notice was mailed to the taxpayer. The Department may not mail the fee notice earlier than 60 days after the notice of final assessment for the tax debt was mailed to the taxpayer. The fee is collectible as part of the debt. The Secretary may waive the fee pursuant to G.S. 105-237 to the same extent as if it were a penalty.

The amount of the collection assistance fee is twenty percent (20%) of the amount of the overdue tax debt. If a taxpayer pays only part of an overdue tax debt, the payment is credited proportionally to fee revenue and tax revenue.

(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The Department may apply the proceeds of the fee to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts.

(f) Reports. – The Department must report to the Joint Legislative Commission on Governmental Operations and to the Revenue Laws Study Committee on its efforts to collect tax debts. Reports must be submitted quarterly beginning November 1, 2001, through November 1, 2002, and semiannually thereafter. Each report must include a breakdown of the amount and age of tax debts collected by collection agencies on contract, the amount and age of tax debts collected by the Department through warning letters, and the amount and age of tax debts otherwise collected by Department personnel. Each report must also include a long-term collection plan, a timeline for implementing each step of the plan, a summary of steps taken since the last report and their results, and any other data requested by the Commission or the Committee."

SECTION 3. G.S. 105A-13 reads as rewritten:

"§ 105A-13. *Collection assistance fees.*

(a) State Setoff. – To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of no more than fifteen dollars (\$15.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year. If the Department is able to collect only part of a debt through setoff, the collection assistance fee has priority over the remainder of the debt. The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter.

(b) Federal Setoff. — ~~A collection assistance fee of fifteen dollars (\$15.00) applies to a setoff made by the United States Department of the Treasury to recover tax owed to North Carolina. The Department of Revenue must add the fee to the amount of the tax liability submitted to the United States Department of the Treasury for setoff. The Department of Revenue must collect the fee as part of the debt and retain it. If a federal setoff covers only part of the tax due, the collection assistance fee has priority over the tax due."~~

SECTION 4. G.S. 105-269 reads as rewritten:

"§ 105-269. *Extraterritorial authority to enforce payment.*

(a) ~~The Secretary of Revenue, Secretary,~~ with the assistance of the Attorney General, is ~~hereby empowered~~ authorized to bring suits in the courts of other states to collect taxes legally due this State. The officials of other states ~~which~~ that extend a like comity to this State are empowered to sue for the collection of ~~such~~ taxes in the courts of this State. A certificate by the Secretary of State, under the Great Seal of the State, that ~~such~~ these officers have authority to collect the tax ~~shall be~~ is conclusive evidence of ~~such~~ this authority. Whenever it ~~shall be deemed expedient by the Secretary of Revenue~~ the Secretary considers it expedient to employ local counsel to assist in bringing suit in an out-of-state court, the Secretary, with the concurrence of the Attorney General, may employ ~~such~~ local counsel on the basis of a negotiated retainer or in accordance with prevailing commercial law league rates.

(b) ~~The Secretary of Revenue may, in accordance with the procedure prescribed in G.S. 143-49(3), contract for the collection of taxes legally due this State from taxpayers located in other states. The Secretary may furnish to a contractor hired pursuant to this subsection any information he considers necessary to identify and locate a taxpayer, establish the tax liability of a taxpayer, or effect collection of the amount due."~~

SECTION 5. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...
(26) To contract for the collection of tax debts pursuant to G.S. 105-243.1."

SECTION 6. Section 5(a) of S.L. 1999-341, as amended by Section 16 of S.L. 2000-120, reads as rewritten:

"Section 5.(a) The Secretary of Revenue shall contract during the 1999-2001 fiscal biennium for the collection of delinquent tax debts owed by nonresidents and foreign entities. To implement this section, the Secretary may draw funds for the 1999-2000 fiscal year from net collections that would otherwise be credited to the General Fund under G.S. 105-269.14, enacted by Section 2 of this act. For the 2000-2001 ~~fiscal year~~, and 2001-2002 fiscal years, the Secretary may retain the costs of implementing this section from the amounts collected pursuant to the contracts authorized by this section. The Secretary of Revenue shall report annually to the Revenue Laws Study Committee on its collections pursuant to this contract during the biennium."

SECTION 7. The Department of Revenue may draw up to five hundred thousand dollars (\$500,000) for the 2001-2002 fiscal year from the collection assistance fee account created in G.S. 105-243.1 in order to pay for assistance in developing a request for proposals for a performance-based contract to implement the recommendations of the study authorized in Section 6 of S.L. 1999-341, as amended by Section 17 of S.L. 2000-120. The fee proceeds may be used for this purpose only to the extent the contract is for collecting overdue tax debts as defined in G.S. 105-243.1.

SECTION 8. G.S. 105-243.1(b), as enacted by this act, reads as rewritten:

"(b) Outsourcing. – The Secretary may contract for the collection of tax ~~debts~~, debts owed by nonresidents and foreign entities. At least 30 days before the Department submits a tax debt to a contractor for collection, the Department must notify the taxpayer by mail that the debt may be submitted for collection if payment is not received within 30 days after the notice was mailed."

SECTION 9. Section 3 of this act becomes effective November 1, 2001. Section 6 of this act is effective on and after July 1, 2001. Section 8 of this act becomes effective October 1, 2003. The

remainder of this act is effective when it becomes law and applies to tax debts that remain unpaid on or after that date.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

Became law upon approval of the Governor at 2:19 p.m. on the 20th day of August, 2001.

H.B. 698**SESSION LAW 2001-381**

AN ACT TO REPEAL THE CARTERET COUNTY OCCUPANCY TAX LAW AND TO AUTHORIZE CARTERET COUNTY TO LEVY A NEW OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Transition. – Carteret County's authority to levy a tax under Sections 2 through 9 of Chapter 171 of the 1989 Session Laws is repealed effective on the effective date of a tax levied under this act. Repeal of a tax levied under this act does not revive Carteret County's authority to levy a tax under Sections 2 through 9 of Chapter 171 of the 1989 Session Laws. This act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under a law repealed by this act before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the repealed law before the effective date of its repeal.

SECTION 2.(a) Levy. – The Board of Commissioners of Carteret County may levy a room occupancy and tourism development tax of five percent (5%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp, condominium, cottage, campground, rental agency, or other similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). The tax authorized by this section may not become effective earlier than January 1, 2002. This tax is in addition to any State or local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) Religious organizations.
- (2) Educational organizations.
- (3) Any business that offers to rent fewer than five units.
- (4) Summer camps.
- (5) Charitable, benevolent, and other nonprofit organizations.

SECTION 2.(b) Administration of Tax; Penalties. – The tax levied under this act shall be levied, administered, collected, and

repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to the taxes levied under this act. The Carteret County Tax Collector must establish procedures to periodically audit the businesses subject to the tax levied under this act in order to ensure compliance with this act.

SECTION 3. Use of proceeds. – (a) Definitions. – The following definitions apply in this section:

- (1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
 - b. The nonfederal share of the cost required to construct these projects;
 - c. The costs associated with providing enhanced public beach access; and
 - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.
- (2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (4) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities,

meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 3.(b) Use of First Fifty Percent (50%). – The finance officer of Carteret County shall, on a quarterly basis, remit fifty percent (50%) of the net proceeds of the occupancy tax levied under this act to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority shall use all of the funds remitted to it under this subsection to promote travel and tourism in Carteret County. Administrative expenses may not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.

SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act for use as provided in this subsection.

- (1) Except as provided in subdivisions (2) and (3) of this subsection, Carteret County shall use these funds only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).
- (2) The county shall distribute the following amounts to the municipalities listed below from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed below to promote travel and tourism and for tourism-related expenditures in those municipalities.

Municipality	FY 2001- 2002	FY 2002- 2003	FY 2003- 2004
Morehead City	\$47,613	\$63,484	\$31,742
Beaufort	16,821	22,429	11,214
Newport	8,607	11,476	5,738
Cape Carteret	5,894	7,859	3,929
Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

- (3) The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006

fiscal years. The municipalities shall use the amounts distributed below for beach nourishment.

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	<u>27,000</u>
TOTAL	\$1,000,000.

SECTION 4.(a) Sections 3(b) and 3(c) of this act read as rewritten:

"SECTION 3.(b) Use of First ~~Fifty Percent (50%)~~. Three Cents (3¢). – The finance officer of Carteret County shall, on a quarterly basis, remit ~~fifty percent (50%)~~ sixty percent (60%) of the net proceeds of the occupancy tax levied under this act to the Carteret County Tourism Development Authority. After deducting its administrative expenses, the Authority shall use all of the funds remitted to it under this subsection to promote travel and tourism in Carteret County. Administrative expenses may not exceed ten percent (10%) of the total budget of the Tourism Development Authority and may not include costs associated with the operation of visitor centers.

"SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act ~~for use as provided in this subsection.~~

- (1) ~~Except as provided in subdivisions (2) and (3) of this subsection, Carteret County and~~ shall use these funds only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).
- (2) ~~The county shall distribute the following amounts to the municipalities listed below from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed below to promote travel and tourism in those municipalities.~~

Municipality	FY 2001- 2002	FY 2002- 2003	FY 2003- 2004
Morehead City	\$47,613	\$63,484	\$31,742
Beaufort	16,821	22,429	11,214
Newport	8,607	11,476	5,738

Cape Carteret	5,894	7,859	3,929
Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

- (3) ~~The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use the amounts distributed below for beach nourishment.~~

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	27,000
TOTAL	\$1,000,000."

SECTION 4.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are not met, or the additional occupancy tax authorized by Section 5 is not levied, or the additional occupancy tax authorized by Section 5 sunsets as provided in Section 5, this section becomes effective July 1, 2010. Otherwise, this section does not go into effect.

SECTION 5. Additional occupancy tax. – In addition to the occupancy tax authorized by Section 2 of this act, the Board of Commissioners of Carteret County may levy an additional room occupancy and tourism development tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 2 of this act if the following conditions have been met:

- (1) A development plan for the construction of a convention center has been approved by resolution of the board of county commissioners and the governing board of the municipality where the center is to be located by June 30, 2006; and
- (2) There is a signed contract between the appropriate local governments and a private developer that includes financing commitments for construction to begin no later than July 1, 2007.

The tax authorized by this section may not become effective earlier than July 1, 2006. The county may not levy a tax under this section unless it also levies the tax under Section 2 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 2 of this act.

If the conditions in subdivisions (1) and (2) of this section have been met and the one-cent (1¢) room occupancy tax described in

this section is levied, the county's authority to levy the one-cent (1¢) tax is repealed on the first day of the second month following the date that a cumulative total of ten million dollars (\$10,000,000) in proceeds from this one-cent (1¢) tax has been collected. For purposes of this section, the cumulative total of ten million dollars (\$10,000,000) is calculated beginning on July 1, 2006.

Surplus proceeds from the one-cent (1¢) room occupancy tax described in this section beyond the ten million dollar (\$10,000,000) cumulative total that are collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

If the actual cost of the convention center is less than ten million dollars (\$10,000,000), any proceeds from the one-cent (1¢) occupancy tax collected but not spent shall be redistributed to the Tourism Development Authority and used to promote travel and tourism.

If construction on the convention center has not begun by July 1, 2007, the county's authority to levy the one-cent (1¢) room occupancy tax described in this section is repealed on September 1, 2007. Any funds collected before the repeal date shall be redistributed to the Tourism Development Authority and used only to promote travel and tourism.

SECTION 6.(a) Section 3(c) of this act reads as rewritten:

"SECTION 3.(c) Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act ~~for use as provided in this subsection and shall use these funds as follows:~~

- (1) Except as provided in ~~subdivisions (2) and subdivision (3) of this subsection, Carteret County shall use these funds~~ two and five-tenths cents (2.5¢) of the total tax levied under Sections 2 and 5 of this act only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall be used only to promote travel and tourism in Carteret County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).
- (2) Any remaining proceeds from the total tax levied under Sections 2 and 5 of this act, up to a maximum of ten million dollars (\$10,000,000), shall be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County. ~~The county shall distribute the following amounts to the municipalities listed below~~

from the proceeds collected between January 1, 2002, and June 30, 2004. The municipalities shall use the amounts distributed below to promote travel and tourism and for tourism related expenditures in those municipalities.

Municipality	FY 2001-2002	FY 2002-2003	FY 2003-2004
Morehead City	\$47,613	\$63,484	\$31,742
Beaufort	16,821	22,429	11,214
Newport	8,607	11,476	5,738
Cape Carteret	5,894	7,859	3,929
Cedar Point	845	1,127	564
Bogue	215	287	143
Peletier	179	239	119
TOTAL	\$80,174	\$106,901	\$53,449

- (3) The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use the amounts distributed below for beach nourishment.

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	<u>27,000</u>
TOTAL	\$1,000,000."

SECTION 6.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, this section becomes effective the later of July 1, 2006, or the effective date of the tax levied under Section 5 of this act. Otherwise, this section does not go into effect.

SECTION 7.(a) Section 3(c) of this act, as amended by Section 6 of this act, reads as rewritten:

"**SECTION 3.(c)** Use of Remainder. – Carteret County shall retain the remainder of the net proceeds of the tax levied under this act and shall use these funds as follows:

- (1) ~~Except as provided in subdivision (3) of this subsection, Carteret County shall use two Two and five tenths cents (2.5¢)(2¢) of the total tax levied under Sections 2 and 5 of this act shall be used only for beach nourishment on Bogue Banks. Any idle funds that are not spent for beach nourishment shall be remitted to the Carteret County Tourism Development Authority and shall be used only to promote travel and tourism in Carteret~~

County. The county may not accumulate a balance of tax proceeds for beach nourishment in excess of fifteen million dollars (\$15,000,000).

- (2) Any remaining proceeds from the total tax levied under Sections 2 and 5 of this act, up to a maximum of ten million dollars (10,000,000), shall be used for the financing of debt service, operating costs, or both associated with the construction of a new convention center in Carteret County.
- (3) ~~The county shall annually distribute at least the following amounts to the municipalities listed below in the 2002-2003, 2003-2004, 2004-2005, and 2005-2006 fiscal years. The municipalities shall use the amounts distributed below for beach nourishment.~~

Unit	Annual Amount
Pine Knoll Shores	\$225,000
Atlantic Beach	100,000
Indian Beach	108,000
Emerald Isle	540,000
Salter Path	27,000
TOTAL	\$1,000,000."

SECTION 7.(b) If the conditions in subdivisions (1) and (2) of Section 5 of this act are met, and the additional occupancy tax authorized by Section 5 is levied, Section 7 of this act becomes effective July 1, 2010. Otherwise, this section does not go into effect.

SECTION 8.(a) Carteret County Tourism Development Authority. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, shall adopt a resolution creating the Carteret County Tourism Development Authority for the purpose of managing the promotion and development of tourism in Carteret County.

SECTION 8.(b) The Authority shall consist of nine members and shall be appointed by the board of county commissioners by the selection of two members from each list of nominees submitted by the following organizations:

- (1) Carteret County Chamber of Commerce.
- (2) Crystal Coast Hotel/Motel Association, doing business as Crystal Coast Hospitality Association.
- (3) Carteret County Board of Realtors.

The nominees submitted by the Chamber of Commerce, the Hotel/Motel Association, and the Board of Realtors shall be individuals who collect the occupancy tax levied under this act. However, notwithstanding the foregoing, the board of county commissioners shall appoint those persons named to serve by their respective organizations.

Three additional Authority members shall be directly appointed by the board of county commissioners. One of these appointments must be a county commissioner, and one must be a mayor of a Carteret County municipality.

SECTION 8.(c) All members of the Authority shall serve without compensation. The term for each appointment shall be for three years, except that in making the initial appointments, the board of county commissioners shall provide for staggered terms.

No member shall serve more than two consecutive three-year terms. Members appointed to fill unexpired terms shall serve for the remainder of the unexpired terms they are appointed to fill.

SECTION 8.(d) The Authority shall select a chair, shall meet at the call of the chair, and shall adopt bylaws and rules of procedure to govern its meetings.

SECTION 8.(e) The Authority shall submit to the board of county commissioners an annual audited financial statement itemizing its receipts and expenditures each year.

SECTION 8.(f) The Authority may contract with any person, firm, or agency to advise, assist, manage, or promote travel and tourism in Carteret County.

SECTION 9.(a) Carteret County Beach Commission. – The Carteret County Board of Commissioners, upon adopting a resolution levying a room occupancy tax under this act, shall adopt a resolution creating the Carteret County Beach Commission, which shall advise the board on strategies for beach nourishment and on the expenditure of room occupancy tax proceeds dedicated to beach nourishment.

SECTION 9.(b) The Beach Commission shall consist of 11 members appointed by the board of county commissioners according to the following formula:

- (1) Two individuals who reside within the town limits of Atlantic Beach.
- (2) Two individuals who reside within the town limits of Pine Knoll Shores.
- (3) Two individuals who reside within the town limits of Emerald Isle.
- (4) One individual who resides within the town limits of Indian Beach.
- (5) One individual who resides on Bogue Banks.
- (6) One individual who resides anywhere in Carteret County.
- (7) A member of the board of county commissioners.
- (8) A member of the Carteret County Tourism Development Authority.

SECTION 9.(c) All members of the Beach Commission shall serve without compensation. The term for each appointment

shall be for three years, except that in making the initial appointments, the board of county commissioners shall provide for staggered terms. Members appointed to fill unexpired terms shall serve for the remainder of the unexpired term.

SECTION 9.(d) The Beach Commission shall select a chair, shall meet at the call of the chair, and shall adopt bylaws and rules of procedure to govern its meetings.

SECTION 9.(e) The Beach Commission may not contract with any person, firm, or agency. The board of commissioners shall be bound by the recommendations of the Beach Commission regarding the expenditure of room occupancy tax proceeds dedicated to beach nourishment. The board of commissioners may in its discretion delegate additional responsibilities to the Beach Commission.

SECTION 10. G.S. 153A-155 reads as rewritten:
"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall,

on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Carteret, Craven, Currituck, Davie, Granville, Madison, Nash, Person, Randolph, Scotland, and Transylvania Counties."

SECTION 11. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

Became law on the date it was ratified.

S.B. 587**SESSION LAW 2001-382**

AN ACT AUTHORIZING THE CITY OF DURHAM TO REQUIRE OWNERS OF LANDMARKS AND BUILDINGS WITHIN HISTORIC DISTRICTS TO MAINTAIN THEIR PROPERTY IN GOOD CONDITION AND TO PROHIBIT THE TAKING OF DEER WITH DOGS IN DURHAM COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding the following new section:

"Sec. 94.7. Maintenance of Landmarks and Historic Buildings.

The City may enact ordinances requiring owners of designated landmarks or owners of contributing buildings, structures, or sites within historic districts to maintain their property in good condition. Any ordinances adopted under this section shall contain appropriate safeguards to protect owners if the required maintenance would cause undue economic hardship."

SECTION 2. Section 1 of Chapter 669 of the 1993 Session Laws reads as rewritten:

"Section 1. It is unlawful to take deer with the aid of ~~dogs, unless the hunter has in his possession written permission of the owner of the land to take deer with dogs, and provided that the land is located within the geographic area designated by the Wildlife Resources Commission as an area in which taking deer with dogs is permitted.~~ dogs."

SECTION 3. Section 1 of this act applies only to the City of Durham. Section 2 of this act applies only to Durham County.

SECTION 4. Section 2 of this act becomes effective October 1, 2001. The remainder of this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of August, 2001.

Became law on the date it was ratified.

S.B. 206

SESSION LAW 2001-383

AN ACT TO ESTABLISH A TOURIST-ORIENTED DIRECTIONAL SIGN (TODS) PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 136 of the General Statutes is amended by adding a new Article to read:

"Article 11B.

"Tourist-Oriented Directional Sign Program.

"§ 136-140.15. Scope of operations.

(a) Program. – The Department of Transportation shall administer a tourist-oriented directional signs (TODS) program.

(b) Definitions. – The following definitions apply in this Article:

(1) TODS. – Tourist-oriented directional signs (TODS) are guide signs that display the business identification of and directional information for tourist-oriented businesses and tourist-oriented facilities or for classes of businesses or facilities that are tourist-oriented.

(2) Tourist-oriented business. – A business, the substantial portion of whose products or services is of significant

interest to tourists. The term may include a business involved with seasonal agricultural products. When used in this Article, the term "business" means a tourist-oriented business.

- (3) Tourist-oriented facility. – A business, service, or activity facility that derives a major portion of income or visitors during the normal business season from road users not residing in the immediate area of the facility. When used in this Article, the term "facility" means a tourist-oriented facility.

(c) Limitation. – The Department shall not install TODS for a business or facility if the signs would be required at intersections where, due to the number of conflicting locations of other highway signs or traffic control devices or other physical or topographical features of the roadside, their presence would be impractical or unfeasible or result in an unsafe or hazardous condition.

(d) Duplication. – If a business or facility is currently shown on another official highway guide sign, such as a logo sign or supplemental guide sign, on the same approach to an intersection where a TODS panel for that business or facility would be located, the business or facility may elect to keep the existing highway guide sign or have it removed and participate in the TODS program. If the business or facility elects to retain the existing highway guide sign, the business or facility is ineligible for the TODS program at that intersection.

"§ 136-140.16. Eligibility criteria.

A business or facility is eligible to participate in the TODS program if it meets all of the following conditions:

- (1) It is open to the general public and is not restricted to "members only".
- (2) It does not restrict access to its facilities by the general public.
- (3) It complies with all applicable laws, ordinances, rules, and regulations concerning the provision of public accommodations without regard to race, religion, color, age, sex, national origin, disability, and any other category protected by federal or State constitutional or statutory law concerning the granting of licenses and approvals for public facilities.
- (4) It meets the following standards:
 - a. It is in continuous operation at least eight hours a day, five days a week during its normal season or the normal operating season for the type of business or facility.

- b. It is licensed and approved by the appropriate State and local agencies regulating the particular type of business or activity.

"§ 136-140.17. Terminating participation in program.

A business or facility may terminate its participation in the TODS program at any time. The business or facility is not entitled to a refund of any part of any fees paid because of voluntary termination of participation by the business or facility, for any reason, before the end of its current contract period.

"§ 136-140.18. Temporary modification of TODS panels.

(a) The Department shall allow a participating business or facility to close for remodeling or to repair damage from fire or other natural disaster if its TODS panels are covered or removed while the business or facility is closed. No refund of fees or extension of the time remaining in the contract for participation will be provided for the period of closure.

(b) The Department may, at its discretion, remove or cover TODS panels for roadway construction or maintenance, for routine maintenance of the TODS assembly, for traffic research study, or for any other reason it considers appropriate. Businesses or facilities are not entitled to any refunds of fee amounts for the period that the TODS panels are covered or removed under this subsection unless the period exceeds seven days.

(c) The TODS panels for seasonal businesses or facilities shall have an appropriate message added during the period in which the businesses or facilities are open to the public as part of their normal seasonal operation.

"§ 136-140.19. Department to adopt rules to implement the TODS program.

The Department shall adopt rules to implement the TODS program created by this Article. The rules shall include all of the following:

- (1) The Department shall set fees to cover the initial costs of signs, sign maintenance, and administering the program.
- (2) The Department shall establish a standard for the size, color, and letter height of the TODS as specified in the National Manual of Uniform Traffic Control Devices for Streets and Highways.
- (3) TODS shall not be placed more than five miles from the business or facility.
- (4) TODS shall not be placed where prohibited by local ordinance.
- (5) The number of TODS panels shall not exceed six per intersection with only one business or facility on each panel.

- (6) If a business or facility is not directly on a State highway, it is eligible for TODS panels only if both of the following requirements are met:
- a. It is located on a street that directly connects with a State road.
 - b. It is located so that only one directional sign, placed on a State road, will lead the tourist to the business or facility.
- (7) A TODS shall not be placed immediately in advance of the business or facility if the business or facility and its on-premise advertising signs are readily visible from the roadway.
- (8) The Department shall limit the placement of TODS to highways other than fully controlled access highways and to rural areas in and around towns or cities with a population of less than 40,000."

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

Became law upon approval of the Governor at 5:32 p.m. on the 26th day of August, 2001.

H.B. 1301**SESSION LAW 2001-384**

AN ACT TO CLARIFY THE CIRCUMSTANCES IN WHICH LAND-USE RESTRICTIONS AND RECORDATION OF THOSE RESTRICTIONS IN THE OFFICE OF THE REGISTER OF DEEDS ARE REQUIRED IN CONNECTION WITH THE CLEANUP OF A RELEASE FROM A PETROLEUM UNDERGROUND STORAGE TANK IN ORDER TO PROTECT THE ENVIRONMENT AND PUBLIC HEALTH, TO ENSURE ENFORCEABILITY OF RESTRICTIONS, AND TO PROVIDE NOTICE TO SUBSEQUENT OWNERS OF THE PROPERTY; AND TO MAKE CONFORMING CHANGES TO RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-279.9 reads as rewritten:

"§ 143B-279.9. *Land-use restrictions may be imposed to reduce danger to public health at contaminated sites.*

(a) In order to reduce or eliminate the danger to public health or the environment posed by the presence of contamination at a site, an owner, operator, or other responsible party may impose restrictions on the current or future use of the real property comprising any part of the site where the contamination is located if the restrictions meet the

requirements of this section. The restrictions must be agreed to by the owner of the real property, included in a remedial action plan for the site that has been approved by the Secretary, and implemented as a part of the remedial action program for the site. The Secretary may approve restrictions included in a remedial action plan in accordance with standards that the Secretary determines to be applicable to the site. Except as provided in subsection (b) of this section, if the remedial action is risk-based or will not require that the site meet ~~current unrestricted use standards, as defined in G.S. 130A-310.31,~~ the remedial action plan must include an agreement by the owner, operator, or other responsible party to record approved land-use restrictions that meet the requirements of this section as provided in ~~G.S. 143B-279.10, 143B-279.10 or G.S. 143B-279.11,~~ whichever applies. Restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Any approved restriction shall be enforced by any ~~owner, operator, owner of the land, operator of the facility,~~ or other party responsible for the contaminated site. Any land-use restriction may also be enforced by the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action. The Department may enforce any land-use restriction without first having exhausted any available administrative remedies. A land-use restriction may also be enforced by any unit of local government having jurisdiction over any part of the site. A land-use restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this Part shall abide by the land-use restriction.

(b) The definitions set out in G.S. 143-215.94A apply to this subsection. Subsection (a) of this section shall not apply to a A risk-based remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes. Statutes that will not require that the site meet unrestricted use standards must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record approved land-use restrictions that meet the requirements of this section as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this subsection. Any restriction on the current or future use of real property shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at

the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S. 143B-279.11, the current or future use of real property may be restricted only as set out in any one or more of the following subdivisions:

- (1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.
 - (2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.
 - (3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.
 - (4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department.
- (c) This section does not alter any right, duty, obligation, or liability of any owner, operator, or other responsible party under any other provision of law.
- (d) As used in this section:
- (1) 'Unrestricted use standards' means generally applicable standards, guidance, or established methods governing contaminants that are established by statute or adopted, published, or implemented by the Environmental Management Commission, the Commission for Health Services, or the Department. Cleanup or remediation of real property to unrestricted use standards means that the property is restored to a condition such that the property

and any use that is made of the property does not pose a danger or risk to public health, the environment, or users of the property that is significantly greater than that posed by use of the property prior to its having been contaminated.

- (2) 'Risk-based', when used in connection with cleanup, remediation, or similar terms, means cleanup or remediation of contamination of real property to a level that, although not in compliance with unrestricted use standards, does not pose a significant danger or risk to public health, the environment, or users of the real property so long as the property remains in the condition and is used in a manner that is consistent with the assumptions as to the condition and use of the property on which the determination that the level of risk is acceptable is based."

SECTION 2. G.S. 143B-279.10 reads as rewritten:

"§ 143B-279.10. *Recordation of contaminated sites.*

(a) The owner of the real property on which a site is located that is subject to current or future use restrictions approved as provided in G.S. 143B-279.9(a) shall submit to the Department a survey plat as required by this section within 180 days after the owner is notified to do so. The survey plat shall identify areas designated by the Department, shall be prepared and certified by a professional land surveyor, and shall be entitled 'NOTICE OF CONTAMINATED SITE'. Where a contaminated site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location and dimensions of any disposal areas and areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of contamination known to the owner of the site to exist on the site.
- (3) Any restriction approved by the Department on the current or future use of the site.

(b) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section, and shall provide the owner of the site with a notarized copy of the approved Notice. After the Department approves ~~and certifies~~ the Notice, the owner of the site shall file ~~the certified~~ a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the land

is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) The register of deeds shall record the ~~certified~~-notarized copy of the approved Notice and index it in the grantor index under the names of the owners of the land.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(e) When a contaminated site that is subject to current or future land-use restrictions is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property is a contaminated site and a reference by book and page to the recordation of the Notice.

(f) A Notice of Contaminated Site filed pursuant to this section shall, at the request of the owner of the land, be cancelled by the Secretary after the contamination has been eliminated or remediated to ~~current standards, as defined in G.S. 130A-310.31.~~ unrestricted use standards. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the contamination has been eliminated, or that the contamination has been remediated to ~~current~~-unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name 'Secretary of Environment and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record maps and plats, the register of deeds shall not be required to make a marginal entry.

(g) This section does not apply to the cleanup pursuant to a risk-based remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(h) The definitions set out in G.S. 143B-279.9 apply to this section."

SECTION 3. Part 1 of Article 7 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-279.11. Recordation of residual petroleum from an underground storage tank.

(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a risk-based remedial action plan that addresses environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes.

(b) The owner, operator, or other person responsible for a discharge or release of petroleum from an underground storage tank shall prepare and submit to the Department a proposed Notice that meets the requirements of this section. The proposed Notice shall be submitted to the Department (i) before the property is conveyed, or (ii) when the owner, operator, or other person responsible for the discharge or release requests that the Department issue a determination that no further action is required under the remedial action plan, whichever first occurs. The Notice shall be entitled 'NOTICE OF RESIDUAL PETROLEUM'. The Notice shall include a description that would be sufficient as a description in an instrument of conveyance of the (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. The Notice shall identify the location of any residual petroleum known to exist on the real property at the time the Notice is prepared. The Notice shall also identify the location of any residual petroleum known, at the time the Notice is prepared, to exist on other real property that is a result of the discharge or release. The Notice shall set out any restrictions on the current or future use of the real property that are imposed by the Secretary to protect public health, the environment, or users of the property.

(c) If the contamination is located on more than one parcel or tract of land, the Department may require that the owner, operator, or other person responsible for the discharge or release prepare a composite map or plat that shows all parcels or tracts. If the contamination is located on one parcel or tract of land, the owner, operator, or other person responsible for the discharge or release may prepare a map or plat that shows the parcel but is not required to do so. A map or plat shall be prepared and certified by a professional

land surveyor, shall meet the requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the Department has approved a map or plat, it shall be recorded in the office of the register of deeds and shall be incorporated into the Notice by reference.

(d) The Department shall review the proposed Notice to determine whether the Notice meets the requirements of this section and rules adopted to implement this section and shall provide the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank with a notarized copy of the approved Notice. After the Department approves the Notice, the owner, operator, or other person responsible for the discharge or release of petroleum from an underground storage tank shall file a notarized copy of the approved Notice in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs. If the owner, operator, or other person responsible for the discharge or release fails to file the Notice as required by this section, any determination by the Department that no further action is required is void. The owner, operator, or other person responsible for the discharge or release shall submit a certified copy of the Notice as filed in the register of deeds office to the Department.

(e) The register of deeds shall record the notarized copy of the approved Notice and index it in the grantor index under the names of the owners of the real property.

(f) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the

owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded. The register of deeds shall record the Secretary's statement in the deed books and index it on the grantor index in the names of the owners of the real property as shown in the Notice and on the grantee index in the name 'Secretary of Environment and Natural Resources'. The register of deeds shall make a marginal entry on the Notice showing the date of cancellation and the book and page where the Secretary's statement is recorded, and the register of deeds shall sign the entry. If a marginal entry is impracticable because of the method used to record, the register of deeds shall not be required to make a marginal entry."

SECTION 4. G.S. 143-215.94B(b) is amended by adding a new subdivision to read:

"(7) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Commercial Fund is responsible for the payment of costs under subdivisions (1) through (4) of this subsection."

SECTION 5. G.S. 143-215.94B(d) is amended by adding a new subdivision to read:

"(7) Costs incurred as a result of the cleanup of environmental damage to groundwater to a more protective standard than the risk-based standard required by the Department unless the cleanup of environmental damage to groundwater to a more protective standard is necessary to resolve a claim for compensation by a third party for property damage."

SECTION 6. G.S. 143-215.94D(b1) is amended by adding a new subdivision to read:

"(4) Recordation of residual petroleum as required by G.S. 143B-279.11 if the Noncommercial Fund is responsible for the payment of costs under subdivisions (1) through (3) of this subsection and subsection (b) of this section."

SECTION 7. G.S. 143-215.94D(d) is amended by adding a new subdivision to read:

"(7) Costs incurred as a result of the cleanup of environmental damage to groundwater to a more protective standard than the risk-based standard required by the Department unless the cleanup of environmental damage to groundwater to a more protective standard is necessary to resolve a claim for compensation by a third party for property damage."

SECTION 8. G.S. 143-215.94B is amended by adding a new subsection to read:

"(b4) The Commercial Fund shall pay any claim made after 1 September 2001 for compensation to third parties pursuant to

subdivision (5) of subsection (b) of this section only if the owner, operator, or other party responsible for the discharge or release has complied with the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited by another provision of law."

SECTION 9. G.S. 143-215.94D is amended by adding a new subsection to read:

"(b4) The Noncommercial Fund shall pay any claim made after 1 September 2001 for compensation to third parties pursuant to subdivision (2) of subsection (b1) of this section only if the owner, operator, or other party responsible for the discharge or release has complied with the requirements of G.S. 143B-279.9 and G.S. 143B-279.11, unless compliance is prohibited by another provision of law."

SECTION 10. G.S. 47-29.1 reads as rewritten:

"§ 47-29.1. Recordation of ~~waste disposal on land~~ environmental notices.

(a) A permit for the disposal of waste on land shall be recorded as provided in G.S. 130A-301.

(a1) The disposal of land clearing and inert debris in a landfill with a disposal area of 1/2 acre or less pursuant to G.S. 130A-301.1 shall be recorded as provided in G.S. 130A-301.1(c).

(a2) A Notice of Open Dump shall be recorded as provided in G.S. 130A-301(f).

(a3) The disposal of demolition debris in an on-site landfill having a disposal area of one acre or less shall be recorded as provided in G.S. 130A-301.2.

(b) An inactive hazardous substance or waste disposal site shall be recorded as provided in G.S. 130A-310.8.

(c) A Notice of Brownfields Property shall be recorded as provided in G.S. 130A-310.35.

(d) A Notice of Oil or Hazardous Substance Discharge Site shall be recorded as provided in G.S. 143-215.85A.

(e) A Notice of Dry-Cleaning Solvent Remediation shall be recorded as provided in G.S. 143-215.104M.

(f) A Notice of Contaminated Site shall be recorded as provided in G.S. 143B-279.10.

(g) A Notice of Residual Petroleum shall be recorded as provided in G.S. 143B-279.11."

SECTION 11. G.S. 130A-308, 130A-310.7, 130A-310.31, 130A-310.32, 130A-310.33, 143-215.84, 143-215.104B, and 143-215.104K are amended by deleting the term "current standards" and substituting the term "unrestricted use standards" wherever the term "current standards" appears in those sections of the General Statutes.

SECTION 12. Section 4 of S.L. 2000-51 reads as rewritten:

"Section 4. Sections 1 and 2 of this act are effective retroactively to 1 October 1999. Sections 3 and 4 of this act are effective when this act becomes law. ~~Section 1 of this act expires 1 September 2001.~~"

SECTION 13. This act becomes effective 1 September 2001. This act applies to any cleanup of a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes except that land-use restrictions and recordation of residual contamination are not required with respect to a discharge or release of petroleum for which the Department of Environment and Natural Resources issued a determination that no further action is required prior to 1 September 2001.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

Became law upon approval of the Governor at 5:36 p.m. on the 26th day of August, 2001.

H.B. 1068**SESSION LAW 2001-385**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATING TO LONG-TERM CARE; AND TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A QUALITY IMPROVEMENT CONSULTATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The General Assembly recognizes that the imposition of penalties for deficiencies in meeting licensure requirements is not the exclusive method for ensuring quality of care in licensed adult care homes. The Department of Health and Human Services shall explore methods to improve and reward quality of care provided by adult care homes. In conducting this undertaking, the Department shall consider and report specifically its findings and recommendations on all of the following:

- (1) Whether or not the licensure period and survey period for adult care homes are factors in providing quality care.
- (2) Whether to cap allowable indirect costs for adult care homes similar to that imposed on nursing homes, but also allowing a higher capped direct rate of reimbursement in order to provide incentives for higher quality direct care to residents.
- (3) Whether a different approach should be adopted for setting reimbursement rates for adult care homes that would replace the current "State average" method. The

purpose of the different approach is to provide incentives to facilities to operate more efficiently and reinvest resources saved from efficiency in higher quality care.

- (4) Aspects of the quality assessment/monitoring process that should be changed or modified under State authority.

SECTION 1.(b) The Department shall report the status of its activities under subsection (a) of this section to the North Carolina Study Commission on Aging not later than October 1, 2001. Not later than March 1, 2002, the Department shall submit its final report to the North Carolina Study Commission on Aging and to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Subcommittee on Health and Human Services. The final report shall include recommended legislation for consideration by the 2002 Regular Session of the 2001 General Assembly.

SECTION 1.(c) The Department of Health and Human Services shall offer joint training of Division of Facility Services consultants, county DSS adult home specialists, and adult care home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by DFS consultants and DSS specialists in conducting surveys, and to promote a higher degree of understanding between facility staff and DFS consultants and DSS specialists in what is expected during the survey process.

SECTION 1.(d) The Department of Health and Human Services shall develop an Adult Care Home Quality Improvement Consultation Program. The purpose of the program is to assist providers in the development of quality improvement plans for each facility. The Adult Care Home Quality Improvement Consultation Program shall be developed in consultation with the Division of Facility Services and representatives of facilities and programs. The Department shall use funds appropriated in its continuation budget for this purpose for the 2001-2002 and 2002-2003 fiscal years. The Department shall report the status of its activities under this section to the North Carolina Study Commission on Aging on October 1, 2001, and March 1, 2002.

SECTION 1.(e) The Department of Health and Human Services shall explore alternatives to existing oversight and survey practices that will ensure quality in adult care homes. The Department shall do the following:

- (1) Define and provide guidance on terms applicable in the survey and oversight process to ensure uniformity. Terms that should be defined and clarified include the following:
 - a. Substantial evidence.
 - b. Imminent danger.
 - c. Condition detrimental to health and safety.
 - d. Hindrance of proper performance of duties.
 - e. Alleged violation.
 - f. Substantial failure to comply.
 - g. Serious physical harm.
 - h. Substantial risk that death or physical harm will occur.
 - i. Present a direct threat to health and safety.
 - j. Deficiency.
 - k. Extent of violation.
 - l. Probability of death or serious harm.
 - m. Reasonable diligence.

The Department shall ensure that the definition and clarification of terms are included in basic and continuing survey training.

- (2) Identify rules that impede the direct care of residents or prohibit resident choice and develop a proposal for repeal of those rules, including any necessary repeal of, or amendment to, current law that is the basis for the rule.

SECTION 1.(f) The Department of Health and Human Services shall study the cost to the State of reducing the county share of State/County Special Assistance from fifty percent (50%) to twenty-five percent (25%), phased in over a five-year period. The Department shall report its findings to the North Carolina Study Commission on Aging, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services not later than October 1, 2001.

SECTION 1.(g) The Department of Health and Human Services shall study alternative ways to reimburse adult care homes for the costs of residents residing in special care units, taking into account the particular needs of those residents. The Department shall report its findings and recommendations not later than March 1, 2002, to the North Carolina Study Commission on Aging, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services.

SECTION 1.(h) The Department of Health and Human Services shall study and make recommendations on statutory changes that would be necessary in order to delineate the various populations in facilities currently regulated as adult care homes according to the particular needs of those populations. The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging not later than March 1, 2002.

SECTION 2.(a) The Department of Health and Human Services shall establish a Skilled Nursing Facility Quality Improvement Consultation Project to assist providers in the development of quality improvement plans for each long-term care facility and program that offers skilled nursing services to the public. In order to avoid conflict with federal regulations, the Department shall locate the project in a section of the Division of Facility Services other than the Licensure and Certification Section. Project staff shall include nurses who have previous experience in long-term care. Staff shall be available to all licensed nursing facilities and, upon request of the facility, shall provide on-site consultation in at least the following areas:

- (1) Analysis of recent survey results in order to assist the facility with its efforts to correct problems or deficiencies identified by the survey.
- (2) Training for in-house quality improvement programs.
- (3) Specific area or issues of concern raised by the facility.
- (4) Best practices information.

The Department may contract with a private entity to assist in the implementation of the project.

SECTION 2.(b) The Department of Health and Human Services shall offer joint training of survey team members and nursing home providers. The training shall be offered no fewer than two times per year, and subject matter of the training should be based on one or more of the 10 deficiencies cited most frequently in the State during the immediately preceding calendar year. The joint training shall be designed to reduce inconsistencies experienced by providers in the survey process, to increase objectivity by survey team members in conducting surveys, and to promote a higher degree of understanding between facility staff and survey team members in what is expected during the survey process.

SECTION 2.(c) The Department of Health and Human Services shall require survey team members who have no previous nursing home experience to spend part of their basic training in a nursing home observing operations of the nursing home. On-site training should be designed to provide the survey team member with experience in the actual operation of a nursing facility outside of the survey process and to achieve a general understanding of the

following facility functions: administration, nursing, personal care services, and dietary services. On-site training requirement shall be for a minimum of three days and must be completed before the survey team member assumes survey work or oversight responsibilities. In addition to on-site training, at least fifty percent (50%) of the annual continuing education requirement of survey team members shall be in the subject area of geriatric care.

SECTION 2.(d) The Department of Health and Human Services shall convene a Skilled Nursing Facility Quality of Standards Work Group to explore alternatives to existing oversight and survey practices that will ensure quality in skilled nursing facilities. The Work Group shall do the following:

- (1) Clarify and provide guidance on terms applicable in the survey and oversight process to ensure uniformity. Terms that should be clarified include "immediate jeopardy", "harm", "potential harm", "avoidable", and "unavoidable". The Department shall ensure that clarification of terms is included in basic and continuing survey training.
- (2) Identify rules that impede the direct care of patients and develop a proposal for repeal of those rules, including any necessary repeal of, or amendment to, current law that is the basis for the rule.
- (3) Examine possible incentives for providers such as extended survey period, increased reimbursement rates, accreditation, and deemed status. The Work Group shall consider all available quality measurements in developing recommendations for incentives. The Work Group shall also identify changes in current law necessary to implement incentives.
- (4) Explore aspects of quality assessment/monitoring that should be changed to facilitate improvements and determine if a waiver from the Health Care Financing Administration is necessary to implement innovative approaches to the delivery and monitoring of long-term care in this State.

The Work Group shall consist of representatives of the Division of Facility Services of the Department of Health and Human Services and the North Carolina Health Care Facilities Association.

SECTION 2.(e) The Department of Health and Human Services of the Department of Health and Human Services shall report to the Joint Legislative Health Care Oversight Committee and the North Carolina Study Commission on Aging on the status of implementation of this section. The report shall be submitted on October 1, 2001, and March 1, 2002.

SECTION 3. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

Became law upon approval of the Governor at 5:36 p.m. on the 26th day of August, 2001.

S.B. 885 SESSION LAW 2001-386

AN ACT AMENDING CERTAIN STATUTES REGULATING UNSAFE BUILDINGS AND TO EXTEND THE TIME DURING WHICH COUNTIES MAY DISPOSE OF DWELLINGS AT PRIVATE SALE THAT WERE PURCHASED UNDER THE HAZARD MITIGATION GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-426 reads as rewritten:

"§ 160A-426. *Unsafe buildings condemned.*

(a) Residential ~~Building~~ Building and Nonresidential Building or Structure. – Every building ~~which that~~ shall appear to the inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of ~~said the~~ building.

(b) Nonresidential Building or Structure. – ~~An~~ In addition to the authority granted in subsection (a) of this section, an inspector may declare a nonresidential building or structure within a community development target area to be unsafe if it meets both of the following conditions:

- (1) It appears to the inspector to be vacant or abandoned.
- (2) It appears to the inspector to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or to tend to attract persons intent on criminal activities or other activities ~~which that~~ would constitute a public nuisance.

(c) If an inspector declares a nonresidential building or structure to be ~~unsafe, unsafe~~ unsafe under subsection (b) of this section, the inspector must affix a notice of the unsafe character of the structure to a conspicuous place on the exterior wall of the building. For the purposes of this ~~subsection, section,~~ section, the term "community development target area" means an area that has characteristics of a development zone under G.S. 105-129.3A, a "nonresidential

~~development-redevelopment area~~" under G.S. 160A-503(10), or an area with similar characteristics designated by the city council as being in special need of revitalization for the benefit and welfare of its citizens."

SECTION 2. G.S. 160A-432 reads as rewritten:

"§ 160A-432. ~~Civil and equitable enforcement.~~Enforcement.

(a) ~~Civil Enforcement.~~—Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) ~~Equitable Enforcement.~~—In the case of a nonresidential building or structure declared unsafe under G.S. ~~160A-426(b),~~160A-426, a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

SECTION 3. Section 2 of S.L. 2001-29 reads as rewritten:

"Section 2. A county may sell any improvements affixed to or located on real property that it has purchased through the Hazard Mitigation Grant Program related to Hurricane Floyd. These improvements may be sold and are exempt from the restrictions and limitations required to effectuate sales of real or personal property provided for in Article 12 of Chapter 160A of the General Statutes. No dwelling may be sold pursuant to this section unless the following requirements are met:

- (1) The dwelling may be sold only to the verifiable owner of the dwelling at the time of Hurricane Floyd, September

15, 1999, and must initially be reoccupied by the same owner.

- (2) The dwelling must have been properly repaired in compliance with the North Carolina Building Code as verified by the county Planning and Development Department by issuance of a building permit, subsequent inspections, and a certificate of occupancy.
- (3) The dwelling must be sold on or before ~~July 31, 2001~~December 31, 2002."

SECTION 4. Sections 1 and 2 of this act are effective when they become law. Section 3 of this act is effective on and after July 31, 2001.

In the General Assembly read three times and ratified this the 21st day of August, 2001.

Became law upon approval of the Governor at 5:36 p.m. on the 26th day of August, 2001.

S.B. 842**SESSION LAW 2001-387**

AN ACT TO MAKE VARIOUS CHANGES TO THE NORTH CAROLINA BUSINESS CORPORATION ACT, THE NORTH CAROLINA NONPROFIT CORPORATION ACT, THE NORTH CAROLINA LIMITED LIABILITY COMPANY ACT, AND THE LAWS GOVERNING PARTNERSHIPS.

The General Assembly of North Carolina enacts:

PART I. AMENDMENTS TO THE NORTH CAROLINA BUSINESS CORPORATION ACT.

SECTION 1. G.S. 55-1-20(f) reads as rewritten:

"(f) A document submitted by a domestic or foreign corporation or nonprofit corporation must be executed:

- (1) By the chairman of the board of directors, by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to G.S. ~~59-73.7(a)(4)~~59-35.1(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 2. G.S. 55-1-22(a) is amended by adding the following new subdivision to read:

"(12a) Articles of conversion (other than articles of conversion included as part of another document) 50.00."

SECTION 3. G.S. 55-1-40 is amended by adding the following new subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

"§ 55-1-40. *Chapter definitions.*

In this Chapter unless otherwise specifically provided:

...
(2a) 'Business entity,' as used in G.S. 55-11-10 and Article 11A of this Chapter, means a domestic corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation, a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State.

...
(6b) 'Domestic limited liability company' has the same meaning as in G.S. 57C-1-03.

(6c) 'Domestic limited partnership' has the same meaning as in G.S. 59-102.

(6d) 'Domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40.

(8) 'Electronic' has the same meaning as in G.S. 66-312.

(8a) 'Electronic record' has the same meaning as in G.S. 66-312.

(8b) 'Electronic signature' has the same meaning as in G.S. 66-312.

...
(10a) 'Foreign limited liability company' has the same meaning as in G.S. 57C-1-03.

(10b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.

(10c) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40.

...."

SECTION 4. G.S. 55-1-40(17) reads as rewritten:

"(17) 'Principal office' means the office (in or out of this State) ~~so designated in the annual report~~ where the

principal executive offices of a domestic or foreign corporation are ~~located~~located, as designated in its most recent annual report filed with the Secretary of State or, in the case of a domestic or foreign corporation that has not yet filed an annual report, in its articles of incorporation or application for a certificate of authority, respectively."

SECTION 5. G.S. 55-1-40(24a) reads as rewritten:

"(24a) 'Unincorporated entity' means a domestic or foreign limited liability ~~company~~company, as defined in G.S. 57C-1-03, a domestic or foreign limited ~~partnership~~partnership, as defined in G.S. 59-102, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, ~~including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State.~~"

SECTION 6. G.S. 55-1-41 reads as rewritten:

"§ 55-1-41. *Notice.*

(a) Notice under this Chapter shall be in writing unless oral notice is authorized in the corporation's articles of incorporation or bylaws and written notice is not specifically required by this Chapter.

(b) Notice may be communicated in person; by ~~telephone, telegraph, teletype, or other form of wire or wireless communication, or by facsimile transmission~~; electronic means; or by mail or private carrier. If these forms of personal notice are impracticable as to one or more persons, notice may be communicated to such persons by publishing notice in a newspaper in the county wherein the corporation has its principal place of business in the State, or if it has no principal place of business in the State, the county wherein it has its registered office; or by radio, television, or other form of public broadcast communication.

(c) Written notice by a domestic or foreign corporation to its shareholder is effective when deposited in the United States mail with postage thereon prepaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders. To the extent the corporation pursuant to G.S. 55-1-50 and the shareholder have agreed, notice by a domestic corporation to its shareholder in the form of an electronic record sent by electronic means is effective when it is sent as provided in G.S. 66-325. A shareholder may terminate any such agreement at any time on a

prospective basis effective upon written notice of termination to the corporation or upon such later date as may be specified in the notice.

(d) Written notice to a domestic or foreign corporation (authorized to transact business in this State) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report on file in the office of the Secretary of State or, in the case of a domestic or foreign corporation that has not yet delivered filed an annual report, in its articles of incorporation or application for a certificate of authority.~~authority~~, respectively.

(e) Except as provided in subsection (c), written notice is effective at the earliest of the following:

- (1) When received;
- (2) Five days after its deposit in the United States mail, as evidenced by the postmark or otherwise, if mailed with at least first-class postage thereon prepaid and correctly addressed;
- (3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

In the case of notice in the form of an electronic record sent by electronic means, the time of receipt shall be determined as provided in G.S. 66-325.

(f) Oral notice is effective when actually communicated to the person entitled thereto.

(g) If this Chapter prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this Chapter, those requirements govern."

SECTION 7. Article 1 of Chapter 55 of the General Statutes is amended by adding a new Part to read:

"Part 5. Miscellaneous.

"§ 55-1-50. Electronic transactions.

For purposes of applying Article 40 of Chapter 66 of the General Statutes to transactions under this Chapter, a corporation may agree to conduct a transaction by electronic means through provision in its articles of incorporation or bylaws or by action of its board of directors."

SECTION 8. G.S. 55-2-02(a) reads as rewritten:

"(a) The articles of incorporation must set forth:

- (1) A corporate name for the corporation that satisfies the requirements of G.S. 55-4-01;

- (2) The number of shares the corporation is authorized to issue and any other information required by G.S. 55-6-01;
- (3) The street address, and the mailing address if different from the street address, of the corporation's initial registered office, the county in which the initial registered office is located, and the name of the corporation's initial registered agent at that address; ~~and~~
- (3a) The street address, and the mailing address if different from the street address, of the corporation's principal office, if any, and the county in which the principal office, if any, is located; and
- (4) The name and address of each incorporator."

SECTION 9. G.S. 55-2-02 is amended by adding the following new subsection to read:

"(d) Articles of incorporation filed to effect the conversion of another business entity pursuant to Article 11A of this Chapter shall also include the statements required by G.S. 55-11A-03(a)."

SECTION 10. G.S. 55-2-03(a) reads as rewritten:

"(a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed. become effective."

SECTION 11. G.S. 55-7-04 reads as rewritten:

"§ 55-7-04. Action without meeting.

(a) Action required or permitted by this Chapter to be taken at a shareholders' meeting may be taken without a ~~meeting~~ meeting and without prior notice except as required by subsection (d) of this section, if the action is taken by all the shareholders entitled to vote on the ~~action~~ action or, subject to subsection (a1) of this section, if so provided in the articles of incorporation of a corporation that is not a public corporation at the time the action is taken, by shareholders having not less than the minimum number of votes that would be necessary to take the action at a meeting at which all shareholders entitled to vote were present and voted. The action must be evidenced by one or more written consents bearing the date of signature and signed by ~~all~~ the number of shareholders sufficient to take the action without a meeting, before or after such action, describing the action taken and delivered to the corporation for inclusion in the minutes or filing with the corporate records. To the extent the corporation has agreed pursuant to G.S. 55-1-50, a shareholder's consent to action taken without meeting may be in electronic form and delivered by electronic means.

(a1) Notwithstanding subsection (a) of this section, the following actions may be taken without a meeting only by all the shareholders entitled to vote on the action:

- (1) If cumulative voting is not authorized, the election of directors at the annual meeting; or
- (2) If cumulative voting is authorized, the election of directors and the removal of a director unless the entire board of directors is to be removed, and if G.S. 55-7-28(e) applies to the corporation, an amendment to deny or limit the right of shareholders to vote cumulatively and an amendment to the articles of incorporation or bylaws to decrease the number of directors.

(b) If not otherwise fixed under G.S. 55-7-03 or G.S. 55-7-07, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (a). No written consent shall be effective to evidence the action referred to therein unless, within 60 days after the earliest date appearing on a written consent delivered to the corporation in the manner required by this section, the corporation receives written consents signed by shareholders sufficient to take the action without a meeting.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

(d) ~~If this Chapter requires that notice of proposed action be given to nonvoting shareholders and the action is to be taken by unanimous consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the proposed action at least 10 days before the action is taken. Unless the articles of incorporation otherwise provide, if shareholder approval is required by this Chapter for (i) an amendment to the articles of incorporation pursuant to Article 10 of this Chapter, (ii) a plan of merger or share exchange pursuant to Article 11 of this Chapter, (iii) a plan of conversion pursuant to Part 2 of Article 11A of this Chapter, (iv) the sale, lease, exchange, or other disposition of all, or substantially all, of the corporation's property pursuant to Article 12 of this Chapter, or (v) a proposal for dissolution pursuant to Article 14 of this Chapter, and the approval is to be obtained through action without meeting, the corporation must give its shareholders, other than shareholders who consent to the action, written notice of the proposed action at least 10 days before the action is taken. The notice must shall contain or be accompanied by the same material that, under this Chapter, would have been required to be sent to nonvoting shareholders not entitled to vote on the action in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.~~

(e) If action is taken without a meeting by fewer than all shareholders entitled to vote on the action, the corporation shall give written notice to all shareholders who have not consented to the action and who, if the action had been taken at a meeting, would have

been entitled to notice of the meeting with the same record date as the action taken without a meeting, within 10 days after the action is taken. The notice shall describe the action and indicate that the action has been taken without a meeting of shareholders. Failure to comply with the requirements of this subsection shall not invalidate any action taken that otherwise complies with this section."

SECTION 12. Article 7 of Chapter 55 of the General Statutes is amended by adding a new section to read:

"§ 55-7-08. Attendance.

To the extent authorized by a corporation's board of directors, a shareholder or the shareholder's proxy not physically present at a meeting of shareholders may attend the meeting by electronic or other means of remote communication that allow the shareholder or proxy (i) to read or to hear the meeting proceedings substantially concurrently as the proceedings occur, (ii) to be read or to be heard substantially concurrently as the shareholder or proxy communicates, and (iii) to vote on matters to which the shareholder or proxy is entitled to vote."

SECTION 13. G.S. 55-7-20(c) reads as rewritten:

"(c) The corporation shall make the shareholders' list available at the meeting, and any shareholder, personally or by or with his representative, is entitled to inspect the list at any time during the meeting or any adjournment. The corporation is not required to make the list available through electronic or other means of remote communication to a shareholder or proxy attending the meeting by remote communication pursuant to G.S. 55-7-08."

SECTION 14. G.S. 55-7-22(b) reads as rewritten:

"(b) A shareholder may appoint one or more proxies to vote or otherwise act for ~~him~~ the shareholder by signing an appointment form, either personally or by ~~his~~ the shareholder's attorney-in-fact. A photocopy, telegram, cablegram, facsimile transmission, or equivalent reproduction of a writing appointing one or more proxies, Without limiting G.S. 55-1-50, an appointment in the form of an electronic record that bears the shareholder's electronic signature and that may be directly reproduced in paper form by an automated process shall be deemed a valid appointment form within the meaning of this section. In addition, ~~if and to the extent permitted by the corporation,~~ a public corporation may permit a shareholder ~~may to~~ appoint one or more proxies (i) by an electronic mail message or other form of electronic, wire, or wireless communication that provides a written statement appearing to have been sent by the shareholder, or (ii) in the case of a public corporation, by any kind of electronic or telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the

corporation can reasonably assume that the appointment was made or authorized by the shareholder."

SECTION 15. G.S. 55-8-21(a) reads as rewritten:

"(a) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this Chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents signed by each director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records. To the extent the corporation has agreed pursuant to G.S. 55-1-50, a director's consent to action taken without meeting may be in electronic form and delivered by electronic means."

SECTION 16. G.S. 55-9-01(b)(1) reads as rewritten:

"(1) 'Business combination' includes any ~~merger or consolidation~~ merger, consolidation, or conversion of a corporation with or into any other corporation or any unincorporated entity, or the sale or lease of all or any substantial part of the corporation's assets to, or any payment, sale or lease to the corporation or any subsidiary thereof in exchange for securities of the corporation of any assets (except assets having an aggregate fair market value of less than five million dollars (\$5,000,000)) of any other entity."

SECTION 17. Chapter 55 of the General Statutes is amended by adding a new Article to read:

"Article 11A.

"Conversions.

"Part 1. Conversion to Corporation.

"§ 55-11A-01. Conversion.

A business entity, other than a domestic corporation, may convert to a domestic corporation if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity; and
- (2) The converting business entity complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 55-11A-02. Plan of conversion.

(a) The converting business entity shall approve a written plan of conversion containing:

- (1) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs;

- (2) The name of the resulting domestic corporation into which the converting business entity shall convert;
- (3) The terms and conditions of the conversion; and
- (4) The manner and basis for converting the interests in the converting business entity into shares, obligations, or other securities of the resulting domestic corporation or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) The plan of conversion shall be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before articles of incorporation for the resulting domestic corporation become effective, the plan of conversion may be amended or abandoned to the extent permitted by the laws that govern the organization and internal affairs of the converting business entity.

"§ 55-11A-03. Filing of articles of incorporation by converting entity.

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 55-11A-02, the converting business entity shall deliver articles of incorporation to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 55-2-02, the articles of incorporation shall contain articles of conversion stating:

- (1) That the corporation is being formed pursuant to a conversion of a business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity as required by law.

(b) If the plan of conversion is abandoned after the articles of incorporation have been filed with the Secretary of State but before the articles of incorporation become effective, the converting business entity shall deliver to the Secretary of State for filing prior to the time the articles of incorporation become effective an amendment to the articles of incorporation withdrawing the articles of incorporation.

(c) The conversion takes effect when the articles of incorporation become effective.

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 55-11A-04. Effects of conversion.

When the conversion takes effect:

- (1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic corporation;
- (2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic corporation without reversion or impairment;
- (3) All liabilities of the converting business entity continue as liabilities of the resulting domestic corporation;
- (4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and
- (5) The interests in the converting business entity that are to be converted into shares, obligations, or other securities of the resulting domestic corporation or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

"Part 2. Conversion of Corporation.

"§ 55-11A-10. Conversion.

A domestic corporation may convert to a different business entity if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of such other business entity; and
- (2) The converting domestic corporation complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 55-11A-11. Plan of conversion.

(a) The converting domestic corporation shall approve a written plan of conversion containing:

- (1) The name of the converting domestic corporation;
- (2) The name of the resulting business entity into which the domestic corporation shall convert, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The terms and conditions of the conversion; and

- (4) The manner and basis for converting the shares of the domestic corporation into interests, obligations, or securities of the resulting business entity or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

- (b) For a plan of conversion to be approved:

- (1) The board of directors shall recommend the plan of conversion to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation, in which event the board of directors shall communicate the basis for its lack of a recommendation to the shareholders with the plan; and

- (2) The shareholders entitled to vote shall approve the plan.

(c) The board of directors may condition its submission of the proposed conversion on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with G.S. 55-7-05. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan of conversion and contain or be accompanied by a copy of the plan.

(e) Unless this Chapter, the articles of incorporation, a bylaw adopted by the shareholders or the board of directors, acting pursuant to subsection (c) of this section, require a greater vote or a vote by voting groups, the plan of conversion to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group and, for the purpose of Article 9 of this Chapter or any provision in the articles of incorporation or bylaws adopted prior to January 1, 2002, a conversion shall be deemed to be included within the term 'merger'. If any shareholder of the converting domestic corporation has or will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic corporation shall require the affirmative vote or written consent of that shareholder.

(f) Separate voting by voting groups is required on a plan of conversion if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under G.S. 55-10-04, except where the consideration to be received in exchange for the shares of that group consists solely of cash.

(g) After a plan of conversion has been approved by a domestic corporation but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of conversion, or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of conversion or, if there is no such provision, as determined by the board of directors without further shareholder action.

"§ 55-11A-12. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic corporation as provided in G.S. 55-11A-11, the converting domestic corporation shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic corporation;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic corporation as required by law.

If the domestic corporation is converting to a business entity whose formation or whose status as a registered limited liability partnership, as defined in G.S. 59-32, or limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a document with the Secretary of State, then the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic corporation shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment to the articles of conversion withdrawing the articles of conversion.

(b) The conversion takes effect when the articles of conversion become effective.

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 55-11A-13. Effects of conversion.

(a) When the conversion takes effect:

- (1) The converting domestic corporation ceases its prior form of organization and continues in existence as the resulting business entity;

- (2) The title to all real estate and other property owned by the converting domestic corporation continues vested in the resulting business entity without reversion or impairment;
- (3) All liabilities of the converting domestic corporation continue as liabilities of the resulting business entity;
- (4) A proceeding pending by or against the converting domestic corporation may be continued as if the conversion did not occur;
- (5) The shares in the converting domestic corporation that are to be converted into interests, obligations, or securities of the resulting business entity or into the right to receive cash or other property are thereupon so converted, and the former shareholders of the converting domestic corporation are entitled only to the rights provided in the plan of conversion or any rights they may have under Article 13 of this Chapter; and
- (6) The resulting business entity is deemed to agree that it will promptly pay to the dissenting former shareholders of the converting domestic corporation the amount, if any, to which they are entitled under Article 13 of this Chapter and otherwise to comply with the requirements of Article 13 as if it were a domestic corporation.

The conversion shall not affect the liability or absence of liability of any shareholder of the converting domestic corporation for any acts, omissions, or obligations of the converting domestic corporation made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting domestic corporation in its form of organization as a domestic corporation in the conversion shall not constitute a dissolution or termination of the converting domestic corporation.

(b) If the resulting business entity is not a domestic limited liability company or a domestic limited partnership, when the conversion takes effect the resulting business entity is deemed:

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic corporation, (ii) the rights of dissenting shareholders of the converting domestic corporation under Article 13 of this Chapter, and (iii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any proceeding described in subdivision (1) of this subsection. Service on the Secretary of State of any such process shall be made by

delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55-11A-12(a)(2)."

SECTION 18. G.S. 55-11-07(a) reads as rewritten:

"(a) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

- (1) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;
- (2) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;
- (3) The foreign corporation complies with G.S. 55-11-05 if it is the surviving corporation of the merger or acquiring corporation of the share ~~exchange~~; exchange and, if the foreign corporation is not authorized to transact business in this State, includes in the articles of merger or articles of share exchange filed pursuant to G.S. 55-11-05 a designation of the foreign corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (4) Each domestic corporation complies with the applicable provisions of G.S. 55-11-01 through G.S. 55-11-04 and, if it is the surviving corporation of the merger or

acquiring corporation of the share exchange, with G.S. 55-11-05."

SECTION 19. G.S. 55-11-07(b) reads as rewritten:

"(b) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:

- (1) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and
- (2) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under Article 13.

Service on the Secretary of State of any process authorized by this subsection shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation. If the foreign corporation is authorized to transact business in this State, the address for mailing shall be its principal office or, if there is no mailing address for the principal office on file, its registered office. If the foreign corporation is not authorized to transact business in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

SECTION 20. G.S. 55-11-09(a) reads as rewritten:

"(a) One or more domestic or foreign nonprofit corporations may merge with one or more domestic corporations if:

- (1) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03;
- (2) In a merger involving one or more foreign nonprofit corporations, the merger is permitted by law of the state or country under whose law each foreign nonprofit corporation is incorporated and each foreign nonprofit corporation complies with that law in effecting the merger;
- (3) The domestic or foreign nonprofit corporation complies with G.S. 55-11-05 if it is the surviving corporation; corporation and, in the case of a foreign nonprofit corporation not authorized to conduct affairs in this State, includes in the articles of merger filed pursuant to

G.S. 55-11-05 a designation of the foreign nonprofit corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and

- (4) Each domestic corporation complies with the applicable provisions of G.S. 55-11-01, 55-11-03, and 55-11-04 and, if it is the surviving corporation, with G.S. 55-11-05."

SECTION 21. G.S. 55-11-09(b) reads as rewritten:

"(b) Upon the merger taking effect, if ~~the domestic or a~~ foreign nonprofit corporation is the surviving corporation, then it is deemed:

- (1) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger; and
- (2) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under Article 13 of this Chapter.

Service on the Secretary of State of any process authorized by this subsection shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign nonprofit corporation. If the foreign nonprofit corporation is authorized to conduct affairs in this State, the address for mailing shall be its principal office as defined in G.S. 55A-1-40(20), or, if there is no mailing address for the principal office on file, its registered office. If the foreign nonprofit corporation is not authorized to conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

SECTION 22. G.S. 55-11-10(a) is repealed.

SECTION 23. G.S. 55-11-10(c) reads as rewritten:

"(c) Each merging domestic corporation and each other merging business entity shall approve a written plan of merger containing:

- (1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (2) The name of the merging business entity that shall survive the merger;
- (3) The terms and conditions of the merger;

- (4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and
- (5) If the surviving business entity is a domestic corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a domestic corporation, approval of the plan of merger requires that the plan of merger be adopted by its board of directors as provided in G.S. 55-11-03 and, unless shareholder approval is not required under subsection (g) of G.S. 55-11-03, be approved by its shareholders as provided in G.S. 55-11-03. If any shareholder of a merging domestic corporation has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of the preceding sentence, approval of the plan of merger by the domestic corporation shall require the affirmative vote or written consent of that shareholder. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of that merging business entity.

After a plan of merger has been approved by a domestic corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors without further shareholder action."

SECTION 24. G.S. 55-11-10(e1)(2) reads as rewritten:

- "(2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~ State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 55-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business

entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

SECTION 25. G.S. 55-11-10(d) reads as rewritten:

"(d) After a plan of merger has been approved by each merging domestic corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name and address of the surviving business entity; entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1."

SECTION 26. G.S. 55-13-02(a) is amended by adding the following new subdivision to read:

"(2a) Consummation of a plan of conversion pursuant to Part 2 of Article 11A of this Chapter;".

SECTION 27. G.S. 55-13-22(a) reads as rewritten:

"(a) If proposed corporate action creating dissenters' rights under G.S. 55-13-02 is ~~authorized~~ approved at a shareholders' meeting, the corporation shall mail by registered or certified mail, return receipt requested, a written dissenters' notice to all shareholders who satisfied the requirements of G.S. 55-13-21. If proposed corporate action creating dissenters' rights under G.S. 55-13-02 is approved by shareholder action without meeting pursuant to G.S. 55-7-04, the corporation shall mail by registered or certified mail, return receipt requested, a written dissenters' notice to each shareholder entitled to assert dissenters' rights. A shareholder who consents to such action taken without meeting pursuant to G.S. 55-7-04 approving a proposed corporate action is not entitled to payment for the shareholder's shares under this Article with respect to that corporate action."

SECTION 27A. G.S. 55-15-03(a) reads as rewritten:

"(a) A foreign corporation may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application must set forth:

- (1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of G.S. 55-15-06;
- (2) The name of the state or country under whose law it is incorporated;
- (3) Its date of incorporation and period of duration;
- (4) The street address, and the mailing address if different from the street address, of its principal ~~office;~~ office, if any, and the county in which the principal office, if any, is located;
- (5) The street address, and the mailing address if different from the street address, of its registered office in this State, the county in which the registered office is located, and the name of its registered agent at that office; and
- (6) The names and usual business addresses of its current officers."

SECTION 28. G.S. 55-15-10(b) reads as rewritten:

"(b) Whenever a foreign corporation authorized to transact business in this State shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, or whenever its certificate of authority shall have been revoked under G.S. 55-15-31, then the Secretary of State shall be an agent of such corporation upon whom any such process, notice or demand may be served. Service on the Secretary of State of any such process, notice or demand shall be made by delivering to and leaving with ~~him~~ the Secretary of State, or

with any clerk ~~having charge of the corporation department of his office, authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice or demand. demand and the fee required by G.S. 55-1-22(b).~~ In the event any such process, notice or demand is served on the Secretary of State, ~~he~~ State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office shown in its most recent annual report or in any subsequent communication received from the corporation stating the current mailing address of its principal office or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a foreign corporation under this subsection shall be effective for all purposes from and after the date of such the service on the Secretary of State."

SECTION 29. G.S. 55-15-20(b) reads as rewritten:

"(b) A foreign corporation authorized to transact business in this State may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

- (1) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;
- (2) That it is not transacting business in this State and that it surrenders its authority to transact business in this State;
- (3) That the corporation revokes the authority of its registered agent to accept service of process and consents that service of process in any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the corporation was authorized to transact business in this State may thereafter be made on such corporation by service thereof on the Secretary of State;
- (4) A mailing address to which the Secretary of State may mail a copy of any process served on ~~him~~ the Secretary of State under subdivision (3); and
- (5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a statement~~ of any subsequent change in its mailing address."

SECTION 30. G.S. 55-15-20(c) reads as rewritten:

"(c) After the withdrawal of the foreign corporation is effective, service of process on the Secretary of State in accordance with subsection ~~(b)(3)(b)~~ of this section is service on the foreign corporation. shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of

State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of process, process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation at the mailing address set forth under designated pursuant to subsection (b)-(b) of this section."

SECTION 31. G.S. 55-15-21 reads as rewritten:

"§ 55-15-21. *Withdrawal of foreign corporation by reason of a merger, consolidation, or conversion.*

(a) Whenever a foreign corporation authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under the laws of which such foreign corporation was incorporated. If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State the articles or certificate must be accompanied by an application ~~which must set that sets~~ forth:

- (1) The name of the foreign corporation authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign corporation was authorized to transact business in this State may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on ~~him~~ the Secretary of State under subdivision (a)(2) of this section; and
- (4) A commitment to notify file with the Secretary of State ~~in the future~~ a statement of any subsequent change in its mailing address.

(b) If the Secretary of State finds that the articles or certificate and the application for withdrawal, if required, conform to law the Secretary of State shall:

- (1) Endorse on the articles or certificate and the application for withdrawal, if required, the word "filed" and the hour, day, month and year of the filing thereof;
- (2) File the articles or certificate and the application, if required;
- (3) Issue a certificate of withdrawal; and
- (4) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto.

(c) After the withdrawal of the foreign corporation is effective, service of process on the Secretary of State in accordance with subsection (a) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55-1-22(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (a) of this section."

PART II. AMENDMENTS TO THE NORTH CAROLINA NONPROFIT CORPORATION ACT.

SECTION 32. G.S. 55A-1-20(f) reads as rewritten:

"(f) A document submitted by a domestic or foreign corporation or business corporation shall be executed:

- (1) By the presiding officer of the board of directors by its president, or by another of its officers;
- (2) If directors have not been selected or the corporation has not been formed, by an incorporator; or
- (3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by an unincorporated entity must be executed by a person authorized to execute documents (i) pursuant to G.S. 57C-1-20(f) if the unincorporated entity is a domestic or foreign limited liability company, (ii) pursuant to G.S. 59-204 if the unincorporated entity is a domestic or foreign limited partnership, or (iii) pursuant to ~~G.S. 59-73.7(a)(4)~~ G.S. 59-35.1(a)(4) if the unincorporated entity is any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 33. G.S. 55A-1-40(20) reads as rewritten:

"(20) 'Principal office' means the office (in or out of this State) so designated in the articles of incorporation, the Designation of Principal Office Address form, or in any subsequent Corporation's Statement of Change of Principal Office Address form filed with the Secretary of State where the principal offices of a domestic or foreign corporation are ~~located.~~ located, as most recently designated by the domestic or foreign corporation in its articles of incorporation, a Designation of Principal Office Address form, a Corporation's Statement of Change of Principal Office Address form, or in the case of a foreign corporation, its application for a certificate of authority."

SECTION 34. G.S. 55A-1-40 is amended by adding the following new subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

"§ 55A-1-40. *Chapter definitions.*

In this Chapter unless otherwise specifically provided:

...
(2a) 'Business corporation' or 'domestic business corporation' means a corporation as defined in G.S. 55-1-40.

...
(8a) 'Domestic limited liability company' has the same meaning as in G.S. 57C-1-03.

(8b) 'Domestic limited partnership' has the same meaning as in G.S. 59-102.

...
(10a) 'Foreign business corporation' means a foreign corporation as defined in G.S. 55-1-40.

...
(11a) 'Foreign limited liability company' has the same meaning as in G.S. 57C-1-03.

(11b) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.

...."

SECTION 35. G.S. 55A-1-40(24a) reads as rewritten:

"(24a) 'Unincorporated entity' means a domestic or foreign limited liability ~~company as defined in G.S. 57C-1-03,~~ company, a domestic or foreign limited partnership as defined in G.S. 59-102, ~~partnership,~~ a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, including a

~~registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State.~~"

SECTION 36. G.S. 55A-11-06(a) reads as rewritten:

"(a) Except as provided in G.S. 55A-11-02, one or more foreign nonprofit corporations may merge with one or more domestic nonprofit corporations if:

- (1) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;
- (2) The foreign corporation complies with G.S. 55A-11-04 if it is the surviving corporation of the ~~merger;~~ merger and, if the foreign corporation is not authorized to conduct affairs in this State, includes in the articles of merger filed with the Secretary of State pursuant to G.S. 55A-11-04 a designation of the foreign corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation of the merger, with G.S. 55A-11-04."

SECTION 37. G.S. 55A-11-06(b) reads as rewritten:

"(b) Upon the merger taking effect, if the surviving corporation, if it does not have a registered agent in this State, corporation is a foreign corporation, it shall be deemed to have appointed the Secretary of State as its registered agent for service of process in a proceeding to enforce any obligation of a domestic corporation party to the merger, until such time as it appoints a registered agent in this State. merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation. If the foreign corporation is authorized to conduct affairs in this State, the address for mailing shall be its principal office or, if there is no mailing address for the principal office on file, its registered office. If the foreign corporation is not authorized to conduct affairs in this State,

the address for mailing shall be the mailing address designated pursuant to subdivision (2) of subsection (a) of this section."

SECTION 38. G.S. 55A-11-08(a) reads as rewritten:

"(a) One or more domestic or foreign business corporations may merge with one or more domestic nonprofit corporations if:

- (1) Each domestic business corporation complies with the applicable provisions of G.S. 55-11-01, 55-11-03, and 55-11-04;
- (2) In a merger involving one or more foreign business corporations, the merger is permitted by the law of the state or country under whose law each foreign business corporation is incorporated and each foreign business corporation complies with that law in effecting the merger;
- (3) The domestic or foreign business corporation complies with G.S. 55A-11-04 if it is the surviving ~~corporation;~~ corporation and, in the case of a foreign business corporation not authorized to transact business in this State, includes in the articles of merger filed pursuant to G.S. 55A-11-04 a designation of the foreign business corporation's mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (4) Each domestic nonprofit corporation complies with the applicable provisions of G.S. 55A-11-01 through G.S. 55A-11-03 and, if it is the surviving corporation, with G.S. 55A-11-04."

SECTION 39. G.S. 55A-11-08(b) reads as rewritten:

"(b) Upon the merger taking effect, if the surviving corporation does not have a registered agent in this State, is a foreign business corporation, it shall be deemed to have appointed the Secretary of State as its registered agent for service of process in a proceeding to enforce any obligation of a domestic nonprofit corporation party to the merger, until such time as it appoints a registered agent in this State-merger. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign business corporation. If the foreign business corporation is authorized to transact business in this State, the address for mailing shall be its principal office as defined in G.S. 55-1-40(17) or, if there is no mailing address for the principal

office on file, its registered office. If the foreign business corporation is not authorized to transact business in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (a) of this section."

SECTION 40. G.S. 55A-11-09(a) reads as rewritten:

"(a) As used in this section, 'business entity' means a domestic business corporation as defined in G.S. 55-1-40 (including a professional corporation as defined in G.S. 55B-2), a foreign business corporation as defined in G.S. 55-1-40 (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, corporation, a domestic or foreign limited liability company company, as defined in G.S. 57C-1-03, a domestic or foreign limited partnership partnership, as defined in G.S. 59-102, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 41. G.S. 55A-11-09(d) reads as rewritten:

"(d) After a plan of merger has been approved by each merging domestic nonprofit corporation and each other merging business entity as provided in subsection (c) of this section, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name of the surviving business entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger.

Certificates of merger shall also be registered as provided in G.S. 47-18.1."

SECTION 42. G.S. 55A-11-09(e1)(2) reads as rewritten:

"(2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~ State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided ~~by~~ for ~~in~~ this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to subdivision (3) of subsection (d) of this section."

SECTION 43. G.S. 55A-15-10(b) reads as rewritten:

"(b) When a foreign corporation authorized to conduct affairs in this State fails to appoint or maintain a registered agent in this State, or when its registered agent cannot with due diligence be found at the registered office, or when its certificate of authority shall have been revoked under G.S. 55A-15-31, the Secretary of State shall be an agent of such corporation upon whom any process, notice, or demand may be served. Service on the Secretary of State of any process, notice, or demand shall be made by delivering to and leaving with the Secretary of ~~State~~ State, or with any clerk ~~having charge of the corporation department of the Secretary of State's office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or ~~demand.~~ demand and the fee required by G.S. 55A-1-22(b). In the event any process, notice, or demand is served on the Secretary of ~~State~~ State in the manner provided for in this subsection, ~~he~~ the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the corporation at its principal office ~~shown in its most recent annual report, if applicable, the articles of incorporation, the Designation of Principal Office Address form, in any subsequent~~

Corporation's Statement of Change of Principal Office Address form, or in any subsequent communication received from the corporation stating the current mailing address of its principal office or, if there is no mailing address for the principal office on file, to the corporation at its registered office. Service on a foreign corporation under this subsection shall be effective for all purposes from and after the date of ~~such~~ the service on the Secretary of State."

SECTION 44. G.S. 55A-15-20(b)(5) reads as rewritten:

"(5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a statement~~ of any subsequent change in its mailing address."

SECTION 45. G.S. 55A-15-20(d) reads as rewritten:

"(d) After the withdrawal of the foreign corporation is effective, service of process on the Secretary of State in accordance with ~~subdivision (b)(3) subsection (b)~~ of this section ~~is service on the foreign corporation.~~ shall be made by delivering to and leaving with the Secretary of State, or any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of ~~process,~~ process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation at the mailing address ~~set forth under~~ designated pursuant to subsection (b) of this section."

SECTION 46. G.S. 55A-15-21(a) reads as rewritten:

"(a) Whenever a foreign corporation authorized to conduct affairs in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under the laws of which the foreign corporation was incorporated. If the surviving or resulting entity is not authorized to conduct affairs in this State, the articles or certificate shall be accompanied by an application which must set forth:

- (1) The name of the foreign corporation authorized to conduct affairs in this State, the type of entity and the name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to conduct affairs in this State;

- (2) A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of affairs conducted in this State, during the time the foreign corporation was authorized to conduct affairs in this State may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on ~~him~~ the Secretary of State under subdivision (a)(2) of this section; and
- (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future a statement~~ of any subsequent change in its mailing address."

SECTION 47. G.S. 55A-15-21 is amended by adding a new subsection to read:

"(c) After the withdrawal of the foreign corporation is effective, service of process on the Secretary of State in accordance with subsection (a) of this section shall be made by delivering to and leaving with the Secretary of State, or any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the foreign corporation at the mailing address designated pursuant to subsection (a) of this section."

PART III. AMENDMENTS TO THE NORTH CAROLINA LIMITED LIABILITY COMPANY ACT.

SECTION 48. G.S. 57C-1-03 is amended by adding the following new subdivisions, to be placed by the Revisor of Statutes in the appropriate order, to read:

"§ 57C-1-03. Definitions.

The following definitions apply in this Chapter, unless otherwise specifically provided:

- ...
- (5a) Director. – For any limited liability company the management of whose affairs is vested in whole or in part in persons other than its managers pursuant to G.S. 57C-3-20(b), any person who is so vested with, or is one of a group of persons so vested with, the authority to direct the management of the limited liability company's affairs.
- ...
- (6a) Domestic nonprofit corporation. – A corporation as defined in G.S. 55A-1-40(5).

(6b) Executive. – For any limited liability company the management of whose affairs is vested in whole or in part in persons other than its managers pursuant to G.S. 57C-3-20(b), any person who is so vested with authority to participate in the management of the limited liability company's affairs under the direction of the limited liability company's managers or directors.

...
 (9a) Foreign nonprofit corporation. – A foreign corporation as defined in G.S. 55A-1-40(11).

...
 (12a) Management of the affairs. – In respect of an entity, unless the context indicates otherwise, the authority to direct and participate in the management of the entity.

...
 (17a) Principal office. – The office, in or out of this State, where the principal executive offices of a domestic or foreign limited liability company are located, as designated in its most recent annual report filed with the Secretary of State or, in the case of a domestic or foreign limited liability company that has not yet filed an annual report, in its articles of organization or application for a certificate of authority, respectively.

...."

SECTION 49. G.S. 57C-1-03(3a) reads as rewritten:

"(3a) Business entity. – A corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation (including a foreign professional corporation defined in G.S. 55B-16), a domestic or foreign nonprofit ~~corporation~~ corporation, as defined in G.S. 55A-1-40, a domestic or foreign limited liability company, a domestic or foreign limited ~~partnership~~ partnership, as defined in G.S. 59-102, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State ~~(including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State).~~ State."

SECTION 50. G.S. 57C-1-03(4) reads as rewritten:

"(4) ~~Corporation.~~ Corporation or domestic corporation. – Has the same meaning as in G.S. 55-1-40(4)."

SECTION 51. G.S. 57C-1-03(13) reads as rewritten:

"(13) Manager. – Has the following meanings: (i) with respect to a domestic limited liability company that has set forth in its articles of organization that it is to be or may be managed by persons other than members, company, any person designated in, or in accordance with with, G.S. 57C-3-20(a), (ii) ~~with respect to any other limited liability company, its members, and~~ (iii) (ii) with respect to a foreign limited liability company, any person authorized to act for and bind the foreign limited liability company."

SECTION 52. G.S. 57C-1-03(15) reads as rewritten:

"(15) Membership interest or interest. – In the context of a member of a limited liability company, the terms mean all of a member's rights in the limited liability company, including ~~without limitation the member's~~ any share of the profits and losses of the limited liability company, the any right to receive distributions of the limited liability company assets, any right to vote, vote on matters relating to the limited liability company, and any right to participate in the management, management of the limited liability company's affairs."

SECTION 53. G.S. 57C-1-20(f) reads as rewritten:

"(f) A document submitted by a domestic or foreign limited liability company must be executed:

- (1) By a manager of the limited liability company;
- (2) ~~If managers have not been selected, or if the limited liability company does not have a manager other than a member, by any member;~~
- (3) If the limited liability company has not been formed or if no initial members of the limited liability company have been identified in the manner provided in this Chapter, by an organizer; or
- (4) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

A document submitted by a business entity other than a domestic or foreign limited liability company must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a corporation or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 59-204 if the business entity is a domestic or foreign limited partnership, or (iv) pursuant to ~~G.S. 59-73.7(a)(4)~~ G.S. 59-35.1(a)(4) if the business entity is any

other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 54. G.S. 57C-1-22(a) reads as rewritten:

"(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
(1) Articles of organization	\$125.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00
(5) Application for renewal of registered name	10.00
(6) Limited liability company's statement of change of registered agent or registered office or both	5.00
(7) Agent's statement of change of registered office for each affected limited liability company	5.00
(8) Agent's statement of resignation	No fee
(9) Designation of registered agent or registered office or both	5.00
(10) Amendment of articles of organization	50.00
(11) Restated articles of organization without amendment of articles	10.00
(12) Restated articles of organization with amendment of articles	50.00
<u>(12a) Articles of conversion (other than articles of conversion included as part of another document)</u>	<u>50.00</u>
(13) Articles of merger	50.00
(14) Articles of dissolution	30.00
(15) Cancellation of articles of dissolution	10.00
(16) Certificate of administrative dissolution	No fee
(16a) Application for reinstatement following administrative dissolution	100.00
(17) Certificate of reinstatement	No fee
(18) Certificate of judicial dissolution	No fee
(19) Application for certificate of authority	250.00
(20) Application for amended certificate of authority	50.00
(21) Application for certificate of withdrawal	10.00
(22) Certificate of revocation of authority to transact business	No fee
(23) Articles of correction	10.00
(24) Application for certificate of existence or authorization	5.00
(25) Annual report	200.00
(26) Any other document required or permitted	

to be filed by this Chapter	10.00
(27) Advisory review of a document	200.00."

SECTION 55. G.S. 57C-2-01 reads as rewritten:

"§ 57C-2-01. *Purposes.*

(a) Every limited liability company ~~organized~~formed under this Chapter has the purpose of engaging in any lawful business unless a more limited lawful purpose is set forth in its articles of organization.

(b) A domestic or foreign limited liability company engaging in a business that is subject to regulation under another statute of this State may be formed or authorized to transact business under this Chapter only if permitted by and subject to all limitations of the other statute giving effect to subsection (c) of this section.

(c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as set forth in this subsection, a domestic or foreign limited liability company shall engage in rendering professional services only to the extent that a professional corporation acting pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55 of the General Statutes may engage in rendering professional services under the conditions and limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and each applicable licensing statute are deemed amended to provide that professionals licensed under the applicable licensing statute may render professional services through a domestic or foreign limited liability company. For purposes of applying the provisions, conditions, and limitations of Chapter 55B of the General Statutes and the applicable licensing statute to domestic and foreign limited liability companies that engage in rendering professional services, (i) unless the context clearly requires otherwise, references to Chapter 55 of the General Statutes (the North Carolina Business Corporation Act) shall be treated as references to this Chapter, and references to a "corporation" or "foreign corporation" shall be treated as references to a limited liability company or foreign limited liability company, respectively, (ii) members shall be treated in the same manner as shareholders of a professional corporation, (iii) managers and directors shall be treated in the same manner as directors of a professional corporation, (iv) the persons signing the articles of organization of a limited liability company shall be treated in the same manner as the incorporators of a professional corporation, and (v) the name of a domestic or foreign limited liability company so engaged shall comply with G.S. 57C-2-30 or G.S. 57C-7-06 and, in addition, shall contain the word "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection, "applicable licensing statute" shall mean those provisions of the General Statutes referred to in G.S. 55B-2(6).

Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the law in this State applicable to the professional relationship and liabilities between the individual furnishing the professional services and the person receiving the professional services, the standards of professional conduct applicable to the rendering of the services, or any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A ~~member or member, manager~~ manager, director, or executive of a professional limited liability company is not individually liable, directly or indirectly, including by indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the professional limited liability company that arise from errors, omissions, negligence, malpractice, incompetence, or malfeasance committed by another member, manager, director, executive, employee, agent, or other representative of the professional limited liability company; provided, however, nothing in this Chapter shall affect the liability of a ~~member or member, manager~~ director, or executive of a professional limited liability company for his or her own errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the rendering of professional services."

SECTION 56. G.S. 57C-2-02 reads as rewritten:

"§ 57C-2-02. *Powers of the limited liability company.*

Unless its articles of organization or this Chapter provide otherwise, each limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including, without limitation, power:

- (1) To sue and be sued, complain, and defend in its own name;
- (2) To make and amend operating agreements, not inconsistent with its articles of organization or with the laws of this State, for managing the business and regulating the affairs of the limited liability company;
- (3) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;
- (4) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (5) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;

- (6) To make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations (which may be convertible into or include the option to purchase other interests in the limited liability company), and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (7) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (8) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (9) To conduct its business, locate offices, and exercise the powers granted by this Chapter within or without this State;
- (10) To elect or appoint managers, directors, executives, officers, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit;
- (11) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, and other benefit or incentive plans for any or all of its current or former managers, directors, executives, officers, employees, and agents;
- (12) To make donations for the public welfare or for charitable, religious, cultural, scientific, or educational purposes;
- (13) To transact any lawful business that will aid governmental policy;
- (14) To make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the limited liability company;
- (15) To provide insurance for its benefit on the life or physical or mental ability of any of its managers, directors, executives, officers, or employees or on the life or physical or mental ability of any owner of any interest in the limited liability company for the purpose of acquiring the interest owned by him at the time of his death or disability, and for these purposes the limited liability company is deemed to have an insurable interest in its managers, directors, executives, officers, employees, or members and other interest owners; and to provide insurance for its benefit on the life or physical or mental ability of any other person in whom it has an insurable interest; and

(16) To render professional services, subject to G.S. 57C-2-01(c)."

SECTION 57. G.S. 57C-2-20(c) reads as rewritten:

"(c) Organization of a limited liability company requires one or more initial members and any further action as may be determined by the initial member or members. If initial members are not identified in the articles of organization of a limited liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the call of a majority of the organizers to identify the initial members of the limited liability company. Unless otherwise provided in this Chapter or in the articles of organization of the limited liability company, all decisions to be made by the organizers at such meetings shall require the approval, consent, agreement, or ratification of a majority of the organizers. Unless otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take action as described in this subsection by written consent signed by all of the organizers. The written consent may be incorporated in, or otherwise made part of, the initial written operating agreement of the limited liability company."

SECTION 58. G.S. 57C-2-21(a) reads as rewritten:

"(a) The articles of organization must set forth:

- (1) A name for the limited liability company that satisfies the provisions of G.S. 57C-2-30;
- (2) If the limited liability company is to dissolve by a specific date, the latest date on which the limited liability company is to dissolve. If no date for dissolution is specified, there shall be no limit on the duration of the limited liability company;
- (3) The name and address of each person executing the articles of organization and whether the person is executing the articles of organization in the capacity of a member or an organizer;
- (4) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office, the county in which the initial registered office is located, and the name of the limited liability company's initial registered agent at that address;~~and~~
- (4a) The street address, and the mailing address if different from the street address, of the limited liability company's principal office, if any, and the county in which the principal office, if any, is located; and
- (5) Unless all of the members by virtue of their status as members shall be managers of the limited liability company, a statement that, except as provided in G.S.

57C-3-20(a), the members shall not be managers by virtue of their status as members."

SECTION 59. G.S. 57C-2-23(a) reads as rewritten:

"(a) Each domestic limited liability company other than a professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited liability company authorized to transact business in this State, shall deliver to the Secretary of State for filing an annual report, in a form ~~jointly~~ prescribed by the ~~Secretary of Revenue and~~ Secretary of State, that sets forth all of the following:

- (1) The name of the limited liability or foreign limited liability company and the state or country under whose law it is ~~organized~~formed.
- (2) The street address, and the mailing address if different from the street address, of the registered office, the county in which the registered office is located, and the name of its registered agent at that office in this State, and a statement of any change of the registered office or registered agent, or both.
- (3) The address and telephone number of its principal office.
- (4) The names and business addresses of its ~~managers~~managers or, if the limited liability company has never had members, its organizers.
- (5) A brief description of the nature of its business.

If the information contained in the most recently filed annual report has not changed, a certification to that effect may be made instead of setting forth the information required by subdivisions (2) through (5) of this subsection. The Secretary of State shall make available the form required to file an annual report."

SECTION 59A. G.S. 57C-2-23(c) reads as rewritten:

"(c) The Secretary of State must notify limited liability companies of the annual report filing requirement. The annual report shall be delivered to the Secretary of State by ~~the fifteenth day of the fourth month following the close of the limited liability company's fiscal~~ April 15th of each year."

SECTION 60. G.S. 57C-2-30(a)(2) reads as rewritten:

"(2) ~~May Shall~~ not contain language stating or implying that the limited liability company is ~~organized~~formed for a purpose other than that permitted by G.S. 57C-2-01 and its articles of organization; and".

SECTION 61. G.S. 57C-2-32(b) reads as rewritten:

"(b) A foreign limited liability company registers its name, or its name with any required addition, by filing with the Secretary of State an application:

- (1) Setting forth its name, or its name with any required addition, the state or country and date of its ~~organization~~,

formation, and a brief description of the nature of the business in which it is engaged; and

- (2) Accompanied by a certificate of existence (or a document of a similar import) from the state or country of ~~organization~~formation."

SECTION 62. G.S. 57C-2-32(e) reads as rewritten:

"(e) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under that name or consent in writing to the use of that name by a limited liability company thereafter ~~organized~~formed under this Chapter or by another foreign limited liability company thereafter authorized to transact business in this State. The registration terminates when the domestic limited liability company is ~~organized~~formed or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company under the registered name."

SECTION 63. G.S. 57C-2-34(b) reads as rewritten:

"(b) The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this section. In the case of a foreign limited liability company, a similar certificate by any competent authority of the jurisdiction of ~~organization~~formation may be registered in accordance with this section."

SECTION 64. G.S. 57C-3-01 is amended by adding the following new subsection to read:

"(c) Nothing in this Chapter precludes a person from being a member of a limited liability company because that person has not made, and has no obligation to make, any contributions to the limited liability company and has no right to receive any distributions from the limited liability company or share in any profits or losses of the limited liability company."

SECTION 65. G.S. 57C-3-02(3)e. reads as rewritten:

"e. Seeking, consenting to, or acquiescing in, the appointment of a trustee or receiver for, or liquidation of the ~~member person~~ or of all or any substantial part of ~~his~~that person's properties; or".

SECTION 66. G.S. 57C-3-04(e) reads as rewritten:

"(e) The managers or directors shall have the right to keep confidential from members who are not ~~managers~~, managers or directors, for such period of time as the managers or directors deem reasonable, any information which the managers or directors reasonably believe to be in the nature of trade secrets or other information the disclosure of which the managers or directors in good faith believe is not in the best interest of the limited liability company."

SECTION 67. G.S. 57C-3-20(a) reads as rewritten:

"(a) Unless the articles of organization provide otherwise, all members by virtue of their status as members shall be managers of the limited liability company, together with any other persons that may be designated as managers ~~in~~ in, or in accordance with, the articles of organization or a written operating agreement. If the articles of organization provide that all members are not necessarily managers by virtue of their status as members, then those persons designated as managers ~~in~~ in, or in accordance with, the articles of organization or a written operating agreement shall be managers, but for any period during which no such designation has been made or is in effect, all members shall be managers."

SECTION 68. G.S. 57C-3-22 is amended by adding a new subsection to read:

"(f) Except to the extent otherwise provided in the articles of organization or a written operating agreement, each director and executive shall be subject to the same requirements and afforded the same rights as are provided in this section for a manager when the director or executive exercises authority in the management of a limited liability company's affairs that would otherwise be vested in the managers pursuant to G.S. 57C-3-20(b)."

SECTION 69. G.S. 57C-3-30 reads as rewritten:

"§ 57C-3-30. Liability to third parties of ~~members and managers;~~ members, managers, directors, and executives; parties to actions; governing law.

(a) A person who is a ~~member or manager, or both,~~ member, manager, director, executive, or any combination thereof of a limited liability company is not liable for the obligations of a limited liability company solely by reason of being a ~~member or manager or both,~~ member, manager, director, or executive and does not become so by participating, in whatever capacity, in the management or control of the business. A ~~member or manager~~ member, manager, director, or executive may, however, become personally liable by reason of ~~his~~ that person's own acts or conduct.

(b) A member of a limited liability company is not a proper party to proceedings by or against a limited liability company, except where the object of the proceeding is to enforce a member's right against or liability to the limited liability company.

(c) The liability of ~~members and managers~~ members, managers, directors, and executives of a limited liability company ~~organized~~ formed and existing under this Chapter shall at all times be determined solely and exclusively by this Chapter and the laws of this State.

(d) If a conflict arises between the laws of this State and the laws of any other jurisdiction with regard to the liability of a ~~member or manager~~ members, managers, directors, or executives of a limited

liability company ~~organized~~formed and existing under this Chapter for the debts, obligations, and liabilities of the limited liability company, this Chapter and the laws of this State shall govern in determining the liability."

SECTION 70. G.S. 57C-3-31 reads as rewritten:

"§ 57C-3-31. *Mandatory indemnification of ~~managers~~ managers, directors, executives, and members.*

(a) ~~A~~Unless otherwise provided in the articles of organization or a written operating agreement, a limited liability company must indemnify every ~~manager~~manager, director, and executive in respect of payments made and personal liabilities reasonably incurred by the ~~manager~~manager, director, and executive in the authorized conduct of its business or for the preservation of its business or property.

(b) ~~Unless limited by its~~Unless otherwise provided in the articles of ~~organization,~~organization or a written operating agreement, a limited liability company shall indemnify a ~~member or manager~~member, manager, director, or executive who is wholly successful, on the merits or otherwise, in the defense of any proceeding to which ~~he~~the person was a party because ~~he~~the person is or was a ~~member or manager~~member, manager, director, or executive of the limited liability company against reasonable expenses incurred by ~~him~~the person in connection with the proceeding."

SECTION 71. G.S. 57C-3-32 reads as rewritten:

"§ 57C-3-32. *Limitation of liability of ~~managers~~ managers, directors, executives, and members and permissive indemnification of ~~managers~~ managers, directors, executives, and members; insurance.*

(a) Subject to subsection (b) of this section, the articles of organization or a written operating agreement may:

- (1) Eliminate or limit the personal liability of a ~~manager~~manager, director, or executive for monetary damages for breach of any duty provided for in G.S. 57C-3-22 (other than liability under G.S. 57C-4-07); and
- (2) Provide for indemnification of a ~~manager or member~~manager, member, director, or executive for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which the ~~member or manager~~member, manager, director, or executive is a party because ~~he~~the person is or was a ~~manager or member~~manager, member, director, or executive. For purposes of this subdivision, the words "expenses", "proceeding", and "party" shall have the meanings set forth in G.S. 55-8-50(b).

(b) No provision permitted under subsection (a) of this section shall limit, eliminate, or indemnify against the liability of a ~~manager~~

manager, director, or executive for (i) acts or omissions that the ~~manager~~ manager, director, or executive knew at the time of the acts or omissions were clearly in conflict with the interests of the limited liability company, (ii) any transaction from which the ~~manager~~ manager, director, or executive derived an improper personal benefit, or (iii) acts or omissions occurring prior to the date the provision became effective, except that indemnification pursuant to subdivision (2) of subsection (a) of this section may be provided if approved by all the members. As used in this subsection, "improper personal benefit" does not include reasonable compensation or other reasonable incidental benefit for or on account of service as a manager, ~~an~~ director, executive, officer, ~~an~~ employee, ~~an~~ independent contractor, ~~an~~ attorney, or ~~a~~ consultant of the limited liability company.

(c) A limited liability company may purchase and maintain insurance on behalf of an individual who is or was a manager, ~~an~~ director, executive, officer, employee, or ~~an~~ agent of the limited liability company, or who, while a manager, ~~an~~ director, executive, officer, employee, or ~~an~~ agent of the limited liability company is or was serving at the request of the limited liability company as a director, ~~an~~ executive, officer, ~~a~~ partner, ~~a~~ member, manager, ~~a~~ trustee, ~~an~~ employee, or ~~an~~ agent of a person, against liability asserted against or incurred by ~~him~~ the person in that capacity or arising from ~~his~~ the person's status as a manager, ~~an~~ director, executive, officer, employee, or ~~an~~ agent, whether or not the limited liability company would have the power to indemnify ~~him~~ the person against the same liability under any provision of this Chapter."

SECTION 72. G.S. 57C-4-07 reads as rewritten:

"§ 57C-4-07. *Liability upon wrongful distribution.*

(a) A manager or director who votes for or assents to a distribution in violation of G.S. 57C-4-06 or a written operating agreement is personally liable to the limited liability company for the amount of the distribution that exceeds what could have been distributed without violating G.S. 57C-4-06 or the operating agreement if it is established that the manager or director did not act in compliance with G.S. 57C-3-22.

(b) Each manager or director held liable under subsection (a) of this section for a wrongful distribution is entitled to:

- (1) Contribution from each other manager or director who could be held liable under subsection (a) of this section for the wrongful distribution; and
- (2) Reimbursement from each member for the amount the member received knowing that the distribution was made in violation of G.S. 57C-4-06 or the operating agreement.

(c) A proceeding under this section is barred unless it is commenced within three years after the date on which the effect of the distribution is measured under G.S. 57C-4-06(c)."

SECTION 73. G.S. 57C-6-02(2) reads as rewritten:

"(2) A member if it is established that (i) the ~~managers or those managers, directors, or any other persons~~ in control of the limited liability company are deadlocked in the management of the affairs of the limited liability company, the members are unable to break the deadlock, and irreparable injury to the limited liability company is threatened or being suffered, or the business and affairs of the limited liability company can no longer be conducted to the advantage of the members generally, because of the deadlock; (ii) liquidation is reasonably necessary for the protection of the rights or interests of the complaining member, (iii) the assets of the limited liability company are being misapplied or wasted; or (iv) the articles of organization or a written operating agreement entitles the complaining member to dissolution of the limited liability company; or".

SECTION 74. G.S. 57C-6-03(c) reads as rewritten:

"(c) A limited liability company administratively dissolved under this section may apply to the Secretary of State for reinstatement not later than five years after the effective date of the administrative dissolution. The procedures for reinstatement and for the appeal of any denial of the limited liability company's application for reinstatement shall be the same procedures applicable to ~~business~~ corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. The effect of reinstatement of a limited liability company shall be the same as for a corporation under G.S. 55-14-22."

SECTION 75. G.S. 57C-6-04(a) reads as rewritten:

"(a) Except as otherwise provided in this Chapter, the articles of organization, or a written operating agreement, the managers shall wind up the limited liability company's affairs following its dissolution. If the dissolved limited liability company has no ~~manages, managers,~~ and provision is not otherwise made in the articles of organization or a written operating agreement, the legal representative of or successor to the ~~member whose event of withdrawal has resulted in the dissolution may wind up~~ last remaining member may wind up the limited liability company's affairs. The court may wind up the limited liability company's affairs, or appoint a person to wind up its affairs, on application of any member, his legal representative, or assignee."

SECTION 76. G.S. 57C-6-06(5) reads as rewritten:

"(5) Any other information the ~~members~~ or managers filing the articles of dissolution determine."

SECTION 77. G.S. 57C-6-06.1(5) reads as rewritten:

"(5) Any other information the ~~members~~ or managers filing the articles of cancellation determine."

SECTION 78. G.S. 57C-7-01 reads as rewritten:

"§ 57C-7-01. *Law governing.*

The laws of the state or other jurisdiction under which a foreign limited liability company is ~~organized~~ formed shall govern its formation, ~~organization—organization~~, and internal affairs and the liability of its managers and members, regardless of whether the foreign limited liability company procured or should have procured a certificate of authority under this Chapter, and a foreign limited liability company ~~may~~ shall not be denied a certificate of authority by reason of any difference between the laws under which it is ~~organized~~ formed and the laws of this State. A foreign limited liability company with a valid certificate of authority has the same but no greater rights and has the same but no greater privileges as, and is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company of like character."

SECTION 79. G.S. 57C-7-04(a) reads as rewritten:

"(a) A foreign limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application must set forth:

- (1) The name of the foreign limited liability company or, if its name is unavailable for use in this State, a name that satisfies the requirements of G.S. 57C-7-06;
- (2) The name of the state or country under whose law it is ~~organized;~~ formed;
- (3) Its date of ~~organization~~ formation and period of duration;
- (4) The street address, and the mailing address if different from the street address, of its principal ~~office in the state or country under whose law it is organized;~~ office, if any, and the county in which the principal office, if any, is located;
- (5) The street address, and the mailing address if different from the street address, of its registered office in this State and the name of its registered agent at that office; and
- (6) The names and usual business addresses of its current managers."

SECTION 80. G.S. 57C-7-04(b) reads as rewritten:

"(b) The foreign limited liability company shall deliver with the completed application a certificate of existence (or a document of

similar import) duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under whose law it is ~~organized;~~ formed."

SECTION 81. G.S. 57C-7-05(a)(3) reads as rewritten:

"(3) The state or country of its ~~organization;~~ formation."

SECTION 82. G.S. 57C-7-05(b)(2) reads as rewritten:

"(2) The name of the state or country under whose law it is ~~organized;~~ formed;".

SECTION 83. G.S. 57C-7-06(b)(1) reads as rewritten:

"(1) The name of a corporation, limited partnership, or limited liability company ~~organized~~ formed in this State, or a foreign corporation, foreign limited partnership, or foreign limited liability company authorized to transact business in this State;".

SECTION 84. G.S. 57C-7-06(c) reads as rewritten:

"(c) A foreign limited liability company may apply to the Secretary of State for authorization to use in this State a name that is not distinguishable upon the Secretary of State's records from the name of another limited liability company (~~organized~~ (formed or authorized to transact business in this State). The Secretary of State shall authorize use of the name applied for if:

- (1) The other person who has or uses the name or who has reserved or registered the name consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
- (2) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State."

SECTION 85. G.S. 57C-7-10(b) reads as rewritten:

"(b) Whenever a foreign limited liability company authorized to transact business in this State shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of the foreign limited liability company upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State State, or with any clerk ~~having charge of the limited liability company department of the Secretary of State's office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of the process, notice, or demand. ~~demand~~ demand and the fee required by G.S.

57C-1-22(b). In the event any such process, notice, or demand is served on the Secretary of ~~State~~, State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the foreign limited liability company at its principal office ~~shown in its application for certificate of authority or amended certificate of authority or at the address indicated in the latest communication received by the Secretary of State from the foreign limited liability company stating the current mailing address of its principal office~~ or, if there is no mailing address for the principal office on file, to the foreign limited liability company at its registered office. Service on a foreign limited liability company under this subsection shall be effective for all purposes from and after the date of the service on the Secretary of State."

SECTION 86. G.S. 57C-7-11(b) reads as rewritten:

"(b) A foreign limited liability company authorized to transact business in this State may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

- (1) The name of the foreign limited liability company and the name of the state or country under whose law it is ~~organized;~~ formed;
- (2) That it is not transacting business in this State and that it surrenders its authority to transact business in this State;
- (3) That the foreign limited liability company revokes the authority of its registered agent to accept service of process and consents that service of process in any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability company was authorized to transact business in this State, may thereafter be made on such foreign limited liability company by service thereof on the Secretary of State;
- (4) A mailing address to which the Secretary of State may mail a copy of any process served on ~~him~~ the Secretary of State under subdivision (3) of this subsection; and
- (5) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a statement of any subsequent change in its mailing address."

SECTION 87. G.S. 57C-7-11(d) reads as rewritten:

"(d) After the withdrawal of the foreign limited liability company is effective, service of process on the Secretary of State in accordance with ~~subdivision (b)(3)~~ subsection (b) of this section ~~is service on the foreign limited liability company.~~ shall be made by delivering to and

leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of that process and the fee required by G.S. 57C-1-22(b). Upon receipt of ~~process,~~ process in the manner provided in this subsection, the Secretary of State shall mail a copy of the process by registered or certified mail, return receipt requested, to the foreign limited liability company at the mailing address ~~set forth under~~ designated pursuant to subsection (b) of this section."

SECTION 88. G.S. 57C-7-12(a) reads as rewritten:

"(a) Whenever a foreign limited liability company authorized to transact business in this State ceases its separate existence as a result of a statutory merger, consolidation, or conversion permitted by the laws of the state or country under which it was ~~organized,~~ formed, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability company by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under the laws of which the foreign limited liability company was ~~organized.~~ formed. If the surviving or resulting entity is not authorized to transact business in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign limited liability company authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability company was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on ~~him~~ the Secretary of State under subdivision (a)(2) of this section; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its ~~subsequent~~ mailing address."

SECTION 89. G.S. 57C-7-12 is amended by adding a new subsection to read:

"(c) After the withdrawal of the foreign limited liability company is effective, service of process on the Secretary of State in accordance with subsection (a) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of process and the fee required by G.S. 57C-1-22(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (a) of this section."

SECTION 90. G.S. 57C-8-01(b) reads as rewritten:

"(b) The complaint shall allege with particularity the efforts, if any, made by the plaintiff to obtain the action the plaintiff desires from the ~~managers or comparable~~ managers, directors, or other applicable authority and the reasons for the plaintiff's failure to obtain the action, or for not making the effort. Whether or not a demand for action was made, if the limited liability company commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed."

SECTION 91. G.S. 57C-8-01(c) reads as rewritten:

"(c) Upon motion of the limited liability company, the court may appoint a committee composed of two or more disinterested ~~managers~~ managers, directors, or other disinterested persons, acceptable to the limited liability company, to determine whether it is in the best interest of the limited liability company to pursue a particular legal right or remedy. The committee shall report its findings to the court. After considering the report and any other relevant evidence, the court shall determine whether the proceeding should be continued or not."

SECTION 92. The heading of Part 1 of Article 9A of Chapter 57C of the General Statutes reads as rewritten:

"Part 1. ~~Conversions.~~ Conversion to Limited Liability Company."

SECTION 93. G.S. 57C-9A-01 reads as rewritten:

"§ 57C-9A-01. *Conversion.*

(a) ~~A domestic limited liability company may convert to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes.~~

(b) ~~A foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State) may convert to a domestic limited liability company if:~~

- (1) ~~The converting business entity complies with the requirements of this Part; and~~
- (2) ~~If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity and the converting business entity complies with those laws.~~

A business entity other than a domestic limited liability company may convert to a domestic limited liability company if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity; and
- (2) The converting business entity complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section."

SECTION 94. G.S. 57C-9A-02 reads as rewritten:

"§ 57C-9A-02. *Plan of conversion.*

(a) ~~The holders of the interests in the~~ converting business entity shall approve a written plan of conversion containing:

- (1) The name of the resulting domestic limited liability company into which the converting business entity shall convert;
- (1a) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (2) The terms and conditions of the conversion; and
- (3) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited liability company or into cash or other property in whole or in part.

The plan of conversion may also contain other provisions relating to the conversion.

(b) ~~In the case of a domestic limited partnership or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are~~

~~governed by a law other than the laws of this State, the~~ The plan of conversion must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before articles of organization for the resulting domestic limited liability company become effective, the plan of conversion may be amended or abandoned to the extent ~~provided in the plan of conversion, permitted by the laws that govern the organization and internal affairs of the converting business entity.~~

SECTION 95. G.S. 57C-9A-03 reads as rewritten:

"§ 57C-9A-03. *Filing of articles of organization by converting business entity.*

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 57C-9A-02, the converting business entity shall deliver articles of organization to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 57C-2-21, the articles of organization shall ~~state:~~ contain articles of conversion stating:

- (1) That the domestic limited liability company is being formed pursuant to a conversion of another business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity as required by law.

If the plan of conversion is abandoned after the articles of organization have been filed with the Secretary of State but before the articles of organization become effective, the converting business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of organization become effective an amendment to the articles of organization ~~reflecting the abandonment of the plan of conversion, withdrawing the articles of organization.~~

(b) The conversion takes effect when the articles of organization become effective.

~~(c) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.~~

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 96. Article 9A of Chapter 57C of the General Statutes is amended by adding a new Part to read:

"Part 1A. Conversion of Limited Liability Company.

"§ 57C-9A-10. Conversion.

A domestic limited liability company may convert to a different business entity if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of such other business entity; and
- (2) The converting domestic limited liability company complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 57C-9A-11. Plan of conversion.

(a) The converting domestic limited liability company shall approve a written plan of conversion containing:

- (1) The name of the converting domestic limited liability company;
- (2) The name of the resulting business entity into which the domestic limited liability company shall convert, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The terms and conditions of the conversion; and
- (4) The manner and basis for converting the interests in the domestic limited liability company into interests, obligations, or securities of the resulting business entity or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) The plan of conversion shall be approved by the domestic limited liability company in the manner provided for the approval of such conversion in its articles of organization or a written operating agreement or, if there is no such provision, by the unanimous consent of its members. If any member of the converting domestic limited liability company has or will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic limited liability company shall require the consent of that member. The converting domestic limited liability company shall provide a copy of the plan of conversion to each member of the converting domestic limited liability company at the time provided in its articles of organization or a written operating agreement or, if there is no such provision, prior to its approval of the plan of conversion.

(c) After a plan of conversion has been approved by a domestic limited liability company but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in

the plan of conversion or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of conversion, articles of organization, or written operating agreement or, if not so provided, as determined by the managers or directors of the domestic limited liability company in accordance with G.S. 57C-3-20(b).

"§ 57C-9A-12. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic limited liability company as provided in G.S. 57C-9A-11, the converting domestic limited liability company shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic limited liability company;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic limited liability company as required by law.

If the domestic limited liability company is converting to a business entity whose formation or whose status as a registered limited liability partnership, as defined in G.S. 59-32, or limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a document with the Secretary of State, then the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic limited liability company shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

(b) The conversion takes effect when the articles of conversion become effective.

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 57C-9A-13. Effects of conversion.

- (a) When the conversion takes effect:

- (1) The converting domestic limited liability company ceases its prior form of organization and continues in existence as the resulting business entity;
- (2) The title to all real estate and other property owned by the converting domestic limited liability company continues vested in the resulting business entity without reversion or impairment;
- (3) All liabilities of the converting domestic limited liability company continue as liabilities of the resulting business entity;
- (4) A proceeding pending by or against the converting domestic limited liability company may be continued as if the conversion did not occur; and
- (5) The interests in the converting domestic limited liability company that are to be converted into interests, obligations, or securities of the resulting business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting domestic limited liability company are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting domestic limited liability company for any acts, omissions, or obligations of the converting domestic limited liability company made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting domestic limited liability company in its form of organization as a domestic limited liability company in the conversion shall not constitute a dissolution or termination of the converting domestic limited liability company.

(b) If the resulting business entity is not a domestic corporation or a domestic limited partnership, when the conversion takes effect the resulting business entity is deemed:

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic limited liability company and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 57C-1-22(b). Upon receipt

of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 57C-9A-12(a)(2)."

SECTION 97. G.S. 57C-9A-21(b) reads as rewritten:

"(b) In the case of a merging domestic limited liability company, the plan of merger must be approved in the manner provided in its articles of organization or a written operating agreement for approval of a merger with the type of business entity contemplated in the plan of merger, or, if there is no provision, by the unanimous consent of its members. If any member of a merging domestic limited liability company will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of the preceding sentence, approval of the plan of merger by the domestic limited liability company shall require the consent of each such member. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity."

SECTION 98. G.S. 57C-9A-22(a) reads as rewritten:

"(a) After a plan of merger has been approved by each merging domestic limited liability company and each other merging business entity as provided in G.S. 57C-9A-21, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name and address of the surviving business entity; entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a

commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;

- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger."

SECTION 99. G.S. 57C-9A-23(b) reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited ~~partnership~~ partnership, when the merger takes ~~effect~~, effect the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~ State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 57C-1-22(b). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office

designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to ~~subdivision (3) of subsection (d) of this section.~~ G.S. 57C-9A-22(a)(3)."

SECTION 100. G.S. 57C-10-02 reads as rewritten:

"§ 57C-10-02. *Applicability of provisions to foreign and interstate commerce.*

The provisions of this Chapter shall apply to determine the rights and obligations of a limited liability company ~~organized~~ formed hereunder in commerce with foreign nations and among the several states, except as prohibited by law."

SECTION 101. G.S. 57C-10-06 reads as rewritten:

"§ 57C-10-06. *Income taxation.*

A limited liability company, a foreign limited liability company authorized to transact business in this State, and a member of one of these companies are subject to taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their classification for federal income tax purposes. Accordingly, if a limited liability company or a foreign limited liability company authorized to transact business in this State is classified for federal income tax purposes as a ~~corporation, the company is~~ C corporation as defined in G.S. 105-131(b)(2) or an S corporation as defined in G.S. 105-131(b)(8), the company and its members are subject to tax under Article 4 of Chapter 105 of the General Statutes to the same extent as a ~~corporation. C corporation or an S corporation, as the case may be, and its shareholders.~~ If a limited liability company or a foreign limited liability company authorized to transact business in this State is classified for federal income tax purposes as a partnership, the company and its members are subject to tax under Article 4 of Chapter 105 of the General Statutes to the same extent as a partnership and its members. If a limited liability company or a foreign limited liability company authorized to transact business in this State is classified for federal income tax purposes as other than a corporation or a partnership, the company and its members are subject to tax under Article 4 of Chapter 105 of the General Statutes in a manner consistent with that classification. This section does not require a limited liability company or a foreign limited liability company to obtain an administrative ruling from the Internal Revenue Service on its classification under the Internal Revenue Code."

SECTION 102. G.S. 57C-10-07 reads as rewritten:

"§ 57C-10-07. *Intent.*

It is the intent of the General Assembly that the legal existence of limited liability companies ~~organized~~ formed under this Chapter be recognized outside the boundaries of this State and that, subject to any reasonable requirement of registration, a domestic limited liability company transacting business outside this State be granted full faith and credit under Section 1 of Article IV of the Constitution of the United States."

PART IV. AMENDMENTS TO THE LAW GOVERNING PARTNERSHIPS.

SECTION 103. G.S. 59-32 reads as rewritten:

"§ 59-32. *Definition of terms.*

As used in this Chapter, except as otherwise defined in Article 5 of this Chapter for purposes of that Article, unless the context otherwise requires:

- (01) 'Act' means the North Carolina Uniform Partnership Act and refers to all provisions therein.
- (1) 'Bankrupt' means bankrupt under the Federal Bankruptcy Act or insolvent under any State insolvent act.
- (2) 'Business' means every trade, occupation, or profession.
- (3) 'Conveyance' means every assignment, lease, mortgage, or encumbrance.
- (4) 'Court' means every court and judge having jurisdiction in the case.
- (4a) 'Domestic corporation' has the same meaning as in G.S. 55-1-40.
- (4b) 'Domestic limited liability company' has the same meaning as in G.S. 57C-1-03.
- (4c) 'Domestic limited partnership' has the same meaning as in G.S. 59-102.
- (4d) 'Domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40.
- (4e) 'Foreign corporation' has the same meaning as in G.S. 55-1-40.
- (4f) 'Foreign limited liability company' has the same meaning as in G.S. 57C-1-03.
- ~~(4a)~~(4g) 'Foreign limited liability partnership' means a partnership that (i) is formed under laws other than the laws of this State, and (ii) has the status of a limited liability partnership or registered limited liability partnership under those laws.
- (4h) 'Foreign limited partnership' has the same meaning as in G.S. 59-102.
- (4i) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40.

- (5) 'Person' means individuals, partnerships, corporations, limited liability companies, and other associations.
- (5a) 'Principal office' means the office (in or out of this State) where the principal executive offices of a registered limited liability partnership or a foreign limited liability partnership are located, as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as a registered limited liability partnership or foreign limited liability partnership.
- (6) 'Real property' means land and any interest or estate in land.
- (7) 'Registered limited liability partnership' means a partnership that is registered under G.S. 59-84.2 and complies with G.S. 59-84.3."

SECTION 104. Part 1 of Article 2 of Chapter 59 of the General Statutes is amended by adding a new section to read:

"§ 59-35.1. Filing of documents.

(a) To be entitled to filing by the Secretary of State, a document submitted pursuant to this act shall meet all of the following requirements:

- (1) The document shall contain the information required by this act. It may contain other information as well.
- (2) The document shall be typewritten or printed.
- (3) The document shall be in the English language.
- (4) A document submitted by a partnership other than a domestic or foreign limited partnership shall be executed by a general partner of the partnership. A document submitted by any other type of entity shall be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. 59-204 if the entity is a domestic or foreign limited partnership.
- (5) The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs. Any signature on the document may be a facsimile. The document may, but need not, contain an acknowledgment, verification, or proof.
- (6) The document shall be delivered to the office of the Secretary of State for filing and shall be accompanied by

one exact or conformed copy and by the required filing fee.

(b) A partnership may correct a document filed by the Secretary of State pursuant to this act if the document (i) contains a statement that is incorrect and was incorrect when the document was filed or (ii) was defectively executed, attested, sealed, verified, or acknowledged.

A document is corrected by:

- (1) Preparing articles of correction that (i) describe the document, including its filing date, or have attached to them a copy of the document, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and
- (2) Delivering the articles of correction to the Secretary of State for filing, accompanied by one exact or conformed copy and the required filing fee.

Articles of correction are effective on the effective date of the document that is corrected except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

(c) The Secretary of State may adopt and furnish on request forms for:

- (1) An application for registration as a registered limited liability partnership;
- (2) Cancellation of registration as a registered limited liability partnership;
- (3) Application for registration as a foreign limited liability partnership; and
- (4) Cancellation of registration as a foreign limited liability partnership.

If the Secretary of State so requires, use of these forms is mandatory.

(d) The Secretary of State may adopt and furnish on request forms for other documents required or permitted to be filed by this act, but their use is not mandatory.

(e) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
<u>(1) Registered limited liability partnership's or foreign limited liability partnership's statement of change of registered agent or registered office or both</u>	<u>\$5.00</u>
<u>(2) Agent's statement of change of registered office for each affected registered limited</u>	<u>5.00</u>

	<u>liability partnership or foreign limited liability partnership</u>	
(3)	<u>Agent's statement of resignation</u>	<u>No Fee</u>
(4)	<u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
(5)	<u>Articles of conversion (other than articles of conversion included as part of another document)</u>	<u>50.00</u>
(6)	<u>Articles of merger</u>	<u>50.00</u>
(7)	<u>Application for registration as a registered limited liability partnership</u>	<u>125.00</u>
(8)	<u>Certificate of amendment of registration as a registered limited liability partnership</u>	<u>25.00</u>
(9)	<u>Cancellation of registration as a registered limited liability partnership</u>	<u>25.00</u>
(10)	<u>Application for registration as a foreign limited liability partnership</u>	<u>125.00</u>
(11)	<u>Certificate of amendment of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(12)	<u>Cancellation of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(13)	<u>Application for certificate of withdrawal by reason of merger, consolidation, or conversion</u>	<u>10.00</u>
(14)	<u>Annual report</u>	<u>200.00</u>
(15)	<u>Articles of correction</u>	<u>10.00</u>
(16)	<u>Any other document required or permitted to be filed pursuant to this act</u>	<u>10.00</u>
(17)	<u>Advisory review of a document</u>	<u>200.00</u>

(f) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this act. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(g) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed pursuant to this act:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

(h) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following additional fees for the expedited filing of a document received in good form:

- (1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and
- (2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in this subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document.

(i) Upon request, the Secretary of State shall provide for the review of a document prior to its submission for filing to determine whether it satisfies the requirements of this act. Submission of a document for review shall be accompanied by the proper fee and shall be in accordance with procedures adopted by rule by the Secretary of State. The advisory review shall be completed within 24 hours after submission, excluding weekends and holidays, unless the person submitting the document is otherwise notified in accordance with procedures adopted by rule by the Secretary of State fixing priority between submissions under this subsection and filings under subsection (h) of this section. Upon completion of the advisory review, the Secretary of State shall notify the person submitting the document of any deficiencies in the document that would prevent its filing.

(j) Except as provided in this subsection and in subsection (b) of this section, a document accepted for filing is effective:

- (1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document; or
- (2) At the time specified in the document as its effective time on the date it is filed.

A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at 11:59:59 P.M. on that date. A delayed effective date for a document shall not be later than the 90th day after the date it is filed.

The fact that a document has become effective under this subsection does not determine its validity or invalidity or the correctness or incorrectness of the information contained in the document.

(k) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this act, the Secretary of State shall file it. Documents filed with the Secretary of State pursuant to this act may be maintained by the Secretary either in their original

form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this act, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction and may destroy the originals of those documents reproduced.

The Secretary of State files a document by stamping or otherwise endorsing 'Filed', together with the Secretary of State's name and official title and the date and time of filing, on both the original and the document copy. After filing a document, the Secretary of State shall deliver the document copy to the submitting business entity or its representative.

If the Secretary of State refuses to file a document, the Secretary of State shall return it to the submitting business entity or its representative within five days after the document was received, together with a brief, written explanation of the reason for refusal. The Secretary of State may correct apparent errors and omissions on a document submitted for filing if authorized to make the corrections by the person submitting the document for filing. Prior to making the correction, the Secretary shall confirm the authorization to make the corrections according to procedures adopted by rule.

The Secretary of State's duty is to review and file documents that satisfy the requirements of this Act. The Secretary of State's filing or refusing to file a document does not:

- (1) Affect the validity or invalidity of the document in whole or in part;
- (2) Relate to the correctness or incorrectness of information contained in the document; or
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(1) If the Secretary of State refuses to file a document delivered to the Secretary of State's office for filing, the person tendering the document for filing may, within 30 days after the refusal, appeal the refusal to the Superior Court of Wake County. The appeal is commenced by filing a petition with the court and with the Secretary of State requesting the court to compel the Secretary of State to file the document. The petition shall have attached to it the document to be filed and the Secretary of State's explanation for the refusal to file. The appeal to the Superior Court is not governed by Chapter 150B of the General Statutes, the Administrative Procedure Act, and the court shall determine, based upon what is appropriate under the circumstances, any further notice and opportunity to be heard.

Upon consideration of the petition and any response made by the Secretary of State, the court may, prior to entering final judgment,

order the Secretary of State to file the document or take other action the court considers appropriate.

The court's final decision may be appealed as in other civil proceedings.

(m) A certificate attached to a copy of a document filed by the Secretary of State, bearing the Secretary of State's signature, which may be in facsimile, and the seal of office and certifying that the copy is a true copy of the document, is conclusive evidence that the original document is on file with the Secretary of State. A photographic, microfilm, optical disk media, or other reproduced copy of a document filed pursuant to this act or any predecessor act, when certified by the Secretary, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

(n) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor.

(o) Whenever title to real property in this State held by a partnership is vested by operation of law in another entity upon merger, consolidation, or conversion of the partnership, a certificate reciting the merger, consolidation, or conversion shall be recorded in the office of the register of deeds of the county where the property is located, or if the property is located in more than one county, then in each county where any portion of the property is located.

The Secretary of State shall adopt uniform certificates to be furnished for registration in accordance with this subsection. In the case of a partnership formed under a law other than the laws of this State, a similar certificate by any competent authority of the jurisdiction of organization may be registered in accordance with this subsection.

The certificate required by this subsection shall be recorded by the register of deeds in the same manner as deeds, and for the same fees, but no formalities as to acknowledgment, probate, or approval by any other officer shall be required. The former name of the partnership holding title to the real property before the merger, consolidation, or conversion shall appear in the 'Grantor' index, and the name of the other entity holding title to the real property by virtue of the merger, consolidation, or conversion shall appear in the 'Grantee' index."

SECTION 105.(a) Chapter 59 of the General Statutes is amended by recodifying Part 7 of Article 2 as a separate new Article to read:

"Article 2A.

"Conversion and Merger."

SECTION 105.(b) G.S. 59-73.2, 59-73.3, 59-73.4, 59-73.5, and 59-73.6 are recodified as G.S. 59-73.20, 59-73.30, 59-73.31,

59-73.32, and 59-73.33, respectively, in Article 2A of Chapter 59 of the General Statutes, as enacted by this act.

SECTION 105.(c) G.S. 59-73.7 is repealed.

SECTION 106. Article 2A of Chapter 59 of the General Statutes, as enacted by this act, is amended by adding a new Part to read as follows and to include current G.S. 59-73.1 in Part 1:

"Part 1. General Provisions."

SECTION 107. G.S. 59-73.1 reads as rewritten:

"§ 59-73.1. Definitions.

As used in this ~~Part~~ Article:

- (1) "Business entity" means a domestic corporation as ~~defined in G.S. 55-1-40~~ (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as ~~defined in G.S. 55-1-40~~ (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit ~~corporation~~ corporation, as defined in G.S. 55A-1-40, a domestic or foreign limited liability ~~company as defined in G.S. 57C-1-03, company,~~ a domestic or foreign limited partnership partnership, as defined in G.S. 59-102, a domestic partnership, or any other partnership as defined in G.S. 59-36 formed under a law other than the laws of this State (including a limited liability ~~partnership~~) partnership.
- (2) "Domestic partnership" means a partnership as defined in G.S. 59-36 that is formed under the laws of this State, including a registered limited liability ~~partnership~~ partnership, as defined in G.S. 59-32, but excluding a domestic limited ~~partnership as defined in G.S. 59-102~~ partnership.
- (3) "Partnership" means a partnership as defined in G.S. 59-36 whether or not formed under the laws of this State including a registered limited liability partnership and ~~any other~~ a foreign limited liability ~~partnership formed under a law other than the laws of this State~~ partnership, but excluding a domestic limited partnership as defined in G.S. 59-102 and a foreign limited ~~partnership as defined in G.S. 59-102.~~ partnership."

SECTION 108. Article 2A of Chapter 59 of the General Statutes, as enacted by this act, is amended by adding a new Part to read:

"Part 2. Conversion to Domestic Partnership.

"§ 59-73.10. Conversion.

A business entity other than a domestic partnership may convert to a domestic partnership if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity; and
- (2) The converting business entity complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 59-73.11. Plan of conversion.

(a) The converting business entity shall approve a written plan of conversion containing:

- (1) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (2) The name of the resulting domestic partnership into which the converting business entity shall convert;
- (3) The terms and conditions of the conversion; and
- (4) The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic partnership or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) The plan of conversion shall be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section but before the articles of conversion to domestic partnership become effective, the plan of conversion may be amended or abandoned to the extent permitted by the laws that govern the organization and internal affairs of the converting business entity.

"§ 59-73.12. Filing of articles of conversion by converting business entity.

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-73.11, the converting business entity shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) That the domestic partnership is being formed pursuant to a conversion of another business entity;
- (2) The name of the resulting domestic partnership, a designation of its mailing address, and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (3) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and

- (4) That a plan of conversion has been approved by the converting business entity as required by law.

If the resulting domestic partnership is to be a registered limited liability partnership when the conversion takes effect, then instead of separately filing the articles of conversion, the articles of conversion shall be included as part of the application for registration filed pursuant to G.S. 59-84.2 in addition to the matters otherwise required or permitted by law.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting business entity shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment to the articles of conversion withdrawing the articles of conversion to domestic partnership.

(b) The conversion takes effect when the articles of conversion become effective.

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 59-73.13. Effects of conversion.

(a) When the conversion takes effect:

- (1) The converting business entity ceases its prior form of organization and continues in existence as the resulting domestic partnership;
- (2) The title to all real estate and other property owned by the converting business entity continues vested in the resulting domestic partnership without reversion or impairment;
- (3) All liabilities of the converting business entity continue as liabilities of the resulting domestic partnership;
- (4) A proceeding pending by or against the converting business entity may be continued as if the conversion did not occur; and
- (5) The interests in the converting business entity that are to be converted into interests, obligations, or securities of the resulting domestic partnership or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting business entity are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting business entity for any acts, omissions, or obligations of the converting business entity made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting business entity in its prior form of

organization in the conversion shall not constitute a dissolution or termination of the converting business entity.

(b) When the conversion takes effect, the resulting domestic partnership is deemed:

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting business entity and (ii) any obligation of the resulting domestic partnership arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-35.1(f). Upon receipt of service of process on behalf of a resulting domestic partnership in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting domestic partnership. If the resulting domestic partnership is a registered limited liability partnership, the address for mailing shall be its principal office or, if there is no principal office on file, its registered office. If the resulting domestic partnership is not a registered limited liability partnership, the address for mailing shall be the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

SECTION 109. Article 2A of Chapter 59 of the General Statutes, as enacted by this act, is amended by adding a new Part to read as follows and to include G.S. 59-73.20, as recodified in Section 105 of this act, as the first section in Part 3:

"Part 3. Conversion of Domestic Partnership."

SECTION 110. G.S. 59-73.20, as recodified in Section 105 of this act, reads as rewritten:
"§ 59-73.20. *Conversion.*

A domestic partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes, or to a domestic limited partnership pursuant to Part 10A of Article 5 of Chapter 59 of the General Statutes. different business entity if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of such other business entity; and

- (2) The converting domestic partnership complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section."

SECTION 111. Part 3 of Article 2A of Chapter 59 of the General Statutes, as created by Section 109 of this act, is amended by adding the following new sections to read:

"§ 59-73.21. Plan of conversion.

(a) The converting domestic partnership shall approve a written plan of conversion containing:

- (1) The name of the converting domestic partnership;
- (2) The name of the resulting business entity into which the domestic partnership shall convert, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The terms and conditions of the conversion; and
- (4) The manner and basis for converting the interests in the domestic partnership into interests, obligations, or securities of the resulting business entity or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) The plan of conversion shall be approved by the domestic partnership in the manner provided for the approval of the conversion in a written partnership agreement or, if there is no such provision, by the unanimous consent of its partners. If any partner of the converting domestic partnership has or will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic partnership shall require the consent of that partner. The converting domestic partnership shall provide a copy of the plan of conversion to each partner of the converting domestic partnership at the time provided in a written partnership agreement or, if there is no such provision, prior to its approval of the plan of conversion.

(c) After a plan of conversion has been approved by a domestic partnership but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of conversion or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of conversion or written partnership agreement or, if not so provided, as determined in the manner necessary for approval of the plan of conversion.

"§ 59-73.22. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic partnership as provided in G.S. 59-73.21, the

converting domestic partnership shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic partnership;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic partnership as required by law.

If the domestic partnership is converting to a business entity whose formation or whose status as a limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a document with the Secretary of State, then the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic partnership shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

(b) The conversion takes effect when the articles of conversion become effective.

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 59-73.23. Effects of conversion.

(a) When the conversion takes effect:

- (1) The converting domestic partnership ceases its prior form of organization and continues in existence as the resulting business entity;
- (2) The title to all real estate and other property owned by the converting domestic partnership continues vested in the resulting business entity without reversion or impairment;
- (3) All liabilities of the converting domestic partnership continue as liabilities of the resulting business entity;
- (4) A proceeding pending by or against the converting domestic partnership may be continued as if the conversion did not occur; and
- (5) The interests in the converting domestic partnership that are to be converted into interests, obligations, or

securities of the resulting business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting domestic partnership are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting domestic partnership for any acts, omissions, or obligations of the converting domestic partnership made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting domestic partnership in its form of organization as a domestic partnership in the conversion shall not constitute a dissolution or termination of the converting domestic partnership.

(b) If the resulting business entity is not a domestic corporation, a domestic limited partnership, or a domestic limited liability company, when the conversion takes effect the resulting business entity is deemed:

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic partnership and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-35.1(f). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-73.12(a)(2)."

SECTION 112. Article 2A of Chapter 59 of the General Statutes, as enacted by this act, is amended by adding a new Part to read as follows and to include G.S. 59-73.30, 59-73.31, 59-73.32, 59-73.33, each as recodified in Section 105 of this act, in Part 4:

"Part 4. Merger."

SECTION 113. G.S. 59-73.31(b), as recodified by Section 105 of this act, reads as rewritten:

"(b) In the case of a merging domestic partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger or, if there is no provision, by the unanimous consent of its partners. If any partner of a merging domestic partnership has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of the preceding sentence, approval of the plan of merger by the domestic partnership shall require the consent of that partner. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity."

SECTION 114. G.S. 59-73.32(a), as recodified by Section 105 of this act, reads as rewritten:

"(a) After a plan of merger has been approved by each merging domestic partnership and each other merging business entity as provided in G.S. 59-73.4, G.S.-59-73.31, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name and address of the surviving business entity; and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger."

SECTION 115. G.S. 59-73.33(b), as recodified by Section 105 of this act, reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited ~~partnership~~partnership, when the merger takes ~~effect~~effect the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership, or other partnership as defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and
- (2) To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of ~~State~~State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the ~~fees~~fee required by ~~G.S. 59-73.7(e)~~G.S. 59-35.1(f). Upon receipt of service of process on behalf of a surviving business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant

to ~~subdivision (3) of subsection (d) of this section.~~G.S. 59-73.32(a)(3)."

SECTION 116. G.S. 59-77 reads as rewritten:

"§ 59-77. *When personal representative may take inventory; receiver.*

If the surviving partner should neglect or refuse to have such inventory made, the personal representative of the deceased partner may have the same made in accordance with the provisions of G.S. 59-76. Should any surviving partner fail to take such an inventory or refuse to allow the personal representative of the deceased partner's estate to do so, such personal representative of the deceased partner's estate may forthwith apply to a court of competent jurisdiction for the appointment of a receiver for such partnership, who shall thereupon proceed to wind up the same and dispose of the assets thereof in accordance with law."

SECTION 117. G.S. 59-84.1 reads as rewritten:

"§ 59-84.1. *Partnership to comply with "assumed name" ~~statute.~~statute; income taxation.*

(a) Every partnership other than a limited partnership shall comply with, and be subject to, the provisions of Articles 14 and 15 of Chapter 66 of the General Statutes in all cases in which the same are applicable.

(b) A partnership, including a registered limited liability partnership and a foreign limited liability partnership, and a partner of one of these partnerships are subject to taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their classification for federal income tax purposes. Accordingly, if any such partnership is classified for federal income tax purposes as a C corporation as defined in G.S. 105-131(b)(2) or an S corporation as defined in G.S. 105-131(b)(8), the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes to the same extent as a C corporation or an S corporation, as the case may be, and its shareholders. If any such partnership is classified for federal income tax purposes as a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes accordingly. If any such partnership is classified for federal income tax purposes as other than a corporation or a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes in a manner consistent with that classification. This section does not require a partnership, including any registered limited liability partnership or foreign limited liability partnership authorized to transact business in this State, to obtain an administrative ruling from the Internal Revenue Service on its classification under the Internal Revenue Code."

SECTION 118. G.S. 59-84.2 reads as rewritten:

"§ 59-84.2. *Registered limited liability partnerships.*

(a) ~~To become a registered limited liability partnership, a partnership must file~~ A partnership whose internal affairs are governed by the laws of this State, other than a limited partnership, may become a registered limited liability partnership by filing with the Secretary of State an application stating ~~stating~~ all of the following:

- (1) The name of the partnership.
- (2) The street ~~address~~ address, and the mailing address if different from the street address, of its principal office ~~office~~ and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, ~~for~~ of the partnership's registered agent and registered office for service of process.
- (4) The county in this State in which the registered office is located.
- (5) ~~A brief statement of the business in which the partnership engages.~~
- (6) ~~A deferred effective date, if any.~~
- (7) The fiscal year end of the partnership.

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved ~~by the vote necessary in the manner provided in to amend the partnership agreement except~~ agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions shall be approved (i) in the case of a partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, the vote in the manner necessary to amend those provisions ~~provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.~~

(b) ~~An application for registration as a registered limited liability partnership must be executed by one or more partners.~~

(c) ~~An application for registration as a registered limited liability partnership must be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~

(d) ~~The Secretary of State shall register a partnership that submits a completed application with the required fee.~~

(e) ~~A registration is effective on the later of the date the registration is filed or the date specified in the application for registration, unless it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more of the partners, or is revoked pursuant to G.S. 59-84.4(f).~~

(f) ~~The Secretary of State may provide forms for applications for registration.~~

(f1) A partnership becomes a registered limited liability partnership when its application for registration becomes effective.

(g) The status of a registered limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.

(h) A partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment thereto in the office of with the Secretary of State. The certificate of amendment shall set forth the following: forth:

(1) The name of the ~~partnership~~ partnership as reflected on the application for registration.

(2) The date of filing of the application for registration.

(3) The amendment to the application for registration.

(i) Each registered limited liability partnership shall continuously maintain in this State:

(1) A registered office that may be the same as any of its places of business; and

(2) The A registered agent of a registered limited liability partnership for service of process must who shall be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office. The sole duty of the registered agent to the registered limited liability partnership is to forward to the registered limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.

(j) A partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:

(1) The name of the partnership as reflected on the application for registration;

(2) The date of filing of the application for registration;

- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the partnership's registered agent to accept service of process, notice, or demand, and appoints the Secretary of State as agent to accept service on behalf of the partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the partnership was registered as a registered limited liability partnership. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.1(f). Upon receipt of process, notice, or demand in the manner provided in this section, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the partnership at the mailing address designated pursuant to this subsection.

(k) A registered limited liability partnership may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) The name of the registered limited liability partnership;
- (2) The street address, and the mailing address if different from the street address, of the registered limited liability partnership's current registered office and the county in which it is located;
- (3) If the address of the registered limited liability partnership's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

If a registered agent changes the address of the registered agent's business office, the registered agent may change the address of the registered office of any registered limited liability partnership for which the agent is the registered agent by notifying the registered limited liability partnership in writing of the change and signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement that complies with the requirements of this subsection and recites that the registered limited liability partnership has been notified of the change.

A registered limited liability partnership may change its registered office or registered agent by including in its annual report required by G.S. 59-84.4 the information and any written consent required by this subsection.

(l) The following provisions shall apply for the resignation of a registered agent:

- (1) A registered agent may resign the agent's appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement must include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the registered limited liability partnership at its last known address written notice of the agent's resignation. Such certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office (if not discontinued) and the other copy to the registered limited liability partnership at its principal office.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

(m) The registered agent of a registered limited liability partnership is an agent of the registered limited liability partnership for service of process, notice, or demand required or permitted by law to be served on the registered limited liability partnership.

(n) Whenever a registered limited liability partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of the registered limited liability partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any

process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process, notice, or demand and the fee required by G.S. 59-35.1(f). In the event any such process, notice, or demand is served on the Secretary of State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the registered limited liability partnership at its principal office or, if there is no mailing address for the principal office on file, to the registered limited liability partnership at its registered office. Service on a registered limited liability partnership under this subsection shall be effective for all purposes from and after the date of the service on the Secretary of State.

(o) The Secretary of State shall keep a record of all processes, notices, and demands served upon the Secretary of State under this section and shall record therein the time of such service and the Secretary of State's action with reference thereto.

(p) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a registered limited liability partnership in any other manner now or hereafter permitted by law."

SECTION 119. G.S. 59-84.4(c) reads as rewritten:

"(c) The annual report shall be delivered to the Secretary of State by the fifteenth day of the fourth month following the close of the registered or foreign limited liability partnership's fiscal year. ~~The annual report must be accompanied by a fee of two hundred dollars (\$200.00).~~"

SECTION 120. G.S. 59-91 reads as rewritten:

"§ 59-91. *Statement of foreign registration.*

(a) Before transacting business in this State, a foreign limited liability partnership must file an application for registration as a foreign limited liability partnership. The application must contain:

- (1) The name of the foreign limited liability partnership that satisfies the requirements of the State or other jurisdiction under whose law it is formed and ends with the words "registered limited liability partnership" or "limited liability partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".
- (2) The street address, and the mailing address if different from the street address, of the partnership's principal office, and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, for the partnership's

registered agent and registered office for service of process, and the county in which the registered office is located.

- (4) ~~A brief statement of the business in which the partnership is engaged.~~
- (5) ~~A deferred effective date, if any.~~
- (6) The fiscal year end of the partnership.

The foreign limited liability partnership shall deliver with the completed application a certificate of existence, or a document with similar import, duly authenticated by the ~~secretary of state~~ Secretary of State or other official having custody of the records of registered limited liability partnerships in the state or country under whose law it is registered.

(b) ~~The registered agent of a foreign limited liability partnership for service of process must be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business in this State whose business office is identical with the registered office. The sole duty of the registered agent to the foreign limited liability partnership is to forward to the foreign limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.~~

(c) ~~An application for registration as a foreign limited liability partnership must be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~

(d) ~~The Secretary of State shall register a partnership that submits a completed application for registration as a foreign limited liability partnership with the required fee.~~

(e) ~~The status of a partnership as a foreign limited liability partnership is effective on the later of the date the registration is filed or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more partners or revoked pursuant to G.S. 59-84.4(f).~~

(f) ~~A registration is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth the following:~~

- (1) ~~The name of the partnership.~~
- (2) ~~The date of filing of the registration.~~
- (3) ~~The amendment to the registration.~~

~~(g) An application for registration as a foreign limited liability partnership must be executed by one or more partners.~~

(h) A foreign limited liability partnership authorized to transact business in this State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and revocation of registration.

(i) A foreign limited liability partnership becomes registered as a foreign limited liability partnership when its application for registration becomes effective.

(j) A foreign limited liability partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes in its registered agent, registered office, or principal office. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

(k) A foreign limited liability partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the foreign limited liability partnership's registered agent to accept service of process, notice, or demand and appoints the Secretary of State as agent to accept such service on behalf of the foreign limited liability partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was registered in this State. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.1(f). Upon receipt of process, notice, or

demand in the manner herein provided, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the foreign limited liability partnership at the mailing address designated pursuant to this subsection.

(l) Each foreign limited liability partnership registered in this State must continuously maintain in this State:

- (1) A registered office that may be the same as any of its places of business; and
- (2) A registered agent who shall be (i) an individual who is a resident of this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.

The sole duty of the registered agent to the foreign limited liability partnership is to forward to the foreign limited liability partnership at its last known address any notice, process, or demand that is served on the registered agent.

(m) A foreign limited liability partnership may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) The name of the foreign limited liability partnership;
- (2) The street address, and the mailing address if different from the street address, of the foreign limited liability partnership's current registered office and the county in which it is located;
- (3) If the address of the foreign limited liability partnership's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

If a registered agent changes the address of the registered agent's business office, the registered agent may change the address of the

registered office of any foreign limited liability partnership for which the agent is the registered agent by notifying the foreign limited liability partnership in writing of the change and signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement that complies with the requirements of this subsection and recites that the foreign limited liability partnership has been notified of the change.

A foreign limited liability partnership may change its registered office or registered agent by including in its annual report required by G.S. 59-84.4 the information and any written consent required by this subsection.

(n) The following provisions shall apply for the resignation of a registered agent:

- (1) A registered agent may resign the agent's appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement must include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the foreign limited liability partnership at its last known address written notice of the agent's resignation. Such certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office (if not discontinued) and the other copy to the foreign limited liability partnership at its principal office.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

(o) The registered agent of a foreign limited liability partnership registered in the State is an agent of the foreign limited liability partnership for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability partnership.

(p) Whenever a foreign limited liability partnership registered in this State shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of the foreign limited liability partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by

delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process, notice, or demand and the fee required by G.S. 59-35.1(f). In the event any process, notice, or demand is served on the Secretary of State in the manner provided in this subsection, the Secretary of State shall immediately mail one of the copies thereof, by registered or certified mail, return receipt requested, to the foreign limited liability partnership at its principal office or, if there is no mailing address for the principal office on file, to the foreign limited liability partnership at its registered office. Service on a foreign limited liability partnership under this subsection shall be effective for all purposes from and after the date of the service on the Secretary of State.

(q) The Secretary of State shall keep a record of all processes, notices, and demands served upon the Secretary of State under this section and shall record therein the time of service and the Secretary of State's action with reference thereto.

(r) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign limited liability partnership in any other manner now or hereafter permitted by law.

(s) Whenever a foreign limited liability partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability partnership records in the state or country under the laws of which the foreign limited liability partnership was organized. If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign liability limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of

action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;

- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (2) of this subsection; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.

(t) If the Secretary of State finds that the articles or certificate and the application for withdrawal, if required, conform to law, the Secretary of State shall:

- (1) Endorse on the articles or certificate and the application for withdrawal, if required, the word "filed" and the hour, day, month, and year of filing thereof;
- (2) File the articles or certificate and the application, if required;
- (3) Issue a certificate of withdrawal; and
- (4) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with the exact or conformed copy of the application, if required, affixed thereto.

(u) After the withdrawal of the foreign limited liability partnership is effective, service of process on the Secretary of State in accordance with subsection (s) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 59-35.1(f). Upon receipt of process in the manner herein provided, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (s) of this section."

SECTION 121. G.S. 59-102 reads as rewritten:

"§ 59-102. *Definitions.*

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

- (1) "Business" means any lawful trade, investment, or other purpose or activity, whether or not the trade, investment, purpose, or activity is carried on for profit.
- (1a) "Business entity" means a domestic corporation as defined in G.S. 55-1-40 (including, without limitation, (including a professional corporation as defined in G.S. 55B-2), a foreign corporation as defined in G.S. 55-1-

~~40 (including, without limitation, (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, corporation, a domestic limited liability company as defined in G.S. 57C-1-03, a or foreign limited liability company as defined in G.S. 57C-1-03, company, a domestic limited partnership, a foreign limited partnership, a registered limited liability partnership, a foreign limited liability partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this State); State.~~

- (1b) "Certificate of limited partnership" means the certificate referred to in G.S. 59-201, and the certificate as amended.
- (2) "Conformed copy" shall include a photostatic or other photographic copy of the original document.
- (3) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.
- (3a) "Domestic corporation" has the same meaning as in G.S. 55-1-40.
- (3b) "Domestic limited liability company" has the same meaning as in G.S. 57C-1-03.
- (3c) "Domestic nonprofit corporation" means a corporation as defined in G.S. 55A-1-40.
- (4) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in G.S. 59-402.
- (4a) "Foreign corporation" has the same meaning as in G.S. 55-1-40.
- (4b) "Foreign limited liability company" has the same meaning as in G.S. 57C-1-03.
- (4c) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to the provisions of G.S. 59-403(b) pertaining to general partners in limited liability limited partnerships.

- (5) "Foreign limited partnership" means a partnership formed under the laws of any state, province, country, or other jurisdiction other than this State and having as partners one or more general partners and one or more limited ~~partners~~partners, and includes, for all purposes of the laws of the State of North Carolina, a foreign limited liability limited partnership.
- (5a) "Foreign nonprofit corporation" means a foreign corporation as defined in G.S. 55A-1-40.
- (6) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.
- (6a) "Limited liability limited partnership" and "registered limited liability limited partnership" mean a limited partnership that is registered under and complies with G.S. 59-210.
- (7) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.
- (8) "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited ~~partners~~partners, and includes, for all purposes of the laws of the State of North Carolina, a limited liability limited partnership.
- (9) "Partner" means a limited or general partner.
- (10) "Partnership agreement" means any valid agreement of the partners as to the affairs of a limited partnership, the conduct of its business, and the responsibilities and rights of its partners. The term "partnership agreement" includes any written or oral agreement, whether or not the agreement is set forth in a document referred to by the partners as a "partnership agreement", and includes any amendment agreed upon by the partners unanimously or in accordance with the terms of the agreement. The term also includes any agreement of the partners to waive or revise the terms of the partnership agreement in one or more specific instances and not necessarily on an ongoing or permanent basis.
- (11) "Partnership interest" means a partner's share of the allocations of income, gain, loss, deduction or credit of

a limited partnership and the right to receive distributions of cash or other partnership assets.

- (12) "Person" means a natural person, domestic or foreign partnership, domestic or foreign limited partnership (domestic or foreign), partnership, domestic or foreign limited liability company, trust, estate, unincorporated association, or corporation, domestic or foreign corporation, or another entity.
- (12a) "Principal office" means the office (in or out of this State) where the principal executive offices of a limited liability limited partnership are located, as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as limited liability limited partnership.
- (13) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico."

SECTION 122. G.S. 59-103 reads as rewritten:

"§ 59-103. *Name.*

(a) The name of the limited partnership shall contain ~~without abbreviation~~ the words "~~limited partnership~~"; 'limited partnership' or have the abbreviated 'L.P.' or 'LP' as the last letters of its name, except that in the case of a limited liability limited partnership, its name shall comply with the provisions of G.S. 59-210(a)(1).

(b) The limited partnership name shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that ~~limited partner;~~ partner.

(c) The limited partnership name shall not contain any word or phrase ~~which that~~ is likely to mislead the public or ~~which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its certificate of limited partnership;~~ public."

SECTION 123. G.S. 59-105 reads as rewritten:

"§ 59-105. *Registered office and registered agent.*

(a) Each limited partnership shall have and continuously maintain in this State:

- (1) A registered office that may be the same as any of its places of business;
- (2) A registered agent, who shall be (i) an individual resident of this State whose business office is identical with such registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with such registered

office; or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State, whose business office is identical with such registered office.

The sole duty of the registered agent to the limited partnership is to forward to the limited partnership at its last known address any notice, process, or demand that is served on the registered agent.

(b) Limited partnerships formed prior to October 1, 1986, shall file a certificate of limited partnership with the Office of the Secretary of State pursuant to G.S. 59-201(a) designating the address of the registered office of the limited partnership and the identity of the registered agent at such address.

(b1) Any process, notice or demand, which is required or permitted by law to be served upon a limited partnership, may be served upon the duly appointed registered agent of the limited partnership. Such service upon the registered agent is deemed to have been made on the limited partnership itself.

(b2) A limited partnership may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) The name of the limited partnership;
- (2) The street address, and the mailing address if different from the street address, of the limited partnership's current registered office and the county in which it is located;
- (3) If the address of the limited partnership's registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

(b3) If a registered agent changes the address of the agent's business office, the agent may change the address of the registered office of any limited partnership for which the agent is the registered agent by notifying the limited partnership in writing of the change and signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement that complies with the

requirements of subsection (b2) of this section and that recites that the limited partnership has been notified of the change.

(c) Whenever a limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk ~~having charge of the limited partnership department of his office,~~ authorized by the Secretary of State to accept service of process, duplicate copies of such the process, notice notice, or demand. demand and the fee required by G.S. 59-1106(b). In the event any ~~such~~ process, ~~notice~~ notice, or demand is served on the Secretary of State, ~~he~~ the Secretary of State shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, ~~addressed to the limited partnership at its partnership.~~ If the limited partnership is a limited liability limited partnership, the address for mailing shall be its principal office or, if there is no principal office on file, its registered office. If the limited partnership is not a limited liability limited partnership, the address for mailing shall be the limited partnership's registered office. Any such Service on a limited partnership so served under this subsection shall be in court effective for all purposes from and after the date of such service on the Secretary of State.

(d) The Secretary of State shall keep a record of all processes, ~~notices~~ notices, and demands served upon ~~him~~ the Secretary of State under this ~~section,~~ section and shall record therein the time of such service and ~~his~~ the Secretary of State's action with reference thereto.

(e) Nothing herein contained shall limit or affect the right to serve any process, ~~notice~~ notice, or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law.

(f) The following provisions shall apply for the resignation of a registered agent:

- (1) A registered agent may resign the agent's appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement shall include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the limited partnership at its last known address written notice of the agent's resignation. The certification shall include the name and title of the

partner notified, if any, and the address to which the notice was mailed or delivered.

- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office, if not discontinued, and the other copy to the limited partnership at the address certified in the statement of resignation.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed."

SECTION 124. G.S. 59-201(a)(3) reads as rewritten:

"(3) ~~The~~ If the limited partnership is to dissolve by a specific date, the latest date upon which the limited partnership is to dissolve. If no date for dissolution is specified, there shall be no limit on the duration of the limited partnership."

SECTION 124A. G.S. 59-201 is amended by adding a new subsection to read:

"(e) If the limited partnership is to be a limited liability limited partnership at its formation, then instead of separately filing the application for registration as a limited liability limited partnership, the application for registration shall be included as part of the certificate of limited partnership."

SECTION 125. G.S. 59-204(a) reads as rewritten:

"(a) Each certificate required by this Article to be filed in the office of the Secretary of State shall be executed in the following manner:

- (1) An original certificate of limited partnership must be signed by all general partners;
- (2) A certificate of amendment must be signed by at least one general partner and by each other partner designated in the certificate as a new general partner; and
- (3) A certificate of cancellation must be signed by all general partners.

Any other document submitted by a domestic or foreign limited partnership for filing pursuant to this or any other Chapter must be signed by at least one general partner. Any document submitted by a business entity other than a domestic or foreign limited partnership must be executed by a person authorized to execute documents (i) pursuant to G.S. 55-1-20(f) if the business entity is a domestic or foreign corporation, (ii) pursuant to G.S. 55A-1-20(f) if the business entity is a domestic or foreign nonprofit corporation, (iii) pursuant to G.S. 57C-1-20(f) if the business entity is a domestic or foreign limited liability company, or (iv) pursuant to G.S. ~~59-73.7(a)(4)~~ 59-35.1(a)(4)

if the business entity is a partnership as defined in G.S. 59-36, whether or not formed under the laws of this State, other than a domestic or foreign limited partnership."

SECTION 126. G.S. 59-206 is amended by adding the following new subsections to read:

"(d) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of this Article, the Secretary of State shall file it. Documents filed with the Secretary of State pursuant to this Article may be maintained by the Secretary either in their original form or in photographic, microfilm, optical disk media, or other reproduced form. The Secretary may make reproductions of documents filed under this Article, or under any predecessor act, by photographic, microfilm, optical disk media, or other means of reproduction and may destroy the originals of those documents reproduced.

(e) If the Secretary of State refuses to file a document, the Secretary of State shall return it to the person submitting the document for filing within five days after the document was received, together with a brief, written explanation of the reason for refusal.

(f) The Secretary of State's duty is to review and file documents that satisfy the requirements of this Article. The Secretary of State's filing or refusing to file a document does not:

- (1) Affect the validity or invalidity of the document in whole or in part;
- (2) Relate to the correctness or incorrectness of information contained in the document; or
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(g) A person commits an offense if the person signs a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing. An offense under this subsection is a Class 1 misdemeanor."

SECTION 127. Part 2 of Article 5 of Chapter 59 of the General Statutes is amended by adding the following new sections to read:

"§ 59-209. Certificate of existence.

(a) Anyone may apply to the Secretary of State to furnish a certificate of existence for a domestic limited partnership or a certificate of authorization for a foreign limited partnership.

(b) A certificate of existence or authorization sets forth:

- (1) The domestic limited partnership's name or the foreign limited partnership's name used in this State;
- (2) That (i) the domestic limited partnership has filed a certificate of limited partnership under the law of this

State, the effective date of the filing, and the period of the domestic limited partnership's duration, or (ii) the foreign limited partnership is authorized to transact business in this State;

- (3) If the limited partnership has registered as a limited liability limited partnership, that the registration has not been cancelled or revoked;
- (4) That a certificate of cancellation of the certificate of limited partnership has not been filed; and
- (5) Other facts of record in the office of the Secretary of State that may be requested by the applicant.

(c) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence that the domestic limited partnership has filed a certificate of limited partnership and has not filed a certificate of cancellation or that the foreign limited partnership is authorized to transact business in this State, and, if applicable, that the domestic limited partnership has registered as a limited liability limited partnership and that such registration has not been cancelled or revoked.

"§ 59-210. Limited liability limited partnerships.

(a) To become a limited liability limited partnership, a limited partnership shall file with the Secretary of State an application stating:

- (1) The name of the limited liability limited partnership, which shall contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name.
- (2) The street address, and mailing address if different from the street address, of its principal office, and the county in which the principal office is located.
- (3) The fiscal year end of the limited liability limited partnership.

(b) The terms and conditions on which a limited partnership becomes a limited liability limited partnership shall be approved in the manner provided in the partnership agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions must be approved (i) in the case of a limited partnership having a partnership agreement that expressly considers obligations to contribute to the partnership, in the manner necessary to amend those provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.

(c) A limited partnership becomes a limited liability limited partnership when its application for registration becomes effective.

(d) The status of a limited liability limited partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.

(e) A limited liability limited partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the limited liability limited partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

(f) A limited liability limited partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:

- (1) The name of the limited liability limited partnership as reflected on the application for registration;
- (2) The date of filing of the application for registration; and
- (3) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

(g) A limited liability limited partnership shall be subject to the provisions of G.S. 59-84.4(f) regarding annual reports and revocation of registration as if it were a registered limited liability partnership."

SECTION 128. G.S. 59-402(6) reads as rewritten:

- "(6) In the case of a general partner who is a natural person,
- a. ~~His~~ The general partner's death; or
 - b. The entry ~~of~~ of an order by a court of competent jurisdiction adjudicating ~~him~~ the general partner incompetent to manage his or her person or ~~his~~ estate; property:".

SECTION 129. G.S. 59-402(9) reads as rewritten:

- "(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; ~~or~~."

SECTION 130. G.S. 59-402(10) reads as rewritten:

- "(10) Unless otherwise provided in the partnership agreement, or with the consent of all partners, in ~~the~~ the case of a general partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the ~~partnership~~ partnership;".

SECTION 131. G.S. 59-402 is amended by adding the following new subdivisions to read:

- "(11) In the case of a general partner that is a limited liability company, the dissolution and commencement of winding up of the limited liability company; or
- (12) In the case of a general partner that is not a natural person, trust, separate partnership, corporation, estate, or limited liability company, the termination of the general partner."

SECTION 132. G.S. 59-403(b) reads as rewritten:

"(b) Except as provided in this Article, a general partner of a limited partnership that is not a limited liability limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other ~~partners~~ partners, and a general partner of a limited liability limited partnership has the liabilities of, and has the limitation on liability afforded to, a partner in a registered limited liability partnership under the North Carolina Uniform Partnership Act to persons other than the partnership and the other partners with respect to debts and obligations of the limited partnership incurred while it is a limited liability limited partnership. Except as provided in this Article or in the partnership agreement, a general partner of a limited partnership that is not a limited liability limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other ~~partners~~ partners, and a general partner of a limited liability limited partnership has the liabilities of, and has the limitation on liability afforded to, a partner in a registered limited liability partnership under the North Carolina Uniform Partnership Act to the partnership and to the other partners."

SECTION 133. G.S. 59-403 is amended by adding a new subsection to read:

"(c) Unless otherwise provided in the partnership agreement, a general partner of a limited partnership has the power and authority to delegate to one or more other persons the general partner's rights and powers to manage and control the business and affairs of the limited partnership, including to delegate to agents, officers, and employees of the general partner or the limited partnership, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Unless otherwise provided in the partnership agreement, a delegation by a general partner of a limited partnership shall not cause the general partner to cease to be a general partner of the limited partnership and shall not reduce or absolve the general partner of the general partner's duties or obligations to the limited partnership or its other partners."

SECTION 134. G.S. 59-902 reads as rewritten:

"§ 59-902. *Registration.*

(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an original and one conformed copy of an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) The jurisdiction and date of its formation;
- (3) The date of formation and the period of duration;
- (4) The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address, of the principal office of the foreign limited partnership;
- (5) The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address, of the ~~proposed~~ registered office of the foreign limited partnership in this State, the county in which the registered office is located, and the name of its proposed registered agent in this State at such address; ~~the agent must be an individual resident of this State, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this State;~~
- (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
- (7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of

State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;

- (8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners;
- (8a) Whether the foreign limited partnership is a foreign limited liability limited partnership; and
- (9) The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true, effective date and time of the registration if it is not to be effective at the time of filing of the application.

(b) Without excluding other activities which ~~may~~shall not constitute transacting business in this State, a foreign limited partnership shall not be considered to be transacting business in this State, for the purpose of this Article, by reason of carrying on in this State any one or more of the following activities:

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
- (2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;
- (3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;
- (5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this State before becoming binding contracts;
- (6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and ~~sale,~~sales, the acquiring of property at foreclosure sale and the management and rental of such property for a reasonable

time while liquidating its investment, provided no office or agency therefor is maintained in this State;

- (7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;
- (8) Transacting business in interstate commerce; and
- (9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature.

(b1) Each foreign limited partnership authorized to transact business in this State shall continuously maintain in this State:

- (1) A registered office that may be the same as any of its places of business; and
- (2) A registered agent, who shall be (i) an individual who resides in this State and whose business office is identical with the registered office; (ii) a domestic corporation, nonprofit corporation, or limited liability company whose business office is identical with the registered office, or (iii) a foreign corporation, nonprofit corporation, or limited liability company authorized to transact business or conduct affairs in this State whose business office is identical with the registered office.

The sole duty of the registered agent to the foreign limited partnership is to forward to the foreign limited partnership at its last known address any notice, process, or demand that is served on the registered agent.

(b2) A foreign limited partnership authorized to transact business in this State may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) Its name;
- (2) The street address, and the mailing address if different from the street address, of its current registered office, and the county in which it is located;
- (3) If the address of its registered office is to be changed, the street address, and the mailing address if different from the street address, of the new registered office, and the county in which it is located;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the addresses of its registered office and the business office of its registered agent will be identical.

If a registered agent changes the address of the agent's business office, the registered agent may change the address of the registered office of any foreign limited partnership for which the agent is the registered agent by notifying the foreign limited partnership in writing of the change and signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement of change that complies with the requirements of this subsection and recites that the foreign limited partnership has been notified of the change.

(b3) The following provisions shall apply for the resignation of a registered agent:

- (1) A registered agent may resign the agent's agency appointment by signing and filing with the Secretary of State the signed original and two exact or conformed copies of a statement of resignation which may include a statement that the registered office is also discontinued. The statement shall include or be accompanied by a certification from the registered agent that the agent has mailed or delivered to the foreign limited partnership at its last known address written notice of the agent's resignation. Such certification shall include the name and title of the partner notified, if any, and the address to which the notice was mailed or delivered.
- (2) After filing the statement, the Secretary of State shall mail one copy to the registered office, if not discontinued, and the other copy to the foreign limited partnership at the address certified in the statement of resignation.
- (3) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

(b4) The registered agent of a foreign limited partnership authorized to transact business in this State is an agent of the foreign limited partnership for service of process, notice, or demand required or permitted by law to be served on the foreign limited partnership.

(c) Whenever a foreign limited partnership shall fail to appoint or maintain a registered agent in this State, or whenever its registered agent cannot with due diligence be found at the registered office, then the Secretary of State shall be an agent of such foreign limited partnership upon whom any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with ~~him, the~~ Secretary of State, or with any clerk ~~having charge of the limited partnership department of his office, authorized by the Secretary of State to accept service of process,~~ duplicate copies of ~~such~~ the process,

notice or ~~demand~~ demand and the fee required by G.S. 59-1106(b). In the event any such process, notice or demand is served on the Secretary of State, ~~he~~ the Secretary of State shall immediately cause one of the copies thereof to be forwarded by registered or certified mail, ~~addressed~~ mail to the foreign limited partnership at its registered office. ~~Any such~~ Service on a foreign limited partnership ~~so served~~ under this subsection shall be ~~in court~~ effective for all purposes from and after the date of ~~such~~ the service on the Secretary of State.

(d) The Secretary of State shall keep a record of all processes, notices and demands served upon ~~him~~ the Secretary of State under this section, and shall record therein the time of such service and ~~his~~ the Secretary of State's action with reference thereto.

(e) Nothing herein contained shall limit or affect the right to serve any process notice or demand required or permitted by law to be served upon a foreign limited partnership in any other manner now or hereafter permitted by law."

SECTION 135. G.S. 59-904 reads as rewritten:

"§ 59-904. *Name.*

A foreign limited partnership may register with the Secretary of State under any name (whether or not it is the name under which it is registered in its state of organization) that includes without abbreviation the words 'limited partnership' or has the abbreviation 'L.P.', 'LP', 'R.L.L.L.P.', 'RLLLP', 'L.L.L.P.', or 'LLLP' as the last letters of its name and that could be registered and used as its name under G.S. 59-103 by a domestic limited partnership."

SECTION 136. G.S. 59-909(a) reads as rewritten:

"(a) Whenever a foreign limited partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited partnership records in the state or country under the laws of which the foreign limited partnership was organized. If the surviving or resulting entity is not authorized to transact business in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement

that the surviving or resulting entity is not authorized to transact business in this State;

- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (a)(2) of this section; and
- (4) A commitment to ~~notify~~ file with the Secretary of State ~~in the future~~ a statement of any subsequent change in its mailing address."

SECTION 137. G.S. 59-909 is amended by adding a new subsection to read:

"(c) After the withdrawal of the foreign limited partnership is effective, service of process on the Secretary of State in accordance with subsection (a) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-1106(b). Upon receipt of process in the manner provided in this subsection, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (a) of this section."

SECTION 138. The heading of Part 10A of Chapter 59 of the General Statutes reads as rewritten:

"Part 10A. Conversion and Merger to Limited Partnership."

SECTION 139. G.S. 59-1050 reads as rewritten:

"§ 59-1050. ~~Conversions~~ Conversion.

~~(a) A domestic limited partnership may convert to a domestic limited liability company pursuant to Part 1 of Article 9A of Chapter 57C of the General Statutes.~~

~~(b) A domestic limited liability company as defined in G.S. 57C-1-03, a foreign limited liability company as defined in G.S. 57C-1-03, a foreign limited partnership, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State, including a registered limited liability partnership as defined in G.S. 59-32, and any other limited liability partnership formed under a law other than the laws of this State, but excluding a domestic limited partnership, may convert to a domestic limited partnership if:~~

- (1) ~~Such converting business entity complies with the requirements of G.S. 59-1051 and G.S. 59-1052; and~~
- (2) ~~If the converting business entity is a foreign limited liability company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the conversion is permitted by laws of the state or country governing the organization and internal affairs of the converting business entity, and the converting business entity complies with the laws.~~

A business entity other than a domestic limited partnership may convert to a domestic limited partnership if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of the converting business entity; and
- (2) The converting business entity complies with the requirements of this part and, to the extent applicable, the laws referred to in subdivision (1) of this section."

SECTION 140. G.S. 59-1051 reads as rewritten:

"§ 59-1051. *Plan of conversion.*

(a) ~~The holders of the interests in the converting business entity shall approve a written plan of conversion containing:~~

- (1) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (1)(2) ~~The name of the resulting domestic limited partnership into which the converting business entity shall convert;~~
- (2)(3) ~~The terms and conditions of the conversion; and~~
- (3)(4) ~~The manner and basis for converting the interests in the converting business entity into interests, obligations, or securities of the resulting domestic limited partnership or into cash or other property in whole or in part.~~

The plan of conversion may contain other provisions relating to the conversion.

(b) ~~In the case of a domestic limited liability company, the plan of conversion must be approved in the manner provided for approval of such a conversion in its articles of organization or a written operating agreement or, if there is no such provision, by the unanimous consent of its members. In the case of a partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by the laws of this State, the plan of conversion must be approved in the manner provided for the approval of such a conversion in a written partnership agreement that is binding on all the partners or, if there is no such provision, by the unanimous consent of all the partners. In the case of a foreign limited liability~~

~~company, a foreign limited partnership, or other partnership as defined in G.S. 59-36 whose organization and internal affairs are governed by a law other than the laws of this State, the~~ The plan of conversion must shall be approved in accordance with the laws of the state or country governing the organization and internal affairs of the converting business entity.

(c) After a plan of conversion has been approved as provided in subsection (b) of this section, but before a certificate of limited partnership for the resulting domestic limited ~~liability company partnership~~ becomes effective, the plan of conversion may be amended or abandoned to the extent ~~provided in the plan of conversion.~~ permitted by the laws that govern the organization and internal affairs of the converting business entity."

SECTION 141. G.S. 59-1052 reads as rewritten:

"§ 59-1052. Filing of certificate of limited partnership by converting business entity.

(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-1051, the converting business entity shall deliver a certificate of limited partnership to the Secretary of State for filing. In addition to the matters required or permitted by G.S. 59-201, the certificate of limited partnership shall ~~state~~ contain articles of conversion stating:

- (1) That the domestic limited partnership is being formed pursuant to a conversion of another business entity;
- (2) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (3) That a plan of conversion has been approved by the converting business entity in the manner required by law.

If the plan of conversion is abandoned after the certificate of limited partnership has been filed with the Secretary of State but before the certificate of limited partnership becomes effective, the converting business entity ~~promptly~~ shall deliver to the Secretary of State for filing prior to the time the articles of organization become effective an amendment to the certificate of limited partnership ~~reflecting the abandonment of the plan of conversion.~~ withdrawing the certificate of limited partnership.

(b) The conversion takes effect when the certificate of limited partnership becomes effective.

~~(e) The converting business entity shall furnish a copy of the plan of conversion, on request and without cost, to any member or partner (whether general or limited) of the converting business entity.~~

(d) Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 142. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part to read:

"Part 10B. Conversion of Limited Partnership.

"§ 59-1060. Conversion.

A domestic limited partnership may convert to a different business entity if:

- (1) The conversion is permitted by the laws of the state or country governing the organization and internal affairs of such other business entity; and
- (2) The converting domestic limited partnership complies with the requirements of this Part and, to the extent applicable, the laws referred to in subdivision (1) of this section.

"§ 59-1061. Plan of conversion.

(a) The converting domestic limited partnership shall approve a written plan of conversion containing:

- (1) The name of the converting domestic limited partnership;
- (2) The name of the resulting business entity into which the domestic limited partnership shall convert, its type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The terms and conditions of the conversion; and
- (4) The manner and basis for converting the interests in the domestic limited partnership into interests, obligations, or securities of the resulting business entity or into cash or other property in whole or in part.

The plan of conversion may contain other provisions relating to the conversion.

(b) The plan of conversion shall be approved by the domestic limited partnership in the manner provided for the approval of the conversion in a written partnership agreement or, if there is no provision, by the unanimous consent of its partners. If any partner of the converting domestic limited partnership will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic limited partnership shall require the consent of each such partner. The converting domestic limited partnership shall provide a copy of the plan of conversion to each partner of the converting domestic limited partnership at the time provided in a written partnership agreement or, if there is no such provision, prior to its approval of the plan of conversion.

(c) After a plan of conversion has been approved by a domestic limited partnership but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of conversion, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of conversion or written partnership agreement or, if not so provided, as determined by the general partners of the domestic limited partnership in accordance with G.S. 59-403.

"§ 59-1062. Articles of conversion.

(a) After a plan of conversion has been approved by the converting domestic limited partnership as provided in G.S. 59-1061, the converting domestic limited partnership shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic limited partnership;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic limited partnership as required by law.

If the domestic limited partnership is converting to a business entity whose formation or whose status as a registered limited liability partnership, as defined in G.S. 59-32, requires the filing of a document with the Secretary of State, then the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic limited partnership shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

(b) The conversion takes effect when the articles of conversion become effective.

(c) Certificates of conversion shall also be registered as provided in G.S. 47-18.1.

"§ 59-1063. Effects of conversion.

- (a) When the conversion takes effect:

- (1) The converting domestic limited partnership ceases its prior form of organization and continues in existence as the resulting business entity;
- (2) The title to all real estate and other property owned by the converting domestic limited partnership continues vested in the resulting business entity without reversion or impairment;
- (3) All liabilities of the converting domestic limited partnership continue as liabilities of the resulting business entity;
- (4) A proceeding pending by or against the converting domestic limited partnership may be continued as if the conversion did not occur; and
- (5) The interests in the converting domestic limited partnership that are to be converted into interests, obligations, or securities of the resulting business entity or into the right to receive cash or other property are thereupon so converted, and the former holders of interests in the converting domestic limited partnership are entitled only to the rights provided in the plan of conversion.

The conversion shall not affect the liability or absence of liability of any holder of an interest in the converting domestic limited partnership for any acts, omissions, or obligations of the converting domestic limited partnership made or incurred prior to the effectiveness of the conversion. The cessation of the existence of the converting domestic limited partnership in its form of organization as a domestic limited partnership in the conversion shall not constitute a dissolution or termination of the converting domestic limited partnership.

(b) If the resulting business entity is not a domestic corporation or a domestic limited liability company when the conversion takes effect, the resulting business entity is deemed:

- (1) To agree that it may be served with process in this State for enforcement of (i) any obligation of the converting domestic limited partnership, and (ii) any obligation of the resulting business entity arising from the conversion; and
- (2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-1106(b). Upon receipt of

service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-1062(a)(2)."

SECTION 143. Article 5 of Chapter 59 of the General Statutes is amended by adding a new Part with the heading set forth below and containing G.S. 59-1054, 59-1055, 59-1056, and 59-1057, recodified as G.S. 59-1070, 59-1071, 59-1072, and 59-1073, respectively.

"Part 10C. Merger."

SECTION 144. G.S. 59-1070, as recodified by Section 143 of this act, reads as rewritten:

"§ 59-1070. Merger.

A domestic limited partnership may merge with one or more other domestic limited partnerships or other business entities if:

- (1) The merger is permitted by the laws of the state or country governing the organization and internal affairs of each other merging business entity; and
- (2) Each merging domestic limited partnership and each other merging business entity comply with the requirements of ~~G.S. 59-1055 and G.S. 59-1056~~, this Part, and, to the extent applicable, the laws referred to in subdivision (1) of this section."

SECTION 145. G.S. 59-1071(b), as recodified by Section 143 of this act, reads as rewritten:

"(b) In the case of a merging domestic limited partnership, the plan of merger must be approved in the manner provided in a written partnership agreement that is binding on all the partners for approval of a merger with the type of business entity contemplated in the plan of merger, or, if there is no provision, by the unanimous consent of its partners. If any partner of a merging domestic limited partnership has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of

the preceding sentence, approval of the plan of merger by the domestic limited partnership shall require the consent of that partner. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity."

SECTION 146. G.S. 59-1072(a), as recodified by Section 143 of this act, reads as rewritten:

"(a) After a plan of merger has been approved by each merging domestic limited partnership and each other merging business entity as provided in G.S. ~~59-1055, 59-1071~~, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (3) The name ~~and address~~ of the surviving business ~~entity; entity~~ and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger."

SECTION 147. G.S. 59-1073(b), as recodified by Section 143 of this act, reads as rewritten:

"(b) If the surviving business entity is not a domestic limited liability company, a domestic corporation, a domestic nonprofit corporation, or a domestic limited partnership, when the merger takes effect the surviving business entity is deemed:

- (1) To agree that it may be served with process in this State in any proceeding for enforcement of (i) any obligation of any merging domestic limited liability company, domestic corporation, domestic nonprofit corporation, domestic limited partnership or other partnership as

defined in G.S. 59-36 that is formed under the laws of this State, (ii) the rights of dissenting shareholders of any merging domestic corporation under Article 13 of Chapter 55 of the General Statutes, and (iii) any obligation of the surviving business entity arising from the merger; and

- (2) ~~If the surviving business entity does not have a registered agent in this State, to~~ To have appointed the Secretary of State as its registered agent for service of process in any such proceeding. ~~proceeding until such time as the surviving business entity appoints a registered agent in this State.~~ Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process. ~~the process and the fee required by G.S. 59-1106(b).~~ Upon receipt of service of process on behalf of a surviving business entity, entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving business entity at its address shown in the articles of merger or, if an application for a certificate of withdrawal by reason of merger has been filed, at the address for service of process contained in that application. entity. If the surviving business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the surviving business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 59-1072(a)(3)."

SECTION 148. G.S. 59-1105 is repealed.

SECTION 149. G.S. 59-1106 reads as rewritten:

"§ 59-1106. *Filing, service, and copying Fees; fees; expedited filings.*

(a) The Secretary of State shall collect the following fees and remit them to the State Treasurer for the use of the State when the documents described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
(1) For filing a certificate <u>Certificate</u> of limited partnership (G.S. 59-201) <u>which does not include an application for registration as a limited liability limited partnership</u>	\$50.00
(1a) <u>Certificate of limited partnership which includes an application for registration as a limited liability limited partnership</u>	<u>125.00</u>
(2) For filing a certificate <u>Certificate</u> of amendment (G.S. 59-202; 59-905)	25.00
(3) For filing a certificate <u>Certificate</u> of cancellation (G.S. 59-203; 59-906)	25.00
(4) For filing an application <u>Application</u> for reservation of name (G.S. 59-104(a))	10.00
(5) For filing a <u>Notice of transfer</u> of name (G.S. 59-104(d))	10.00
(5a) <u>Limited partnership's or foreign limited partnership's statement of change of registered agent or registered office or both</u>	<u>5.00</u>
(5b) <u>Agent's statement of change of registered office for each affected partnership</u>	<u>5.00</u>
(5c) <u>Agent's statement of resignation</u>	<u>No Fee</u>
(5d) <u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
(6) For filing an application <u>Application</u> for registration as foreign limited partnership (G.S. 59-502)	50.00
(7) For preparing and furnishing a copy of any document, instrument or paper filed or recorded relating to a limited partnership (G.S. 59-206(e)) For each page For affixing the certificate and official seal thereto	1.00 5.00
(8) For comparing a copy furnished to him of any document instrument or paper filed or recorded relating to a limited partnership. For each page	1.00
(9) For filing any other document not herein specifically provided for	10.00
(10) For the expedited filing by the end of the	

same business day of a document received in good order by 12:00 noon Eastern Standard Time	200.00
	additional fee
(11) For the expedited filing of a document received in good order within 24 hours after receipt, excluding weekends and holidays	100.00
	additional fee
(12) Advisory review of a document	200.00 200.00
(13) <u>Certificate of amendment of registration as foreign limited partnership</u>	25.00
(14) <u>Cancellation of registration as foreign limited partnership</u>	25.00
(15) <u>Application for certificate of withdrawal by reason of merger, consolidation, or conversion</u>	10.00
(16) <u>Articles of merger</u>	50.00
(17) <u>Articles of conversion (other than articles of conversion included as part of another document)</u>	50.00
(18) <u>Application for registration as a limited liability limited partnership (other than an application included in the certificate of limited partnership)</u>	125.00
(19) <u>Certificate of amendment of registration as a limited liability limited partnership</u>	25.00
(20) <u>Certificate of cancellation of registration as a limited liability limited partnership</u>	25.00
(21) <u>Annual report for a limited liability limited partnership</u>	200.00
(22) <u>Any other document required or permitted to be filed under this Article</u>	10.00

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Article. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited partnership:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

(d) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect

the following additional fees for the expedited filing of a document received in good form:

- (1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and
- (2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.

The Secretary of State shall not collect the fees allowed in ~~subdivisions (10) and (11) of this section~~ subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document. ~~Upon receipt of a document in proper form and payment of the required filing fee, the Secretary of State shall guarantee the expedited filing of the document."~~

SECTION 150. Part 11 of Article 5 of Chapter 59 of the General Statutes is amended by adding a new section to read:
"§ 59-1107. Income taxation.

A limited partnership, a foreign limited partnership authorized to transact business in this State, and a partner of one of these partnerships are subject to taxation under Article 4 of Chapter 105 of the General Statutes in accordance with their classification for federal income tax purposes. Accordingly, if a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as a C corporation as defined in G.S. 105-131(b)(2) or an S corporation as defined in G.S. 105-131(b)(8), the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes to the same extent as a C corporation or an S corporation, as the case may be, and its shareholders. If a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes accordingly. If a limited partnership or a foreign limited partnership authorized to transact business in this State is classified for federal income tax purposes as other than a corporation or a partnership, the partnership and its partners are subject to tax under Article 4 of Chapter 105 of the General Statutes in a manner consistent with that classification. This section does not require a limited partnership or a foreign limited partnership to obtain an administrative ruling from the Internal Revenue Service on its classification under the Internal Revenue Code."

PART V. AMENDMENTS TO CHAPTER 105.

SECTION 151. G.S. 105-187.6(b) reads as rewritten:

"(b) Partial Exemptions. – A maximum tax of forty dollars (\$40.00) applies when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To a secured party who has a perfected security interest in the motor vehicle.
- (2) To a partnership, limited liability company, ~~or corporation as an incident to the formation of the partnership, limited liability company, or corporation, and trust, or other person where~~ no gain or loss arises on the transfer of the motor vehicle under section 351 or section 721 of the Code, or because the transfer is treated under the Code as being to an entity that is not a separate entity from its owner or whose separate existence is otherwise disregarded, or to a partnership, limited liability company, or corporation by merger, conversion, or consolidation in accordance with applicable law."

SECTION 152. G.S. 105-230(b) reads as rewritten:

"(b) Any act performed or attempted to be performed during the period of suspension is invalid and of no ~~effect-effect,~~ unless the Secretary of State reinstates the corporation or limited liability company pursuant to G.S. 105-232."

SECTION 153. G.S. 105-232(a) reads as rewritten:

"(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars (\$25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the ~~Office of office of the~~ Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of State, and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably relied on that person's prejudice on the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement."

PART VI. MISCELLANEOUS PROVISIONS.

SECTION 154.(a) The Revisor of Statutes shall cause to be printed all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 154.(b) Nothing in this act shall supersede the provisions of Article 10 or 65 of Chapter 58 of the General Statutes, and this act does not create an alternate means for an entity governed by Article 65 of Chapter 58 of the General Statutes to convert to a different business form.

PART VII. CONTINGENT CONFORMING CHANGES.

SECTION 155. Sections 1, 28, 32, 43, 53, 60, 61, 62, 63, 83, 84, 104, 105(c), 122, 123, 125, 126, and 135 of this act are repealed.

SECTION 156.(a) Section 118 of this act is repealed.

SECTION 156.(b) G.S. 59-84.2, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-84.2. *Registered limited liability partnerships.*

(a) ~~To become a registered limited liability partnership, a partnership must file~~ A partnership whose internal affairs are governed by the laws of this State, other than a limited partnership, may become a registered limited liability partnership by filing with the Secretary of State an application stating: ~~stating all of the following:~~

- (1) The name of the partnership.
- (2) The street address, and the mailing address if different from the street address, of its principal office and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, ~~for~~of the partnership's registered agent and registered office for service of process.
- (4) The county in this State in which the registered office is located.
- (5) ~~A brief statement of the business in which the partnership engages.~~
- (6) ~~A deferred effective date, if any.~~
- (7) The fiscal year end of the partnership.

(a1) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote necessary in the manner provided in to amend the partnership agreement except, agreement; provided, however, if the partnership agreement does not contain any such provision, the terms and conditions shall be approved (i) in the case of a partnership having a partnership

agreement that expressly considers obligations to contribute to the partnership, ~~the vote~~in the manner necessary to amend those provisions, or (ii) in any other case, in the manner necessary to amend the partnership agreement.

(b) ~~An application for registration as a registered limited liability partnership must be executed by one or more partners.~~

(c) ~~An application for registration as a registered limited liability partnership must be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~

(d) ~~The Secretary of State shall register a partnership that submits a completed application with the required fee.~~

(e) ~~A registration is effective on the later of the date the registration is filed or the date specified in the application for registration, unless it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more of the partners, or is revoked pursuant to G.S. 59-84.4(f).~~

(f) ~~The Secretary of State may provide forms for applications for registration.~~

(f1) A partnership becomes a registered limited liability partnership when its application for registration becomes effective.

(g) The status of a registered limited liability partnership and the liability of its partners is not affected by errors or later changes in the information required to be contained in the application for registration.

(h) A partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment thereto in the office of with the Secretary of State. The certificate of amendment shall set forth the following:

(1) The name of the partnership as reflected on the application for registration.

(2) The date of filing of the application for registration.

(3) The amendment to the application for registration.

(i) Each registered limited liability partnership must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

(j) A partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:

(1) The name of the partnership as reflected on the application for registration;

(2) The date of filing of the application for registration;

- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the partnership's registered agent to accept service of process, notice, or demand, and appoints the Secretary of State as agent to accept service on behalf of the partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the partnership was registered as a registered limited liability partnership. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner provided in this section, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the partnership at the mailing address designated pursuant to this subsection."

SECTION 157.(a) Section 120 of this act is repealed.

SECTION 157.(b) G.S. 59-91, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-91. *Statement of foreign registration.*

(a) Before transacting business in this State, a foreign limited liability partnership must file an application for registration as a foreign limited liability partnership. The application must contain:

- (1) The name of the foreign limited liability partnership that satisfies the requirements of the state or other jurisdiction under whose law it is formed and meets the requirements of Article 3 of Chapter 55D of the General Statutes.
- (2) The street ~~address~~-address, and the mailing address if different from the street address, of the partnership's principal ~~office~~, office, and the county in which the principal office is located.
- (3) The name and street address, and the mailing address if different from the street address, for the partnership's registered agent and registered office for service of

process, and the county in which the registered office is located.

- (4) ~~A brief statement of the business in which the partnership is engaged.~~
- (5) ~~A deferred effective date, if any.~~
- (6) The fiscal year end of the partnership.

The foreign limited liability partnership shall deliver with the completed application a certificate of existence, or a document with similar import, duly authenticated by the ~~secretary of state~~ Secretary of State or other official having custody of the records of registered limited liability partnerships in the state or country under whose law it is registered.

(b) Each foreign limited liability partnership maintaining a statement of foreign registration in this State must maintain a registered office and registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

~~(c) An application for registration as a foreign limited liability partnership must be accompanied by a fee of one hundred twenty five dollars (\$125.00).~~

~~(d) The Secretary of State shall register a partnership that submits a completed application for registration as a foreign limited liability partnership with the required fee.~~

~~(e) The status of a partnership as a foreign limited liability partnership is effective on the later of the date the registration is filed or a date specified in the statement. The status remains effective, regardless of changes in the partnership, until it is voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by one or more partners or revoked pursuant to G.S. 59-84.4(f).~~

~~(f) A registration is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate shall set forth the following:~~

- ~~(1) The name of the partnership.~~
- ~~(2) The date of filing of the registration.~~
- ~~(3) The amendment to the registration.~~

~~(g) An application for registration as a foreign limited liability partnership must be executed by one or more partners.~~

(h) A foreign limited liability partnership authorized to transact business in this State shall be subject to the provisions of G.S. 59-84.4 regarding annual reports and revocation of registration.

(i) A foreign limited liability partnership becomes registered as a foreign limited liability partnership when its application for registration becomes effective.

(j) A foreign limited liability partnership shall promptly amend its registration to reflect any change in the information contained in its application for registration, other than changes that are properly included in other documents filed with the Secretary of State. A registration is amended by filing a certificate of amendment with the Secretary of State. The certificate of amendment shall set forth:

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration; and
- (3) The amendment to the application for registration.

(k) A foreign limited liability partnership may cancel its registration by filing a certificate of cancellation with the Secretary of State. The certificate of cancellation shall set forth:

- (1) The name of the foreign limited liability partnership under which it is registered in this State;
- (2) The date of filing of the application for registration;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under this subsection;
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (5) The effective date and time of cancellation if it is not to be effective at the time of filing the certificate.

Cancellation of registration terminates the authority of the foreign limited liability partnership's registered agent to accept service of process, notice, or demand and appoints the Secretary of State as agent to accept such service on behalf of the foreign limited liability partnership with respect to any action or proceeding based upon any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was registered in this State. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process, notice, or demand and the fee required by G.S. 59-35.2. Upon receipt of process, notice, or demand in the manner herein provided, the Secretary of State shall immediately mail a copy of the process, notice, or demand by registered or certified mail, return receipt requested, to the foreign limited liability partnership at the mailing address designated pursuant to this subsection.

(l) Whenever a foreign limited liability partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the

state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability partnership records in the state or country under the laws of which the foreign limited liability partnership was organized. If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign liability limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (2) of this subsection; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address.

(m) If the Secretary of State finds that the articles or certificate and the application for withdrawal, if required, conform to law, the Secretary of State shall:

- (1) Endorse on the articles or certificate and the application for withdrawal, if required, the word "filed" and the hour, day, month, and year of filing thereof;
- (2) File the articles or certificate and the application, if required;
- (3) Issue a certificate of withdrawal; and
- (4) Send to the surviving or resulting entity or its representative the certificate of withdrawal, together with a copy of the application, if required, affixed thereto.

(n) After the withdrawal of the foreign limited liability partnership is effective, service of process on the Secretary of State in accordance with subsection (l) of this section shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of such process and the fee required by G.S. 59-35.2. Upon receipt of process in the manner herein provided, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving or resulting entity at the mailing address designated pursuant to subsection (l) of this section."

SECTION 158. G.S. 59-210(a)(1), as enacted by this act, reads as rewritten:

"(1) The name of the limited liability limited partnership, which shall contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP' as the last words or letters of its name, must satisfy the requirements of Article 3 of Chapter 55D of the General Statutes."

SECTION 159.(a) Section 134 of this act is repealed.

SECTION 159.(b) G.S. 59-902, as amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-902. *Registration.*

(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an ~~original and one conformed copy of an~~ application for registration as a foreign limited partnership, signed by a general partner and setting forth:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) The jurisdiction and date of its formation;
- (3) The date of formation and the period of duration;
- (4) The street address, including county and city or town, and street and number, if any, and the mailing address if different from the street address, of the principal office of the foreign limited partnership;
- (5) The street address, including county and city or town, and street and number, if any, and the mailing address if

different from the street address, of the proposed registered office of the foreign limited partnership in this State, the county in which the registered office is located, and the name of its proposed registered agent in this State at such address; State;

- (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
- (7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;
- (8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners; and
- (9) ~~The execution of a certificate or amendment by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.~~ effective date and time of the registration if it is not to be effective at the time of filing of the application.

(b) Without excluding other activities which ~~may~~ shall not constitute transacting business in this State, a foreign limited partnership shall not be considered to be transacting business in this State, for the purpose of this Article, by reason of carrying on in this State any one or more of the following activities:

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

- (2) Holding meetings of its partners or carrying on other activities concerning its internal affairs;
- (3) Maintaining bank accounts or borrowing money in this State, with or without security, even if such borrowings are repeated and continuous transactions;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;
- (5) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this State before becoming binding contracts;
- (6) Making or investing in loans with or without security including servicing of mortgages or deeds of trust through independent agencies within the State, the conducting of foreclosure proceedings and ~~sale,~~ sales, the acquiring of property at foreclosure sale and the management and rental of such property for a reasonable time while liquidating its investment, provided no office or agency therefor is maintained in this State;
- (7) Taking security for or collecting debts due to it or enforcing any rights in property securing the same;
- (8) Transacting business in interstate commerce; and
- (9) Conducting an isolated transaction completed within a period of six months and not in the course of a number of repeated transactions of like nature.

(c) Each foreign limited partnership authorized to transact business in this State must maintain a registered agent as required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the Secretary of State under that Article.

(d) Repealed.

(e) Repealed."

SECTION 160. The title of Chapter 55D of the General Statutes, as enacted by Section 1 and amended by Sections 12 and 42 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"Chapter 55D.

"Filings, Names, and Registered Agents for Corporations, Nonprofit Corporations, ~~Limited Liability Companies, Limited partnerships, and~~
~~Limited Liability Partnerships."~~

SECTION 161. G.S. 55D-1, as enacted by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 55D-1. *Applicable definitions.*

The following definitions apply in this Chapter:

- (1) 'Corporation' or 'domestic corporation' is defined in G.S. 55-1-40(4).
- (2) 'Deliver' is defined in G.S. 55-1-40(5).
- (3) 'Entity' is defined in G.S. 55-1-40(9).
- (4) 'Foreign corporation' is defined in G.S. 55-1-40(10).
- (5) 'Foreign limited liability company' is defined in G.S. 57C-1-03(8).
- (5a) 'Foreign limited liability limited partnership' is defined in G.S. 59-102(4c).
- (6) 'Foreign limited liability partnership' is defined in G.S. ~~59-32(4a)~~-59-32(4g).
- (7) 'Foreign limited partnership' is defined in G.S. 59-102(5).
- (8) 'Foreign nonprofit corporation' means a foreign corporation as defined in G.S. 55A-1-40(11).
- (9) 'Individual' is defined in G.S. 55-1-40(13).
- (10) 'Limited liability company' or 'domestic limited liability company' is defined in G.S. 57C-1-03(11).
- (11) 'Limited liability limited partnership' is defined in G.S. 59-102(6a).
- ~~(11)~~(12) 'Limited liability partnership' or 'registered limited liability partnership' means a registered limited liability partnership as defined in G.S. 59-32(7).
- ~~(12)~~(13) 'Limited partnership' or 'domestic limited partnership' is defined in G.S. 59-102(8).
- ~~(13)~~(14) 'Nonprofit corporation' or 'domestic nonprofit corporation' means a corporation as defined in G.S. 55A-1-40(5).
- ~~(14)~~(15) 'Person' is defined in G.S. 55-1-40(16)."

SECTION 162. G.S. 55D-20, as recodified and amended by House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 55D-20. *Name requirements.*

(a) In addition to the requirements of any other applicable section of the General Statutes:

- (1) The name of ~~the~~a corporation must contain the word 'corporation', 'incorporated', 'company', or 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'Ltd.'.
- (2) The name of a limited liability company must contain the words 'limited liability company' or the abbreviation 'L.L.C.' or 'LLC', or the combination 'Ltd. liability co.', 'limited liability co.', or 'Ltd. liability company'.
- (3) The name of a limited ~~partnership~~partnership:
~~a. Must partnership that is not a limited liability limited partnership must contain the words 'limited~~

partnership', the abbreviation 'L.P.' or 'LP', or the combination 'Ltd. partnership'; and partnership'.

~~b.~~ Shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.

(4) The name of a limited liability limited partnership must contain the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP'.

(5) A registered limited liability partnership's name must contain the words 'registered limited liability partnership' or 'limited liability partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP' or ~~'RLLP'~~ as the last words or letters of its name. ~~'RLLP'.~~

(b) In addition to the requirements of subsection (a) of this section, the name of a limited partnership shall not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership has been carried on under that name before the admission of that limited partner.

~~(b)(c)~~ The name of a corporation, nonprofit corporation, or limited liability company shall not contain language stating or implying that the entity is organized for a purpose other than that permitted by G.S. 55-3-01, 55A-3-01, or 57C-2-01 and by its articles of incorporation or organization.

~~(c)(d)~~ The use of assumed names or fictitious names, as provided for in Chapter 66, is not affected by this Chapter or by Chapter 55, 55A, 57C, or 59 of the General Statutes.

~~(d)(e)~~ The filing of any document, the reservation or registration of any name under this Chapter or under Chapter 55, 55A, 55B, 57C, or 59 of the General Statutes, or the issuance of a certificate of authority to transact business or conduct affairs or a statement ~~of~~ of foreign registration does not authorize the use in this State of a name in violation of the rights of any third party under the federal trademark act, the trademark act of this State, or other statutory or common law, and is not a defense to an action for violation of any of those rights."

SECTION 163. G.S. 55D-21(d), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(d) Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General

Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, ~~or~~ of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4, may not be used by another entity until:

- (1) In the case of a nonjudicial dissolution other than an administrative ~~dissolution, dissolution or cancellation of registration as a limited liability partnership,~~ 120 days after the effective date of the ~~dissolution, dissolution or cancellation.~~
- (2) In the case of an administrative ~~dissolution, dissolution~~ or revocation of registration as a limited liability partnership, the expiration of the period within which the entity or its registration may be reinstated.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

The name of a dissolved entity may be used at any time if the entity changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, or registered limited liability partnerships or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign registration, in this State."

SECTION 164. G.S. 55D-22(a), as enacted by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(a) If the name of a foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership does not satisfy the requirements of G.S. 55D-20 and G.S. 55D-21, then to obtain or maintain a certificate of authority to transact business or conduct affairs in this State or a statement of foreign registration in this State, the entity may:

- (1) If a foreign corporation or foreign nonprofit corporation, add the word 'corporation', 'incorporated', 'company', or

- 'limited', or the abbreviation 'corp.', 'inc.', 'co.', or 'ltd.' to its corporate name for use in this State;
- (2) If a foreign limited liability company, add the words 'limited liability company', or the abbreviation 'L.L.C.', or 'LLC', or the combination 'ltd. liability co.', 'limited liability co.', or 'ltd. liability company' to its name for use in this State if the addition will cause the name to satisfy the requirements of G.S. 55D-20 and G.S. 55D-21;
 - (3) If a foreign limited ~~partnership, partnership that is not a foreign limited liability limited partnership,~~ add the words 'limited partnership' or the abbreviation 'L.P.' or 'LP', or the combination 'ltd. partnership';
 - (4) If a foreign limited partnership that is a foreign limited liability limited partnership, add the words 'registered limited liability limited partnership' or 'limited liability limited partnership' or the abbreviation 'L.L.L.P.', 'R.L.L.L.P.', 'LLLP', or 'RLLLP'.
 - (5) If a foreign limited liability partnership, add the words 'registered limited liability partnership', or 'limited liability partnership' or the abbreviation 'L.L.P.', 'R.L.L.P.', 'LLP', or ~~RLLP~~ as the last words or letters of its name; or RLLP; or
 - ~~(5)~~(6) Use a fictitious name, which includes one or more of the words, abbreviations, or combinations in subdivisions (1) through ~~(4)~~(5) of this subsection if applicable, to transact business or conduct affairs in this State if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution adopting the fictitious name."

SECTION 165.(a) G.S. 55D-24(b), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(b) An entity described in subsection (a) of this section registers its name, or its name with any addition required by G.S. 55D-22, by filing with the Secretary of State an application:

- (1) Setting forth its name, or its name with any addition required by G.S. 55D-22, the state or country and date of its ~~incorporation, organization, incorporation~~ or formation, and a brief description of the nature of the business or activities in which it is engaged; and
- (2) Accompanied by a certificate of existence (or a document of a similar import) from the state or country of ~~incorporation, organization, incorporation~~ or formation."

SECTION 165.(b) G.S. 55D-24(e), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(e) An entity whose registration is effective may thereafter become authorized to transact business or conduct affairs under that name or consent in writing to the use of that name by:

- (1) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership thereafter ~~incorporated, organized, or formed~~ incorporated, formed, or registered in this State under that name;
- (2) A domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership that changes its name to that name; or
- (3) Another foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that becomes authorized to transact business or conduct affairs in this State under that name.

The registration terminates when the domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership is ~~incorporated, organized, formed, registered,~~ or changes its name or the foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership qualifies or registers or consents to the qualification or registration of another entity under the registered name."

SECTION 166. G.S. 55D-26(a)(1), as recodified by Section 14 and amended by Section 15 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

- "(1) The name of any domestic corporation, nonprofit corporation, limited liability company, limited partnership, or registered limited liability partnership or foreign corporation, foreign nonprofit corporation, foreign limited liability company, foreign limited partnership, or foreign limited liability partnership that holds title to real property in this State is changed upon amendment to its articles of incorporation or organization, its certificate of limited partnership, or its ~~application for registration as a limited liability partnership; partnership or foreign limited liability partnership; or~~ partnership; or".

SECTION 167. G.S. 55D-31(c), as recodified by Section 44 and amended by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(c) A domestic corporation, limited liability company, limited liability limited partnership, registered limited liability partnership, foreign corporation, foreign limited liability company, or foreign limited liability partnership may change its registered office or registered agent by including in its annual report required by G.S. 55-16-22, 57C-2-23, ~~or 59-84.4~~ 59-84.4, or 59-210 the information and any written consent required by subsection (a) of this section."

SECTION 168. G.S. 55D-32(b), as recodified by Section 44 and amended by Section 45 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(b) After filing the statement the Secretary of State shall mail a copy to the registered office (if not discontinued) and a copy to the entity at its principal office address on file with the Secretary of State or, if none is on file, at the address contained in the certification included in or accompanying the statement of ~~resignation or, if different, at the address indicated in the latest document filed by the Secretary of State stating the entity's current mailing address.~~resignation."

SECTION 169.(a) G.S. 55-15-03(a)(1), as amended by Section 17 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55D-22;~~Article 3 of Chapter 55D of the General Statutes;"

SECTION 169.(b) G.S. 55A-15-03(a)(1), as amended by Section 21 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"(1) The name of the foreign corporation or, if its name is unavailable for use in this State, a corporate name that satisfies the requirements of ~~G.S. 55D-22;~~Article 3 of Chapter 55D of the General Statutes;"

SECTION 170.(a) G.S. 59-35.1, as recodified by Section 9 and amended by Sections 9, 38, and 51(c) of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-35.1. *Filing of documents.*

(a) A document required or permitted by this act to be filed by the Secretary of State must be filed under Chapter 55D of the General Statutes.

(b) A document submitted under this act for filing by the Secretary of State must be executed by a general partner of the partnership.

(c) The Secretary of State may adopt and furnish on request forms for:

- (1) An application for registration as a registered limited liability partnership;
- (2) Cancellation of registration as a registered limited liability partnership;
- (3) Application for registration as a foreign limited liability partnership; and
- (4) Cancellation of registration as a foreign limited liability partnership.

If the Secretary of State so requires, use of these forms is mandatory.

~~The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:~~

<u>Document</u>	<u>Fee</u>
Application for reserved name	\$10.00
Notice of transfer of reserved name	10.00
Application for registered name	10.00
Application for renewal of registered name	10.00
Articles of merger	-50.00
Articles of correction	-10.00

~~Whenever the Secretary of State is deemed appointed as a registered agent under this Act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this Act. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.~~

~~The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed by a partnership pursuant to this Part:~~

- (1) ~~One dollar (\$1.00) a page for copying or comparing a copy to the original; and~~
- (2) ~~Five dollars (\$5.00) for the certificate.~~

(d) The Secretary of State may adopt and furnish on request forms for other documents required or permitted to be filed by this act, but their use is not mandatory."

SECTION 170.(b) Part 1 of Article 2 of Chapter 59 of the General Statutes is amended by adding a new section to read:
"§ 59-35.2. Fees.

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are submitted by a partnership to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
(1) <u>Application for reserved name</u>	<u>\$10.00</u>
(2) <u>Notice of transfer of reserved name</u>	<u>10.00</u>
(3) <u>Application for registered name</u>	<u>10.00</u>
(4) <u>Application for renewal of registered name</u>	<u>10.00</u>
(5) <u>Registered limited liability partnership's or foreign limited liability partnership's statement of change of registered agent or registered office or both</u>	<u>5.00</u>
(6) <u>Agent's statement of change of registered office for each affected registered limited liability partnership or foreign limited liability partnership</u>	<u>5.00</u>
(7) <u>Agent's statement of resignation</u>	<u>No Fee</u>
(8) <u>Designation of registered agent or registered office or both</u>	<u>5.00</u>
(9) <u>Articles of conversion (other than articles of conversion included as part of another document)</u>	<u>50.00</u>
(10) <u>Articles of merger</u>	<u>50.00</u>
(11) <u>Application for registration as a registered limited liability partnership</u>	<u>125.00</u>
(12) <u>Certificate of amendment of registration as a registered limited liability partnership</u>	<u>25.00</u>
(13) <u>Cancellation of registration as a registered limited liability partnership</u>	<u>25.00</u>
(14) <u>Application for registration as a foreign limited liability partnership</u>	<u>125.00</u>
(15) <u>Certificate of amendment of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(16) <u>Cancellation of registration as a foreign limited liability partnership</u>	<u>25.00</u>
(17) <u>Application for certificate of withdrawal by reason of merger, consolidation, or conversion</u>	<u>10.00</u>
(18) <u>Annual report</u>	<u>200.00</u>
(19) <u>Articles of correction</u>	<u>10.00</u>
(20) <u>Any other document required or permitted to be filed pursuant to this act</u>	<u>10.00</u>

(b) Whenever the Secretary of State is deemed appointed as a resisted agent under this act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this act. The party to the proceeding causing service of process is

entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of a document filed pursuant to this act:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate."

SECTION 170.(c) G.S. 59-73.13(b)(2), 59-73.23(b)(2), and 59-73.33(b)(2), as enacted in this act, are amended by deleting "G.S. 59-35.1(f)" and substituting in lieu thereof "G.S. 59-35.2".

SECTION 171.(a) Sections 10(f) and 37 of House Bill 385, 2001 Regular Session of the General Assembly, are repealed.

SECTION 171.(b) G.S. 59-1106, as amended by Section 149 of this act, reads as rewritten:

"§ 59-1106. Filing, service, and copying fees; ~~expedited filings fees.~~

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
(1) Certificate of limited partnership which does not include an application for registration as a limited liability limited partnership	\$50.00
(1a) <u>(2)</u> Certificate of limited partnership which includes an application for registration as a limited liability limited partnership	125.00
(2) <u>(3)</u> Certificate of amendment	25.00
(3) <u>(4)</u> Certificate of cancellation	25.00
(4) <u>(5)</u> Application for reservation of name	10.00
(5) <u>(6)</u> Notice of transfer of <u>reserved name</u>	10.00
<u>(7) Application for registration of name</u>	<u>10.00</u>
<u>(8) Application for renewal of registration name</u>	<u>10.00</u>
(5a) <u>(9)</u> Limited partnership's or foreign limited partnership's statement of change of registered agent or registered office or both	5.00
(5b) <u>(10)</u> Agent's statement of change of registered office for each affected partnership	5.00
(5e) <u>(11)</u> Agent's statement of resignation	No Fee
(5d) <u>(12)</u> Designation of registered agent or registered office or both	5.00
(6) <u>(13)</u> Application for registration as foreign limited partnership	50.00
	additional fee

(12) Advisory review of a document	200.00
(13) (14) Certificate of amendment of registration as foreign limited partnership	25.00
(14) (15) Cancellation of registration as foreign limited partnership	25.00
(15) (16) Application for certificate of withdrawal by reason of merger, consolidation, or conversion	10.00
(16) (17) Articles of merger	50.00
(17) (18) Articles of conversion (other than articles of conversion included as part of another document)	50.00
(18) (19) Application for registration as a limited liability limited partnership (other than an application included in the certificate of limited partnership)	125.00
(19) (20) Certificate of amendment of registration as a limited liability limited partnership	25.00
(20) (21) Certificate of cancellation of registration as a limited liability limited partnership	25.00
(21) (22) Annual report for a limited liability limited partnership	200.00
(22) (23) Any other document required or permitted to be filed under this Article	10.00.

(b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary under this Article. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying, comparing, and certifying a copy of any filed document relating to a domestic or foreign limited partnership:

- (1) One dollar (\$1.00) a page for copying or comparing a copy to the original; and
- (2) Five dollars (\$5.00) for the certificate.

~~(d) The Secretary of State shall guarantee the expedited filing of a document upon receipt of the document in proper form and the payment of the required filing fee. The Secretary of State may collect the following additional fees for the expedited filing of a document received in good form:~~

- ~~(1) Two hundred dollars (\$200.00) for the filing by the end of the same business day of a document received by 12:00 noon Eastern Standard Time; and~~
- ~~(2) One hundred dollars (\$100.00) for the filing of a document within 24 hours after receipt, excluding weekends and holidays.~~

The Secretary of State shall not collect the fees allowed in this subsection unless the person submitting the document for filing requests an expedited filing and is informed by the Secretary of State of the fees prior to the filing of the document."

SECTION 172. G.S. 59-103, as amended by Section 32 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"§ 59-103. *Name.*

The name of the limited partnership must meet any requirements of Article 3 of Chapter 55D of the General Statutes."

SECTION 173. Section 53 of House Bill 385, 2001 Regular Session of the General Assembly, reads as rewritten:

"**SECTION 53.** This act becomes effective ~~October 1, 2001,~~ January 1, 2002, and applies to documents submitted for filing on or after that date."

SECTION 174. This Part becomes effective if House Bill 385, 2001 Regular Session of the General Assembly, becomes law.

PART VIII. EFFECTIVE DATE.

SECTION 175.(a) Section 59A of this act becomes effective September 1, 2001. The remainder of this act becomes effective January 1, 2002.

SECTION 175.(b) The amendment to G.S. 105-232 set forth in Section 153 of this act is intended to be retroactive. Accordingly, any act performed or attempted to be performed during the period of suspension of any corporation or limited liability company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any person who reasonably relied on that person's prejudice on the suspension.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

Became law upon approval of the Governor at 5:37 p.m. on the 26th day of August, 2001.

AN ACT TO AMEND RULE 5 OF THE RULES OF CIVIL PROCEDURE TO ELIMINATE THE REQUIREMENT OF FILING OF BRIEFS OR MEMORANDA REGARDING DISPOSITIVE MOTIONS WITHIN FIVE DAYS OF SERVICE, AS RECOMMENDED BY THE NORTH CAROLINA COURTS COMMISSION, AND TO ELIMINATE THE UNNECESSARY FILING OF COVER SHEETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1A-1, Rule 5 reads as rewritten:

"Rule 5. Service and filing of pleadings and other papers.

(a) Service of orders, subsequent pleadings, discovery papers, written motions, written notices, and other similar papers – When required. – Every order required by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment and similar paper shall be served upon each of the parties, but no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 4.

(a1) Service of briefs or memoranda in support or opposition of certain dispositive motions. – In actions in superior court, every brief or memorandum in support of or in opposition to a motion to dismiss, a motion for judgment on the pleadings, a motion for summary judgment, or any other motion seeking a final determination of the rights of the parties as to one or more of the claims or parties in the action shall be served upon each of the parties at least two days before the hearing on the motion. If the brief or memorandum is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served brief or memorandum, or take such other action as the ends of justice require. The parties may, by consent, alter the period of time for service. For the purpose of this two-day requirement only, service shall mean personal delivery, facsimile transmission, or other means such that the party actually receives the brief within the required time.

(b) Service – How made. – A pleading setting forth a counterclaim or cross claim shall be filed with the court and a copy thereof shall be served on the party against whom it is asserted or on his attorney of record. With respect to all pleadings subsequent to the original complaint and other papers required or permitted to be served, service with due return may be made in the manner provided for service and return of process in Rule 4 and may be made upon either the party or, unless service upon the party himself is ordered by the court, upon his attorney of record. With respect to such other pleadings and papers, service upon the attorney or upon a party may also be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by filing it with the clerk of court. Delivery of a copy within this rule means handing it to

the attorney or to the party; or leaving it at the attorney's office with a partner or employee. Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c) Service – Numerous defendants. – In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any crossclaim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

(d) Filing. – All pleadings subsequent to the complaint shall be filed with the court. All other papers required to be served upon a party, including requests for admissions, shall be filed with the court either before service or within five days thereafter, except that depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. Briefs and memoranda provided to the court may not be filed with the clerk of the court unless ordered by the court. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered. With respect to all pleadings and other papers as to which service and return has not been made in the manner provided in Rule 4, proof of service shall be made by filing with the court a certificate either by the attorney or the party that the paper was served in the manner prescribed by this rule, or a certificate of acceptance of service by the attorney or the party to be served. Such certificate shall show the date and method of service or the date of acceptance of service.

(e) (1) Filing with the court defined. – The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(2) Filing by telefacsimile transmission. – If, pursuant to G.S. 7A-34 and G.S. 7A-343, the Supreme Court and the Administrative Officer of the Courts establish uniform rules, regulations, procedures and specifications for the

filing of pleadings or other court papers by telefacsimile transmission, filing may be made by the transmission when, in the manner, and to the extent provided therein."

SECTION 2. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-34.1. Unnecessary cover sheets.

A cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts shall not be required for papers filed in civil actions subsequent to the initial filing if such subsequent filing contains:

- (1) A caption including the file number, on the first page thereof.
- (2) The name, address, and telephone number of the attorney filing the papers or, if the party filing the papers is not represented by an attorney, the name, address, and telephone number of the party filing the papers.
- (3) A designation of the party represented by the attorney filing the papers, if an attorney is filing the papers.
- (4) The name and designation of "plaintiff", "defendant", "petitioner", "respondent", or other relationship to the action of each other party to the action.
- (5) The code or codes, set forth on the first page next to the title thereof, corresponding to the codes located on the cover sheet forms promulgated by the Administrative Office of the Courts which apply to the filing.
- (6) The signature of the attorney or party filing the paper and the date signed."

SECTION 3. Section 2 of this act becomes effective October 1, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of August, 2001.

Became law upon approval of the Governor at 5:38 p.m. on the 26th day of August, 2001.

S.B. 729

SESSION LAW 2001-389

AN ACT TO PROVIDE THAT RATES AND CLASSIFICATIONS FOR MOTORCYCLE THEFT AND PHYSICAL DAMAGE INSURANCE ARE TO BE ESTABLISHED BY THE CARRIERS THAT WRITE THOSE COVERAGES AND NOT BY THE NORTH CAROLINA RATE BUREAU; TO PROVIDE THAT THE RATE BUREAU RETAINS JURISDICTION OVER RATES AND CLASSIFICATIONS FOR MOTORCYCLE LIABILITY INSURANCE; AND TO PROVIDE THAT

MOTORCYCLE LIABILITY INSURANCE IS STILL
CEDABLE TO THE NORTH CAROLINA MOTOR VEHICLE
REINSURANCE FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-1(1) reads as rewritten:

"(1) To assume the functions formerly performed by the North Carolina Fire Insurance Rating Bureau, the North Carolina Automobile Rate Administrative Office, and the Compensation Rating and Inspection Bureau of North Carolina, with regard to the promulgation of rates, for insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof and valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; except as provided in G.S. 58-36-3(a)(6), for theft of and physical damage to nonfleet private passenger (nonfleet) motor vehicles as the same are defined under Article 40 of this Chapter; motor vehicles; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and for workers' compensation and employers' liability insurance written in connection therewith except for insurance excluded from the Bureau's jurisdiction in G.S. 58-36-1(3)."

SECTION 2. G.S. 58-36-1(3), as amended by S.L. 2001-236, reads as rewritten:

"(3) The Bureau shall promulgate and propose rates for insurance against loss to residential real property with not more than four housing units located in this State and any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance; for insurance against theft of or physical damage to nonfleet private passenger motor vehicles; for liability insurance for such motor vehicles, automobile medical payments insurance, uninsured and underinsured motorists coverage and other insurance coverages written in connection with the sale of such liability insurance; and, as provided in G.S. 58-36-100, for loss costs and residual market rate filings for workers' compensation and employers' liability insurance written in connection therewith. This subdivision does not apply to motor vehicles operated

under certificates of authority from the Utilities Commission, the Interstate Commerce Commission, or their successor agencies, where insurance or other proof of financial responsibility is required by law or by regulations specifically applicable to such certificated vehicles. ~~The Bureau shall have no jurisdiction over excess workers' compensation insurance for employers qualifying as self-insurers as provided in Article 47 of this Chapter or Article 5 of Chapter 97 of the General Statutes; nor shall the Bureau's jurisdiction include farm buildings, farm dwellings and their appurtenant structures, farm personal property or other coverages written in connection with farm real or personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles, unless insured under policies covering nonfleet private passenger motor vehicles; personal excess liability or personal "umbrella" insurance; mechanical breakdown insurance covering nonfleet private passenger motor vehicles and other incidental coverages written in connection with this insurance, including emergency road service assistance, trip interruption reimbursement, rental car reimbursement, and tire coverage; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance, except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium."~~

SECTION 3. Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-36-3. *Limitation of scope; motorcycle endorsements allowed.*

- (a) The Bureau has no jurisdiction over:
- (1) Excess workers' compensation insurance for employers qualifying as self-insurers as provided in Article 47 of this Chapter or Article 5 of Chapter 97 of the General Statutes.
 - (2) Farm buildings, farm dwellings, and their appurtenant structures; farm personal property or other coverages written in connection with farm real or personal property.
 - (3) Travel or camper trailers designed to be pulled by private passenger motor vehicles, unless insured under

policies covering nonfleet private passenger motor vehicles.

- (4) Mechanical breakdown insurance covering nonfleet private passenger motor vehicles and other incidental coverages written in connection with this insurance, including emergency road service assistance, trip interruption reimbursement, rental car reimbursement, and tire coverage.
- (5) Residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance, except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium.
- (6) Insurance against theft of or physical damage to motorcycles, as defined in G.S. 20-4.01(27)d.
- (7) Personal excess liability or personal "umbrella" insurance.

(b) Member companies writing motorcycle liability insurance under this Article and writing insurance against theft of or physical damage to motorcycles under Article 40 of this Chapter may incorporate motorcycle theft and physical damage coverage as an endorsement to the liability policy issued under this Article."

SECTION 4. G.S. 58-37-1(6) reads as rewritten:

"(6) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers). "Motor vehicle" also means a motorcycle, as defined in G.S. 20-4.01(27)d."

SECTION 5. G.S. 58-40-15 reads as rewritten:

"§ 58-40-15. *Scope of application.*

The provisions of this Article shall apply to all insurance on risks or on operations in this State, except:

- (1) Reinsurance, other than joint reinsurance to the extent stated in G.S. 58-40-60;
- (2) Any policy of insurance against loss or damage to or legal liability in connection with property located outside this State, or any motor vehicle or aircraft principally garaged and used outside of this State, or any activity wholly carried on outside this State;
- (3) Insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or

other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

- (4) Accident, health, or life insurance;
- (5) Annuities;
- (6) Repealed by Session Laws 1985, c. 666, s. 43.
- (7) Mortgage guaranty insurance;
- (8) Workers' compensation and employers' liability insurance written in connection therewith;
- (9) For private passenger (nonfleet) motor vehicle liability insurance, automobile medical payments insurance, uninsured motorists' coverage and other insurance coverages written in connection with the sale of such liability insurance;
- (10) Theft of or physical damage to nonfleet private passenger (~~nonfleet~~) motor vehicles; except this Article applies to insurance against theft of or physical damage to motorcycles, as defined in G.S. 20-4.01(27)d.; and
- (11) Insurance against loss to residential real property with not more than four housing units located in this State or any contents thereof or valuable interest therein and other insurance coverages written in connection with the sale of such property insurance. Provided, however, that this Article shall apply to insurance against loss to farm dwellings, farm buildings and their appurtenant structures, farm personal property and other coverages written in connection with farm real or personal property; travel or camper trailers designed to be pulled by private passenger motor vehicles unless insured under policies covering nonfleet private passenger motor vehicles; residential real and personal property insured in multiple line insurance policies covering business activities as the primary insurable interest; and marine, general liability, burglary and theft, glass, and animal collision insurance except when such coverages are written as an integral part of a multiple line insurance policy for which there is an indivisible premium.

The provisions of this Article shall not apply to hospital service or medical service corporations, investment companies, mutual benefit associations, or fraternal beneficiary associations."

SECTION 5.1. Beginning on February 1, 2003, and annually thereafter, the Department of Insurance shall report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives on the effectiveness of this act in assuring the provision of insurance coverage to motorcyclists at fair and economical rates.

SECTION 6. This act becomes effective January 1, 2002. Rates, rating systems, territories, classifications, and policy forms lawfully in use on January 1, 2002, may continue to be used thereafter.

In the General Assembly read three times and ratified this the 15th day of August, 2001.

Became law upon approval of the Governor at 5:38 p.m. on the 26th day of August, 2001.

H.B. 1073 SESSION LAW 2001-390

AN ACT TO CREATE AN AUTOMATION ENHANCEMENT AND PRESERVATION FUND AND EXPAND THE UNIFORM FEES FOR SERVICES CHARGED BY REGISTERS OF DEEDS, TO ENHANCE THE STANDARDS FOR INSTRUMENTS TO BE REGISTERED IN THE OFFICE OF THE REGISTER OF DEEDS, AND TO ALLOW THE SECRETARY OF STATE TO REINSTATE BUSINESS ENTITIES ADMINISTRATIVELY DISSOLVED BY THE SECRETARY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- (1) Instruments in General. – For registering or filing any instrument for which no other provision is made by this section, whether written, printed, or typewritten, the fee shall be ~~six dollars (\$6.00)~~ twelve dollars (\$12.00) for the first ~~page, which page shall not exceed 8 1/2 inches by 14 inches, page~~ plus two dollars (\$2.00), three dollars (\$3.00) for each additional page or fraction thereof. ~~A page exceeding 8 1/2 inches by 14 inches shall be considered two pages.~~

When a document is presented for registration that consists of multiple instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A document consists of multiple instruments when it contains two or more instruments with different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

- (1a) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages. – For registering or filing any deed of trust or mortgage, whether written, printed, or typewritten, the fee shall be ~~ten dollars (\$10.00)~~ twelve dollars (\$12.00) for the first page, ~~which page shall not exceed 8 1/2 inches by 14 inches, page~~ plus ~~two dollars (\$2.00)~~ three dollars (\$3.00) for each additional page or fraction thereof. ~~A page exceeding 8 1/2 inches by 14 inches shall be considered two pages.~~

When a deed of trust or mortgage is presented for registration that contains one or more additional instruments, the fee shall be ten dollars (\$10.00) for each additional instrument. A deed of trust or mortgage contains one or more additional instruments if such additional instrument or instruments has or have different legal consequences or intent, each of which is separately executed and acknowledged and could be recorded alone.

For recording records of satisfaction, or the cancellation of record by any other means, of deeds of trust or mortgages, there shall be no fee.

- (2) Marriage Licenses. – For issuing a license ~~forty dollars (\$40.00);~~ fifty dollars (\$50.00); for issuing a delayed certificate with one certified copy ~~five dollars (\$5.00);~~ twenty dollars (\$20.00); and for a proceeding for correction of ~~names in an~~ application, license or certificate, with one certified copy ~~five dollars (\$5.00);~~ ten dollars (\$10.00).
- (3) Plats. – For each original or revised plat recorded twenty-one dollars (\$21.00) per sheet or page; for furnishing a certified copy of a plat ~~three dollars (\$3.00);~~ five dollars (\$5.00).
- (4) Right-of-Way Plans. – For each original or amended plan and profile sheet recorded ~~five dollars (\$5.00);~~ twenty-one dollars (\$21.00) for the first page and five dollars (\$5.00) per page for each additional page. This fee is to be collected from the Board of Transportation.
- (5) Registration of Birth Certificate One Year or More after Birth. – For preparation of necessary papers when birth to be registered in another county ~~five dollars (\$5.00);~~ ten dollars (\$10.00); for registration when necessary papers prepared in another county, with one certified copy ~~five dollars (\$5.00);~~ ten dollars (\$10.00); for preparation of necessary papers and registration in the

- same county, with one certified copy ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00).
- (6) Amendment of Birth or Death Record. – For preparation of amendment and affecting correction ~~two dollars (\$2.00)~~ ten dollars (\$10.00).
- (7) Legitimations. – For preparation of all documents concerned with legitimations ~~seven dollars (\$7.00)~~ ten dollars (\$10.00).
- (8) Certified Copies of Birth and Death Certificates and Marriage Licenses. – For furnishing a certified copy of a death or birth certificate or marriage license ~~three dollars (\$3.00)~~ ten dollars (\$10.00). Provided however, a Register of Deeds may issue without charge a certified Birth Certificate to any person over the age of 62 years.
- (8a) Vital Records Network. – For obtaining access to the Vital Records Computer Network, two dollars (\$2.00).
- (9) Certified Copies. – For furnishing a certified copy of an instrument for which no other provision is made by this section ~~three dollars (\$3.00)~~ five dollars (\$5.00) for the first page, plus ~~one dollar (\$1.00)~~ two dollars (\$2.00) for each additional page or fraction thereof.
- (10) Comparing Copy for Certification. – For comparing and certifying a copy of any instrument filed for registration, when the copy is furnished by the party filing the instrument for registration and at the time of filing thereof ~~two dollars (\$2.00)~~ five dollars (\$5.00).
- (11) Uncertified Copies. – ~~When, as a convenience to the public, the~~ A register of deeds who supplies uncertified copies of instruments, or index pages, as a convenience to the public, he may charge fees that ~~in his discretion the register of deeds determines~~ bear a reasonable relation to the quality of copies supplied and the cost of purchasing and maintaining copying and/or computer equipment. These fees may be changed from time to time, but the amount of these fees shall at all times be uniform and prominently posted in his office. the office of the register of deeds.
- (12) Notarial Acts. – For taking an acknowledgment, oath, or affirmation or performing any other notarial act the maximum fee set in G.S. 10A-10. This fee shall not be charged if the act is performed as a part of one of the services for which a fee is provided by this subsection; except that this fee shall be charged in addition to the fees for registering, filing, or recording instruments or

plats as provided by subdivisions (1) and (3) of this subsection.

- (13) **(Effective until July 1, 2001)** Uniform Commercial Code. – Such fees as are provided for in Chapter 25, Article 9, Part 4, of the General Statutes.
- (13) **(Effective July 1, 2001)** Uniform Commercial Code. – Such fees as are provided for in Chapter 25, Article 9, Part 5, of the General Statutes.
- (14) Torrens Registration. – Such fees as are provided in G.S. 43-5.
- (15) Master Forms. – Such fees as are provided for instruments in general.
- (16) Probate. – For certification of instruments for registration as provided in G.S. 47-14 two dollars (\$2.00).
- (17) Qualification of Notary Public. – For administering the oaths of office to a notary public and making the appropriate record entries as provided in G.S. 10A-8 ~~five dollars (\$5.00)~~ ten dollars (\$10.00).
- (18) Reinstatement of Articles of Incorporation. – For filing reinstatements of Articles of Incorporation prepared pursuant to G.S. 105-232; such fees as provided for instruments in general. The fee shall be paid by the corporation affected.
- (19) Nonstandard Document. – For registering or filing any document not in compliance with the recording standards adopted under G.S. 161-14(b), the fee shall be twenty-five dollars (\$25.00) in addition to all other applicable recording fees.
- ~~(19)~~(20) Miscellaneous Services. – For performing miscellaneous services such as faxing documents, providing laminated copies of documents, expedited delivery of documents, and similar services, the cost of the service."

SECTION 2. Chapter 161 of the General Statutes is amended by adding a new section to read:

"§ 161-11.3. Automation Enhancement and Preservation Fund.

Ten percent (10%) of the fees collected pursuant to G.S. 161-10 and retained by the county shall be set aside annually and placed in a nonreverting Automation Enhancement and Preservation Fund, the proceeds of which shall be expended on computer and imaging technology in the office of the register of deeds. Nothing in this section shall be construed to affect the duty of the board of county commissioners to furnish supplies and equipment to the office of the register of deeds."

SECTION 3. G.S. 65-13(c) reads as rewritten:

"(c) The party removing or causing the removal of all such graves shall, within 30 days after completion of the removal and reinterment, file with the register of deeds of the county from which the graves were removed and with the register of deeds of the county in which reinterment is made, a written certificate of the removal facts. Such certificate shall contain the full name, if known or reasonably ascertainable, of each decedent whose grave is moved, a precise description of the site from which such grave was removed, a precise description of the site and specific location where the decedent's remains have been reinterred, the full and correct name of the party effecting the removal, and a brief description of the statutory basis or bases upon which such removal or reinterment was effected. If the full name of any decedent cannot reasonably be ascertained, the removing party shall set forth all additional reasonably ascertainable facts about the decedent including birth date, death date, and family name.

~~A fee of one dollar (\$1.00) for each page or portion of page of such~~ The fee for recording instruments in general, as provided in G.S. 161-10(a)(1), for registering a certificate of removal facts shall be paid to the register of deeds of each county in which such certificate is filed for registration."

SECTION 4. G.S. 47-21 reads as rewritten:

"§ 47-21. *Blank or master forms of mortgages, etc.; embodiment by reference in instruments later filed.*

It shall be lawful for any person, firm or corporation to have a blank or master form of mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real and/or personal property, filed, indexed and recorded in the office of the register of deeds. When any such blank or master form is ~~filed with~~ filed, the register of ~~deeds, he~~ deeds shall record ~~the same, it~~ and shall index ~~the same~~ it in the manner now provided by law for the indexing of instruments recorded in ~~his office,~~ the office of the register of deeds, except that the name of the person, firm or corporation whose name appears on such blank or master form shall be inserted in the indices as grantor and also as grantee. The fee for filing, recording and indexing such blank or master form shall be ~~five dollars (\$5.00).~~ that for recording instruments in general, as provided in G.S. 161-10(a)(1).

When any deed, mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real and/or personal property, refers to the provisions, terms, covenants, conditions, obligations, or powers set forth in any such blank or master form recorded as herein authorized, and states the office of recordation of such blank or master form, book and page where same is recorded such reference shall be equivalent to setting forth in extenso in such

deed, mortgage, deed of trust, or other instrument conveying an interest in, or creating a lien on, real and/or personal property, the provisions, terms, covenants, conditions, obligations and powers set forth in such blank or master form. Provided this section shall not apply to Alleghany, Ashe, Avery, Beaufort, Bladen, Camden, Carteret, Chowan, Cleveland, Columbus, Dare, Gates, Granville, Guilford, Halifax, Iredell, Jackson, Martin, Moore, Perquimans, Sampson, Stanly, Swain, Transylvania, Vance, Washington and Watauga Counties."

SECTION 5. G.S. 161-14 reads as rewritten:

"§ 161-14. *Registration of instruments.*

(a) ~~The~~ After the register of deeds has determined that all statutory and locally adopted prerequisites for recording have been met, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. ~~He~~ The register of deeds shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds ~~may, in his discretion,~~ may establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation.

(b) All instruments presented for registration ~~shall be on paper and in ink of a color, quality, size, and condition that will permit the production of legible and permanent reproductions thereof by photographic or microphotographic processes. If an instrument presented for registration is in a condition that will not permit such reproduction, the register of deeds shall endorse thereon the following notation: "Record of poor quality due to condition of original document." He shall then register the instrument in the usual manner.~~ on paper shall meet all of the following requirements:

- (1) Be eight and one-half inches by eleven inches or eight and one-half inches by fourteen inches.
- (2) Have a blank margin of three inches at the top of the first page and blank margins of one-half inches on the

remaining sides of the first page and on all sides of subsequent pages.

- (3) Be typed or printed in black on white paper in a legible font. A font size no smaller than 10 points shall be considered legible. Blanks in an instrument may be completed in pen and corrections to an instrument may be made in pen.
- (4) Have text typed or printed on one side of a page only.
- (5) State the type of instrument at the top of the first page.

If an instrument does not meet these requirements, the register of deeds shall register the instrument after collecting the fee for nonstandard documents as required by G.S. 161-10(a)(19) in addition to all other applicable recording fees. However, if an instrument fails to meet the requirements because it contains print in a font size smaller than 10 points, the register of deeds may register the instrument without collecting the fee for nonstandard documents if, in the discretion of the register of deeds, the instrument is legible.

(c) Transportation corridor official maps authorized under Article 2E of Chapter 136 shall be registered and indexed by the end of the third business day after the business day the map is presented to the Register of Deeds. register of deeds.

(d) For the purposes of this section, the term "instrument" means all of the following for which a fee is collected under G.S. 161-10(a):

- (1) Instruments in General.
- (2) Deeds of Trust, Mortgages, and Cancellation of Deeds of Trust and Mortgages.
- (3) Uniform Commercial Code filings.
- (4) Torrens Registrations.
- (5) Master Forms."

SECTION 6. G.S. 136-19.4(e) reads as rewritten:

"(e) The register of deeds in each county shall collect a fee from the Department of Transportation of twenty one dollars (\$21.00) for the first page and five dollars (\$5.00) for each additional page for each original or amended plan and profile sheet recorded. for recording right-of-way plans and profile sheets in the amount set out in G.S. 161-10."

SECTION 7. G.S. 55-14-22 reads as rewritten:

"§ 55-14-22. Reinstatement following administrative dissolution.

(a) A corporation administratively dissolved under G.S. 55-14-21 may apply to the Secretary of State for reinstatement not later than five years after the effective date of dissolution. reinstatement. The application must:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and

- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.
- (3) Reserved.
- (4) Repealed by Session Laws 1995, c. 539, s. 6.

(a1) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under G.S. 55-4-01, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement.

(b) If the Secretary of State determines that the application contains the information required by ~~subsection (a) and~~ subsection (a) of this section, that the information is correct, ~~he and~~ that the name of the corporation complies with G.S. 55-4-01 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites ~~his~~ the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation.

(c) When the reinstatement is effective, it relates back to and takes effect as of the date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred, subject to the rights of any person who reasonably relied to his prejudice upon the certificate of dissolution."

SECTION 8. G.S. 55-4-01(g) reads as rewritten:

"(g) The name of a corporation dissolved under Article 14 may not be used by another corporation ~~until~~ until one of the following occurs:

- (1) In the case of a voluntary dissolution, the expiration of 120 days after the effective date of the ~~dissolution,~~ or dissolution.
- (2) In the case of an administrative dissolution, the expiration of ~~the period within which the corporation may be reinstated pursuant to G.S. 55-14-21,~~ five years after the effective date of the administrative dissolution.

~~unless~~

- (3) ~~the~~ The dissolved corporation changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other business corporations, nonprofit corporations, limited partnerships, or limited liability companies organized or transacting business in this State."

SECTION 9. G.S. 55A-14-22 reads as rewritten:

"§ 55A-14-22. *Reinstatement following administrative dissolution.*

(a) A corporation administratively dissolved under G.S. 55A-14-21 may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of dissolution.~~ reinstatement. The application shall:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution; and
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated.

(a1) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under G.S. 55A-4-01, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section, ~~and~~ that the information is correct, and that the name of the corporation complies with G.S. 55A-4-01 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation.

(c) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its activities as if the administrative dissolution had never occurred, subject to the rights of any person who reasonably relied to his prejudice upon the certificate of dissolution."

SECTION 10. G.S. 55A-4-01(f) reads as rewritten:

"(f) The name of a corporation dissolved under Article 14 of this Chapter shall not be used by another corporation ~~until~~ until one of the following occurs:

- (1) In the case of a voluntary dissolution, the expiration of 120 days after the effective date of the ~~dissolution,~~ or dissolution.
- (2) In the case of an administrative dissolution, the expiration of ~~the period within which the corporation may be reinstated pursuant to G.S. 55A-14-22,~~ five years after the effective date of the administrative dissolution.

~~unless~~

- (3) ~~the~~ The dissolved corporation changes its name to a name that is distinguishable upon the records of the

Secretary of State from the names of other nonprofit corporations, business corporations, limited partnerships, or limited liability companies organized or transacting business in this State."

SECTION 11. G.S. 57C-6-03(c) reads as rewritten:

"(c) A limited liability company administratively dissolved under this section may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of the administrative dissolution.~~ reinstatement. The procedures for reinstatement and for the appeal of any denial of the limited liability company's application for reinstatement shall be the same procedures applicable to ~~business~~ corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. If, at the time the limited liability company applies for reinstatement, the name of the limited liability company is not distinguishable from the name of another entity authorized to be used under G.S. 57C-2-30, then the limited liability company must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement. The effect of reinstatement of a limited liability company shall be the same as for a corporation under G.S. 55-14-22."

SECTION 12. G.S. 57C-2-30(f) reads as rewritten:

"(f) The name of a limited liability company dissolved under Article 6 of this Chapter may not be used by another limited liability company, business corporation, nonprofit corporation, or limited partnership ~~until~~until one of the following occurs:

- (1) In the case of a dissolution pursuant to G.S. 57C-6-01, the later of (i) the date of filing of articles of dissolution pursuant to G.S. 57C-6-06 or (ii) the expiration of the time within which articles of dissolution of the limited liability company may be canceled pursuant to ~~G.S. 57C-6-06.1; or~~G.S. 57C-6-06.1.
- (2) In the case of an administrative dissolution pursuant to G.S. 57C-6-03, the expiration of ~~the period within which the limited liability company may be reinstated pursuant to G.S. 57C-6-03,~~ five years after the effective date of the administrative dissolution, if the limited liability company's period of duration stated in its articles of organization or written operating agreement has not ~~expired,~~expired.

~~unless~~

- (3) ~~the~~The dissolved limited liability company changes its name to a name distinguishable upon the records of the Secretary of State from the names of other limited liability companies, business corporations, nonprofit

corporations, or limited partnerships organized or transacting business in this State."

SECTION 13. G.S. 59-84.4(h) reads as rewritten:

"(h) A registered limited liability partnership or foreign limited liability partnership whose registration is revoked under this section may apply to the Secretary of State for ~~reinstatement not later than five years after the effective date of the revocation.~~ reinstatement. If, at the time the registered limited liability partnership applies for reinstatement, the name of the registered limited liability partnership is not distinguishable from the name of another entity authorized to be used under G.S. 55D-21, then the registered limited liability partnership must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement. The procedures for reinstatement and for the appeal of any denial of the registered limited liability partnership or foreign limited liability partnership's application for reinstatement shall be the same procedures applicable to business corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. The effect of reinstatement of a limited liability partnership shall be the same as for a corporation under G.S. 55-14-22."

SECTION 14. The Secretary of State shall report to the General Assembly by June 30, 2003, on whether a time limit should be placed upon the period of time within which an entity may be permitted to apply for reinstatement from administrative dissolution or revocation.

SECTION 15. G.S. 55D-21(d), as enacted by House Bill 385 of the 2001 General Assembly and ratified on August 2, 2001, and amended by Section 163 of Senate Bill 842 of the 2001 General Assembly, reads as rewritten:

"(d) Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4, may not be used by another entity ~~until~~ until one of the following occurs:

- (1) In the case of a nonjudicial dissolution other than an administrative dissolution, or cancellation of registration as a limited liability partnership, 120 days after the effective date of the dissolution or cancellation.

- (2) In the case of an administrative dissolution or revocation of registration as a limited liability partnership, the expiration of ~~the period within which the entity or its registration may be reinstated.~~ five years after the effective date of the administrative dissolution or revocation.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

The name of a

- (4) The dissolved entity may be used at any time if the entity changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, or registered limited liability partnerships or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign registration, in this State."

SECTION 16. G.S. 161-10(a)(4), as amended in Section 1 of this act, is effective retroactively to January 1, 2001. The remainder of Section 1 and Sections 2 through 4 of this act become effective January 1, 2002. Section 5 of this act becomes effective with respect to instruments executed on or after July 1, 2002. Sections 7 through 13 of this act are effective when they become law and apply retroactively to applications for reinstatement made on or after December 1, 1999. Section 15 of this act becomes effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of August, 2001.

Became law upon approval of the Governor at 5:39 p.m. on the 26th day of August, 2001.

S.B. 723

SESSION LAW 2001-391

AN ACT TO REQUIRE CERTAIN DISCLOSURE AND WARNING STATEMENTS ON UNSOLICITED CHECKS THAT, WHEN CASHED BY THE RECIPIENTS, OBLIGATE

THE RECIPIENTS TO REPAY THE AMOUNT OF THE CHECKS PLUS INTEREST AND FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 75 of the General Statutes is amended by adding a new section to read:

"§ 75-20. Unsolicited checks to secure loans.

(a) No person, firm, or corporation engaged in lending money shall deliver to a person an unsolicited check made out to the recipient that upon cashing, obligates the recipient to repay the amount of the check plus interest and fees, unless all of the following requirements are satisfied:

- (1) In addition to any disclosures otherwise required by law, the solicitation for loans using a facsimile or negotiable check shall disclose both of the following on the face of the check:
 - a. In at least 10-point boldface type a statement in substantially the following form: 'THIS IS A SOLICITATION FOR A LOAN. READ THE ATTACHED DISCLOSURES BEFORE SIGNING THIS AGREEMENT.'
 - b. In at least 6-point type a statement in substantially the following form: 'By endorsing the back of this check, you accept our offer and agree to the terms of your loan agreement contained in the disclosure statement attached to this check.'
- (2) Notification of the loan agreement being activated by endorsement must be conspicuously printed in at least 6-point type on the back of the check in substantially the following form: 'By endorsing this check, you agree to repay this loan according to the terms of the attached loan agreement.'
- (3) The check is attached to a disclosure statement that is detachable and that contains in at least 10-point boldface type a statement conspicuously placed in substantially the following form:

'This is a loan solicitation. If you cash this check, you are agreeing to borrow the sum of \$ _____ at the _____ % rate of interest for a period of _____ months. Your monthly payments will be \$ _____ for _____ months. If you are late with a payment, you will be charged the following fees in addition to your monthly payment: (list fees). All other terms of this loan are clearly identified as loan terms and appear on the back of the check or on this attachment. Read these terms carefully

before you cash this check. Cashing this check constitutes a loan transaction. You may cancel this loan by returning the amount of the check to the lender within 10 days of the date this check is cashed. You may prepay this loan agreement at anytime without penalty. READ THE AGREEMENT BEFORE SIGNING.'

- (4) The recipient has a right to cancel the loan by refunding to the lender the amount of the check within 10 days of the date the check is cashed. The loan is deemed refunded when a refund of the amount of the check is received by the lender within 10 days of the date the check is cashed.

(b) In the event an unsolicited check is stolen or otherwise obtained by someone other than the intended payee, and the check is cashed fraudulently or without authorization from the payee, the lender who issued the check shall provide the following recourse to the intended payee:

- (1) The lender, upon receipt of notification that intended payee did not negotiate the check, shall promptly provide the intended payee with a statement or affidavit to be signed by the intended payee confirming that the intended payee did not deposit or cash the check or receive the proceeds of the check. The lender shall also provide the intended payee with the name and telephone number of a contact person designated by the lender to provide assistance to intended payees who have been victimized by the fraudulent negotiation of unsolicited checks. The lender shall cease all collection activity against the intended payee until the lender completes an investigation into the transaction.
- (2) The intended payee shall be directed to complete and return the confirmation statement to the lender or an affiliate of the lender.
- (3) Within 30 days of the receipt of the confirmation statement, the lender shall conduct a reasonable investigation and determine whether the check was fraudulently negotiated. Absent evidence to the contrary, the presumption shall be that the confirmation statement submitted by the intended payee is accurate. The lender shall notify the intended payee in writing of the results of the investigation. If it is determined that the check was cashed fraudulently, the lender shall take immediate action to remove the intended payee from all liability on the account and to request all credit reporting agencies to

remove references to the transaction, if any, from the consumer's credit reports.

- (4) A consumer who is an intended payee of an unsolicited check under this section may bring a civil action to recover damages, costs, and attorney fees for any violation of this subsection.

(c) The provisions of this section shall not apply to a transaction in which a consumer has submitted an application or requested an extension of credit from the lender before receiving the check or instrument, or where the lender has an existing account relationship with the consumer.

(d) A violation of this section is an unfair trade practice under G.S. 75-1.1 and is subject to all of the enforcement and penalty provisions of an unfair trade practice under this Article."

SECTION 2. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 15th day of August, 2001.

Became law upon approval of the Governor at 5:40 p.m. on the 26th day of August, 2001.

S.B. 109

SESSION LAW 2001-392

AN ACT TO REQUEST THE NORTH CAROLINA SUPREME COURT TO ADOPT RULES ESTABLISHING MINIMUM STANDARDS FOR DEFENSE ATTORNEYS, PROSECUTORS, AND JUDGES HANDLING CAPITAL CASES.

The General Assembly of North Carolina enacts:

SECTION 1. The Supreme Court is respectfully requested to adopt rules to improve North Carolina's system of capital punishment by establishing minimum standards of training and experience for court-appointed defense attorneys, prosecutors, and judges handling capital cases. These rules should specify the minimum number of years of legal experience and the minimum amount of felony case experience required of any court-appointed defense attorney, prosecutor, or judge participating in the trial of a capital case, and may also require specialized training in capital case litigation for any or all of those participants in capital trials.

SECTION 2. G.S. 7A-498.5(c) reads as rewritten:

"(c) The Commission shall develop standards governing the provision of services under this Article. The standards shall include:

- (1) Standards for maintaining and operating regional and district public defender offices and appellate defender

- offices, including requirements regarding qualifications, training, and size of the legal and supporting staff;
- (2) Standards prescribing minimum experience, training, and other qualifications for appointed counsel;
 - (3) Standards for public defender and appointed counsel caseloads;
 - (4) Standards for the performance of public defenders and appointed counsel;
 - (5) Standards for the independent, competent, and efficient representation of clients whose cases present conflicts of interest, in both the trial and appellate courts;
 - (6) Standards for providing and compensating experts and others who provide services related to legal representation;
 - (7) Standards for qualifications and performance in capital ~~cases;~~ cases, consistent with any rules adopted by the Supreme Court; and
 - (8) Standards for determining indigency and for assessing and collecting the costs of legal representation and related services."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of August, 2001.

Became law upon approval of the Governor at 5:41 p.m. on the 26th day of August, 2001.

S.B. 904 SESSION LAW 2001-393

AN ACT TO ENACT THE MORTGAGE LENDING ACT TO GOVERN MORTGAGE BROKERS AND BANKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 19 of Chapter 53 of the General Statutes is repealed.

SECTION 2. Chapter 53 of the General Statutes is amended by adding a new Article to read:

"Article 19A.

"Mortgage Lending Act.

"§ 53-243.01. Definitions.

The following definitions apply in this Article:

- (1) Act as a mortgage broker. – To act, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, by accepting or offering to accept an application for a mortgage loan, soliciting or offering to solicit a mortgage loan, negotiating the terms

- or conditions of a mortgage loan, issuing mortgage loan commitments or interest rate guarantee agreements to borrowers, or engaging in tablefunding of mortgage loans, whether such acts are done through contact by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers.
- (2) Act as a mortgage lender. – To engage in the business of making mortgage loans for compensation or gain.
- (3) Branch manager. – The individual whose principal office is physically located in, who is in charge of, and who is responsible for the business operations of a branch office of a mortgage broker or mortgage banker.
- (4) Branch office. – An office of the licensee acting as a mortgage broker or mortgage banker that is separate and distinct from the licensee's principal office.
- (5) Commissioner. – The North Carolina Commissioner of Banks and the Commissioner's designees. For purposes of compliance with this Article by credit unions, Commissioner means the Administrator of the Credit Union Division of the Department of Commerce.
- (6) Control. – The power to vote more than twenty percent (20%) of outstanding voting shares or other interests of a corporation, partnership, limited liability company, association, or trust.
- (7) Employee. – An individual, who has an employment relationship, acknowledged by both the individual and the mortgage broker or mortgage banker and is treated as an employee for purposes of compliance with the federal income tax laws.
- (8) Exempt person. – The term includes any of the following:
- a. Any agency of the federal government or any state or municipal government granting mortgage loans under specific authority of the laws of any state or the United States.
 - b. Any employee of a licensee whose responsibilities are limited to clerical and administrative tasks for his or her employer and who does not solicit borrowers, accept applications, or negotiate the terms of loans on behalf of the employer.
 - c. Any person authorized to engage in business as a bank or a wholly owned subsidiary of a bank, a farm credit system, savings institution, or a wholly owned subsidiary of a savings institution, or credit union or a wholly owned subsidiary of a credit

- union, under the laws of the United States, this State, or any other state. Except for G.S. 53-243.11 and G.S. 53-243.15, this Article does not apply to the exempt persons set forth in this sub-subdivision (8)c.
- d. Any licensed real estate agent or broker who is performing those activities subject to the regulation of the North Carolina Real Estate Commission. Notwithstanding the above, an exempt person does not include a real estate agent or broker who receives compensation of any kind in connection with the referral, placement, or origination of a mortgage loan.
 - e. Any officer or employee of an exempt person described in sub-subdivision c. of this subdivision when acting in the scope of employment for the exempt person.
 - f. Any person who, as seller, receives in one calendar year no more than five mortgages, deeds of trust, or other security instruments on real estate as security for a purchase money obligation.
 - g. The North Carolina Housing Finance Agency as established by Article 122A of the General Statutes and the North Carolina Agricultural Finance Authority as established by Article 122D of the General Statutes.
 - h. Any nonprofit corporation qualifying under section 501(c)(3) of the Internal Revenue Code which makes mortgage loans to promote home ownership or home improvements for the disadvantaged, provided that such corporation is not primarily in the business of soliciting or brokering mortgage loans.
 - i. Any life insurance companies licensed to do business in North Carolina with regard to provisions concerning mortgage lenders.
- (9) Licensee. – A loan officer, mortgage broker, or mortgage banker who is licensed pursuant to this Article.
- (10) Loan officer. – An individual who, in exchange for compensation as an employee of another person, accepts or offers to accept applications for mortgage loans. The definition of loan officer shall not include any exempt person described in sub-subdivision (8)b. of this section.
- (11) Make a mortgage loan. – To close a mortgage loan, to advance funds, to offer to advance funds, or to make a

- commitment to advance funds to a borrower under a mortgage loan.
- (12) Managing principal. – A person who meets the requirements of G.S. 53-243.05(c) and who agrees to be primarily responsible for the operations of a licensed mortgage broker or mortgage banker.
- (13) Mortgage banker. – A person who acts as a mortgage lender as that term is defined in subdivision (2) of this section. However, the definition does not include a person who acts as a mortgage lender only in tablefunding transactions.
- (14) Mortgage broker. – A person who acts as a mortgage broker as that term is defined in subdivision (1) of this section.
- (15) Mortgage loan. – A loan made to a natural person or persons primarily for personal, family, or household use, primarily secured by either a mortgage or a deed of trust on residential real property located in North Carolina.
- (16) Person. – An individual, partnership, limited liability company, limited partnership, corporation, association, or other group engaged in joint business activities, however organized.
- (17) Qualified lender. – A person who is engaged as a mortgage lender in North Carolina and is either a supervised or a nonsupervised institution, as these terms are defined in 24 C.F.R. § 202.2, approved by the United States Department of Housing and Urban Development.
- (18) Qualified person. – A person who is employed as a loan officer by a qualified lender, or by a mortgage banker or broker registered with the Commissioner under former Article 19 of this Chapter, or who is a general partner, manager, or officer of a qualified lender, registered mortgage banker, or registered mortgage broker.
- (19) Residential real property. – Real property located in the State of North Carolina upon which there is located or is to be located one or more single-family dwellings or dwelling units.
- (20) Tablefunding. – A transaction where a licensee closes a loan in its own name with funds provided by others, and the loan is assigned simultaneously to the mortgage lender providing the funding within one business day of the funding of the loan.

"§ 53-243.02. License required; licensee records.

(a) Other than an exempt person, it is unlawful for any person in this State to act as a mortgage broker or mortgage banker, or directly

or indirectly to engage in the business of a mortgage broker or a mortgage banker, without first obtaining a license from the Commissioner under the provisions of this Article.

(b) It is unlawful for any natural person to engage in the solicitation and acceptance of applications for mortgage loans without first obtaining a license as a loan officer, mortgage banker, or mortgage broker issued by the Commissioner under the provisions of this Article. It is unlawful for any person to employ, to compensate, or to appoint as its agent a loan officer unless the loan officer is licensed as a loan officer under this Article. Exempt persons shall not be subject to this subsection.

(c) The license of a loan officer is not effective during any period when that person is not employed by a mortgage broker or mortgage banker licensed under this Article. When a loan officer ceases to be employed by a mortgage broker or mortgage banker licensed under this Article, the loan officer and the mortgage broker or mortgage banker licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. A loan officer shall not be employed simultaneously by more than one mortgage broker or mortgage banker licensed under this Article.

(d) Each mortgage broker and mortgage banker licensed under this Article shall maintain on file with the Commissioner a list of all loan officers who are employed with the mortgage broker or mortgage banker.

(e) No person, other than an exempt person, shall hold himself or herself out as a mortgage banker, a mortgage broker, or loan officer unless such person is licensed in accordance with this Article.

"§ 53-243.03. Review by Banking Commission.

The Banking Commission may review any rule, regulation, order, or article of the Commissioner adopted pursuant to or with respect to the provisions of this Article, and any person aggrieved by any rule, regulation, order, or article may appeal to the Banking Commission for review upon giving notice in writing 20 days after the rule, regulation, order, or article that is the subject of the complaint is adopted or issued. Notwithstanding any other provision of law, any party aggrieved by a decision of the Banking Commission shall be entitled to an appeal pursuant to G.S. 53-92.

"§ 53-243.04. Rule-making authority.

The Banking Commission may adopt any rules when it deems necessary to carry out the provisions of this Article, to provide for the protection of the borrowing public, and to instruct mortgage lenders or brokers in interpreting this Article.

"§ 53-243.05. Qualifications for licensure; issuance.

(a) Any person, other than an exempt person, desiring to obtain a license as a loan officer, mortgage banker, or mortgage broker shall

make written application for licensure to the Commissioner on forms prescribed by the Commissioner. In accordance with rules adopted by the Commission, the application shall contain any information the Commissioner deems necessary regarding the following:

- (1) The applicant's name and address and social security number.
- (2) The applicant's form and place of organization, if applicable.
- (3) The applicant's proposed method of and locations for doing business, if applicable.
- (4) The qualifications and business history of the applicant and, if applicable, the business history of any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, including: (i) a description of any injunction or administrative order by any state or federal authority to which the person is or has been subject; (ii) a conviction of a misdemeanor involving fraudulent dealings or moral turpitude or relating to any aspect of the residential mortgage lending business; (iii) any felony convictions.
- (5) With respect to an application for licensing as a mortgage banker or broker, the applicant's financial condition, credit history, and business history; and with respect to the application for licensing as a loan officer, the applicant's credit history and business history.

(b) In addition to the requirements imposed by the Commissioner under subsection (a) of this section, each individual applicant for licensure as a loan officer shall:

- (1) Be at least 18 years of age.
- (2) Have satisfactorily completed, within the three years immediately preceding the date application is made, a mortgage lending fundamentals course approved by the Commissioner. The course shall consist of at least eight hours of classroom instruction in subjects related to mortgage lending approved by the Commissioner. In addition, the applicant shall have satisfactorily completed a written examination approved by the Commissioner or possess residential mortgage lending education or experience in residential mortgage lending transactions that the Commissioner deems equivalent to the course.

(c) In addition to the requirements under subsection (a) of this section, each applicant for licensure as a mortgage broker or mortgage

banker at the time of application and at all times thereafter shall comply with the following requirements:

- (1) If the applicant is a sole proprietor, the applicant shall have at least three years of experience in residential mortgage lending or other experience or competency requirements as the Commissioner may impose.
- (2) If the applicant is a general or limited partnership, at least one of its general partners shall have the experience as described under subdivision (1) of this subsection.
- (3) If the applicant is a corporation, at least one of its principal officers shall have the experience as described under subdivision (1) of this subsection.
- (4) If the applicant is a limited liability company, at least one of its managers shall have the experience as described under subdivision (1) of this subsection.

(d) Each applicant shall identify one person meeting the requirements of subsection (c) of this section to serve as the applicant's managing principal.

(e) Every applicant for initial licensure shall pay a filing fee of one thousand dollars (\$1,000) for licensure as a mortgage broker or mortgage banker or fifty dollars (\$50.00) for licensure as a loan officer.

(f) A mortgage banker shall post a surety bond in the amount of one hundred fifty thousand dollars (\$150,000), and a mortgage broker shall post a surety bond in the amount of fifty thousand dollars (\$50,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee under this Article. The aggregate liability of the surety shall not exceed the principal sum of the bond. A party having a claim against the licensee may bring suit directly on the surety bond, or the Commissioner may bring suit on behalf of any claimants, either in one action or in successive actions. Consumer claims shall be given priority in recovering from the bond. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond that is required. An audited financial statement from a qualified lender showing a net worth of two hundred fifty thousand dollars (\$250,000) or more shall be accepted in lieu of any bond required.

(g) Any general partner, manager of a limited liability company, or officer of a corporation who individually meets the requirements under subsection (b) of this section shall, upon payment of the applicable fee, meet the qualifications for licensure as a loan officer subject to the provisions of subsection (i) of this section.

(h) Each principal office and each branch office of a mortgage broker or mortgage banker licensed under the provisions of this Article shall be issued a separate license. A licensed mortgage broker or mortgage banker shall file with the Commissioner an application on a form prescribed by the Commissioner that identifies the address of the principal office and each branch office and branch manager. A filing fee of one hundred dollars (\$100.00) shall be assessed by the Commissioner for each office issued a license.

(i) If the Commissioner determines that an applicant meets the qualifications for licensure and finds that the financial responsibility, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly and fairly, the Commissioner shall issue a license to the applicant.

"§ 53-243.06. License renewal; termination.

(a) All licenses issued by the Commissioner under the provisions of this Article shall expire annually on the 30th day of June following issuance or on any other date that the Commissioner may determine. The license shall become invalid after that date unless renewed. A license may be renewed 45 days prior to the expiration date by paying to the Commissioner a renewal fee as follows:

- (1) Licensed mortgage bankers shall pay an annual fee of five hundred dollars (\$500.00) and one hundred dollars (\$100.00) for each branch office.
- (2) Licensed mortgage brokers shall pay an annual fee of five hundred dollars (\$500.00) and one hundred dollars (\$100.00) for each branch office.
- (3) Licensed loan officers shall pay an annual fee of fifty dollars (\$50.00).

(b) If a license is not renewed prior to the applicable expiration date, then an additional two hundred fifty dollars (\$250.00) in addition to the renewal fee under subsection (a) of this section shall be assessed as a late fee to any renewal. In the event a licensee fails to obtain a reinstatement of the license within 90 days after the date the license expires, the Commissioner may require the licensee to comply with the requirements for the initial issuance of a license under the provisions of this Article.

(c) Licenses issued under this Article are not assignable. Control of a licensee shall not be acquired through a stock purchase or other device without the prior written consent of the Commissioner. The Commissioner shall not give written consent if the Commissioner finds that any of the grounds for denial, revocation, or suspension of a license pursuant to G.S. 53-243.12 are applicable to the acquiring person.

"§ 53-243.07. Continuing education.

(a) As a condition of license renewal, the Commissioner may adopt rules to require continuing education of licensees under this Article for the purpose of enhancing the professional competence and professional responsibility of mortgage bankers, mortgage brokers, and loan officers. The rules may include criteria for:

- (1) The content of continuing education courses.
- (2) Accreditation of continuing education sponsors and programs.
- (3) Accreditation of videotape or other audiovisual programs.
- (4) Computation of credit.
- (5) Special cases and exemptions.
- (6) General compliance procedures.
- (7) Sanctions for noncompliance.

(b) Annual continuing professional education requirements shall be determined by the Commissioner. However, the requirements shall not exceed eight credit hours within a one-year period.

"§ 53-243.08. Managing principals and branch managers.

Each mortgage broker or mortgage banker licensed under this Article shall have a managing principal who operates the business under that person's full charge, control, and supervision. Each principal and branch office of a mortgage broker or mortgage banker licensed under this Article shall have a manager who meets the experience requirements under G.S. 53-243.05(c)(1). The managing principal for a licensee's business may also serve as the branch manager of one of the licensee's branch offices. Each mortgage broker or mortgage banker licensed under this Article shall file a form as prescribed by the Commissioner indicating the business's designation of managing principal and branch manager for each branch and each individual's acceptance of the responsibility. Each mortgage broker or mortgage banker licensed under this Article shall notify the Commissioner of any change in its managing principal or branch manager designated for each branch. Any licensee who does not comply with this provision shall have the licensee's license suspended pursuant to G.S. 53-243.12 until the licensee complies with this section. Any individual licensee who operates as a sole proprietorship shall be considered a managing principal for the purposes of this Article.

"§ 53-243.09. Offices; address changes; display of license.

(a) Each mortgage broker licensee shall maintain and transact business from a principal place of business in this State. A principal place of business in this State shall consist of at least one enclosed room or building of stationary construction in which negotiations of mortgage loan transactions of others may be conducted and carried on in privacy and in which all of the books, records, and files pertaining

to mortgage loan transactions relating to borrowers in this State are maintained. However, the Commissioner may, by rule, impose terms and conditions under which the records and files may be maintained outside of this State.

(b) A mortgage banker or mortgage broker licensee shall report any change of address of the principal place of business or any branch office within 15 days after the change.

(c) Each mortgage broker or mortgage banker licensed under this Article shall display in plain view the certificate of licensure issued by the Commissioner in its principal office and in each branch office. Each loan officer licensed under this Article shall display in each branch office in which the officer acts as a loan officer the certificate of licensure issued by the Commissioner.

"§ 53-243.10. Mortgage broker duties.

A mortgage broker, including any mortgage broker licensee and any person required to be licensed as a mortgage broker under this Article, shall, in addition to duties imposed by other statutes or at common law:

- (1) Safeguard and account for any money handled for the borrower;
- (2) Follow reasonable and lawful instructions from the borrower;
- (3) Act with reasonable skill, care, and diligence; and
- (4) Make reasonable efforts, with lenders with whom the broker regularly does business to secure a loan that is reasonably advantageous to the borrower considering all the circumstances, including the rates, charges, and repayment terms of the loan and the loan options for which the borrower qualifies with such lenders.

"§ 53-243.11. Prohibited activities.

In addition to the activities prohibited under other provisions of this Article, it shall be unlawful for any person in the course of any mortgage loan transaction:

- (1) To misrepresent or conceal the material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a mortgagor to take a mortgage loan, or to pursue a course of misrepresentation through agents or otherwise.
- (2) To refuse improperly to issue a satisfaction of a mortgage.
- (3) To fail to account for or to deliver to any person any funds, documents, or other thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a

- credit report, which the mortgage banker, broker, or loan officer is not entitled to retain under the circumstances.
- (4) To pay, receive, or collect in whole or in part any commission, fee, or other compensation for brokering a mortgage loan in violation of this Article, including a mortgage loan brokered by any unlicensed person other than an exempt person.
 - (5) To charge or collect any fee or rate of interest or to make or broker any mortgage loan with terms or conditions or in a manner contrary to the provisions of Chapter 24 of the General Statutes.
 - (6) To advertise mortgage loans, including rates, margins, discounts, points, fees, commissions, or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans available to a reasonable number of qualified applicants.
 - (7) To fail to disburse funds in accordance with a written commitment or agreement to make a mortgage loan.
 - (8) To engage in any transaction, practice, or course of business that is not in good faith or fair dealing or that constitutes a fraud upon any person, in connection with the brokering or making of, or purchase or sale of, any mortgage loan.
 - (9) To fail promptly to pay when due reasonable fees to a licensed appraiser for appraisal services that are:
 - a. Requested from the appraiser in writing by the mortgage broker or mortgage banker or an employee of the mortgage broker or mortgage banker; and
 - b. Performed by the appraiser in connection with the origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage banker.
 - (10) To broker a mortgage loan which contains a prepayment penalty if the principal amount of the loan is one hundred fifty thousand dollars (\$150,000) or less.

"§ 53-243.12. Disciplinary authority.

(a) The Commissioner may, by order, deny, suspend, revoke, or refuse to issue or renew a license of a licensee or applicant under this Article or may restrict or limit the activities relating to mortgage loans of any licensee or any person who owns an interest in or participates in the business of a licensee, if the Commissioner finds both of the following:

- (1) That the order is in the public interest.

- (2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, managing broker, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:
- a. Has filed an application for license that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.
 - b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.
 - c. Has been convicted of any felony, or, within the past 10 years, has been convicted of any misdemeanor involving mortgage lending or any aspect of the mortgage lending business, or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.
 - d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage lending business.
 - e. Is the subject of an order of the Commissioner denying, suspending, or revoking that person's license as a mortgage broker or mortgage banker.
 - f. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage or mortgage banking industry denying or revoking that person's license as a mortgage broker or mortgage banking industry or denying or revoking that person's license as a mortgage broker or mortgage banker.
 - g. Does not meet the qualifications or the financial responsibility, character, or general fitness requirements under G.S. 53-243.05 or any bond or capital requirements under this Article.
 - h. Has been the executive officer or controlling shareholder or owned a controlling interest in any mortgage broker or mortgage banker who has been subject to an order or injunction described in sub-subdivision d., e., or f. of this subdivision.

- i. Has failed to pay the proper filing or renewal fee under this Article. However, the Commissioner may enter only a denial order under this sub-subdivision, and the Commissioner shall vacate the order when the deficiency has been corrected.

(b) The Commissioner may, by order, summarily postpone or suspend the license of a licensee pending final determination of any proceeding under this section. Upon entering the order, the Commissioner shall promptly notify the applicant or licensee that the order has been entered and the reasons for the order. The Commissioner shall calendar a hearing within 15 days after the Commissioner receives a written request for a hearing. If a licensee does not request a hearing and the Commissioner does not request a hearing, the order will remain in effect until it is modified or vacated by the Commissioner. If a hearing is requested or ordered by the Commissioner, after notice of and opportunity for hearing, the Commissioner may modify or vacate the order or extend it until final determination.

(c) The Commissioner may, by order, impose a civil penalty upon a licensee or any partner, officer, director, or other person occupying a similar status or performing similar functions on behalf of a licensee for any violation of this Article. The civil penalty shall not exceed ten thousand dollars (\$10,000) for each violation of this Article by a mortgage broker or mortgage banker. The Commissioner may impose a civil penalty of up to ten thousand dollars (\$10,000) for each violation of this Article by a person other than a licensee or exempt person.

(d) In addition to other powers under this Article, upon finding that any action of a person is in violation of this Article, the Commissioner may order the person to cease from the prohibited action. If the person subject to the order fails to appeal the order of the Commissioner in accordance with G.S. 53-243.03, or if the person appeals and the appeal is denied or dismissed, and the person continues to engage in the prohibited action in violation of the Commissioner's order, the person shall be subject to a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation of the Commissioner's order. The penalty provision of this section shall be in addition to and not in lieu of any other provision of law applicable to a licensee for the licensee's failure to comply with an order of the Commissioner.

(e) Unless otherwise provided, all actions and hearings under this Article shall be governed by Chapter 150B of the General Statutes.

(f) When a licensee is accused of any act, omission, or misconduct that would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commissioner, may

surrender the license and all the rights and privileges pertaining to it for a period of time established by the Commissioner. A person who surrenders a license shall not be eligible for or submit any application for licensure under this Article.

(g) If the Commissioner has reasonable grounds to believe that a licensee or other person has violated the provisions of this Article or that facts exist that would be the basis for an order against a licensee or other person, the Commissioner may at any time, either personally or by a person duly designated by the Commissioner, investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of any licensee or other person relating to the complaint or matter under investigation. The reasonable cost of this investigation or examination shall be charged against the licensee.

(h) The Commissioner may issue subpoenas to require the attendance of and to examine under oath all persons whose testimony the Commissioner deems relative to the person's business.

(i) The Commissioner may from time to time, at the expense of the Commissioner's office, conduct routine examinations of the books and records of any licensee in order to determine the compliance with this Article and any rules adopted pursuant to the authority of G.S. 53-243.04.

(j) In addition to the rights described under this section, the Commissioner may require a licensee to pay to a borrower or other individual any amounts received by the licensee or its employees in violation of Chapter 24 of the General Statutes.

(k) If the Commissioner finds that the managing principal, branch manager, or loan officer of a licensee had knowledge of or reasonably should have had knowledge of, or participated in, any activity that results in the entry of an order under this section suspending or withdrawing the license of a licensee, the Commissioner may prohibit the managing broker or loan officer from serving as a managing broker or loan officer for any period of time the Commissioner deems necessary.

"§ 53-243.13. Records; escrow funds or trust accounts.

(a) The Commissioner shall keep a list of all applicants for licensure under this Article that includes the date of application, name, and place of residence and whether the license was granted or refused.

(b) The Commissioner shall keep a current roster showing the names and places of business of all licensees that shows their respective loan officers and a roster of exempt persons required to file a notice under G.S. 53-243.02. The rosters shall: (i) be kept on file in the office of the Commissioner; (ii) contain information regarding all

orders or other action taken against the licensees, loan officers, and other persons; and (iii) be open to public inspection.

(c) Every licensee shall make and keep the accounts, correspondence, memoranda, papers, books, and other records as prescribed in rules adopted by the Commissioner. All records shall be preserved for three years unless the Commissioner, by rule, prescribes otherwise for particular types of records. The recordkeeping requirements imposed by the Commissioner or this subsection shall not be greater than those imposed by applicable federal law.

(d) If the information contained in any document filed with the Commissioner is or becomes inaccurate or incomplete in any material respect, the licensee shall promptly file a correcting amendment to the information contained in the document.

(e) A licensee shall maintain in a segregated escrow fund or trust account any funds which come into the licensee's possession, but which are not the licensee's property and which the licensee is not entitled to retain under the circumstances. The escrow fund or trust account shall be held on deposit in a federally insured financial institution.

"§ 53-243.14. Criminal penalty.

A violation of G.S. 53-243.02 is a Class I felony. Each transaction involving the unlawful making or brokering of a mortgage loan is a separate offense.

"§ 53-243.15. Filing required for exempt persons; civil penalty.

(a) All exempt persons described in G.S. 53-243.01(8) who are engaged in the mortgage brokerage or mortgage banking business on October 1, 2002, shall be required to file a form with the Commissioner on or before that date. All exempt persons, who commence mortgage brokerage or mortgage banking business in this State after October 1, 2002, shall file the form with the Commissioner upon commencement of the business. This form, prescribed by the Commissioner, shall contain all of the following information:

- (1) The name of the respective exempt person.
- (2) The basis of the exempt status of the exempt person.
- (3) The principal business address of the exempt person.
- (4) The State or federal regulatory authority responsible for the exempt person's supervision, examination, or regulation, if any.

(b) In addition to any other measures the exempt person may be subject to under this Article, failure by an exempt person to file the required form shall not affect the exempt status of the person. However, the exempt person shall be subject to a civil penalty set by the Commissioner that shall not exceed the sum of two hundred fifty dollars (\$250.00) for each year the form is not filed. No person required to file under this section may transact business in this State

as a mortgage banker or mortgage broker unless the person has filed the prescribed form with the Commissioner in accordance with this section."

SECTION 3. G.S. 53-99(b)(7b) reads as rewritten:

"(7b) Records of examinations and investigations of registrants under the Mortgage ~~Bankers and Brokers Act, Article 19 of this Chapter;~~Lending Act, Article 19A of this Chapter;".

SECTION 4. G.S. 66-106 reads as rewritten:

"§ 66-106. *Definitions.*

(a) For purposes of this Article the following definitions apply:

- (1) A "loan broker" is any person, firm, or corporation who, in return for any consideration from any person, promises to (i) procure for such person, or assist such person in procuring, a loan from any third party; or (ii) consider whether or not it will make a loan to such person.
- (2) A "loan" is an agreement to advance money or property in return for the promise to make payments therefor, whether such agreement is styled as a loan, credit card, line of credit, a lease or otherwise.

(b) ~~Provided, that~~ Except for mortgage loans as defined in G.S. 53-243.01(15), this Article shall not apply to any party approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, a National Mortgage Association or any federal agency; nor to any party currently designated and compensated by a North Carolina licensed insurance company as its agent to service loans it makes in this State; nor to any insurance company registered with and licensed by the North Carolina Insurance Commissioner; nor, with respect to residential mortgage loans, to any residential mortgage banker or mortgage broker registered with the Commissioner of Banks pursuant to Article 19 of Chapter 53 or exempt from such registration pursuant to G.S. 53-234(6); licensed pursuant to Article 19A of Chapter 53 of the General Statutes or exempt from licensure pursuant to G.S. 53-243.01(8) and G.S. 53-243.02; nor to any attorney-at-law, public accountant, or dealer registered under the North Carolina Securities Act, acting in the professional capacity for which such attorney-at-law, public accountant, or dealer is registered or licensed under the laws of the State of North Carolina. Provided further that subdivision (1)(ii) above shall not apply to any lender whose loans or advances to any person, firm or corporation in North Carolina aggregate more than one million dollars (\$1,000,000) in the preceding calendar year."

SECTION 5.(a) Any person who, on the effective date of this act, is engaged in business and registered as a mortgage broker or mortgage banker shall not be required to file an application under G.S. 53-243.05, enacted by Section 2 of this act, and shall be entitled to issuance of a license under Article 19A of Chapter 53 of the General Statutes, enacted by Section 2 of this act.

SECTION 5.(b) Any qualified person who files, within 90 days after this act becomes effective, a sworn application with the Commissioner stating that he or she has met the definition of a qualified person under G.S. 53-243.01(18), enacted by Section 2 of this act, including a statement that he or she has not been convicted of any felony or any misdemeanor involving moral turpitude, shall be issued a license as a loan officer from the Commissioner without having to meet the training requirements for licensure under G.S. 53-243.05(b), enacted by Section 2 of this act.

SECTION 5.(c) Any qualified lender who files, within 90 days after this act becomes effective, a sworn statement with the Commissioner that consists of a list of its loan officers in North Carolina, the addresses of its principal office and each of its branches, and the names and addresses of the managing principal and each of its branch managers and states that no employee, loan officer, or individual with a controlling interest in the lender has been convicted of any felony or any misdemeanor involving moral turpitude, shall be issued a license as a mortgage banker from the Commissioner without having to meet the experience requirements for licensure under G.S. 53-243.05(c), enacted by Section 2 of this act.

SECTION 6. On or after July 1, 2003, any individual mortgage banker, mortgage broker, or loan officer desiring to renew a license shall offer evidence satisfactory to the Commissioner that he or she has complied with the continuing professional education requirements approved by the Commissioner pursuant to G.S. 53-243.07, enacted by Section 2 of this act.

SECTION 7. Unless inconsistent with the provisions of Article 19 of Chapter 53 of the General Statutes as enacted in Section 2 of this act, the rules adopted pursuant to former Article 19 of Chapter 53 of the General Statutes governing mortgage bankers and brokers shall remain in effect until superseded by rules adopted under Article 19A of Chapter 53 of the General Statutes as enacted in Section 2 of this act.

SECTION 8. The Legislative Research Commission may study the implementation and enforcement of this act, and the Act to Prohibit Predatory Lending enacted in the 1999 Session of the General Assembly, (S.L. 1999-332), to determine whether they have successfully reduced predatory lending practices and whether further reforms may be necessary or appropriate. The Commission may

report its findings and recommendations to the 2001 General Assembly, 2002 Regular Session, or to the 2003 General Assembly.

SECTION 9. Sections 1 through 7 of this act become effective July 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of August, 2001.

Became law upon approval of the Governor at 11:50 a.m. on the 29th day of August, 2001.

H.B. 882 SESSION LAW 2001-394

AN ACT TO INCORPORATE THE TOWN OF DUCK, AND TO
MODIFY THE FORMULA FOR DISTRIBUTING THE
PROCEEDS OF THE LOCAL OCCUPANCY TAX AND
LOCAL LAND TRANSFER TAX.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Duck is enacted to read:

"CHARTER OF THE TOWN OF DUCK.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town are a body corporate and politic under the name 'Town of Duck'. The Town of Duck has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Duck are as follows:

BEGINNING at the point of intersection of the northeast corner of the corporate limits of the Town of Southern Shores in Dare County, North Carolina, with the mean high watermark of the Atlantic Ocean; thence along a line in a general easterly direction for a distance of 1,000 feet to a point along an eastern projection of the northern Town of Southern Shores limit line to a point in the Atlantic Ocean; thence, in a northwesterly direction along a line 1,000 feet parallel to the mean high watermark of the Atlantic Ocean until such line forms a point of intersection with another line, such line being the projection of the Dare County boundary line 1,000 feet easterly from the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the projected line to the intersection of Dare County boundary line with the mean high watermark of the Atlantic Ocean; thence, in a westerly direction along the Dare County boundary line to a point of intersection of the Dare County boundary line with the mean high

watermark of the Currituck Sound; thence, along a line in a general westerly direction for a distance of 1,000 feet to a point along a western projection of the Dare County boundary line to a point in the Currituck Sound; thence, in a southeasterly direction along a line 1,000 feet parallel to the mean high watermark of the Currituck Sound until such line forms a point of intersection with another line, such line being the projection of the northern line of the Town of Southern Shores corporate limits 1,000 feet westerly from the mean high watermark of the Currituck Sound; thence, in an easterly direction along the projected line to the intersection of the northwest corner of the Town of Southern Shores corporate limits with the mean high watermark of the Currituck Sound; thence, in an easterly direction along the northern line of the Town of Southern Shores corporate limits to the place of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Duck shall be the Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election of 2002 provided for by Article IV of this Charter, Allan W. Beres, Nancy R. Caviness, Paul F. Keller, Manfred E. Schwarz, and Judith L. Wessel are appointed to the Town Council of the Town of Duck. The temporary officers shall elect persons to serve as Interim Mayor and Interim Mayor Pro Tempore. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial election is held.

"Section 3.3. **Manner of Electing Council; Term of Office.** The qualified voters of the entire Town shall elect members of the Town Council from the Town at large, and the members shall each serve a term of two years, except that the members elected in 2002 shall serve until the organizational meeting after the 2003 municipal election. To be eligible for election to the Town Council, an individual must reside in the Town of Duck. Vacancies on the Town Council shall be filled in accordance with G.S. 160A-63.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The Mayor shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2002 and shall serve for a term of one year. In 2003 and biennially thereafter, a Mayor shall be chosen by the same process for a term of two years. The Mayor shall attend and preside over meetings of the Town Council, shall advise the Town Council from time to time as to matters involving the Town of Duck, and shall have the right to vote as a member of the Town Council on all matters

before the Council, but shall have no right to break a tie vote in which the Mayor has participated.

"Section 3.5. **Manner of Electing Mayor Pro Tempore; Term of Office; Duties.** The Mayor Pro Tempore shall be elected from among the members of the Town Council at the organizational meeting after the initial election in November 2002 and shall serve for a term of one year. In 2003 and biennially thereafter, a Mayor Pro Tempore shall be chosen by the same process for a term of two years. The Mayor Pro Tempore shall act in the absence or disability of the Mayor. If the Mayor and Mayor Pro Tempore are both absent from a meeting of the Town Council, the members of the Town Council present may elect a temporary chairman to preside in the absence. The Mayor Pro Tempore shall have the right to vote on all matters before the Town Council and shall be considered a member of the Town Council for all purposes.

"Section 3.6. **Compensation of Mayor and Town Council.** The Mayor and members of the Town Council shall be reimbursed for ordinary and necessary expenses and may receive salary and honoraria only upon a majority vote of the qualified voters of the Town who vote on the question in a special referendum.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"Section 4.2. **Date of Election.** Elections shall be conducted in accordance with Chapter 163 of the General Statutes, except that the first election shall be held on November 5, 2002.

"Section 4.3. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE V. ORGANIZATION AND ADMINISTRATION.

"Section 5.1. **Form of Government.** The Town shall operate under the Council-Manager plan as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Manager; Appointment; Powers and Duties.** The Town Council shall appoint a Town Manager who shall be responsible for the administration of all departments of the Town government, except as otherwise directed by the Town Council. The Town Manager shall have all the powers and duties conferred by general law, except as expressly limited by the provisions of this Charter, and the additional powers and duties conferred by the Town Council, so far as authorized by general law.

"Section 5.3. **Town Manager's Authority Over Personnel; Role of Elected Officials.** As chief administrator of the Town, the Town Manager shall have the power to appoint, suspend, and remove all

Town officers, department heads, and employees, except the Town Attorney, Town Clerk, and any other official whose appointment or removal is vested in the Town Council by this Charter or by general law. Neither the Town Council nor any of its members shall take part in the appointment or removal of officers or employees in the administrative service of the Town of Duck, except as provided by this Charter. Except for purposes of inquiry, or for consultation with the Town Attorney, the Town Council and its members shall deal with Town employees solely through the Town Manager or Acting Town Manager, and neither the Town Council nor any of its members shall give any specific orders to any subordinates of the Town Manager or Acting Town Manager, either publicly or privately.

"Section 5.4. **Town Attorney.** The Town Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Town Council may direct.

"Section 5.5. **Town Clerk.** The Town Council shall appoint a Town Clerk to keep a journal of the proceedings of the Town Council, to maintain official records and documents, to give notice of meetings, and to perform such other duties required by law or as the Town Council may direct.

"Section 5.6. **Other Administrative Officers and Employees.** The Town Council may authorize other offices and positions and appoint persons to fill the offices and positions, or the Council may authorize the offices and positions to be filled by appointment by the Town Manager. The Town Council may organize the Town government as deemed appropriate, subject to the requirements of general law.

"Section 5.7. **Consolidation of Functions.** Where positions are not incompatible, the Town Council may combine in one person the powers and duties of two or more officers created or authorized by this Charter.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Powers of the Town Council.** The Town Council may levy those taxes and fees authorized by general law. An affirmative vote equal to a majority of all the members of the Town Council shall be required to change the ad valorem tax rate from the rate established during the prior fiscal year.

"Section 6.2. **Budget.** From and after July 1, 2002, the citizens and property in the Town of Duck shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2002, and, for that purpose, the Town shall obtain from Dare County a record of property in the area herein incorporated that was listed for taxes as of January 1, 2002. The Town may adopt a budget ordinance for fiscal

year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical. For fiscal year 2002-2003, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2002. The Town may adopt a budget ordinance for fiscal year 2001-2002 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the Act insofar as is practical, but no ad valorem taxes shall be levied for that year.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Duck is authorized to adopt such ordinances as the Town Council deems necessary for the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS.

"Section 8.1. **Conflicts of Interest.** No person, or member of the person's immediate family, who is employed by or is an official of the Town of Duck, shall do business with the Town unless such activity is approved by the Town Council. All appointed officials of the Town shall inform the Town Council of any conflicts of interest, and the failure to so inform shall constitute grounds for immediate dismissal for cause. No official of the Town may accept any gratuity from any business, person, or other official if the gratuity is related to his or her official duties.

"Section 8.2. **Enlargement of Town Council.** The qualified voters of the Town of Duck may seek to enlarge the number of members of the Town Council by submitting a petition to that effect signed by twenty percent (20%) of the qualified voters. Upon passage of a resolution as provided in G.S. 160A-102 or upon receipt of a valid petition, the Town Council shall immediately take steps as provided in Part 4 of Article 5 of Chapter 160A of the General Statutes to determine by referendum whether the number of members of the Town Council should be increased. If a majority of the votes cast in the referendum are in the affirmative, a special election shall be held at the earliest possible date to elect the additional members required to enlarge the Town Council to the number set forth in the referendum.

"Section 8.3. **Amendments to Charter.** The Town Council may propose and enact amendments to this Charter in accordance with Part 4 of Article 5 of Chapter 160A of the General Statutes. No amendment to this Charter shall become effective until public notice is given and a public hearing is held to receive comments on the proposed Charter amendment. Notwithstanding G.S. 160A-103, upon

receipt of a referendum petition bearing the signatures and residence addresses of twenty percent (20%) of the qualified voters of the Town, the Town Council shall submit ordinances adopted under G.S. 160A-102 to a vote of the people.

"Section 8.4. **Provision of Services and Administration of Functions.** The Town Council may enter into agreements with other governmental bodies and private enterprises for the provision of services and the administration of corporate functions in order to provide the services and administer the functions in the most efficient and cost-effective manner.

"ARTICLE IX. SPECIAL PROVISIONS.

"Section 9.1. **Ad Valorem Taxes.** The Town Council shall not increase the ad valorem tax rate more than ten cents (10¢) per one hundred dollars (\$100.00) valuation above the ad valorem tax rate initially established after incorporation of the Town of Duck without the vote or consent of a majority of the qualified voters of the Town of Duck. The procedures of G.S. 160A-209 shall be followed for any such election.

"Section 9.2. **Fire Protection.** The Town of Duck shall contract with the Duck Volunteer Fire Department, Inc., to provide fire protection for the Town. The contract terms and amount paid by the Town of Duck to the Duck Volunteer Fire Department, Inc., shall be mutually agreed upon and annually renewed by the Board of Directors of the Duck Volunteer Fire Department, Inc., and the Town Council."

SECTION 2. The Dare County Board of Elections shall conduct an election on November 6, 2001, for the purpose of submitting to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Duck the question of whether or not the area shall be incorporated as the Town of Duck. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 3. In the election, the question on the ballot shall be:

"[]FOR []AGAINST
Incorporation of the Town of Duck."

SECTION 4. In the election, if a majority of the votes on the question are cast "For Incorporation of the Town of Duck", Section 1 of this act becomes effective May 1, 2002, and Sections 5 and 6 of this act become effective with respect to distributions made on or after July 1, 2003. Otherwise, those sections do not become effective.

SECTION 5. Section 1(e) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, reads as rewritten:

"(e) Use and Distribution of Tax Revenue. Each fiscal year, Dare County shall distribute two-thirds sixty-eight percent (68%) of the net proceeds of the tax, on a monthly basis, to the Towns of Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, and Southern Shores among the towns of the county that had been incorporated for at least one year as of the beginning of the fiscal year. This amount shall be divided among the towns in proportion to the amount of ad valorem taxes levied by each town for the preceding fiscal year. The county shall retain the ~~remaining one-third~~ remainder of the net proceeds. Revenue distributed to a town or retained by the county under this subsection may be used only for tourist-related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services."

SECTION 6. Section 2(e) of Chapter 525 of the 1985 Session Laws reads as rewritten:

"(e) Use and Distribution of Tax Revenue. ~~For the first 12 fiscal years in which a tax levied under this section is in effect, all proceeds of the tax shall be retained by the county and shall be placed in a special Capital Reserve Fund in the general fund of the county. Revenue in this Fund may be used by the county only for capital expenditures for the following: courts, jails and detention facilities, emergency medical services, libraries, recreation, education, administration, water, sewage, health, and social services.~~

Beginning with the 13th fiscal year in which a tax levied under this section is in effect, the county shall distribute one third (1/3) Each fiscal year, Dare County shall distribute thirty-five percent (35%) of the net proceeds of the tax on a quarterly basis among the towns of the county that had been incorporated for at least one year as of the beginning of the fiscal year. This amount shall be divided among the towns to the Towns of Nags Head, Kill Devil Hills, Kitty Hawk, Southern Shores, and Manteo in Dare County in proportion to the amount of ad valorem taxes levied by each town for the preceding fiscal year. Revenue distributed to a town may be used only for capital expenditures. The remaining two-thirds (2/3) of the net proceeds shall be retained by the county and placed in the special Capital Reserve Fund established under this subsection, to be used only for the purposes listed above. The county shall retain the remainder of the net proceeds of the tax and place them in a special Capital Reserve Fund in the general fund of the county. Revenue in this Fund may be used by the county only for capital expenditures for the following: courts, jails and detention facilities, emergency medical services, libraries, recreation, education, administration, water, sewage, health, and social services. As used in this subsection,

'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of August, 2001.

Became law on the date it was ratified.

S.B. 61

SESSION LAW 2001-395

AN ACT TO CONTINUE THE BUDGET AUTHORITY FOR STATE GOVERNMENT; TO APPROPRIATE FUNDS FOR HEALTH AND HUMAN SERVICES BLOCK GRANTS, FOR NATURAL AND ECONOMIC RESOURCES BLOCK GRANTS, FOR COMMUNITY COLLEGE, UNIVERSITY, AND PRIVATE COLLEGE ENROLLMENTS, FOR THE STATE HEALTH PLAN, FOR DEBT SERVICE ON STATE BONDS, FOR IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY SCHOOLS, AND FOR KINDERGARTEN CLASS SIZE REDUCTION, FOR HIRING REVENUE PERSONNEL FOR PROJECT COLLECT TAX; TO CONTAIN MEDICAID COSTS AND REDUCE THE RATE OF GROWTH IN EXPENDITURES FOR PAYMENTS FOR MEDICAL SERVICES; TO PROVIDE FOR MEDICAID COST-CONTAINMENT ACTIVITIES; TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPLEMENT A MEDICAID PROGRAM MANAGEMENT PLAN; TO ADOPT A MEDICAL COVERAGE POLICY UNDER THE STATE MEDICAID PROGRAM AND TO EXEMPT THE POLICY FROM RULE MAKING UNDER THE STATE ADMINISTRATIVE PROCEDURE ACT; TO APPROVE THE TANF STATE PLAN; TO EXTEND PAYMENTS FOR MEDICAL TREATMENTS AND SERVICES TO WORKERS' COMPENSATION PATIENTS; TO INCREASE TUITION RATES FOR THE COMMUNITY COLLEGES AND UNIVERSITIES; TO AUTHORIZE THE STATE TREASURER TO REPLACE THE OPTICAL IMAGING SYSTEM IN THE RETIREMENT SYSTEMS DIVISION; AND TO DELAY REIMBURSEMENTS TO LOCAL GOVERNMENTS FOR THE INTANGIBLES TAX.

The General Assembly of North Carolina enacts:

PART I. CONTINUED BUDGET AUTHORITY.

SECTION 1. Section 8 of S.L. 2001-250, as amended by S.L. 2001-287 and Section 1 of S.L. 2001-322, reads as rewritten:

"**SECTION 8.** Except as otherwise provided, this act becomes effective July 1, 2001. This act expires ~~August 29, 2001~~. September 28, 2001."

PART II. HEALTH AND HUMAN SERVICES BLOCK GRANTS.

SECTION 2. Section 2 of S.L. 2001-250 is repealed.

SECTION 2.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2002, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 14,160,375
02. Limited Purpose Agencies	979,017
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	500,000

**TOTAL COMMUNITY SERVICES
BLOCK GRANT** \$ 15,639,392

SOCIAL SERVICES BLOCK GRANT

01. County departments of social services (Transfer from TANF - \$4,500,000)	\$ 27,395,663
02. Allocation for in-home services provided by county departments of social services	2,101,113
03. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04. Division of Services for the Blind	3,105,711
05. Division of Facility Services	426,836
06. Division of Aging - Home and Community Care Block Grant	1,840,234
07. Child Care Subsidies	3,000,000

08. Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
09. State administration	1,693,368
10. Child Medical Evaluation Program	238,321
11. Adult day care services	2,155,301
12. Comprehensive Treatment Services Program	750,000
13. Transfer to Preventive Health Services Block Grant for emergency medical services	213,128
14. Transfer to Preventive Health Services Block Grant for HIV/AIDS Prevention Activities	395,789
15. Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
16. Division of Vocational Rehabilitation - Easter Seals Society	116,779
17. UNC-CH CARES Program for training and consultation services	247,920
18. Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
19. Transfer from TANF Block Grant for Division of Social Services - Child Caring Agencies	1,500,000
20. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
21. Transfer to Maternal and Child Health Block Grant for Newborn Screenings	90,611

22. Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	66,939
TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 53,888,298
LOW-INCOME ENERGY BLOCK GRANT	
01. Energy Assistance Programs	\$ 8,092,113
02. Crisis Intervention	5,795,825
03. Administration	1,984,934
04. Weatherization Program	2,684,116
05. Department of Administration - N.C. State Commission of Indian Affairs	39,765
06. Heating Air Repair and Replacement Program	1,252,588
TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 19,849,342
MENTAL HEALTH SERVICES BLOCK GRANT	
01. Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	\$ 5,192,826
02. Provision of community-based services to children	2,378,540
03. Establish Child Residential Treatment Services Program	1,500,000
04. Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 9,855,277

2001]

S.L. 2001-395

**SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT**

01. Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	\$ 14,501,711
02. Continuation of services for pregnant women and women with dependent children	6,007,303
03. Continuation of services to IV drug abusers and others at risk for HIV diseases	5,209,934
04. Provision of services to children and adolescents	6,839,190
05. Juvenile Services - Family Focus	774,414
06. Child Residential Treatment Services Program	700,000
07. Administration	2,423,049
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT	\$ 36,455,601

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

01. Child care subsidies	\$148,343,839
02. Quality and availability initiatives	17,259,661
03. Administrative expenses	6,550,000
04. Transfer from TANF Block Grant for child care subsidies	76,675,000
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT	\$248,828,500

TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT

01. Work First Cash Assistance	\$114,181,958
02. Work First County Block Grants	92,018,855
03. Transfer to the Child Care and Development Fund Block Grant for child care subsidies	76,675,000
04. Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse screening, diagnostic, and support treatment services and drug testing	3,500,000
05. Cash Assistance Reserve	11,876,624
06. Allocation to the Division of Social Services for staff development	500,000
07. Reduction of out-of-wedlock births	1,440,000
08. Substance Abuse Services for Juveniles	1,182,280
09. Special Children Adoption Fund	2,811,687
10. Business Process Reengineering Project Reserve	3,000,000
11. Work First Job Retention – NC Rural Center	(\$270,000)
Work Central Career Advancement Center (\$180,000)	450,000
12. Allocation to the Division of Public Health for teen pregnancy prevention	2,015,335
13. Transfer to Social Services Block Grant for Child Caring Agencies	1,500,000
14. Child Care Subsidies for TANF Recipients	26,621,241

2001]	S.L. 2001-395
15. Work First Housing Initiative - Existing programs (\$1,800,000) - New programs (\$900,000)	2,700,000
16. Allocation to the Division of Social Services for Domestic Violence Prevention and Awareness	900,000
17. County Child Protective Services, Foster Care, and Adoption Workers	2,727,550
18. Intensive Family Preservation Program	1,800,000
19. Work First/Boys and Girls Clubs	900,000
20. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
21. Support Our Students – Department of Juvenile Justice and Delinquency Prevention	2,475,607
22. Residential Substance Abuse Services for Women With Children	4,500,000
23. Domestic Violence Services for Work First Families	1,800,000
24. After-School Services for At-Risk Children	2,700,000
25. Division of Social Services - Administration	500,000
26. Child Welfare workers and services for local departments of social services	7,654,841
27. Child Welfare Training	2,000,000
28. Individual Development Accounts	180,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	\$373,110,978

MATERNAL AND CHILD HEALTH BLOCK GRANT

01. Healthy Mothers/Healthy Children Block Grants to Local Health Departments	\$9,838,074
02. High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,012,102
03. Services to Children With Special Health Care Needs	5,078,647
04. Transfer from Social Services Block Grant for Newborn Screenings	90,611
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 17,019,434

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01. Statewide Health Promotion Programs	\$3,061,182
02. Dental Services/Fluoridation	100,800
03. Rape Crisis/Victims' Services Program - Council for Women	190,134
04. Rape Prevention and Education Program - Division of Public Health and Council for Women	1,139,869
05. Transfer from Social Services Block Grant - HIV/AIDS Prevention Activities	395,789
06. Transfer from Social Services Block Grant - Emergency Medical Services	213,128
07. Transfer from Social Services Block Grant –	

2001]

S.L. 2001-395

HIV/AIDS education, counseling, and testing	66,939
08. Office of Minority Health	159,459
09. Administrative Costs	108,546
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$5,435,846

SECTION 2.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

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

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

SECTION 2.1.(c) Increases in Federal Fund Availability. – Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

SECTION 2.1.(d) Changes to the budgeted allocations to the block grants appropriated in this act and new allocations from the

block grants not specified in this act shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to the change and shall be reported immediately to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 2.1.(e) The Department of Health and Human Services may allow no-cost contract extensions for up to six months for nongovernmental grant recipients under the TANF Block Grant.

SECTION 2.1.(f) Limitations on Preventive Health Services Block Grant Funds. – Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2001-2002 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 2.1.(g) The Department of Health and Human Services, Division of Social Services, shall do the following:

- (1) Continue the current evaluation of the Work First Program to assess former recipients' earnings, barriers to advancement to economic self-sufficiency, utilization of community support services, and other longitudinal employment data. Assessment periods shall include six and 18 months following closure of the case.
- (2) Continue the current evaluation of the Work First Program to profile the State's child-only caseload to include indicators of economic and social well-being, academic and behavioral performance, demographic data, description of living arrangements including length of placement out of the home, social and other human services provided to families, and other information needed to assess the needs of the child-only Work First Family Assistance clients and families.

The Division of Social Services may use up to seven hundred fifty thousand dollars (\$750,000) in TANF funds to complete the evaluation of Work First.

The Department of Health and Human Services shall make a report on its progress in complying with this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than September 30, 2001, and shall make a final report no later than September 30, 2002.

SECTION 2.1.(h) The sum of two million eight hundred eleven thousand six hundred eighty-seven dollars (\$2,811,687) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2001-2002 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 2.1.(i) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2001-2002 fiscal year shall be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

SECTION 2.1.(j) The sum of three hundred thousand dollars (\$300,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used to develop and implement a Medical Child Care Pilot open to children throughout the State.

SECTION 2.1.(k) The sum of nine hundred thousand dollars (\$900,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and

Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

SECTION 2.1.(l) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 2.1.(m) The sum of two million seven hundred thousand dollars (\$2,700,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the Work First Housing Initiative shall be used to provide direct housing support to Work First clients. Direct housing support includes using funds for rental assistance, loans, moving expenses, and other financial assistance. No more than ten percent (10%) of these funds may be used for administration. These funds may be used for counseling or similar services only if it is demonstrated that those services are not otherwise available in the community.

SECTION 2.1.(n) The sum of five hundred thousand dollars (\$500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 2.1.(o) The sum of four million five hundred thousand dollars (\$4,500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year shall be used to provide regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children.

These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

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

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2001, and March 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

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

SECTION 2.1.(p) The sum of two million four hundred seventy-five thousand six hundred seven dollars (\$2,475,607) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2001-2002 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the program.

SECTION 2.1.(q) The sum of one million eight hundred thousand dollars (\$1,800,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling,

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

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2001. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of ten thousand dollars (\$10,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2001, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2001. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 2.1.(r) The sum of two million seven hundred thousand dollars (\$2,700,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools,

and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2002, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 2.1.(s) The sum of seven million six hundred fifty-four thousand eight hundred forty-one dollars (\$7,654,841) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 2.1.(t) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year and the sum of seven hundred thousand dollars (\$700,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year shall be used to continue a Comprehensive Treatment Services Program in accordance with Section 21.60 of Senate Bill 1005, 2001 Session, 5th Edition engrossed, the text of which is incorporated by reference.

SECTION 2.1.(u) The sum of two million dollars (\$2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2001-2002 shall be used to support various child welfare training projects as follows:

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

- (4) Provide for various other child welfare training initiatives.

SECTION 2.1.(v) The sum of nine million three hundred forty-seven thousand six hundred thirty-one dollars (\$9,347,631) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Cash Assistance Reserve may only be used for cash assistance payment if the funds appropriated in this act for cash assistance payments are not sufficient to pay Work First cash assistance in the 2001-2002 fiscal year. Prior to the use of these funds, the Office of State Budget and Management shall review all proposals for expenditure of these funds in order to ensure compliance with this subsection.

The sum of two million five hundred twenty-eight thousand nine hundred ninety-three dollars (\$2,528,993) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Cash Assistance Reserve shall be held in the Cash Assistance Reserve until the Department of Health and Human Services and the Office of State Budget and Management can certify that these funds are not needed to ensure the continuation of the Work First Family Assistance payments to recipients during the 2001-2002 fiscal year. These funds may be used only for the payment of Work First Family Assistance and the allocations listed in this subsection. If the Department of Health and Human Services and the Office of State Budget and Management certify that these funds are not needed to ensure the continuation of Work First Family Assistance payments, the Department may make the following transfers from the Cash Assistance Reserve:

(1) Reduction of out-of-wedlock births.	\$160,000
(2) Work First Job Retention – Rural Center (\$30,000) Work Central Career Center (\$20,000)	\$50,000
(3) Teen Pregnancy Prevention	\$223,926
(4) Work First Housing Initiative	\$300,000
(5) Domestic Violence Prevention and Awareness	\$100,000
(6) Intensive Family Preservation Program	\$200,000
(7) Work First Boys and Girls Clubs	\$100,000
(8) Support our Students	\$275,674
(9) Residential Substance Abuse Services for Women with Children	\$500,000
(10) Domestic Violence Services for Work First Families	\$200,000
(11) After School Services for At-Risk Children	\$300,000
(12) Individual Development Accounts	\$20,000

SECTION 2.1.(w) The sum of three million dollars (\$3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Business Process Reengineering Project Reserve may only be used for the project if funds appropriated in this act for Business Process Reengineering are not sufficient to continue the project through the 2001-2002 fiscal year. Prior to the use of these funds, the Office of State Budget and Management shall review all proposals for expenditure of these funds in order to ensure compliance with this subsection.

SECTION 2.1.(x) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SECTION 2.1.(y) The sum of nine hundred thousand dollars (\$900,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year for Domestic Violence Prevention and Awareness shall be used for grants to support initiatives by local domestic violence programs to prevent domestic violence. Prevention activities shall include efforts to reach under-served populations and shall be culturally sensitive and multilingual. The Department shall award grants to community-based organizations that demonstrate the ability to collaborate and coordinate services with other local human services agencies and organizations in order to serve children and families where domestic violence has occurred or is occurring. The Department shall report on the use of these funds no later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 2.1.(z) The sum of three hundred ninety-five thousand seven hundred eighty-nine dollars (\$395,789) appropriated in this section in the Social Services Block Grant and transferred to the Preventive Health Service Block Grant to the Department of Health and Human Services for the 2001-2002 fiscal year for HIV/AIDS Prevention Activities shall be used to create a position in the Office of the Secretary and to enhance activities for HIV/AIDS awareness and education. The position shall be responsible for all planning, programming, and budgeting for compliance with this subsection. These prevention activities shall be targeted to the general public and programs identified in this subsection and shall not be used to augment the current grant programs that target high-risk populations through the community-based organizations.

It is the intention of the General Assembly to focus current resources and activities to strengthen and enhance prevention and intervention programs directed at the reduction of HIV/AIDS. The Department shall coordinate efforts to enhance awareness, education, and outreach with the North Carolina AIDS Advisory Council, North Carolina Minority Health Advisory Council, representatives of faith communities, representatives of nonprofit agencies, and other State agencies.

The Department of Health and Human Services shall coordinate and ensure the implementation of developmentally appropriate education, awareness, and outreach campaigns to comply with this subsection in the following programs and services:

- (1) Division of Social Services programs and services:
 - a. Domestic Violence Prevention and Awareness.
 - b. Domestic Violence Services for Work First Families.
 - c. After School Services for At Risk Children.
 - d. Work First Boys/Girls Clubs.
- (2) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services programs and services:
 - a. Substance Abuse Services for Juveniles.
 - b. Residential Substance Abuse Services for Women and Children.
- (3) Division of Public Health programs and services:
 - a. Teen Pregnancy Prevention Activities.
 - b. Out-of-Wedlock Births.
 - c. School Health Program.
 - d. High-Risk Maternity Clinic Services.
 - e. Perinatal Education and Training.
 - f. Public Information and Education.
 - g. Technical Assistance to Local Health Departments.
- (4) Other divisions, services, and programs:
 - a. Family Support Services.
 - b. Family Resource Centers.
 - c. Independent Living Services.
 - d. Residential schools and facilities.
 - e. Other programs, services, or contracts that provide education and awareness services to children and families.

Other State agencies, including the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Administration, shall ensure the incorporation of developmentally appropriate HIV/AIDS education, awareness, and outreach information into their programs.

The Department shall report on the implementation of this subsection on March 15, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 2.1.(aa) The sum of one hundred eighty thousand dollars (\$180,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 2001-2002 fiscal year shall be used for Individual Development Accounts (IDA) for TANF-eligible individuals. The Social Services Commission shall adopt rules for the implementation of this subsection.

PART III. MEDICAID COST-CONTAINMENT AND GROWTH REDUCTION.

SECTION 3.(a) The Department of Health and Human Services, Division of Medical Assistance, shall contain Medicaid Program costs by reducing the rate of growth of the Medicaid Program, except for the rate of growth in the number of persons eligible for Medicaid. The Department shall develop and implement a plan to reduce the rate of growth in total expenditures for payments for medical services for fiscal year 2002-2003 to eight percent (8%) or less of the total expenditures for the 2001-2002 fiscal year, excluding the rate of growth associated with eligibles.

SECTION 3.(b) In addition to findings and recommendations in the "North Carolina Medicaid Benefit Study", May 1, 2001, the Department of Health and Human Services may also consider the following actions to reduce the rate of growth in the Medicaid Program:

- (1) Changes in methods of reimbursement;
- (2) Changes in the method of determining or limiting inflation factors, or both;
- (3) Recalibration of existing methods of reimbursement; and
- (4) Contracting for services.

SECTION 3.(c) As part of any efforts to contain Medicaid Program costs, the Department of Health and Human Services, Division of Medical Assistance, shall establish reimbursement rates that will allow efficient Medicaid providers to comply with certification requirements, licensure rules, or other mandated quality or safety standards.

SECTION 3.(d) The Department shall report on its plans to reduce the rate of growth in the State Medicaid Program not later than December 1, 2001. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the

House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 3.(e) The Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars (\$3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division.

PART IV. MEDICAID COST-CONTAINMENT ACTIVITIES.

SECTION 4. The Department of Health and Human Services may use not more than three million dollars (\$3,000,000) in each year of the 2001-2003 fiscal biennium in Medicaid funds budgeted for program services to support the cost of administrative activities when cost effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

PART V. MEDICAID PROGRAM MANAGEMENT.

SECTION 5.(a) The Department of Health and Human Services shall consider the findings and recommendations in the "North Carolina Medicaid Benefit Study", May 1, 2001, and shall target the following in considering whether and to what extent to implement recommendations:

- (1) Reduction in the fragmentation in the medical benefit policy-making process.

- (2) Improvement in the use of data and medical literature in the decision-making process.
- (3) Improvement in the coordination of care and utilization review process.
- (4) Strengthening of program integrity controls.

SECTION 5.(b) The Department shall implement a pharmacy management plan considering the recommendations of the "North Carolina Medicaid Benefit Study" to achieve anticipated cost savings. The pharmacy management plan may include the following activities:

- (1) Establishing a prior authorization program to manage utilization of high-cost brand name drugs. In determining drugs to be included in the prior authorization program, the Department shall consider whether inclusion of these drugs is likely to:
 - a. Increase utilization of more expensive services;
 - b. Reduce quality of treatment;
 - c. Result in a lower level of compliance with appropriate drug therapy; and
 - d. Have a differential impact upon racial and ethnic minorities and the elderly.

The Department shall conduct a review at least annually of the drugs included in the prior authorization program to determine whether any of the factors listed in this subdivision or other factors with similar results have occurred.

- (2) Limiting prescription drugs to a 34-day supply for some or all drugs.
- (3) Developing physician prescribing practice profiles and other educational tools to enable physicians to better manage their prescriptions.
- (4) Establishing therapeutic limits based on appropriate dosage or usage standards.
- (5) Encouraging use of generic drugs.
- (6) Using maximum allowable pricing.
- (7) Contracting with a pharmacy benefits manager to implement more extensive drug utilization review.
- (8) Studying the impact of eliminating the six prescription drug monthly limit combined with a more rigorous prior authorization program to ensure cost decisions are made based on evidenced-based clinical guidelines.
- (9) Expanding disease management initiatives.
- (10) Working with ACCESS physicians to develop and implement drug utilization management initiatives.

- (11) If cost-effective, expanding Medicaid drug coverage to include selected over-the-counter medications.

SECTION 5.(c) The Department shall report on all of the activities conducted under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2002.

PART VI. ADOPTION OF MEDICAL COVERAGE POLICY UNDER STATE MEDICAID PROGRAM; MEDICAL COVERAGE POLICY EXEMPT FROM RULE MAKING UNDER THE APA.

SECTION 6.(a) In order to promote consistency among providers and to ensure that medical coverage criteria are uniformly applied to Medicaid recipients throughout the State, the Department of Health and Human Services shall adopt medical coverage policies for the State Medicaid Program that are consistent with national standards or Department-defined standards. If the Department determines that application of a national standard would likely cause significant deterioration in the quality of or access to appropriate medical care, then the Department shall substitute for that national standard an evidence-based, best-practice standard that will not compromise quality of or access to appropriate medical care. The adoption of new or amended medical coverage policies under the State Medicaid Program are exempt from the rule-making requirements of Chapter 150B of the General Statutes.

SECTION 6.(b) The Department shall develop, amend, and adopt medical coverage policy in accordance with the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
 - a. Publish the proposed new or amended medical coverage policy on the Department's website;
 - b. Notify all Medicaid providers of the proposed, new, or amended policy; and
 - c. Upon request, provide persons copies of the proposed medical coverage policy.
- (3) During the 45-day period immediately following publication of the proposed new or amended medical

coverage policy, accept oral and written comments on the proposed new or amended policy.

- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
 - a. Notify all Medicaid providers of the proposed policy;
 - b. Upon request, provide persons notice of amendments to the proposed policy; and
 - c. Accept additional oral or written comments during this 15-day period.

SECTION 6.(c) G.S. 150B-1(d), as amended by S.L. 2001-299, reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.
- (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- (3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.
- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.
- (7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.
- (8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan.
- (9) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program."

PART VII. TANF STATE PLAN.

SECTION 7.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2001-2003", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 2001, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2001, through September 30, 2003. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2001 General Assembly.

SECTION 7.(b) The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2001-2003, submitted to the General Assembly for approval on May 15, 2001. The revisions shall be made to the following Plan components:

- (1) Enhanced Employee Assistance Program to reflect changes in funding.
- (2) Services for Families to remove reference to start-up activities.
- (3) Work Responsibility to remove reference to start-up activities.
- (4) Cabarrus County Waiver to reflect changes in the law made by the 2001 General Assembly.
- (5) Goal #8 to provide that caseload reduction goals are subject to economic conditions in the county.

SECTION 7.(c) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2001-2003 as approved by this section are: Caldwell, Caswell, Davie, Henderson, Iredell, Lenoir, Lincoln, Macon, McDowell, Randolph, Sampson, Surry, and Wilkes.

SECTION 7.(d) Counties designated as electing counties pursuant to Section 12.27A of S.L. 1998-212 and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for FY 2001-2003, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements effective July 1, 2001. Counties that submitted the letter of intent to remain as an electing county or to be redesignated as an electing county and the accompanying county plan for FY 2001-2003, pursuant to G.S. 108A-27(e), shall operate under the electing county budget requirements effective July 1, 2001. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2001.

**PART VIII. NATURAL AND ECONOMIC RESOURCES
BLOCK GRANTS.**

SECTION 8.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2002, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Community Revitalization	13,500,000
06. State Technical Assistance	450,000
07. Housing Development	2,000,000
08. Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 2002 Program Year	\$45,000,000

SECTION 8.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 8.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 8.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; up to one million dollars (\$1,000,000) may be used for Urgent Needs and

Contingency; up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; not less than thirteen million five hundred thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 8.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 8.(f) Study. – The Department of Commerce shall study the development of a training program designed to provide a minimum level of knowledge and skills for Community Development Block Grant administrators. In conducting the study, the Department shall consult the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Community Development Association, and the Institute of Government at the University of North Carolina at Chapel Hill. The Department may use unencumbered and unspent State Technical Assistance funds from previous program years to conduct the study. The Department shall report its findings to the House and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division by February 1, 2002.

PART IX. ESTABLISHED PAYMENTS FOR MEDICAL TREATMENTS AND SERVICES TO WORKERS' COMPENSATION PATIENTS EXTENDED.

SECTION 9. Section 2 of S.L. 2001-253, as amended by Section 3 of S.L. 2001-322, reads as rewritten:

"**SECTION 2.** Notwithstanding G.S. 97-26, payment for medical treatment and services rendered to workers' compensation patients by a hospital on or after July 1, 2001, and before ~~September 1, 2001~~, September 15, 2001, shall be equal to the payment the hospital

would have received for such treatment and services on June 30, 2001."

PART X. COMMUNITY COLLEGE, UNIVERSITY, AND PRIVATE COLLEGE ENROLLMENT AND COMMUNITY COLLEGE AND UNIVERSITY TUITION INCREASES.

SECTION 10.(a) Beginning with the Fall 2001 academic semester, the State Board of Community Colleges shall increase the tuition charged to students enrolled in curriculum programs by three dollars and fifty cents (\$3.50) per student credit hour up to 16 credit hours per semester.

SECTION 10.(b) There is appropriated from tuition receipts received by the Community Colleges System Office pursuant to subsection (a) of this section to the Community Colleges System Office the sum of ten million dollars (\$10,000,000) for the 2001-2002 fiscal year to fully fund enrollment.

SECTION 10.(c) Beginning with the Fall 2001 academic semester, the Board of Governors of The University of North Carolina shall increase tuition for all students by nine percent (9%) per year above the rates charged for the 2000-2001 academic year. In addition, the differentials for graduate and professional schools adopted by the Board of Governors for the 2001-2002 academic year shall remain in effect. The campus-initiated tuition increases approved by the Board of Governors for the 2001-2002 academic year shall also remain in effect. The receipts in this subsection are appropriated for the purpose of funding regular term and distance education enrollment, including the enrollment hold harmless as requested by the Board of Governors as provided in subsection (e) of this section.

SECTION 10.(d) There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of nine million six hundred seventy-two thousand one hundred six dollars (\$9,672,106) for the 2001-2002 fiscal year for the purpose of fully funding regular term and distance education enrollment, including the enrollment hold harmless as requested by the Board of Governors.

SECTION 10.(e) Of the funds and receipts appropriated by this section, the Board of Governors may expend up to forty million five hundred thirty-six thousand nine hundred sixty-three dollars (\$40,536,963) for the purpose of funding enrollment.

SECTION 10.(f) There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of three million two hundred twenty-six thousand two hundred ten dollars (\$3,226,210) for the 2001-2002 fiscal year to be allocated to the University Board of Governors Related Educational

Programs to be used to provide funds for the Legislative Tuition Grant program and the State Contractual Scholarship program enrollment increases.

PART XI. STATE EMPLOYEE HEALTH PLAN FUNDING.

SECTION 11.(a) There is appropriated from the General Fund to the Reserve for State Health Plan the sum of one hundred fourteen million dollars (\$114,000,000) for the 2001-2002 fiscal year.

SECTION 11.(b) There is appropriated from the Highway Fund to the Reserve for State Health Plan the sum of seven million dollars (\$7,000,000) for the 2001-2002 fiscal year.

PART XII. BOND DEBT SERVICE.

SECTION 12. There is appropriated from the General Fund to the Department of State Treasurer the sum of twelve million three hundred thousand dollars (\$12,300,000) for the 2001-2002 fiscal year to pay the debt service for bonds.

PART XIII. PROJECT COLLECT TAX.

SECTION 13. There is appropriated from the General Fund to the Department of Revenue the sum of one million nine hundred forty-seven thousand three hundred twenty-three dollars (\$1,947,323) for the 2001-2002 fiscal year to implement Project Collect Tax. These funds shall be used to fill 39 personnel positions, effective October 1, 2001.

PART XIV. REPLACE OPTICAL IMAGING SYSTEM IN RETIREMENT SYSTEMS DIVISION.

SECTION 14. There is appropriated to the Department of State Treasurer departmental receipts in the amount of two million four hundred sixty-five thousand dollars (\$2,465,000) for the 2001-2002 fiscal year to replace the optical imaging system used by the Retirement Systems Division.

PART XV. IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY SCHOOLS.

SECTION 15.(a) There is appropriated from the General Fund to State Aid to Local School Administrative Units the sum of eight million sixty-two thousand six hundred three dollars (\$8,062,603) for the 2001-2002 fiscal year. These funds shall be used to provide the State's lowest-performing elementary schools with the tools needed to dramatically improve student achievement.

These funds shall be used to reduce class size at the 37 elementary schools at which, for the 1999-2000 school year, over eighty percent (80%) of the students qualified for free or

reduced-price lunches and no more than fifty-five percent (55%) of the students performed at or above grade level. For the 2001-2002 school year, class size at each of these schools shall be reduced to ensure that no class in kindergarten through third grade has more than 15 students. No funds from the teacher assistant allotment category may be allotted to the local school administrative units for students assigned to these schools. Any teacher assistants displaced from jobs in these highest priority elementary schools shall be given preferential consideration for vacant teacher assistant positions at other schools in the local school administrative unit, provided their job performance has been satisfactory. Nothing in this section prevents the local school administrative unit from placing teacher assistants in these schools.

SECTION 15.(b) In order for the high priority schools identified in subsection (a) of this section to remain eligible for the additional resources provided in this section, the schools must meet the expected growth for each year and must achieve high growth for at least two out of three years, based on the State Board of Education's annual performance standards set for each school. No adjustment in the allotment of resources based on performance shall be made until the 2004-2005 school year.

SECTION 15.(c) All teaching positions allotted for students in high priority schools in those grades targeted for smaller class sizes shall be assigned to and teach in those grades and in those schools. In grades K-3 in high priority schools the maximum class size for the 2001-2002 school year shall be no more than two students above the allotment ratio in that grade. The maximum class size for subsequent school years shall be no more than one student above the allotment ratio in that grade. The Department of Public Instruction shall monitor class sizes at these schools at the end of the fourth month of school and report to the State Board of Education on the actual class sizes in these schools. If the local school administrative unit notifies the State Board of Education that they do not have sufficient resources to adhere to the maximum class size requirements, the State Board of Education may allocate additional teaching positions to the unit from the Reserve for Average Daily Membership Adjustments.

PART XVI. REDUCE KINDERGARTEN CLASS SIZE.

SECTION 16. There is appropriated from the General Fund to the State Aid to Local School Administrative Units the sum of twelve million forty-five thousand one hundred seventy-nine dollars (\$12,045,179) for the 2001-2002 fiscal year to reduce the class-size allotment in kindergarten to one teacher for every 19 students. The maximum class size limits for kindergarten established by the State Board of Education for the 2001-2002 school year shall

be reduced by one. Local school administrative units shall use teacher positions allocated to reduce class size in kindergarten only to hire classroom teachers for kindergarten.

PART XVII. REIMBURSEMENTS TO LOCAL GOVERNMENTS FOR INTANGIBLES TAX REPEAL DELAYED.

SECTION 17. Notwithstanding G.S. 105-275.2, the Secretary of Revenue shall not make any distributions to local governments pursuant to that statute for the 2001-2002 fiscal year before the date the Current Operations and Capital Improvements Appropriations Act of 2001 becomes law.

PART XVIII. EFFECTIVE DATE.

SECTION 18. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of August, 2001.

Became law upon approval of the Governor at 7:55 p.m. on the 29th day of August, 2001.

H.B. 1188 SESSION LAW 2001-396

AN ACT TO ALLOW PROTECTION OF VOTER RECORDS IN CASE OF DOMESTIC ABUSE PROTECTIVE ORDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-82.10 is amended by adding a new subsection to read:

"(d) Exception for Address of Certain Registered Voters. – Notwithstanding subsections (b) and (c) of this section, if a registered voter submits to the county board of elections a copy of a protective order without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with a registered voter, accompanied by a signed statement that the voter has good reason to believe that the physical safety of the voter or a member of the voter's family residing with the voter would be jeopardized if the voter's address were open to public inspection, that voter's address is a public record but shall be kept confidential as long as the protective order remains in effect. That voter's name, precinct, and the other data contained in that voter's registration record shall remain a public record. That voter's signed statement submitted under this subsection is a public record but shall be kept confidential as long as the protective order remains in effect. It is the responsibility of the voter to provide the county board with a copy of the valid protective

order in effect. That voter's address shall be available for inspection by a law enforcement agency or by a person identified in a court order, if inspection of the address by that person is directed by that court order."

SECTION 2. This act becomes effective December 1, 2001.

In the General Assembly read three times and ratified this the 22nd day of August, 2001.

Became law upon approval of the Governor at 7:40 p.m. on the 30th day of August, 2001.

H.B. 972 SESSION LAW 2001-397

**AN ACT TO CLARIFY AND AMEND THE JURISDICTION AND
AUTHORITY OF UNIVERSITY OF NORTH CAROLINA
CAMPUS LAW ENFORCEMENT AGENCIES.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-40.5 reads as rewritten:
"§ 116-40.5. *Campus law enforcement agencies.*

(a) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, may establish a campus law enforcement agency and employ campus police officers. Such officers shall meet the requirements of Chapter 17C of the General Statutes, shall take the oath of office prescribed by Article VI, Section 7 of the Constitution, and shall have all the powers of law enforcement officers generally. The territorial jurisdiction of a campus police officer shall include all property owned or leased to the institution employing him and that portion of any public road or highway passing through such property ~~and~~ immediately adjoining it, wherever located.

(b) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, having established a campus law enforcement agency pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted.

(c) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, having established a campus law enforcement agency

pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any county, and with the consent of the sheriff, to extend the law enforcement authority of campus police officers into any or all of the county's jurisdiction and to determine the circumstances in which this extension of authority may be granted.

(d) The Board of Trustees of any constituent institution of The University of North Carolina, having established a campus law enforcement agency pursuant to subsection (a) of this section, may enter into joint agreements with the governing board of any other constituent institution of The University of North Carolina to extend the law enforcement authority of its campus police officers into any or all of the other institution's jurisdiction and to determine the circumstances in which this extension of authority may be granted."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of August, 2001.

Became law upon approval of the Governor at 7:41 p.m. on the 30th day of August, 2001.

S.B. 14 SESSION LAW 2001-398

AN ACT TO REWRITE ARTICLE 15 AND ARTICLE 16 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 15 and 16 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-22.1 is repealed.

SECTION 3. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 15A.

"Counting Official Ballots, Canvassing Votes, Hearing Protests, and Certifying Results.

"§ 163-182. Definitions.

In addition to the definitions stated below, the definitions set forth in Article 13A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article, the following definitions apply:

- (1) 'Abstract' means a document signed by the members of the board of elections showing the votes for each candidate and ballot proposal on the official ballot in the election. The abstract shall show a total number of votes for each candidate in each precinct and a total for each

candidate in the county. It shall also show the number of votes for each candidate among the absentee official ballots, among the provisional official ballots, and in any other category of official ballots that is not otherwise reported.

- (2) 'Composite abstract' means a document signed by the members of the State Board of Elections showing the total number of votes for each candidate and ballot proposal and the number of votes in each county. A composite abstract does not include precinct returns.
- (3) 'Certificate of election' means a document prepared by the official or body with the legal authority to do so, conferring upon a candidate the right to assume an elective office as a result of being elected to it.
- (4) 'Protest' means a complaint concerning the conduct of an election which, if supported by sufficient evidence, may require remedy by one or more of the following:
 - a. A correction in the returns.
 - b. A discretionary recount as provided in G.S. 163-182.7.
 - c. A new election as provided in G.S. 163-182.13.

"§ 163-182.1. Principles and rules for counting official ballots.

(a) General Principles That Shall Apply. – The following general principles shall apply in the counting of official ballots, whether the initial count or any recount:

- (1) Only official ballots shall be counted.
- (2) No official ballot shall be rejected because of technical errors in marking it, unless it is impossible to clearly determine the voter's choice.
- (3) If it is impossible to clearly determine a voter's choice in a ballot item, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which the voter's choice can be clearly determined.
- (4) If an official ballot is marked in a ballot item with more choices than there are offices to be filled or propositions that may prevail, the official ballot shall not be counted for that ballot item, but shall be counted in all other ballot items in which there is no overvote and the voter's choice can be clearly determined.
- (5) If an official ballot is rejected by a scanner or other counting machine, but human counters can clearly determine the voter's choice, the official ballot shall be counted by hand and eye.

- (6) Write-in votes shall not be counted in party primaries or in referenda, but shall be counted in general elections if all of the following are true:
- a. The write-in vote is written by the voter or by a person authorized to assist the voter pursuant to G.S. 163-166.8.
 - b. The write-in vote is not cast for a candidate who has failed to qualify under G.S. 163-123 as a write-in candidate.
 - c. The voter's choice can be clearly determined.
- (7) Straight-party ticket and split-ticket votes shall be counted in general elections according to the following guidelines:
- a. If a voter casts a vote for a straight-party ticket, that vote shall be counted for all the candidates of that party, other than those for President and Vice President, in the partisan ballot items on that official ballot except as otherwise provided in this subdivision.
 - b. If a voter casts a vote for a straight-party ticket and also votes in a partisan ballot item for a candidate not of that party, the official ballot shall be counted in that ballot item only for the individually marked candidate. In partisan ballot items where no mark is made for an individual candidate, the official ballot shall be counted for the candidates of the party whose straight ticket the voter voted.
 - c. If a voter casts a vote for a straight-party ticket and also casts a write-in vote in any partisan ballot item, the straight-party ticket vote shall not control the way the official ballot is counted in that ballot item, except to the extent it would control in the case of crossover voting under this subdivision. The following principles shall apply:
 1. If the write-in vote is proper under subdivision (6) of this subsection, that write-in candidate shall receive a vote.
 2. If the write-in vote is not proper under subdivision (6) of this subsection and no other candidate is individually marked in that ballot item, then no vote shall be counted in that ballot item.
 3. If the straight-ticket voter casts both write-in votes and individually marked votes for ballot candidates in a ballot item, then the write-in

and individually marked votes shall be counted unless the write-in is not proper under subdivision (6) of this subsection or an overvote results.

(b) Rules and Directions by State Board of Elections. – The State Board of Elections shall promulgate rules where necessary to apply the principles in subsection (a) of this section to each voting system in use in the State. The rules shall prescribe procedures and standards for each type of voting system. Those procedures and standards shall be followed uniformly throughout the State in all places where that type of voting system is used. The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"§ 163-182.2. Initial counting of official ballots.

(a) The initial counting of official ballots shall be conducted according to the following principles:

- (1) Vote counting at the precinct shall occur immediately after the polls close and shall be continuous until completed.
- (2) Vote counting at the precinct shall be conducted with the participation of precinct officials of all political parties then present. Vote counting at the county board of elections shall be conducted in the presence or under the supervision of board members of all political parties then present.
- (3) Any member of the public wishing to witness the vote count at any level shall be allowed to do so. No witness shall interfere with the orderly counting of the official ballots. Witnesses shall not participate in the official counting of official ballots.
- (4) Provisional official ballots shall be counted by the county board of elections before the canvass. If the county board finds that an individual voting a provisional official ballot is not eligible to vote in one or more ballot items on the official ballot, the board shall not count the official ballot in those ballot items, but shall count the official ballot in any ballot items for which the individual is eligible to vote.
- (5) Precinct officials shall provide a preliminary report of the vote counting to the county board of elections as quickly as possible. The preliminary report shall be unofficial and has no binding effect upon the official county canvass to follow.

(b) The State Board of Elections shall promulgate rules for the initial counting of official ballots. All election officials shall be

governed by those rules. In promulgating those rules, the State Board shall adhere to the following guidelines:

- (1) For each voting system used, the rules shall specify the role of precinct officials and of the county board of elections in the initial counting of official ballots.
- (2) The rules shall provide for accurate unofficial reporting of the results from the precinct to the county board of elections with reasonable speed on the night of the election.
- (3) The rules shall provide for the prompt and secure transmission of official ballots from the voting place to the county board of elections.

The State Board shall direct the county boards of elections in the application of the principles and rules in individual circumstances.

"§ 163-182.3. Responsibility of chief judge.

The chief judge of each precinct shall be responsible for the adherence of the precinct officials to the State Board rules for counting, reporting, and transmitting official ballots.

"§ 163-182.4. Jurisdiction for certain ballot items.

(a) Jurisdiction of County Board of Elections. – As used in this Article, the county board of elections shall have jurisdiction over the following:

- (1) Offices of that county, including clerk of superior court and register of deeds.
- (2) Membership in either house of the General Assembly from a district lying entirely within that county.
- (3) Offices of municipalities, unless the municipality has a valid board of election.
- (4) Referenda in which only residents of that county are eligible to vote.

(b) Jurisdiction of State Board of Elections. – As used in this Article, the State Board of Elections shall have jurisdiction over the following:

- (1) National offices.
- (2) State offices.
- (3) District offices (including General Assembly seats) in which the district lies in more than one county.
- (4) Superior court judge, district court judge, and district attorney, regardless of whether the district lies entirely in one county or in more than one county.
- (5) Referenda in which residents of more than one county are eligible to vote.

(c) For the purposes of this Article, having jurisdiction shall mean that the appropriate board shall do all of the following with regard to the ballot item:

- (1) Canvass for the entire electorate for the ballot item.
- (2) Prepare abstracts or composite abstracts for the entire electorate for the ballot item.
- (3) Issue certificates of nomination and election.

"§ 163-182.5. Canvassing votes.

(a) The Canvass. – As used in this Article, the term 'canvass' means the entire process of determining that the votes have been counted and tabulated correctly, culminating in the authentication of the official election results. The board of elections conducting a canvass has authority to send for papers and persons and to examine them and pass upon the legality of disputed ballots.

(b) Canvassing by County Board of Elections. – The county board of elections shall meet at 11:00 A.M. on the third day (Sunday excepted) after every election to complete the canvass of votes cast and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. If, despite due diligence by election officials, the initial counting of all the votes has not been completed by that time, the county board may hold the canvass meeting a reasonable time thereafter. The canvass meeting shall be at the county board of elections office, unless the county board, by unanimous vote of all its members, designates another site within the county. The county board shall examine the returns from precincts, from absentee official ballots, and from provisional official ballots and shall conduct the canvass.

(c) Canvassing by State Board of Elections. – After each general election, the State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after election day to complete the canvass of votes cast in all ballot items within the jurisdiction of the State Board of Elections and to authenticate the count in every ballot item in the county by determining that the votes have been counted and tabulated correctly. After each primary, the State Board shall fix the date of its canvass meeting. If, by the time of its scheduled canvass meeting, the State Board has not received the county canvasses, the State Board may adjourn for not more than 10 days to secure the missing abstracts. In obtaining them, the State Board is authorized to secure the originals or copies from the appropriate clerks of superior court or county boards of elections, at the expense of the counties.

"§ 163-182.6. Abstracts.

(a) Abstracts to Be Prepared by County Board of Elections. – As soon as the county canvass has been completed, the county board of elections shall prepare abstracts of all the ballot items in a form prescribed by the State Board of Elections. The county board shall prepare those abstracts in triplicate originals. The county board shall retain one of the triplicate originals, and shall distribute one each to the clerk of superior court for the county and the State Board of

Elections. The State Highway Patrol may, upon request of the State Board of Elections, be responsible for the delivery of the abstracts from each county to the State Board of Elections. The State Board of Elections shall forward the original abstract it receives to the Secretary of State.

(b) Composite Abstracts to Be Prepared by the State Board of Elections. – As soon as the State canvass has been completed, the State Board shall prepare composite abstracts of all those ballot items. It shall prepare those composite abstracts in duplicate originals. It shall retain one of the originals and shall send the other original to the Secretary of State.

(c) Duty of the Secretary of State. – The Secretary of State shall maintain the certified copies of abstracts received from the county and State boards of elections. The Secretary shall keep the abstracts in a form readily accessible and useful to the public.

(d) Forms by State Board of Elections. – The State Board of Elections shall prescribe forms for all abstracts. Those forms shall be uniform and shall, at a minimum, state the name of each candidate and the office sought and each referendum proposal, the number of votes cast for each candidate and proposal, the candidate or proposal determined to have prevailed, and a statement authenticating the count.

"§ 163-182.7. Ordering recounts.

(a) Discretionary Recounts. – The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board of Elections has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. – In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by noon on the fourth day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections. – In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the difference between the

votes for that candidate and the votes for a prevailing candidate are not more than the following:

- (1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.
- (2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, or in the case of a multiseat ballot item, one-half of one percent (0.5%) of the votes cast for those two candidates, or 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second Wednesday after the election. If on that Wednesday the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections.

(d) Rules for Conducting Recounts. – The State Board of Elections shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

- (1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts.
- (2) The rules shall provide guidance in interpretation of the voter's choice.
- (3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced.

"§ 163-182.8. Determining result in case of a tie.

If the count, upon completion of canvass by the proper board of elections, shows a tie vote other than in a primary, the tie shall be resolved as follows:

- (1) If more than 5,000 voters cast official ballots in the ballot item, the State Board of Elections shall order a new election in which only the candidates or positions tied will be on the official ballot. The State Board of Elections shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election. Eligibility to vote in the new election shall be

determined by the voter's eligibility at the time of the new election.

- (2) If 5,000 or fewer voters cast official ballots in the ballot item, the board of elections with jurisdiction to certify the election shall break the tie by a method of random selection to be determined by the State Board of Elections.

"§ 163-182.9. Filing an election protest.

(a) Who May File a Protest With County Board. – A protest concerning the conduct of an election may be filed with the county board of elections by any registered voter who was eligible to vote in the election or by any person who was a candidate for nomination or election in the election.

(b) How Protest May Be Filed. – The following principles shall apply to the filing of election protests with the county board of elections:

- (1) The protest shall be in writing and shall be signed by the protester. It shall include the protester's name, address, and telephone number and a statement that the person is a registered voter in the jurisdiction or a candidate.
- (2) The protest shall state whether the protest concerns the manner in which votes were counted and results tabulated or concerns some other irregularity.
- (3) The protest shall state what remedy the protester is seeking.
- (4) The timing for filing a protest shall be as follows:
 - a. If the protest concerns the manner in which votes were counted or results tabulated, the protest shall be filed before the beginning of the county board of election's canvass meeting.
 - b. If the protest concerns the manner in which votes were counted or results tabulated and the protest states good cause for delay in filing, the protest may be filed until 6:00 P.M. on the second day after the county board of elections has completed its canvass and declared the results.
 - c. If the protest concerns an irregularity other than vote counting or result tabulation, the protest shall be filed no later than 6:00 P.M. on the second day after the county board has completed its canvass and declared the results.
 - d. If the protest concerns an irregularity on a matter other than vote counting or result tabulation and the protest is filed before election day, the protest proceedings shall be stayed, unless a party

defending against the protest moves otherwise, until after election day if any one of the following conditions exists:

1. The ballot has been printed.
2. The voter registration deadline for that election has passed.
3. Any of the proceedings will occur within 30 days before election day.

(c) State Board to Prescribe Forms. – The State Board of Elections shall prescribe forms for filing protests.

"§ 163-182.10. Consideration of protest by county board of elections.

(a) Preliminary Consideration. – The following principles shall apply to the initial consideration of election protests by the county board of elections:

- (1) The county board shall, as soon as possible after the protest is filed, meet to determine whether the protest substantially complies with G.S. 163-182.9 and whether it establishes probable cause to believe that a violation of election law or irregularity or misconduct has occurred. If the board determines that one or both requirements are not met, the board shall dismiss the protest. The board shall notify both the protester and the State Board of Elections. The protester may file an amended protest or may appeal to the State Board. If the board determines that both requirements are met, it shall schedule a hearing.
- (2) If a protest was filed before the canvass and concerns the counting and tabulating of votes, the county board shall resolve the protest before the canvass is completed. If necessary to provide time to resolve the protest, the county board may recess the canvass meeting, but shall not delay the completion of the canvass for more than three days unless approved by the State Board of Elections. Resolution of the protest shall not delay the canvass of ballot items unaffected by the protest. The appeal of a dismissal shall not delay the canvass.
- (3) If a protest concerns an irregularity other than the counting or tabulating of votes, that protest shall not delay the canvass.

(b) Notice of Hearing. – The county board shall give notice of the protest hearing to the protester, any candidate likely to be affected, any election official alleged to have acted improperly, and those persons likely to have a significant interest in the resolution of the protest. Each person given notice shall also be given a copy of the

protest or a summary of its allegations. The manner of notice shall be as follows:

- (1) If the protest concerns the manner in which the votes were counted or the results tabulated, the protester shall be told at the time of filing that the protest will be heard at the time of the canvass. Others shall be notified as far in advance of the canvass as time permits.
- (2) If the protest concerns a matter other than the manner in which votes were counted or results tabulated, the county board shall comply with rules to be promulgated by the State Board of Elections concerning reasonable notice of the hearing.

Failure to comply with the notice requirements in this subsection shall not delay the holding of a hearing nor invalidate the results if it appears reasonably likely that all interested persons were aware of the hearing and had an opportunity to be heard.

(c) Conduct of Hearing. – The following principles shall apply to the conduct of a protest hearing before the county board of elections:

- (1) The county board may allow evidence to be presented at the hearing in the form of affidavits or it may examine witnesses. The chair or any two members of the board may subpoena witnesses or documents. Each witness must be placed under oath before testifying.
- (2) The county board may receive evidence at the hearing from any person with information concerning the subject of the protest. The person who made the protest shall be permitted to present allegations and introduce evidence at the hearing. Any other person to whom notice of hearing was given, if present, shall be permitted to present evidence. The board may allow evidence by affidavit. The board may permit evidence to be presented by a person to whom notice was not given, if the person apparently has a significant interest in the resolution of the protest that is not adequately represented by other participants.
- (3) The hearing shall be recorded by a reporter or by mechanical means, and the full record of the hearing shall be preserved by the county board until directed otherwise by the State Board.

(d) Findings of Fact and Conclusions of Law by County Board. – The county board shall make a written decision on each protest which shall state separately each of the following:

- (1) Findings of fact. – The findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory

language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them.

(2) Conclusions of law. – The conclusions the county board may state, and their consequences for the board's order, are as follows:

a. 'The protest should be dismissed because it does not substantially comply with G.S. 163-182.9.' If the board makes this conclusion, it shall order the protest dismissed.

b. 'The protest should be dismissed because there is not substantial evidence of a violation of the election law or other irregularity or misconduct.' If the county board makes this conclusion, it shall order the protest dismissed.

c. 'The protest should be dismissed because there is not substantial evidence of any violation, irregularity, or misconduct sufficient to cast doubt on the results of the election.' If the county board makes this conclusion, it shall order the protest dismissed.

d. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur, and might have affected the outcome of the election, but the board is unable to finally determine the effect because the election was a multicounty election.' If the county board makes this conclusion, it shall order that the protest and the county board's decision be sent to the State Board for action by it.

e. 'There is substantial evidence to believe that a violation of the election law or other irregularity or misconduct did occur and that it was sufficiently serious to cast doubt on the apparent results of the election.' If the county board makes this conclusion, it may order any of the following as appropriate:

1. That the vote total as stated in the precinct return or result of the canvass be corrected and new results declared.

2. That votes be recounted.

3. That the protest and the county board's decision be sent to the State Board for action by it.

4. Any other action within the authority of the county board.

(3) An order. – Depending on the conclusion reached by the county board, its order shall be as directed in subdivision (c)(2). If the county board is not able to determine what law is applicable to the Findings of Fact, it may send its findings of fact to the State Board for it to determine the applicable law.

(e) Rules by State Board of Elections. – The State Board of Elections shall promulgate rules providing for adequate notice to parties, scheduling of hearings, and the timing of deliberations and issuance of decision.

"§ 163-182.11. Appeal of a protest decision by the county board to the State Board of Elections.

(a) Notice and Perfection of Appeal. – The decision by the county board of elections on an election protest may be appealed to the State Board of Elections by any of the following:

- (1) The person who filed the protest.
- (2) A candidate or elected official adversely affected by the county board's decision.
- (3) Any other person who participated in the hearing and has a significant interest adversely affected by the county board's decision.

Written notice of the appeal must be given to the county board within 24 hours after the county board files the written decision at its office. The appeal to the State Board must be in writing. The appeal must be delivered or deposited in the mail, addressed to the State Board, by the appropriate one of the following: (i) the end of the second day after the day the decision was filed by the county board in its office, if the decision concerns a first primary; or (ii) the end of the fifth day after the day the decision was filed in the county board office, if the decision concerns an election other than a first primary.

The State Board shall prescribe forms for filing appeals from the county board.

(b) Consideration of Appeal by State Board. – In its consideration of an appeal from a decision of a county board of elections on a protest, the State Board of Elections may do any of the following:

- (1) Decide the appeal on the basis of the record from the county board, as long as the county board has made part of the record a transcript of the evidentiary hearing.
- (2) Request the county board or any interested person to supplement the record from the county board, and then decide the appeal on the basis of that supplemented record.
- (3) Receive additional evidence and then decide the appeal on the basis of the record and that additional evidence.

- (4) Hold its own hearing on the protest and resolve the protest on the basis of that hearing.
- (5) Remand the matter to the county board for further proceedings in compliance with an order of the State Board.

The State Board shall follow the procedures set forth in subsections (c) and (d) of G.S. 163-182.10 except where they are clearly inapplicable.

The State Board shall give notice of its decision as required by G.S. 163-182.14, and may notify the county board and other interested persons in its discretion.

"§ 163-182.12. Authority of State Board of Elections over protests.

The State Board of Elections may consider protests that were not filed in compliance with G.S. 163-182.9, may initiate and consider complaints on its own motion, may intervene and take jurisdiction over protests pending before a county board, and may take any other action necessary to assure that an election is determined without taint of fraud or corruption.

"§ 163-182.13. New elections.

(a) When State Board May Order New Election. – The State Board of Elections may order a new election, upon agreement of at least four of its members, in the case of any one or more of the following:

- (1) Ineligible voters sufficient in number to change the outcome of the election were allowed to vote in the election, and it is not possible from examination of the official ballots to determine how those ineligible voters voted and to correct the totals.
- (2) Eligible voters sufficient in number to change the outcome of the election were improperly prevented from voting.
- (3) Other irregularities affected a sufficient number of votes to change the outcome of the election.
- (4) Irregularities or improprieties occurred to such an extent that, although it is not possible to determine whether those irregularities or improprieties affected the outcome of the election, they taint the results of the entire election and cast doubt on its fairness.

(b) State Board to Set Procedures. – The State Board of Elections shall determine when a new election shall be held and shall set the schedule for publication of the notice, preparation of absentee official ballots, and the other actions necessary to conduct the election.

(c) Eligibility to Vote in New Election. – Eligibility to vote in the new election shall be determined by the voter's eligibility at the time of the new election, except that in a primary, no person who voted in

the initial primary of one party shall vote in the new election in the primary of another party. The State Board of Elections shall promulgate rules to effect the provisions of this subsection.

(d) Jurisdiction in Which New Election Held. – The new election shall be held in the entire jurisdiction in which the original election was held.

(e) Which Candidates to Be on Official Ballot. – All the candidates who were listed on the official ballot in the original election shall be listed in the same order on the official ballot for the new election, except in either of the following:

(1) If a candidate dies or otherwise becomes ineligible between the time of the original election and the new election, that candidate may be replaced in the same manner as if the vacancy occurred before the original election.

(2) If the election is for a multiseat office, and the irregularities could not have affected the election of one or more of the leading vote getters, the new election, upon agreement of at least four members of the State Board, may be held among only those remaining candidates whose election could have been affected by the irregularities.

(f) Tie Votes. – If ineligible voters voted in an election and it is possible to determine from the official ballots the way in which those votes were cast and to correct the results, and consequently the election ends in a tie, the provisions of G.S. 163-182.8 concerning tie votes shall apply.

"§ 163-182.14. Appeal of a final decision to superior court.

A copy of the final decision of the State Board of Elections on an election protest shall be served on the parties personally or by certified mail. A decision to order a new election is considered a final decision for purposes of seeking review of the decision. An aggrieved party has the right to appeal the final decision to the Superior Court of Wake County within 10 days of the date of service.

After the decision by the State Board of Elections has been served on the parties, the certification of nomination or election or the results of the referendum shall issue pursuant to G.S. 163-182.15 unless an appealing party obtains a stay of the certification from the Superior Court of Wake County within 10 days after the date of service. The court shall not issue a stay of certification unless the petitioner shows the court that the petitioner has appealed the decision of the State Board of Elections, that the petitioner is an aggrieved party, that the petitioner is likely to prevail, and that the results of the election would be changed in the petitioner's favor. Mere irregularities in the election

which would not change the results of the election shall not be sufficient for the court to issue a stay of certification.

"§ 163-182.15. Certificate of nomination or election, or certificate of the results of a referendum.

(a) Issued by County Board of Elections. – In ballot items within the jurisdiction of the county board of elections, the county board shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the county board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued five days after the protest is dismissed or denied by the county board of elections, unless that decision has been appealed to the State Board of Elections.
- (2) The certificate shall be issued 10 days after the final decision of the State Board, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-182.14.
- (3) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(b) Issued by State Board of Elections. – In ballot items within the jurisdiction of the State Board of Elections, the State Board of Elections shall issue a certificate of nomination or election, or a certificate of the results of the referendum, as appropriate. The certificate shall be issued by the State Board five days after the completion of the canvass pursuant to G.S. 163-182.5, unless there is an election protest pending. If there is an election protest, the certificate of nomination or election or the certificate of the result of the referendum shall be issued in one of the following ways, as appropriate:

- (1) The certificate shall be issued 10 days after the final decision of the State Board on the election protest, unless the State Board has ordered a new election or the issuance of the certificate is stayed by the Superior Court of Wake County pursuant to G.S. 163-14.
- (2) If the decision of the State Board has been appealed to the Superior Court of Wake County and the court has

stayed the certification, the certificate shall be issued five days after the entry of a final order in the case in the Superior Court of Wake County, unless that court or an appellate court orders otherwise.

(c) Copy to Secretary of State. – The State Board of Elections shall provide to the Secretary of State a copy of each certificate of nomination or election, or certificate of the results of a referendum, issued by it. The Secretary shall keep the certificates in a form readily accessible and useful to the public.

"§ 163-182.16. Governor to issue commissions for certain offices.

The Secretary of State shall send a notice to the Governor that a certificate of election has been issued for any of the following offices, and upon receiving the notice, the Governor shall provide to each such elected official a commission attesting to that person's election:

- (1) Members of the United States House of Representatives.
- (2) Justices, judges, and district attorneys of the General Court of Justice.

"§ 163-182.17. Summary of officials' duties under this Article.

(a) This Section a Summary. – The provisions of this section provide a nonexclusive summary of the duties given to officials under this Article. The legal duty is contained, not in this section, but in the other sections of this Article.

(b) Duties of the Precinct Officials. – Precinct officials, in accordance with rules of the State Board of Elections and under the supervision of the county board of elections, shall perform all of the following:

- (1) Count votes when votes are required to be counted at the voting place. G.S. 163-182.2.
- (2) Make an unofficial report of returns to the county board of elections. G.S. 163-182.2.
- (3) Certify the integrity of the vote and the security of the official ballots at the voting place. G.S. 163-182.2.
- (4) Return official ballots and equipment to the county board of elections. G.S. 163-182.2.

(c) Duties of the County Board of Elections. – The county board of elections, in accordance with rules of the State Board of Elections, shall perform all of the following:

- (1) Count absentee and provisional official ballots and other official ballots required to be initially counted by the county board of elections. G.S. 163-182.2.
- (2) Canvass results in all ballot items on the official ballot in the county. G.S. 163-182.5.
- (3) Order a recount in any ballot item on the official ballot in the county, where necessary to complete the canvass, and where not prohibited from doing so. G.S. 163-182.7.

- (4) Conduct any recount that has been ordered by the county board of elections or the State Board of Elections or that has been properly demanded in accordance with G.S. 163-182.7(b).
 - (5) Conduct hearings in election protests as provided in G.S. 163-182.10.
 - (6) Prepare abstracts of returns in all the ballot items in the county. G.S. 163-182.6.
 - (7) Retain one original abstract and distribute the other two originals as follows:
 - a. One to the clerk of superior court in the county.
 - b. One to the State Board of Elections. G.S. 163-182.6.
 - (8) Issue a certificate of nomination or election or a certificate of the results of a referendum in each ballot item within the jurisdiction of the county board of elections. Provide a copy of the certificate to the clerk of court. G.S. 163-182.15.
- (d) Duties of the State Board of Elections. – The State Board of Elections shall perform all the following:
- (1) Promulgate rules as directed in this Article. G.S. 163-182.1, 163-182.2, 163-182.7, 163-182.10, and 163-182.13.
 - (2) Provide supervisory direction to the county boards of elections as provided in this Article. G.S. 163-182.1 and G.S. 163-182.2.
 - (3) Canvass the results in ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.5.
 - (4) Order and supervise a recount in any ballot item within the jurisdiction of the State Board of Elections, where necessary to complete the canvass. G.S. 163-182.7.
 - (5) Hear and decide appeals from decisions of county boards of elections in election protests. G.S. 163-182.11.
 - (6) Order new elections in accordance with G.S. 163-182.15.
 - (7) Prepare, in duplicate originals, composite abstracts of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.
 - (8) Retain one original of the composite abstract and deliver to the Secretary of State the other original composite abstract of the results of ballot items within the jurisdiction of the State Board of Elections. G.S. 163-182.6.

(9) Certify the results of any election within the jurisdiction of the State Board of Elections and provide a copy to the Secretary of State. G.S. 163-182.15.

(e) Duties of the Secretary of State. – The Secretary of State shall retain and compile in a useful form all the abstracts and returns provided by the county boards of elections and the State Board of Elections. G.S. 163-182.6.

(f) Duty of the Governor. – The Governor shall issue a commission to any person elected to an office listed in G.S. 163-182.16 upon notification from the Secretary of State that a certificate of election has been issued to the person. G.S. 163-182.16."

SECTION 4. G.S. 163-22(m) is repealed.

SECTION 5. G.S. 163-46 reads as rewritten:

"§ 163-46. *Compensation of precinct officials and assistants.*

The precinct chief judge shall be paid the state minimum wage for his services on the day of a primary, special or general election. Judges of election shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Assistants, appointed pursuant to G.S. 163-42, shall each be paid the state minimum wage for their services on the day of a primary, special or general election. Ballot counters appointed pursuant to G.S. 163-43 shall be paid a minimum of five dollars (\$5.00) for their services on the day of a primary, general or special election.

Chief judges shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day for attendance at the county canvass, pursuant to G.S. 163-173. If the county board of elections requests the presence of a chief judge or judge at the county canvass, the chief judge shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day. If the county board of elections requests a precinct official, including chief judge or judge, to personally deliver official ballots or other official materials to the county board of elections, the precinct official shall be paid the sum of twenty dollars (\$20.00) per day and judges shall be paid the sum of fifteen dollars (\$15.00) per day.

The chairman of the county board of elections, along with the director of elections, shall conduct an instructional meeting prior to each primary and general election which shall be attended by each chief judge and judge of election, unless excused by the chairman, and such precinct election officials shall be paid the sum of fifteen dollars (\$15.00) for attending the instructional meetings required by this section.

In its discretion, the board of county commissioners of any county may provide funds with which the county board of elections may pay chief judges, judges, assistants, and ballot counters in addition to the

amounts specified in this section. Observers shall be paid no compensation for their services.

A person appointed to serve as chief judge, or judge of election when a previously appointed chief judge or judge fails to appear at the voting place or leaves his post on the day of an election or primary shall be paid the same compensation as the chief judge or judge appointed prior to that date.

For the purpose of this section, the phrase "the State minimum wage," means the amount set by G.S. 95-25.3(a). For the purpose of this section, no other provision of Article 2A of Chapter 95 of the General Statutes shall apply."

SECTION 6. G.S. 163-113 reads as rewritten:

"§ 163-113. *Nominee's right to withdraw as candidate.*

A person who has been declared the nominee of a political party for a specified office under the provisions of G.S. ~~163-175, G.S. 163-192, 163-182.15~~ or G.S. 163-110, shall not be permitted to resign as a candidate unless, at least 30 days before the general election, he submits to the board of elections which certified his nomination a written request that he be permitted to withdraw."

SECTION 7. G.S. 163-123 reads as rewritten:

"(f) Counting and Recording of Votes. – If a qualified voter has complied with the provisions of subsections (a), (b), and (c) and is not excluded by subsection (e), the board of elections with which petition has been filed shall count votes for him according to the procedures set out in G.S. ~~163-170(5), 163-182.1,~~ and the appropriate board of elections shall record those votes on the official abstract. Write-in votes for names other than those of qualified write-in candidates shall not be counted for any purpose and shall not be recorded on the abstract."

SECTION 8. G.S. 163-210 reads as rewritten:

"§ 163-210. *Governor to proclaim results; casting State's vote for President and Vice-President.*

Upon receipt of the ~~abstracts~~ certifications prepared by the State Board of Elections and delivered ~~to him~~ in accordance with G.S. ~~163-192, 163-182.15,~~ the Secretary of State, under ~~his hand and the seal of his the office,~~ shall ~~certify to~~ notify the Governor of the names of the persons elected to the office of elector for President and Vice-President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at which time the electors shall meet and vote on behalf of the State for President and Vice-President of the United States. The

Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.

Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States, either three duplicate original certificates, or one original certificate and two authenticated copies of the Certificates of Ascertainment, under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be received before the Electoral College meeting. At the same time ~~he~~ the Governor shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.

In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163-1(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice-President of the United States."

SECTION 9. G.S. 163-213.3 reads as rewritten:
 "§ 163-213.3. *Conduct of election.*

The presidential preference primary election shall be conducted and canvassed by the same authority and in the manner provided by law for the conduct and canvassing of the primary election for the office of Governor and all other offices enumerated in G.S. ~~163-187~~ 163-182.4(b) and under the same provisions stipulated in G.S. ~~163-188.~~ 163-182.5(c). The State Board of Elections shall have authority to promulgate reasonable rules and regulations, not inconsistent with provisions contained herein, pursuant to the administration of this Article."

SECTION 10. G.S. 163-299(e) reads as rewritten:

"(e) The rules contained in G.S. ~~463-169-163-182.1~~ and G.S. ~~163-182.2~~ for counting primary ballots shall be followed in counting ballots in municipal primaries and nonpartisan primaries."

SECTION 11. G.S. 163-299(f) reads as rewritten:

"(f) The requirements contained in G.S. ~~463-171-163-182.2(b)~~ shall apply to all municipal elections."

SECTION 12. G.S. 163-299(g) reads as rewritten:

"(g) The county or municipal board of elections shall, in addition to the requirements contained in G.S. ~~463-175-163-182.5~~ canvass the results in a nonpartisan municipal primary, election or runoff election, and in a special district election, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the municipality or special district for each person for each different office."

SECTION 13. G.S. 163-300 reads as rewritten:

"§ ~~163-300~~. *Disposition of duplicate abstracts in municipal elections.*

Within five days after a primary or election is held in any municipality, the chairman of the county or municipal board of elections shall mail to the chairman of the State Board of Elections, the duplicate abstract prepared in accordance with G.S. ~~463-176-163-182.6~~. One copy shall be retained by the county or municipal board of elections as a permanent record and one copy shall be filed with the city clerk."

SECTION 14. G.S. 163-301 reads as rewritten:

"§ ~~163-301~~. *Chairman of election board to furnish certificate of elections.*

Not earlier than five days nor later than 10 days after the results of any municipal election have been officially determined and published in accordance with G.S. ~~463-175~~ and G.S. ~~163-179-163-182.5~~, the chairman of the county or municipal board of elections shall issue certificates of election, under ~~his~~ the hand and seal of the chairman, to all municipal and special district officers. In issuing such certificates of election the chairman shall be restricted by the provisions of G.S. ~~463-181-163-182.14~~."

SECTION 15. G.S. 163-333 is repealed.

SECTION 16. The State Board of Elections shall adopt temporary rules pursuant to G.S. 150B-21.1(a5) prior to the first election following the effective date of this act.

SECTION 17. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 22nd day of August, 2001.

Became law upon approval of the Governor at 7:42 p.m. on the 30th day of August, 2001.

AN ACT TO AMEND THE LAWS REGULATING REAL ESTATE APPRAISERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 93E of the General Statutes is amended as follows:

"Chapter 93E.

"North Carolina Appraisers Act.

"Article 1.

"Real Estate Appraiser.

"§ 93E-1-1. *Title.*

This Chapter shall be known and may be cited as the "North Carolina Appraisers Act".

"§ 93E-1-2: *Repealed by Session Laws 1995, c. 482, s. 12.*

"§ 93E-1-2.1. *Registration, license license, or certificate required of real estate appraisers.*

Beginning October 1, 1995, it shall be unlawful for any person in this State to act as a real estate appraiser, to directly or indirectly engage or assume to engage in the business of real estate appraisal, or to advertise or hold himself or herself out as engaging in or conducting the business of real estate appraisal without first obtaining a registration, license license, or certificate issued by the Appraisal Board under the provisions of this Chapter. It shall also be unlawful, with regard to any real property where any portion of that property is located within this State, for any person to perform any of the acts listed above without first being registered, licensed, or certified by the Appraisal Board under the provisions of this Chapter.

"§ 93E-1-3. *When registration, license license, or certificate not required.*

(a) No trainee registration, license license, or certificate shall be issued under the provisions of this Chapter to a partnership, association, corporation, firm, or group. However, nothing herein shall preclude a registered trainee, State-licensed or State-certified real estate appraiser from rendering appraisals for or on behalf of a partnership, association, corporation, firm, or group, provided the appraisal report is prepared by a State-licensed or State-certified real estate appraiser or by a registered trainee under the immediate personal direction of, the State-licensed or State-certified real estate appraiser and is reviewed and signed by that State-licensed or State-certified appraiser.

(b) ~~Any person who is not State-licensed or State-certified under this Chapter may assist a State-licensed or State-certified real estate appraiser in the performance of an appraisal provided that the person~~

~~is registered trainee and is actively and personally supervised by a State certified appraiser and provided further that any appraisal report rendered in connection with the appraisal is reviewed and signed by the State certified real estate appraiser.~~

(c) Nothing in this Chapter shall preclude a real estate broker or salesman licensed under Chapter 93A of the General Statutes from performing a comparative market analysis, analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a State-licensed or State-certified as a real estate appraiser. A real estate broker or salesperson may perform a comparative market analysis for compensation or other valuable consideration only for prospective or actual brokerage clients or for real property involved in an employee relocation program.

(d) Nothing in this Chapter shall abridge, infringe upon, or otherwise restrict the right to use the term "certified ad valorem tax appraiser" or any similar term by persons certified by the Department of Revenue to perform ad valorem tax appraisals, provided that the term is not used in a manner that creates the impression of certification by the State to perform real estate appraisals other than ad valorem tax appraisals.

(e) Nothing in this Chapter shall entitle a registered trainee or a State-licensed or State-certified real estate appraiser to appraise real estate for ad valorem tax purposes unless the person has first been certified by the Department of Revenue pursuant to G.S. 105-294.

(f) A trainee registration, license license, or certificate is not required under this Chapter for:

- (1) Any person, partnership, association, or corporation that performs appraisals of property owned by that person, partnership, association, or corporation for the sole use of that person, partnership, association, or corporation;
- (2) Any court-appointed commissioner who conducts an appraisal pursuant to a judicially ordered evaluation of property;
- (3) Any person to qualify as an expert witness for court or administrative agency testimony, if otherwise qualified;
- (4) A person who appraises standing timber so long as the appraisal does not include a determination of value of any land;
- (5) Any person employed by a lender in the performance of appraisals with respect to which federal regulations do not require a licensed or certified appraiser; and
- (6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296;

however, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of this subsection must comply with all of the provisions of this Chapter.

"§ 93E-1-3.1. *Prohibited use of title; permissible use of title.*

(a) It shall be unlawful for any person to assume or use the title "registered trainee", "State-licensed real estate appraiser", "State-certified real estate appraiser", or any ~~title designation~~ title, designation, or abbreviation likely to create the impression of registration, licensure ~~licensure,~~ or certification as a real estate appraiser, unless the person is registered, licensed ~~licensed,~~ or certified by the Appraisal Board in accordance with the provisions of this Chapter. The Board may adopt for the exclusive use of persons licensed or certified under the provisions of this Chapter, a seal, symbol, or other mark identifying the user as a State-licensed or State-certified real estate appraiser.

(b) Any person certified as a real estate appraiser by an appraisal trade organization shall retain the right to use the term "certified" or any similar term in identifying the person to the public, provided that:

- (1) In each instance wherein the term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to the term; and
- (2) The use of the term does not create the impression of certification by the State. This subsection does not entitle any person certified only by a trade organization to conduct an appraisal that requires a State registration, license ~~license,~~ or certification.

(c) The term "registered trainee", "State-licensed real estate appraiser", "State-certified real estate appraiser", or any similar term shall not be used following or immediately in connection with the name of a partnership, association, corporation, or other firm or group, or in a manner that might create the impression of registration, licensure ~~licensure,~~ or certification as a real estate appraiser under this Chapter.

"§ 93E-1-4. *Definitions.*

When used in this Chapter, unless the context otherwise requires, the term:

- (1) "Appraisal" or "real estate appraisal" means an analysis, opinion, or conclusion as to the value of identified real estate or specified interests therein performed for compensation or other valuable consideration.
- (2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a

disinterested third party in rendering an unbiased appraisal.

- (3) "Appraisal Board" or "Board" means the North Carolina Appraisal Board established under G.S. 93E-1-5.
- (4) "Appraisal Foundation" or "Foundation" means The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.
- (5) "Appraisal report" means any communication, written or oral, of an appraisal.
- (6) "Certificate" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for certification as a State-certified real estate appraiser and bearing a certificate number assigned by the Board.
- (7) "Certificate holder" means a person certified by the Board under the provisions of this Chapter.
- (7a) "Comparative market analysis" means the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker or ~~salesperson for the broker's or salesperson's principal.~~ salesperson.
- (8) "License" means that document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a State-licensed real estate appraiser and bearing a license number assigned by the Board.
- (9) "Licensee" means a person licensed by the Board under the provisions of this Chapter.
- (10) "Real estate" or "real property" means land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.
- (11) "Real estate appraiser" or "appraiser" means a person who for a fee or valuable consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.
- (12) "Real estate appraising" means the practice of developing and communicating real estate appraisals.
- (13) "Residential real estate" means any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those

which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.

- (14) "State-certified general real estate appraiser" means a person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Chapter.
- (15) "State-certified residential real estate appraiser" means a person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Chapter.
- (16) "State-licensed residential real estate appraiser" means a person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Chapter.
- (17) "Temporary appraiser licensure or certification" means the issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.
- (18) "Trainee", "registered trainee", or "trainee real estate appraiser" means a person who ~~has satisfied the requirements to be registered as a trainee pursuant to G.S. 93E-1-6, but who has not satisfied the experience and other requirements set forth in G.S. 93E-1-6 to be licensed as a~~ holds a current, valid registration as a trainee real estate appraiser. ~~appraiser issued under the provisions of this Chapter.~~
- (19) "Trainee registration" or "registration as a trainee" means the document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board.

"§ 93E-1-5. Appraisal Board.

(a) There is created the North Carolina Appraisal Board for the purposes set forth in this Chapter. The Board shall consist of seven members. The Governor shall appoint five members of the Board, and the General Assembly shall appoint two members in accordance with G.S. 120-121, one upon the recommendation of the President Pro Tempore of the Senate and one upon the recommendation of the Speaker of the House of Representatives. ~~Each member~~ Members appointed by the Governor shall be appointed from a ~~different~~

~~congressional district.~~ geographically diverse areas of the State. The appointee recommended by the Speaker of the House of Representatives and the appointees of the Governor shall be persons who have been engaged in the business of real estate appraising in this State for at least five years immediately preceding their appointment and are also State-licensed or State-certified real estate appraisers. No more than ~~four~~ three of the appointees may be members of the same appraiser trade ~~organization, group, or committee~~ organization at any one time. The appointee recommended by the President Pro Tempore of the Senate shall be a person not involved directly or indirectly in the real estate, real estate appraisal, or the real estate lending industry. Members of the Board shall serve three-year terms, so staggered that the terms of three members expire in one year, the terms of two members expire in the next year, and the terms of two members expire in the third year of each three-year period. The members of the Board shall elect one of their members to serve as chairman of the Board for a term of one year. The Governor may remove any member of the Board appointed by the Governor for misconduct, incompetency, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. Successors shall be appointed by the appointing authority making the original appointment. All vacancies occurring on the Board shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms of office ~~commence~~ commenced July 1, 1994.

(b) The Board is an occupational licensing agency governed by Chapter 150B of the General Statutes; its decisions are final agency decisions subject to judicial review under Article 4 of Chapter 150B of the General Statutes.

(c) Members of the Board shall be paid the per diem, subsistence, and travel allowances at the rates set forth in G.S. 93B-5; provided that none of the expenses of the Board or the compensation or expenses of any officer or employee thereof shall be payable out of the treasury of the State of North Carolina; the total expenses of the administration of this Chapter shall not exceed the total income therefrom; and neither the Board nor any officer or employee thereof shall have any power or authority to make or incur any expense, debt, or other financial obligation binding upon the State of North Carolina.

(d) The Board shall adopt a seal for its use, which shall bear thereon the words "North Carolina Appraisal Board". Copies of all papers in the office of the Board duly certified and authenticated by the seal of the Board shall be received in evidence in all courts and administrative bodies and with like effect as the originals.

(e) The Board may employ an Executive Director and professional and clerical staff as may be necessary to carry out the provisions of this Chapter and to put into effect the rules that the Board may promulgate. The Board shall fix salaries. The Board shall have the authority to issue to its employees credentials or other means of identification.

(f) The Board shall be entitled to the services of the Attorney General in connection with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent it in the enforcement of this Chapter.

(g) The Board may prefer a complaint for violation of this Chapter before any court of competent jurisdiction, and it may take the necessary legal steps through the proper legal offices of the State to enforce the provisions of this Chapter.

(h) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to the approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(i) The Board may purchase, rent, or lease equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees.

"§ 93E-1-6. Qualifications for State registration, ~~licensure~~ licensure, and certification; applications; application fees; examinations.

(a) Any person desiring to be registered as a trainee or to obtain licensure as a State-licensed real estate appraiser or certification as a State-certified real estate appraiser shall make written application to the Board on the forms as are prescribed by the Board setting forth the applicant's qualifications for registration, licensure licensure, or certification. Each applicant shall satisfy the following qualification requirements:

- (1) Each applicant for ~~licensure as a State licensed residential real estate appraiser shall have demonstrated~~ registration as a trainee must demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform appraisals of residential and other real estate as the Board may prescribe of real property, by having satisfactorily completed within the five-year period immediately preceding the date application is made, a ~~Board-approved~~ course approved by the Board of instruction in real estate appraisal principles and practices consisting of at least 90 hours or the minimum requirement as

imposed by the federal government, whichever is greater, of classroom instruction in subjects determined by the Board; and by satisfying any additional qualification the Board imposes by rule, not inconsistent with any requirements imposed by the federal government.

- (1a) Each applicant for licensure as a State-licensed residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of real property by having satisfactorily completed within the five-year period immediately preceding the date application is made a course approved by the Board of instruction in real estate appraisal principles and practices consisting of at least 90 hours or the minimum requirement as imposed by the federal government, whichever is greater, of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least 2,000 hours or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising; and shall satisfy the additional qualifications as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government; or shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.
- (2) Each applicant for certification as a State-certified residential real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of ~~residential and other real estate~~ real property as the Board may prescribe by having satisfactorily completed, within the five-year period immediately preceding the date the application is made, a ~~Board approved~~ course approved by the Board of instruction in real estate appraisal principles and practices consisting of at least ~~120 hours~~ hours, or the minimum requirement as imposed by the federal government, whichever is greater, of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least ~~2,000~~ 2,500 hours or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising within the five-year period immediately

preceding the date application is made, and over a period of at least two calendar years; and shall satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government; or shall possess education and experience which is found by the Board in its discretion to be equivalent to the above requirements.

- (3) Each applicant for certification as a State-certified general real estate appraiser shall have demonstrated that the applicant possesses the knowledge and competence necessary to perform appraisals of all types of real ~~estate~~ property by having satisfactorily completed, within the five-year period immediately preceding the date application is made, a ~~Board-approved~~ course approved by the Board of instruction in general real estate appraisal practices consisting of at least 180 hours or the minimum requirement as imposed by the federal government, whichever is greater, of classroom instruction in subjects determined by the Board; shall present evidence satisfactory to the Board of at least ~~2,000~~3,000 hours or the minimum requirement as imposed by the federal government, whichever is greater, of experience in real estate appraising within the five-year period immediately preceding the date application is made, and over a period of at least two and one-half calendar years, fifty percent (50%) of which must be in appraising nonresidential real estate; and shall satisfy the additional qualifications criteria as may be imposed by the Board by rule, not inconsistent with any requirements imposed by the federal government; or the applicant shall possess education or experience which is found by the Board in its discretion to be equivalent to the above requirements.
- (4) ~~Each applicant for registration as a trainee must demonstrate to the Board that the applicant possesses the knowledge and competence necessary to perform an appraisal of residential and other real estate, as prescribed by the Board, by:~~
- a. ~~Having satisfactorily completed within the five year period immediately preceding the date application is made, a course, approved by the Board, of instruction in real estate appraisal principles and practices consisting of at least 90 hours of~~

classroom instruction in subjects determined by the Board; and

- ~~b. Satisfying any additional qualifications the Board imposes by rule, not inconsistent with any requirements imposed by the federal government; or shall possess education or experience that the Board, in its discretion, determines to be equivalent to the requirements set forth in sub-subdivisions a. and b. of this subdivision. Provided, however, that any persons who, on the effective date of this Chapter, have a State license or certificate to engage in business as a real estate appraiser issued by the predecessor of the Board, shall be entitled to and shall receive the same license or certificate from the Board as they are then holding without further education, experience, examination, or application fee.~~

(b) Each application for registration as a trainee or for State licensure or certification as a real estate appraiser shall be accompanied by a fee of one hundred fifty dollars (\$150.00), plus any additional fee as may be necessary to defray the cost of any competency examination administered by a private testing service.

(c) Any person who files with the Board an application for State ~~registration, licensure~~ licensure, or certification as a real estate appraiser shall be required to pass an examination to demonstrate the person's competence. The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. In addition, the Board may investigate and consider whether the applicant has had any disciplinary action taken against any other professional license in North Carolina or any other state, or if the applicant has committed or done any act which, if committed or done by any real estate trainee or appraiser, would be grounds under the provisions hereinafter set forth for disciplinary action including the suspension or revocation of registration, licensure, or certification, or whether the applicant has been convicted of or pleaded guilty to any criminal act. If the results of the investigation shall be satisfactory to the ~~Board~~ Board, and the applicant is otherwise qualified, then the Board shall issue to the applicant a trainee registration, license or certificate authorizing the applicant to act as a registered trainee real estate appraiser, State-licensed real estate appraiser appraiser, or a State-certified real estate appraiser in this State.

~~(d) If, based upon the results of the investigation, the moral character of the applicant is in question, If the applicant has not affirmatively demonstrated that the applicant meets the requirements~~

for registration, licensure, or certification, action on the application will be deferred pending a hearing before the Board.

~~(d) Any person who files with the Board an application for registration as a trainee real estate appraiser shall be required to pass an examination to demonstrate the person's competence. The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's honesty, truthfulness, and integrity. If the results of the investigation shall be satisfactory to the Board and the applicant is otherwise qualified, then the Board shall issue to the applicant a registration authorizing the applicant to act as a registered trainee real estate appraiser in this State. If, based upon the results of the investigation, the moral character of the applicant is in question, action on the application will be deferred pending a hearing before the Board.~~

"§ 93E-1-6.1. Trainee supervision.

All trainees shall perform all real estate appraisal-related activities under the immediate, active, and personal supervision of a State-licensed or State-certified real estate appraiser. All appraisal reports must be signed by the State-licensed or State-certified appraiser who supervised the trainee. By signing the appraisal report, the State-licensed or State-certified appraiser accepts shared responsibility, with the trainee, for the content of and conclusions in the report.

"§ 93E-1-7. Registration, license and certificate renewal; renewal fees; continuing education; reinstatement; replacement registrations, licenses and certificates; registration, licensure licensure, and certification history; history; address changes.

...

"§ 93E-1-8. Education program approval and fees.

...

"§ 93E-1-9. Nonresident registration, licensure licensure, and certification.

(a) An applicant from another state which offers real estate trainee registration or the equivalent, appraiser licensing or certification privileges to residents of North Carolina may become registered, licensed, or certified in North Carolina by conforming to all of the provisions of this Chapter and, in the discretion of the Board, such other terms and conditions as are required of North Carolina may become State licensed or certified by conforming to all of the provisions of this Chapter, and, in the discretion of the Board, such other terms and conditions as are required of residents applying for certification or licensure trainee registration, licensure, and certification in such other state.

(b) The Board, in its discretion, may undertake to register, ~~license~~ license, or certify on a reciprocal basis, persons registered, ~~licensed~~ licensed, or certified in other states who are deemed by the Board to possess qualifications equivalent to resident North Carolina trainees or State-licensed or State-certified real estate appraisers.

(c) The Board may by rule establish a procedure for granting temporary trainee registration, appraiser licensure or certification and may charge an application fee of ~~fifty dollars (\$50.00)~~ one hundred fifty dollars (\$150.00) for temporary trainee registration, appraiser ~~licensure~~ licensure, or certification.

(d) Every applicant for trainee registration, State ~~licensure~~ licensure, or certification under this Chapter who is not a resident of this State shall submit with his application an irrevocable consent that service of process in any action against the applicant arising out of the applicant's activities as a registered trainee or State-licensed or State-certified real estate appraiser may be made by delivery of the process on the Executive Director of the Board.

"§ 93E-1-10. *Rule-making authority.*

The Board may adopt rules not inconsistent with the provisions of this Chapter and the General Statutes of North Carolina which may be reasonably necessary to implement, administer, and enforce the provisions of this Chapter, including, but not limited to, the authority to:

- (1) Prescribe forms and procedures for submitting information to the Board;
- (2) Prescribe standards of practice for persons registered as a trainee, licensed or certified under this Chapter; and
- (3) Prescribe standards for the operation of real estate appraiser education programs.

"§ 93E-1-11. *Register of applicants; roster of trainees, State-licensed and State-certified appraisers; financial report to Secretary of State; administrative expenses.*

(a) The Executive Director of the Board shall keep a register of all applicants for State trainee registration or for State licensure or certification as real estate appraisers, showing for each the date of application, name, business or residence address, and whether the registration, license or certificate was granted or refused. The register shall be prima facie evidence of all matters received therein.

(b) The Executive Director of the Board shall also keep a current roster showing the names and places of business of all registered trainees and State-licensed and State-certified real estate appraisers, which roster shall be kept on file in the office of the Board and be open to public inspection.

(c) On or before the first day of November of each year, the Board shall file with the Secretary of State a copy of the roster of

registered trainees and real estate appraisers licensed or certified by the Board and a report containing a complete statement of income received by the Board in connection with the trainee registration and the licensure and certification of real estate trainees and appraisers for the preceding fiscal year ending June 30th, attested by the affidavit of the Executive Director of the Board.

(d) In addition to those fees prescribed in this Chapter for making application for and renewing trainee registrations, ~~appraiser licenses~~ licenses, and certificates, the Board may collect from applicants and holders of the licenses and certificates and remit to the appropriate agency or instrumentality of the federal government any additional fees as may be required to render North Carolina State-licensed or State-certified appraisers eligible to perform appraisals in connection with federally related transactions as well as an additional fee of twenty dollars (\$20.00) to cover the administrative costs associated therewith.

"§ 93E-1-12. *Disciplinary action by Board.*

(a) The Board may take disciplinary action against registered trainees and State-licensed or State-certified real estate appraisers. Upon its own motion or the complaint of any person, the Board may investigate the actions of any person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter, any person who performs appraisals without an appropriate registration, license, or certificate, or any person who holds himself or herself out to be registered as a trainee or licensed or certified as a real estate appraiser when the person holds no registration, license, or certificate. If the Board finds probable cause to believe that a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter has violated any of the provisions of this Chapter, the Board may hold a hearing on the allegations of misconduct.

The Board may suspend or revoke the registration, license, or certificate granted to any person under the provisions of this Chapter or reprimand any registered trainee, licensee, or certificate holder if, following a ~~hearing~~, hearing or by consent, the Board finds the registered trainee, licensee, or certificate holder to have:

- (1) Procured registration, licensure, or certification pursuant to this Chapter by making a false or fraudulent representation;
- (2) Made any willful or negligent misrepresentation or any willful or negligent omission of material fact;
- (3) Accepted an appraisal assignment when the employment is contingent upon the appraiser reporting a predetermined result, analysis, or opinion, or when the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion,

- or valuation reached or upon consequences resulting from the appraisal assignment;
- (4) Acted or held himself or herself out as a registered trainee or a State-licensed or State-certified real estate appraiser when not so registered, licensed, or certified;
 - (5) Failed as a State-licensed or State-certified real estate appraiser to actively and personally supervise any person not licensed or certified under this Chapter who assists the State-licensed or State-certified real estate appraiser in performing real estate appraisals;
 - (6) Failed to make available to the Board for its inspection without prior notice, originals or true copies of all written contracts engaging the person's services to appraise real property, and all reports and supporting data assembled and formulated by the appraiser in preparing the reports;
 - (7) Paid a fee or valuable consideration to any person for acts or services performed in violation of this Chapter;
 - (8) Acted as a real estate appraiser in an unworthy or incompetent manner as to endanger the interest of the public;
 - (9) Violated any of the standards of practice for real estate appraisers or any other rule promulgated by the Board;
 - (10) Performed any other act which constitutes improper, fraudulent, or other dishonest conduct; or
 - (11) Violated any of the provisions of this Chapter.

The Executive Director of the Board shall transmit a certified copy of all final orders of the Board suspending or revoking registrations, licenses licenses, or certificates issued under this Chapter to the clerk of superior court of the county in which the licensee or certificate holder maintains the person's principal place of business. The clerk shall enter these orders upon the judgment docket of the county.

(b) Following a hearing, or by consent, the Appraisal Board may also suspend or revoke any registration, license, or certificate issued under the provisions of this Chapter or reprimand any registered trainee, licensee, or certificate holder when:

- (1) The registered trainee, licensee, or certificate holder has been convicted of or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, to an offense which, which involves moral turpitude, in which an essential element is dishonesty, fraud, or deceit, or which, in the discretion of the Board, would reasonably affect the performance of the registered

- trainee, licensee, or certificate holder in the real estate appraisal business;
- (2) A final civil judgment has been entered against the registered trainee, licensee, or certificate holder on grounds of fraud, misrepresentation, or deceit in the making of any appraisal of real estate; ~~or~~
 - (3) The ~~registered~~ trainee, licensee, or certificate holder has violated any of the provisions of G.S. 93E-1-13(a) when appraising his own ~~property~~; property;
 - (4) The trainee, licensee, or certificate holder has had a real estate trainee registration or its equivalent, real estate appraiser license, or real estate appraiser certification suspended, revoked, or denied by a real estate licensing board in another state;
 - (5) The trainee, licensee, or certificate holder has had any disciplinary action taken against any other professional license in North Carolina or any other state;
 - (6) The trainee, licensee, or certificate holder has been adjudged mentally incompetent by a court; or
 - (7) The trainee, licensee, or certificate holder performs any of the duties of a real estate appraiser, including, but not limited to, site inspection and public records checks, while impaired by alcohol or drugs.

(b1) If any of the actions taken in subdivision (1), (2), or (4) through (6) of subsection (b) of this section are taken against a trainee, licensee, or certificate holder, the trainee, licensee, or certificate holder must report such actions within 60 days of the final judgment or final order in the case.

(c) When a person registered as a trainee or licensed or certified as a real estate appraiser under this Chapter is accused of any act, omission, or misconduct which would subject the person to disciplinary action, the registered trainee, licensee, or certificate holder, with the consent and approval of the Board, may surrender his or her registration, license, or certificate and all the rights and privileges pertaining to it for a period of time established by the Board. A person who surrenders his or her registration, license, or certificate shall not thereafter be eligible for or submit any application for registration, licensure, or certification as a real estate appraiser during the period that the registration, license, or certificate is surrendered.

(d) The Board shall have the power to issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, inquiry, or other proceeding conducted by it. Upon the production of any papers, records, or documents, the Board shall have the power to authorize

true copies thereof to be substituted in the permanent record of the matter in which the books, records, or documents shall have been introduced in evidence.

"§ 93E-1-12.1. Investigations and complaints.

(a) The Board may dismiss a complaint, accept a consent order, or hold a hearing, or may accept a voluntary surrender of a registration, license, or certificate or of approval as a course sponsor.

(b) Records, papers, and other documents containing information received, collected, or compiled by the Board, its members, or its employees, as a result of a complaint or investigation, shall not be considered public records within the meaning of Chapter 132 of the General Statutes. Any statement of charges contained within a notice of a hearing to be held by the Board is a public record, even though it may contain information collected and compiled as a result of a complaint or investigation against a trainee, licensee, or certificate holder or an applicant. Any record, paper, or other document admitted into evidence in a hearing held by the Board, and any final decisions and orders by the Board, including consent orders, shall be public records within the meaning of Chapter 132 of the General Statutes.

(c) The Board may inspect records maintained pursuant to this Chapter periodically, without prior notice, and may also inspect these records whenever the Board determines that they are pertinent to an investigation of any specific complaint against a person registered, licensed, or certified by the Board.

"§ 93E-1-13. Penalty for violation of this Chapter.

(a) Any person who acts as, or holds himself or herself out to be, a registered trainee or a State-licensed or State-certified real estate appraiser without first obtaining a registration, license, or certificate as provided in this Chapter, or who willfully performs the acts specified in ~~G.S. 93E-1-12(a)(1) through (10)~~, G.S. 93E-1-12(a) shall be guilty of a Class 1 misdemeanor.

(b) The Board may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or the rules promulgated by the Board. The superior court shall have the power to grant these injunctions whether or not criminal prosecution has been or may be instituted as a result of the violations, and whether or not the person is the holder of a registration, license, or certificate issued by the Board under this Chapter."

SECTION 2. G.S. 53-238 is amended by adding the following new subdivisions to read:

"(7) Influencing or attempting to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. Nothing in

this subdivision shall be construed to prohibit a mortgage broker or mortgage banker from asking the appraiser to:

- a. Consider additional appropriate property information;
 - b. Provide further detail, substantiation, or explanation for the appraiser's value conclusion; or
 - c. Correct errors in the appraisal report.
- (8) Failing to promptly pay when due according to the normal and customary business practices between the lender and appraiser reasonable fees to a real estate appraiser for appraisal services that are:
- a. Requested from the appraiser in writing by the mortgage broker or mortgage banker or an employee of the mortgage broker or mortgage banker; and
 - b. Performed by the appraiser in connection with the origination or closing of a mortgage loan for a customer or the mortgage broker or mortgage banker."

SECTION 3. G.S. 53-243.11, as enacted by either House Bill 1106 or Senate Bill 904, 2001 General Assembly, is amended by adding a new subdivision to read:

- "(11) To influence or attempt to influence through coercion, extortion, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan. Nothing in this subdivision shall be construed to prohibit a mortgage broker or mortgage banker from asking the appraiser to do one or more of the following:
- a. Consider additional appropriate property information.
 - b. Provide further detail, substantiation, or explanation for the appraiser's value conclusion.
 - c. Correct errors in the appraisal report."

SECTION 4. Section 3 of this act becomes effective July 1, 2002, if House Bill 1106 or Senate Bill 904 of the 2001 General Assembly becomes law. The remainder of this act becomes effective October 1, 2001, except that the amendments made to G.S. 93E-1-5 by Section 1 of this act are effective with respect to appointments for terms beginning July 1, 2001, and after.

In the General Assembly read three times and ratified this the 22nd day of August, 2001.

Became law upon approval of the Governor at 7:44 p.m. on the 30th day of August, 2001.

H.B. 844 **SESSION LAW 2001-400**

AN ACT TO PROVIDE BALANCE IN THE RESIDENCY OF
DISTRICT COURT JUDGES IN DISTRICT COURT DISTRICT
ELEVEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-133 is amended by adding a new subsection to read:

"(b1) The qualified voters of District Court District 11 shall elect all eight judges established for the District in subsection (a) of this section, but only persons who reside in Johnston County may be candidates for five of the judgeships, only persons who reside in Harnett County may be candidates for two of the judgeships, and only persons who reside in Lee County may be candidates for the remaining judgeship."

SECTION 2. The district court judgeships established for residents of Harnett County by Section 1 of this act shall be filled by the district court judges serving District 11 who reside in Harnett County on October 1, 2002. Those judges' successors shall be elected for four-year terms in the 2004 election.

SECTION 3. The district court judgeship established for residents of Lee County by Section 1 of this act shall be filled by the district court judge serving District 11 who resides in Lee County on October 1, 2002. That judge's successor shall be elected for a four-year term in the 2004 election.

SECTION 4. The district court judgeships established for residents of Johnston County by Section 1 of this act shall be filled by the district court judges who reside in Johnston County on October 1, 2002. The terms of office of two of the judges residing in Johnston County expire on the first Monday in December 2002. Those judges' successors shall be elected for four-year terms in the 2002 election. The successors to the remaining judges residing in Johnston County shall be elected for four-year terms in the 2004 election.

SECTION 5. This act becomes effective July 1, 2002, or the date upon which this act is approved under section 5 of the Voting Rights Act of 1965, whichever is later.

In the General Assembly read three times and ratified this the 22nd day of August, 2001.

Became law on the 3rd day of September, 2001, after presentation to the Governor.

H.B. 118

SESSION LAW 2001-401

AN ACT TO REMOVE CERTAIN DESCRIBED PROPERTIES
FROM THE CORPORATE LIMITS OF THE TOWN OF
BELVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Belville are reduced by removing the following described tracts:

TRACT 1A

BEING all of that certain real property located in Town Creek Township, Brunswick County, North Carolina, and being more particularly described as follows:

BEGINNING at a point in the eastern right-of-way line of Glendale Drive (50 foot public right-of-way), said point being the southwest corner of Lot 83, Glendale subdivision, Phase I, as the same is shown on Map Book 19, Page 275, of the Brunswick County Registry; thence along and with the southern line of Glendale Subdivision, Phase I, South 68 degrees 13 minutes 47 seconds East a distance of 74.35 feet to a point; thence along and with the southern line of Glendale Subdivision, Phase I, South 58 degrees 44 minutes 25 seconds East a distance of 261.47 feet to a point; thence along and with the southern line of Glendale Subdivision, Phase I, as the same is shown on Map Book 19 Page 276 of the Brunswick County Registry; South 64 degrees 40 minutes 30 seconds East a distance of 182.03 feet to a point; thence along and with the southern line of Glendale Subdivision, Phase I (Map Book 19, Page 276) South 77 degrees 20 minutes 12 seconds East a distance of 200.61 feet to a point; thence along and with the southern line of Glendale Subdivision, Phase I (Map Book 19, Page 276), North 86 degrees 33 minutes 04 seconds East a distance of 206.00 feet to a point; South 83 degrees 46 minutes 05 seconds East a distance of 160.01 feet to a point; thence South 27 degrees 43 minutes 00 seconds West a distance of 643.94 feet to a point; thence North 71 degrees 12 minutes 53 seconds West a distance of 559.57 feet to a point; thence North 59 degrees 47 minutes 44 seconds West a distance of 450.00 feet to an existing iron pipe; thence along and with the eastern line of the Brunswick County Board of Education Tract North 08 degrees 00 minutes 06 second East a distance of 398.19 feet to an existing iron pipe; thence along and with the eastern line of the Brunswick County Board of Education Tract North 04 degrees 02 minutes 38 seconds West a distance of 92.85 feet to a point; thence along and with the southern line of Lot 90, Glendale Subdivision, Phase I (Map Book 19, Page 275) South 86 degrees 05

minutes 51 seconds East a distance of 100.00 feet to a point in the western right-of-way line of Glendale Drive (50 foot public right-of-way); thence along and with the western right-of-way line of Glendale Drive South 04 degrees 02 minutes 38 seconds East a distance of 46.79 feet to a point; thence North 85 degrees 57 minutes 22 seconds East a distance of 50.00 feet to a point in the eastern right-of-way line of Glendale Drive; thence along and with the eastern right-of-way line of Glendale Drive North 04 degrees 02 minutes 38 seconds West a distance of 16.61 feet to the Point of BEGINNING; containing 13.30 acres, more or less, and being all of Tract A, as shown on that survey entitled "Landmark Developers, Inc. and Landmark Land & Timber, Inc. Tracts A & B, a Portion of Lanco Properties, Inc." dated January, 1999, by Michael Underwood and Associates, P.A.

TRACT 1B

BEING all that certain real property located in Town Creek Township, Brunswick County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe located in the southern right-of-way line of US Hwy 74/76 (300 foot public right-of-way), said existing iron pipe being the easternmost corner of Lot 27, Glendale Subdivision, Phase I, as the same as shown on Map Book 19, Page 276 of the Brunswick County Registry, thence along and with the southern right-of-way line of US Hwy 74/76 South 45 degrees 00 minutes 00 seconds East a distance of 1936.39 feet to an existing right-of-way monument; thence along and with the now or formerly Wilmington West Land Company Tract South 23 degrees 52 minutes 40 seconds West a distance of 951.30 feet to an old DLG stone monument; thence along and with the now or formerly Wilmington West Land Company Tract North 79 degrees 09 minutes 32 seconds West a distance of 1767.73 feet to an old DLG stone monument; thence along and with the now or formerly Wilmington West Land Company Tract North 58 degrees 09 minutes 48 seconds West a distance of 897.55 feet to an old DLG stone monument; thence along and with the eastern line of the Brunswick County Board of Education Tract North 08 degrees 00 minutes 06 seconds East a distance of 972.81 feet to an existing iron pipe; thence South 59 degrees 47 minutes 44 seconds East a distance of 450.00 feet to an iron pipe; thence South 71 degrees 12 minutes 53 seconds East a distance of 559.57 feet to an iron pipe; thence North 27 degrees 43 minutes 00 seconds East a distance of 990.00 feet to the Point of BEGINNING; containing 83.92 acres, more or less, and being all of Tract B, as shown on that survey entitled "Landmark Developers, Inc.

and Landmark Land & Timber, Inc. Tracts A & B, a Portion of Lanco Properties, Inc." dated January, 1999, by Michael Underwood and Associates, P.A.

TRACT 1C

437.99 Acre Tract

BEGINNING at a point, said point being the Northwestern corner of the K.E. Austin tract as recorded in Deed Book 799 at Page 157 of the Brunswick County Registry; said point being located the following bearing and distances from the intersection of the centerline of Poole Road (80 foot right-of-way) and the centerline of Backhoe Road (80 foot right-of-way) as shown on a map recorded in Map Cabinet 20 at Page 159 dated July 1998 of said registry: North 00 degrees 13 minutes 56 seconds West 40.00 feet, North 89 degrees 46 minutes 04 seconds East 40.00 feet and North 00 degrees 13 minutes 56 seconds West 401.10 feet; running thence from said beginning point North 00 degrees 13 minutes 56 seconds West 315.00 feet to appoint; thence South 89 degrees 46 minutes 04 seconds West 1280.87 feet to a point in the Eastern line of the Landmark Development tract as recorded in Deed Book 1102 at Page 1040 of said registry; running thence with said Eastern line North 05 degrees 56 minutes 47 seconds West 4469.90 feet to an existing concrete monument marking the Southeastern corner of the Brunswick County Board of Education tract as described in Deed Book 348 at Page 404 of said registry and the Southwestern corner of Lanco Properties, Inc., tract; running thence with the Southern line of the Lanco tract South 61 degrees 47 minutes 01 seconds East 897.46 feet to an existing concrete monument; thence continuing with said Lanco Properties, Inc., line South 82 degrees 46 minutes 13 seconds East 1767.62 feet to an existing concrete monument, same being the Southeastern corner of the Lanco Properties, Inc., tract; thence continuing with the Eastern line of Lanco Properties, Inc., tract North 20 degrees 15 minutes 58 seconds East 951.35 feet to a point in the Southwestern line of U.S. Hwy. 74, 76; running thence with said Southwestern line South 48 degrees 36 minutes 34 seconds East 2145.18 feet to a point; thence South 49 degrees 06 minutes 19 seconds East 200.30 feet to a point; running thence with a curve to the North a chord bearings and distances of south 53 degrees 36 minutes 52 seconds East 498.79 feet and South 56 degrees 03 minutes 18 seconds East 328.98 feet to a point; thence South 59 degrees 05 minutes 38 seconds East 202.96 feet to a point; thence South 56 degrees 24 minutes 58 seconds East 179.92 feet to a point; running thence with a curve to the South a chord bearing and distance South 22 degrees 40 minutes 46 seconds East 414.61 feet (R=373 feet) to a point in the Western line of U.S. Hwy. 17; running thence with said Western line South 11 degrees 07

minutes 39 seconds West 179.20 feet to a point; thence South 14 degrees 05 minutes 30 seconds West 547.29 feet to a point; thence South 14 degrees 45 minutes 39 seconds West 671.13 feet to a point; thence leaving the Western line of U.S. Hwy. 17 and running South 89 degrees 43 minutes 34 seconds West 2178.70 feet to a point; thence South 00 degrees 13 minutes 56 seconds East 1013.67 feet to a point, same being the Northeastern corner of the K.E. Austin tract; running thence with the Northern line of the K.E. Austin tract South 89 degrees 46 minutes 04 seconds West 1534.45 feet to the point of beginning. Containing 437.99 acres more or less.

TRACT 1D

9.82 Acre Tract & 0.07 Acre Utility Site

BEGINNING at a point in the Northern line of Poole Road (80 foot right-of-way), said point being located North 00 degrees 13 minutes 56 seconds West 40.00 feet from the intersection of the centerline of Poole Road and the centerline of Backhoe Road (80 foot right-of-way) as shown on a map recorded in Map Cabinet 20 at Page 159 dated July 1998 of the Brunswick County Registry; running thence from said beginning point with the Northern line of Poole Road South 89 degrees 46 minutes 04 seconds West 40.00 feet to a point, the same being the Southeastern corner of the James F. Rogers tract of land as described in Deed Book 1073 at Page 728 in said registry; running thence with the James F. Rogers Eastern line North 00 degrees 13 minutes 56 seconds West 401.10 feet to a point, same being the Northeastern corner of the James F. Rogers tract; running thence with the James F. Rogers Northern line South 89 degrees 46 minutes 04 seconds West 1169.34 feet to a corner of the Landmark Development tract of land as described in Deed Book 1102 at Page 1040 in said registry; running thence with the Landmark Development's Eastern line North 05 degrees 56 minutes 47 seconds West 316.57 feet to a point; thence leaving said Landmark Development's Eastern line and running thence North 89 degrees 46 minutes 04 seconds East 1280.87 feet to a point; running thence South 00 degrees 13 minutes 56 seconds East 315.00 feet to a point, same being the Northwestern corner of the K.E. Austin tract as recorded in Deed Book 799 at Page 157 in said registry; running thence with the Western line of said K.E. Austin tract South 00 degrees 13 minutes 56 seconds East 401.10 feet to a point in the Northern line of Poole Road, same being the Southwestern corner of said K.E. Austin tract; running thence with said Northern line South 89 degrees 46 minutes 04 seconds West 40.00 feet to the point of beginning. Containing 9.82 acres more or less.

Excepting, however, from the above described tract a utility site of the Town of Belville being described as follows:

BEGINNING at the Northeastern corner of the James F. Rogers tract, said point being located the following bearing and distances from the intersection of the centerline of Poole Road and the centerline of Backhoe Road (80 foot right-of-way) as shown on a map recorded in Map Cabinet 20 at Page 159 dated July 1998 of the Brunswick County Registry. North 00 degrees 13 minutes 56 seconds West 40.00 feet, South 89 degrees 46 minutes 04 seconds West 40.00 feet and North 00 degrees 13 minutes 56 seconds West 401.10 feet; running thence from said beginning point with the Northern line of the James F. Rogers tract South 89 degrees 46 minutes 04 seconds West 40.00 feet to a point; thence leaving the Northern line of the James F. Rogers line and running North 00 degrees 13 minutes 56 seconds West 65.00 feet to a point; thence South 78 degrees 55 minutes 20 seconds East 50.99 feet to a point; thence South 00 degrees 13 minutes 56 seconds East 55.00 feet to a point; thence South 89 degrees 46 minutes 04 seconds West 10.00 feet to the point of beginning. Containing 0.07 acres more or less. Together with an access and utility easement along Wisteria Way as shown on a map of Phase 1, The Fairways at Wilmington West as recorded in Map Cabinet 20 at Page 159 of the Brunswick County Registry.

TRACT 1E

50.00 Acre Tract

BEGINNING at a point, said point being the Northeastern corner of the K.E. Austin tract as recorded in Deed Book 799 at Page 157 of the office of the Brunswick County Registry; said point being located the following bearing and distances from the intersection of the centerline of Poole Road and the centerline of Backhoe Road (80 foot right-of-way) as shown on a map recorded in Map Cabinet 20 at Page 159 dated July 1998 of said registry: North 00 degrees 13 minutes 56 seconds West 40.00 feet, North 89 degrees 46 minutes 04 seconds East 40.00 feet, North 00 degrees 13 minutes 56 seconds West 401.10 feet and North 89 degrees 46 minutes 04 seconds East 1534.45 feet; running thence from said beginning point North 00 degrees 13 minutes 56 seconds West 1013.67 feet to a point; thence North 89 degrees 43 minutes 34 seconds East 2178.70 feet to a point in the Western line of U.S. Hwy. 17; running thence with said Western line South 14 degrees 45 minutes 39 seconds West 253.97 feet to a point; thence South 16 degrees 04 minutes 15 seconds West 193.65 feet to a point; thence South 23 degrees 16 minutes 14 seconds West 555.81 feet to a point, same point being the Northeastern corner of the Jack G. Stocks tract as recorded in Deed Book 1030 at Page 941 of said registry; thence leaving the Western line of U.S. Hwy. 17 and running

with the Northern line of the Jack G. Stocks tract South 67 degrees 04 minutes 34 seconds West 190.90 feet to a broken stone monument marked "DLG"; thence continuing with the Northern line of the Jack G. Stocks tract South 89 degrees 43 minutes 34 seconds West 332.96 feet to the Northwestern corner of the Jack G. Stocks tract; running thence South 89 degrees 43 minutes 34 seconds West 892.35 feet to a point; thence South 89 degrees 46 minutes 04 seconds West 80.00 feet to a point; thence South 00 degrees 13 minutes 56 seconds East 219.34 feet to a point; running thence with a curve to the East a chord bearing and distance of South 07 degrees 11 minutes 04 seconds East 158.95 feet to a point in the Northern line of Poole Road; running thence with said Northern line South 72 degrees 22 minutes 19 seconds West 35.22 feet to a point; thence a chord bearing and distance South 80 degrees 18 minutes 39 seconds West 81.84 feet to a point; thence South 89 degrees 46 minutes 04 seconds West 260.50 to a point, same being the Southeastern corner of the K.E. Austin tract; thence leaving said Northern line and running with the Eastern line of the K.E. Austin tract North 00 degrees 13 minutes 56 seconds West 401.10 feet to the point of beginning. Containing 50.00 acres more or less.

TRACT 1F

7.456 Acre Tract

BEGINNING at an old iron pipe in the Northwestern line of U.S. Highway No. 17 (340 foot right-of-way), the Easternmost corner of the 5.03 acre tract conveyed to Worsley Companies, Inc., by Deed recorded in Book 692 at Page 648 of the Brunswick County Registry, said pipe being North 57 degrees 10 minutes 19 seconds East 100.44 feet from a concrete right-of-way marker in said line of said highway that is North 58 degrees 56 minutes 55 seconds East 199.59 feet from another concrete right-of-way marker in said line of said highway that is North 59 degrees 59 minutes 47 seconds East along said line of said highway 149.35 feet from an old iron pipe at its intersection with the Northeastern line of Lincoln Road (80 foot right-of-way); running thence from said Beginning point North 30 degrees 11 minutes 43 seconds West along the Northeastern line of said Worsley tract 488.73 feet to an old iron pipe in the centerline of the Brunswick Electric Membership Corporation's 80 foot power line easement, the Northernmost corner of said Worsley tract; thence North 59 degrees 47 minutes 59 seconds East along the centerline of said easement 482.74 feet to an iron pipe; thence North 59 degrees 47 minutes 59 seconds East along the centerline of said easement 35.67 feet to a point in the Northern line of the tract conveyed to Lincoln Development Company, Inc., by Deed recorded in Book 296 at Page 628 of said registry, said point being in the center of a large ditch;

thence South 85 degrees 25 minutes East along said Northern line and with the center of said ditch 332.95 feet to an old granite stone marked "DLG"; thence North 71 degrees 56 minutes East along a Southern line of the tract conveyed to Wilmington West Land Company by deed recorded in Book 751 at Page 1003 of said registry 190.90 feet to an old iron pipe in the Northwestern line of said highway; thence Southwestwardly along said line of said highway as it curves to the West (radius of 2291.83 feet) to the point of Beginning, said Beginning point being South 44 degrees 59 minutes 37 seconds West 1012.14 feet from the preceding point; the same containing 7.456 acres and being a portion of the tract conveyed to Milton T. Schaeffer and wife by Deed recorded in Book 766 at Page 629 of the Brunswick County Registry.

Together with an easement forty feet in width for ingress and egress, the Southeastern lines of same being the Northwestern lines of U.S. Highway No. 17, said easement extending from the Northeastern line of Lincoln Road to the Southwestern line of the above described tract, said easement being more fully described in the Easement Deed of Milton T. Schaeffer, Jr. and wife recorded in Book 814 at Page 947 of the Brunswick County Registry.

TRACT 1G

5.40 Acre Tract

BEGINNING at an existing iron pipe located in the northern right-of-way of U.S. Highway No. 17, said iron pipe being at the point where the northern right-of-way of said U.S. Highway No. 17 is intersected by the western right-of-way of Poole Road, said existing iron pipe being located 10 feet measured in a westerly direction from a right-of-way monument; from said place and point of beginning thus located runs thence South 59 degrees 50 minutes West 474.50 feet with the northern right-of-way of U.S. Highway No. 17 to an existing iron pipe; runs thence North 30 degrees 10 minutes West 495.75 feet to a P. K. nail set in a concrete bag retaining wall; runs thence North 59 degrees 50 minutes East 474.50 feet to an iron pipe set, said iron pipe being located in the western right-of-way line of said Poole Road; runs thence with the western right-of-way line of said Poole Road South 30 degrees 10 minutes East 495.75 feet to the place and point of beginning, containing 5.40 acres according to a map entitled "Map of Survey For Bee Oil Company" by Robert H. Goslee and Associates, dated October 7, 1994. Being the same tract or parcel of land conveyed by deed recorded in Book 651 at Page 262 of the Brunswick County Registry.

TRACT 1H

5.03 Acre Tract

BEGINNING at a new iron pipe at the intersection of the easterly line of Lincoln Road (80 foot right-of-way) and the northerly line of U.S. Highway No. 17 (340 foot right-of-way). Said beginning point being located North 59 degrees 56 minutes 23 seconds East 9.95 feet from a concrete right-of-way monument on the easterly side of said Lincoln Road. Said right-of-way monument being located North 59 degrees 45 minutes 28 seconds East 60.06 feet from another concrete right-of-way monument on the westerly side of said Lincoln Road. Said Lincoln Road being located 1.75 miles, plus or minus, from the intersection of old U.S. Highway No. 17, also known as S.R. 1551, and N.C. Highway No. 133 at Belville, as measured along old U.S. Highway No. 17. Running thence from said beginning point; North 30 degrees 12 minutes 16 seconds West 495.78 feet along the easterly line of said Lincoln Road to a new iron pipe on the centerline of Brunswick Electric Membership Corporation's 80 foot easement; thence North 59 degrees 47 minutes 03 seconds East 443.00 feet along said centerline of Brunswick Electric Membership Corporation's easement to a new iron pipe; thence South 30 degrees 12 minutes 57 seconds East 488.76 feet to a new iron pipe in the northerly line of said U.S. Highway No. 17. Last said iron pipe being in a curve; thence along the curved right-of-way line of U.S. Highway No. 17 to a concrete right-of-way monument at the end of said curve that is located South 56 degrees 36 minutes 03 seconds West a chord distance of 100.39 feet from the preceding point; thence South 59 degrees 14 minutes 15 seconds West 193.68 feet along the northerly line of said U.S. Highway No. 17 to a concrete right-of-way monument; thence South 59 degrees 56 minutes 23 seconds West 149.19 feet to the point of BEGINNING according to a survey by Sherwin D. Cribb, R.L.S., for Worsley Companies, Inc., dated December 15, 1994.

The above described tract contains 5.03 acres and is a portion of that tract conveyed to Lincoln Development Company, Inc., by deeds recorded in Book 296, Page 628, and Book 297, Page 17, of the Brunswick County Registry and also being the same property described in that deed to Worsley Companies, Inc., recorded in Book 692, Page 648, of the Brunswick County Registry.

TRACT II

6.017 Acre Tract

BEGINNING at an old iron pipe where the northeastern line of Lincoln Road (80 foot right-of-way) is intersected by the centerline of the Brunswick Electric Membership Corporation's 80 foot power line

easement, said pipe being North 30 degrees 10 minutes West along said line of said road 495.70 feet from an old iron pipe at its intersection with the northwestern line of U.S. Highway No. 17 (340 foot right-of-way), said Beginning point being the westernmost corner of the tract conveyed to Worsley Properties by Deed recorded in Book 692 at Page 648 of the Brunswick County Registry; running thence from said beginning point northwardly along a curved line having a radius of 576.79 feet to an iron pipe that is North 12 degrees 46 minutes 15 seconds West 344.89 feet from the preceding point; thence North 4 degrees 37 minutes 30 seconds East 204.29 feet to an iron pipe; thence North 4 degrees 37 minutes 30 seconds East 15.00 feet to a point in the Northern line of the tract conveyed to Lincoln Development Company, Inc., by Deed recorded in Book 296 at Page 628 of said Registry, said point being in the center of a large ditch; thence South 85 degrees 25 minutes East along said Northern line and with the center of said ditch 892.36 feet to its intersection with the centerline of said power line easement; thence South 59 degrees 47 minutes 59 seconds West along said centerline 35.67 feet to an iron pipe; thence South 59 degrees 47 minutes 59 seconds West along said centerline 482.74 feet to an old iron pipe, the northernmost corner of said Worsley tract; thence South 59 degrees 47 minutes 59 seconds West along said centerline 443.03 feet to the point of Beginning, the same containing 6.017 acres and being a portion of the tract conveyed to Milton T. Schaeffer by Deed recorded in Book 766 at Page 629 of the Brunswick County Registry.

TOGETHER WITH an access easement described as follows:

BEGINNING at the beginning point of the above described tract; running thence North 30 degrees 10 minutes West along the Northeastern line of Lincoln Road 181.71 feet to an iron pipe at a bend in said road; thence North 85 degrees 22½ minutes West along the northern line of Lincoln Road 175.10 feet to an iron pipe; thence Eastwardly along a curved line having a radius of 270.00 feet to an iron pipe that is North 85 degrees 25 minutes 37½ seconds East 81.67 feet from the preceding point; thence North 77 degrees 13 minutes 45 seconds East 35.22 feet to an iron pipe; thence Northwardly along a curved line having a radius of 656.79 feet to an iron pipe that is North 2 degrees 19 minutes 38 seconds East 159.00 feet from the preceding point; thence North 4 degrees 37½ minutes East 219.29 feet to a point in the Northern line of said Lincoln Development Company, Inc. tract; thence South 85 degrees 22½ minutes East along said line 80.00 feet to the Northwestern corner of the above described tract; thence South 4 degrees 37½ minutes West along the Western line of said tract 219.29 feet to an iron pipe; thence Southwardly along the curved

western line of said tract to the point of Beginning, said Beginning point being South 12 degrees 46 minutes 15 seconds East 344.89 feet from the beginning point.

TRACT 2

A certain tract or parcels of land lying and being in Town Creek Township, Brunswick County, North Carolina and being a part of that area annexed by the Town of Belville as shown on map cabinet 18 page 540, map cabinet 19 page 439, map cabinet 19 page 201, and map book 24 page 149 of the Brunswick County Registry and being more particularly described as follows:

Beginning at a point at the intersection of the eastern right-of-way of U.S. Hwy. 17 (Ocean Highway 340' public right-of-way and the northern right-of-way of Ploof Road (right-of-way varies), said beginning point being the westernmost corner of that tract as shown on map cabinet 24 page 149:

Proceed thence from said beginning point and with the eastern right-of-way of U.S. Hwy. 17 N 59°51'40" E 190.35' to a point; thence leaving said right-of-way S 79°20'20" E a distance of 441.50' to a point; thence S 60°02'10" W a distance of 534.52' to a point; thence S 30°05'04" E a distance of 178.10' to a point, thence with a curve turning to the left with an arc length of 222.45', with a radius of 250.31', with a chord bearing of S 55°34'07" E, with a chord length of 215.20', thence S 81°01'41" E a distance of 58.83' to a point; thence with a curve turning to the left with an arc length of 216.78', with a radius of 317.79', with a chord bearing of N 79°25'50" E, with a chord length of 212.60', thence N 59°51'57" E a distance of 156.99' to a point; thence S 30°05'30" E a distance of 516.38' to a point; thence S 08°59'30" W a distance of 272.35' to a point; thence S 80°59'08" E a distance of 265.00' to a point; thence N 09°00'14" E a distance of 406.12' to a point; thence N 59°51'20" E a distance of 225.68' to a point; thence S 29°49'41" E a distance of 54.35' to a point; thence S 81°00'29" E a distance of 2275.76' to a point; thence S 06°55'00" E a distance of 94.51' to a point; thence S 06°46'00" E a distance of 111.43' to a point; thence S 28°44'00" E a distance of 215.15' to a point; thence S 36°34'00" E a distance of 196.35' to a point; thence S 80°54'01" E a distance of 653.92' to a point in the run of a small branch; thence with said branch the following courses and distances S 22°47'29" W a distance of 120.74' to a point; thence S 03°32'34" E a distance of 58.01' to a point; thence S 21°17'00" W a distance of 58.97' to a point; thence S 25°34'28" E a distance of 58.48' to a point; thence S 05°56'31" E a distance of 95.91' to a point; thence S 07°53'02" E a distance of 85.11' to a point; thence S 23°41'10" W a

distance of 53.18' to a point; thence S 39°05'20" W a distance of 46.30' to a point; thence S 44°38'42" W a distance of 38.80' to a point; thence S 29°27'10" W a distance of 52.75' to a point; thence S 09°25'26" W a distance of 102.73' to a point; thence S 07°24'35" E a distance of 74.90' to a point; thence S 27°22'39" E a distance of 61.59' to a point; thence S 75°09'08" E a distance of 42.53' to a point; thence N 84°51'32" E a distance of 139.40' to a point; thence N 51°27'47" E a distance of 52.54' to a point; thence N 76°22'19" E a distance of 41.81' to a point; thence S 63°53'47" E a distance of 47.28' to a point; thence S 36°00'13" E a distance of 35.84' to a point; thence S 03°09'43" W a distance of 94.17' to a point; thence S 43°03'38" E a distance of 226.41' to a point; thence S 14°05'22" E a distance of 51.93' to a point; thence S 45°01'16" E a distance of 99.14' to a point; thence S 01°14'32" W a distance of 62.42' to a point; thence S 48°16'33" E a distance of 55.21' to a point; thence S 67°25'00" E a distance of 72.68' to a point; thence S 12°56'37" E a distance of 64.59' to a point; thence S 52°07'57" E a distance of 115.27' to a point; thence S 20°51'20" E a distance of 58.15' to a point; thence S 07°18'11" E a distance of 58.84' to a point; thence S 14°30'33" W a distance of 77.77' to a point; thence S 02°04'08" E a distance of 67.93' to a point; thence S 36°18'53" E a distance of 92.67' to a point; thence S 13°03'34" E a distance of 185.04' to a point; thence S 44°40'41" E a distance of 79.94' to a point; thence S 59°41'34" E a distance of 113.07' to a point; thence S 11°16'02" W a distance of 90.56' to a point; thence S 32°45'38" E a distance of 48.03' to a point; thence S 70°11'55" E a distance of 78.57' to a point; thence S 54°06'26" E a distance of 48.64' to a point; thence S 26°57'56" E a distance of 182.07' to a point in the run of Jackey's Creek; thence with the run of Jackey's Creek the following courses and distances, S 70°27'28" W a distance of 151.66' to a point; thence S 57°36'29" W a distance of 159.71' to a point; thence N 79°17'39" W a distance of 3.38' to a point; thence N 86°54'52" W a distance of 25.18' to a point; thence N 55°05'08" W a distance of 40.39' to a point; thence N 46°52'56" W a distance of 53.32' to a point; thence N 80°49'33" W a distance of 49.97' to a point; thence S 58°31'03" W a distance of 65.03' to a point; thence S 46°24'02" W a distance of 81.40' to a point; thence N 85°20'53" W a distance of 56.99' to a point; thence N 60°37'53" W a distance of 160.69' to a point; thence N 45°16'51" W a distance of 79.03' to a point; thence N 33°30'10" W a distance of 151.30' to a point; thence N 72°01'15" W a distance of 41.14' to a point; thence S 87°16'57" W a distance of 251.42' to a point; thence S 62°59'32" W a distance of 55.02' to a point; thence S 59°07'51" W a distance of 119.15' to a point; thence S 73°41'11" W a distance of 136.71' to a point; thence S 36°22'17" W a distance of 89.80' to a point; thence S 68°31'07" W a distance of 59.42' to a point; thence N 75°22'49" W a

distance of 60.66' to a point; thence N 70°56'49" W a distance of 152.72' to a point; thence N 83°18'35" W a distance of 59.12' to a point; thence S 81°02'52" W a distance of 97.27' to a point; thence S 76°47'06" W a distance of 48.75' to a point; thence S 68°21'41" W a distance of 147.54' to a point; thence S 53°59'33" W a distance of 47.52' to a point; thence S 42°07'04" W a distance of 168.39' to a point; thence S 80°16'14" W a distance of 237.17' to a point; thence S 51°38'00" W a distance of 71.59' to a point; thence S 43°06'32" W a distance of 177.81' to a point; thence S 57°38'45" W a distance of 72.18' to a point; thence S 84°38'23" W a distance of 82.04' to a point; thence N 63°51'08" W a distance of 74.24' to a point; thence N 70°23'35" W a distance of 119.98' to a point; thence S 63°14'57" W a distance of 157.90' to a point; thence N 55°28'15" W a distance of 172.61' to a point; thence S 32°33'07" W a distance of 184.33' to a point; thence S 60°20'22" W a distance of 98.16' to a point; thence N 77°56'00" W a distance of 61.87' to a point; thence N 26°02'20" W a distance of 64.67' to a point; thence N 69°37'55" W a distance of 190.19' to a point; thence N 55°37'11" W a distance of 183.94' to a point; thence S 62°28'14" W a distance of 194.44' to a point; thence S 75°03'26" W a distance of 185.44' to a point; thence S 13°53'39" W a distance of 134.57' to a point; thence S 39°39'39" W a distance of 136.15' to a point; thence S 71°27'04" W a distance of 216.18' to a point; thence N 84°02'00" W a distance of 130.94' to a point; thence N 13°29'04" W a distance of 117.72' to a point; thence N 78°46'34" W a distance of 265.89' to a point; thence N 20°17'20" W a distance of 217.66' to a point; thence N 59°55'15" W a distance of 395.38' to a point; thence S 24°59'35" W a distance of 36.80' to a point; thence S 02°26'29" W a distance of 236.18' to a point; thence S 87°27'05" W a distance of 89.61' to a point; thence S 49°58'52" W a distance of 125.26' to a point; thence N 84°04'08" W a distance of 105.90' to a point; thence S 61°39'30" W a distance of 169.82' to a point; thence S 11°55'58" W a distance 125.31' to a point; thence S 50°34'55" W a distance of 131.22' to a point; thence S 09°52'33" W a distance of 137.05' to a point; thence S 69°28'00" W a distance of 99.41' to a point; thence N 76°05'55" W a distance of 330.63' to a point; thence N 30°39'28" W a distance of 209.98' to a point; thence N 60°30'10" W a distance of 83.34' to a point; thence N 19°19'46" W a distance of 265.51' to a point; thence N 31°45'11" W a distance of 124.91' to a point; thence N 86°03'50" W a distance of 63.45' to a point; thence N 37°59'03" W a distance of 105.41' to a point; thence N 09°01'35" W a distance of 98.19' to a point; thence N 29°22'59" W a distance of 144.55' to a point; thence N 55°41'45" W a distance of 161.81' to a point; thence N 40°28'46" W a distance of 138.50' to a point.

TRACT 3

196.63 Acre Tract

Beginning at the point of intersection of the Southern Right-of-Way line of Jackeys Creek Lane with the Western Right-of-Way line of River Road (N.C. Hwy. #133, 60 foot Right-of-Way); running thence, with the Western Right-of-Way line of River Road South 09 degrees 59 minutes 04 seconds East 50.21 feet, South 09 degrees 59 minutes 04 seconds East 1640.15 feet and South 08 degrees 45 minutes 54 seconds East 62.74 feet; running thence, South 80 degrees 41 minutes 05 seconds West 50.0 feet; thence, South 09 degrees 07 minutes 39 seconds East 50.0 feet; thence, North 80 degrees 44 minutes 29 seconds East 50.0 feet to a point in the Western Right-of-Way line of River Road; thence, continuing with the Western Right-of-Way line of River Road South 07 degrees 31 minutes 10 seconds East 86.38 feet, South 04 degrees 29 minutes 13 seconds East 99.19 feet, South 00 degrees 52 minutes 22 seconds East 98.93 feet, South 01 degrees 53 minutes 30 seconds West 99.18 feet, South 04 degrees 32 minutes 17 seconds West 99.22 feet, South 06 degrees 18 minutes 17 seconds West 99.47 feet, South 07 degrees 11 minutes 55 seconds West 335.03 feet; running thence, North 64 degrees 48 minutes 17 seconds West 439.05 feet, thence; South 27 degrees 44 minutes 22 seconds West 186.0 feet to a point in the run of Jackeys Creek; running thence, up and with the run of Jackeys Creek the following bearings and distances: North 62 degrees 15 minutes 38 seconds West 706.33 feet, North 27 degrees 58 minutes 11 seconds West 50.37 feet, North 29 degrees 52 minutes 41 seconds East 133.63 feet, North 09 degrees 37 minutes 49 seconds West 60.75 feet, North 14 degrees 28 minutes 36 seconds West 345.07 feet, North 76 degrees 03 minutes 22 seconds West 49.74 feet, South 65 degrees 43 minutes 30 seconds West 458.88 feet, North 43 degrees 39 minutes 00 seconds West 96.00 feet, North 00 degrees 48 minutes 00 seconds East 88.0 feet, North 55 degrees 55 minutes 00 seconds East 172.00 feet, North 74 degrees 41 minutes 00 seconds East 97.00 feet, North 65 degrees 47 minutes 00 seconds East 107.0 feet, North 40 degrees 45 minutes 00 seconds East 83.00 feet, North 07 degrees 22 minutes 00 seconds East 52.0 feet, North 58 degrees 58 minutes 00 seconds West 48.0 feet, South 81 degrees 31 minutes 00 seconds West 285.0 feet, North 60 degrees 35 minutes 00 seconds West 71.0 feet, North 22 degrees 59 minutes 00 seconds West 79.0 feet, North 41 degrees 23 minutes 00 seconds East 155.0 feet, North 21 degrees 50 minutes 00 seconds East 36.0 feet, North 48 degrees 11 minutes 00 seconds West 201.0 feet, South 71 degrees 38 minutes 00 seconds West 40.0 feet, South 25 degrees 23 minutes 00 seconds West 82.0 feet, South 61 degrees 31 minutes 00 seconds West 82.0 feet, North 51 degrees 47 minutes 58 seconds West 40.23 feet, North 04 degrees 03 minutes 00 seconds

West 115.0 feet, North 47 degrees 17 minutes 00 seconds West 127.0 feet, South 78 degrees 20 minutes 00 seconds West 91.0 feet, North 77 degrees 52 minutes 00 seconds West 62.0 feet, North 46 degrees 25 minutes 00 seconds West 112.0 feet, North 81 degrees 22 minutes 00 seconds West 176.0 feet, North 63 degrees 55 minutes 00 seconds West 70.0 feet, North 03 degrees 34 minutes 00 seconds East 90.0 feet, North 49 degrees 40 minutes 00 seconds West 88.0 feet, North 33 degrees 10 minutes 00 seconds West 175.0 feet, North 67 degrees 22 minutes 15 seconds West 64.49 feet, North 70 degrees 14 minutes 12 seconds West 55.44 feet, North 76 degrees 31 minutes 08 seconds West 59.59 feet, North 71 degrees 25 minutes 25 seconds West 59.55 feet, North 80 degrees 42 minutes 59 seconds West 54.27 feet, South 89 degrees 02 minutes 20 seconds West 56.85 feet, South 75 degrees 16 minutes 26 seconds West 37.96 feet, South 58 degrees 55 minutes 24 seconds West 47.56 feet, South 47 degrees 50 minutes 57 seconds West 44.91 feet, South 36 degrees 40 minutes 03 seconds West 59.53 feet, South 42 degrees 02 minutes 33 seconds West 59.58 feet, South 41 degrees 49 minutes 10 seconds West 62.33 feet, South 29 degrees 03 minutes 22 seconds West 46.55 feet, South 19 degrees 39 minutes 09 seconds West 56.76 feet, South 20 degrees 47 minutes 08 seconds West 46.67 feet, South 46 degrees 42 minutes 03 seconds West 21.07 feet, North 73 degrees 49 minutes 50 seconds West 26.97 feet, North 59 degrees 18 minutes 07 seconds West 45.78 feet, North 55 degrees 19 minutes 32 seconds West 65.69 feet, North 62 degrees 21 minutes 54 seconds West 63.78 feet, North 61 degrees 16 minutes 33 seconds West 47.69 feet, North 63 degrees 39 minutes 09 seconds West 55.08 feet, South 78 degrees 03 minutes 31 seconds West 32.45 feet, South 64 degrees 05 minutes 18 seconds West 47.91 feet, South 53 degrees 10 minutes 19 seconds West 52.82 feet, South 56 degrees 42 minutes 10 seconds West 29.09 feet, South 49 degrees 32 minutes 20 seconds West 51.40 feet, South 52 degrees 28 minutes 03 seconds West 48.82 feet, South 84 degrees 15 minutes 31 seconds West 42.84 feet, North 56 degrees 03 minutes 49 seconds West 45.91 feet, North 45 degrees 57 minutes 21 seconds West 52.95 feet, North 76 degrees 05 minutes 42 seconds West 46.53 feet, North 66 degrees 38 minutes 46 seconds West 47.0 feet, North 53 degrees 43 minutes 22 seconds West 32.82 feet, North 40 degrees 14 minutes 13 seconds West 28.10 feet, North 00 degrees 02 minutes 41 seconds East 39.96 feet, North 23 degrees 04 minutes 56 seconds East 45.03 feet, North 42 degrees 42 minutes 12 seconds East 49.31 feet, North 47 degrees 58 minutes 40 seconds East 58.59 feet, North 45 degrees 10 minutes 42 seconds East 59.41 feet, North 25 degrees 59 minutes 36 seconds East 37.24 feet, North 22 degrees 41 minutes 10 seconds East 43.65 feet, North 04 degrees 27 minutes 24 seconds East 33.97 feet, North 00 degrees 17 minutes 07 seconds East 20.38 feet, North 46 degrees 00 minutes 17 seconds

West 29.83 feet, South 86 degrees 09 minutes 27 seconds West 36.01 feet, South 65 degrees 55 minutes 38 seconds West 51.05 feet, South 66 degrees 56 minutes 27 seconds West 66.42 feet, South 64 degrees 58 minutes 32 seconds West 72.46 feet, South 70 degrees 07 minutes 57 seconds West 47.65 feet, North 89 degrees 59 minutes 39 seconds West 38.54 feet, North 64 degrees 25 minutes 55 seconds West 41.08 feet, North 49 degrees 18 minutes 23 seconds West 36.28 feet, North 41 degrees 48 minutes 22 seconds West 46.04 feet, North 26 degrees 50 minutes 22 seconds West 54.85 feet, North 13 degrees 53 minutes 13 seconds West 46.23 feet, North 08 degrees 52 minutes 28 seconds West 46.90 feet, North 57 degrees 03 minutes 16 seconds West 29.17 feet, North 83 degrees 20 minutes 46 seconds West 39.01 feet, South 75 degrees 35 minutes 37 seconds West 49.89 feet, South 68 degrees 48 minutes 40 seconds West 46.52 feet, South 74 degrees 18 minutes 51 seconds West 77.01 feet, South 73 degrees 58 minutes 16 seconds West 54.56 feet, South 67 degrees 49 minutes 15 seconds West 39.61 feet, South 46 degrees 43 minutes 46 seconds West 74.02 feet, South 61 degrees 11 minutes 32 seconds West 34.67 feet, South 77 degrees 38 minutes 09 seconds West 18.18 feet, North 77 degrees 13 minutes 47 seconds West 42.66 feet, North 42 degrees 13 minutes 44 seconds West 29.27 feet, North 33 degrees 35 minutes 15 seconds West 39.64 feet, North 39 degrees 41 minutes 16 seconds West 25.38 feet, North 74 degrees 22 minutes 16 seconds West 35.42 feet, South 76 degrees 15 minutes 41 seconds West 47.04 feet, South 74 degrees 02 minutes 11 seconds West 44.93 feet and South 82 degrees 07 minutes 02 seconds West 105.98 feet to a run of a small branch; thence, up and with the run of said small branch the following bearings and distances: North 27 degrees 04 minutes 06 seconds West 179.79 feet, North 53 degrees 36 minutes 46 seconds West 47.14 feet, North 72 degrees 52 minutes 56 seconds West 81.08 feet, North 35 degrees 59 minutes 12 seconds West 44.71 feet, North 11 degrees 16 minutes 48 seconds East 96.59 feet, North 59 degrees 31 minutes 30 seconds West 116.53 feet, North 46 degrees 26 minutes 14 seconds West 69.26 feet, North 13 degrees 09 minutes 46 seconds West 181.80 feet, North 35 degrees 06 minutes 57 seconds West 93.93 feet, North 03 degrees 39 minutes 50 seconds West 63.01 feet, North 18 degrees 10 minutes 35 seconds East 83.99 feet, North 09 degrees 21 minutes 06 seconds West 58.27 feet, North 22 degrees 13 minutes 49 seconds West 57.03 feet, North 51 degrees 35 minutes 52 seconds West 114.05 feet, North 16 degrees 34 minutes 58 seconds West 64.45 feet, North 64 degrees 42 minutes 02 seconds West 76.96 feet, North 46 degrees 16 minutes 32 seconds West 47.15 feet, North 01 degrees 25 minutes 16 seconds West 56.61 feet, North 40 degrees 53 minutes 11 seconds West 101.95 feet, North 17 degrees 45 minutes 30 seconds West 46.09 feet, North 41 degrees 41 minutes 32 seconds West

225.43 feet, North 01 degrees 19 minutes 03 seconds East 97.04 feet, North 29 degrees 43 minutes 03 seconds West 39.22 feet, North 63 degrees 34 minutes 23 seconds West 43.77 feet, South 76 degrees 15 minutes 58 seconds West 45.04 feet, South 50 degrees 48 minutes 34 seconds West 49.61 feet, South 84 degrees 37 minutes 53 seconds West 147.47, North 74 degrees 48 minutes 50 seconds West 38.25 feet, North 34 degrees 07 minutes 54 seconds West 52.92 feet, North 05 degrees 49 minutes 20 seconds West 89.20 feet, North 08 degrees 40 minutes 51 seconds East 61.55 feet, North 08 degrees 40 minutes 51 seconds East 39.17 feet, North 31 degrees 45 minutes 07 seconds East 71.26 feet, North 41 degrees 57 minutes 23 seconds East 73.28 feet, North 27 degrees 18 minutes 21 seconds East 48.26 feet, North 06 degrees 33 minutes 15 seconds West 183.60 feet, North 23 degrees 07 minutes 03 seconds West 56.40 feet North 22 degrees 17 minutes 57 seconds East 56.72 feet, North 5 degrees 32 minutes 18 seconds West 54.65 feet, North 23 degrees 51 minutes 37 seconds East 126.35 feet, South 81 degrees 01 minutes 39 seconds East 612.65 feet, North 64 degrees 19 minutes 51 seconds East 46.99 feet, North 63 degrees 44 minutes 51 seconds East 60.82 feet, North 75 degrees 34 minutes 51 seconds East 74.10 feet, North 63 degrees 35 minutes 26 seconds East 172.58 feet, North 82 degrees 28 minutes 51 seconds East 30.23 feet, North 42 degrees 25 minutes 51 seconds East 106.23 feet, North 63 degrees 36 minutes 24 seconds East 17.90 feet, South 02 degrees 34 minutes 51 seconds West 300.58 feet, South 81 degrees 01 minutes 39 seconds East 1106.92 feet, South 02 degrees 35 minutes 56 seconds West 505.04 feet, North 85 degrees 57 minutes 30 seconds West 277.87 feet, South 29 degrees 08 minutes 29 seconds West 322.48 feet, South 57 degrees 02 minutes 18 seconds West 68.39 feet, South 30 degrees 39 minutes 25 seconds West 378.48 feet, South 60 degrees 14 minutes 26 seconds East 343.06 feet, South 36 degrees 03 minutes 17 seconds East 369.84 feet, South 24 degrees 27 minutes 10 seconds West 135.80 feet, South 31 degrees 44 minutes 49 seconds East 175.87 feet, North 66 degrees 38 minutes 19 seconds East 156.44 feet, North 40 degrees 13 minutes 14 seconds East 107.68 feet, South 44 degrees 47 minutes 07 seconds East 241.29 feet, North 79 degrees 18 minutes 57 seconds East 90.00 feet, South 87 degrees 08 minutes 54 seconds East 175.39 feet, North 26 degrees 30 minutes 42 seconds East 105.29 feet, North 16 degrees 35 minutes 15 seconds East 146.53 feet, North 54 degrees 53 minutes 57 seconds East 235.20 feet, South 75 degrees 51 minutes 27 seconds East 178.34 feet, North 58 degrees 33 minutes 46 seconds East 135.95 feet, North 77 degrees 35 minutes 09 seconds East 324.65 feet, South 74 degrees 28 minutes 02 seconds East 245.62 feet, South 57 degrees 13 minutes 04 seconds East 174.27 feet, North 54 degrees 59 minutes 15 seconds East 390.50 feet, South 24 degrees 46 minutes 05 seconds

West 151.23 feet; South 03 degrees 00 minutes 30 seconds West 266.53 feet; South 24 degrees 39 minutes 35 seconds East 152.77 feet; South 30 degrees 35 minutes 55 seconds East 127.03 feet; South 06 degrees 19 minutes 10 seconds East 143.12 feet; South 65 degrees 38 minutes 20 seconds East 164.40 feet; South 27 degrees 55 minutes 55 seconds West 223.56 feet; South 53 degrees 48 minutes 05 seconds East 195.16 feet, North 78 degrees 50 minutes 35 seconds East 140.22 feet; South 63 degrees 57 minutes 12 seconds East 108.04 feet; North 72 degrees 55 minutes 43 seconds East 109.15 feet, South 69 degrees 32 minutes 04 seconds East 70.49 feet, South 28 degrees 51 minutes 28 seconds West 115.16 feet, South 08 degrees 06 minutes 07 seconds East 103.43 feet, South 49 degrees 54 minutes 22 seconds East 37.85 feet, South 19 degrees 57 minutes 07 seconds East 81.87 feet, South 35 degrees 44 minutes 16 seconds East 96.34 feet, South 53 degrees 44 minutes 46 seconds East 60.31 feet, South 82 degrees 18 minutes 40 seconds East 55.16 feet, North 65 degrees 40 minutes 39 seconds East 87.62 feet, North 49 degrees 35 minutes 56 seconds East 79.07 feet, North 38 degrees 27 minutes 23 seconds East 125.00 feet, North 37 degrees 53 minutes 55 minutes East 90.00 feet; North 37 degrees 01 minutes 15 seconds East 90.00 feet; North 23 degrees 02 minutes 56 seconds East 85.00 feet, North 15 degrees 28 minutes 05 seconds East 94.31 feet, North 23 degrees 22 minutes 35 seconds East 45.00 feet, North 19 degrees 01 minutes 51 seconds East 74.46 feet, North 19 degrees 01 minutes 51 seconds East 40.00 feet, North 02 degrees 02 minutes 37 seconds East 95.00 feet, North 02 degrees 16 minutes 50 seconds West 80.00 feet, North 03 degrees 38 minutes 52 seconds East 75.00 feet, North 10 degrees 01 minutes 38 seconds East 70.00 feet, North 19 degrees 53 minutes 49 seconds East 70.00 feet, North 17 degrees 07 minutes 56 seconds East 100.00 feet to a point in the southern right-of-way line of Jackeys Creek Lane; thence, with said right-of-way line South 83 degrees 07 minutes 02 seconds East 39.88 feet, North 87 degrees 43 minutes 15 seconds East 210.30 feet and North 85 degrees 14 minutes 46 seconds East 219.38 feet to the point of beginning. Containing 196.63 acres more or less.

TRACT 4

434.42 Acre Tract

MALLORY CREEK TRACT

BEGINNING at an iron on the western right-of-way of N.C. Highway 133, said iron in the southeastern corner of the 182.92 acre tract of land as shown on map cabinet 21 page 489, records of Brunswick County, North Carolina said point is also located N 12-38-38 E 1056.14 ft. from N.C. Grid Monument "Johnson 2 1965": Proceed

from said point of beginning N 88-50-06 W 1623.42 ft. to a point, thence S 00-18-54 W 1883.38 ft. to a point, thence S 00-18-54 W 535.10 ft. to a point in the run of Mallory Creek thence with said run N 84-02-01 W 332.60 ft. thence N 80-40-52 W 270.44 ft. thence N 58-10-22 W 229.47 ft. thence N 87-57-51 W 422.73 ft. to a point thence N 46-13-07 W 834.16 ft., thence leaving said run N 19-45-19 E 630.58 ft. to a point, thence N 19-51-11 E 452.15 ft. to a point, thence N 19-09-36 E 334.18 ft. thence N 29-04-16 E 406.32 ft. to a point, thence N 42-00-23 E 236.01 ft. thence N 35-24-47 E 244.19 ft. thence N 25-21-40 E 539.09 ft. to a point, thence N 29-45-42 E 248.09 ft. thence N 13-46-11 E 258.70 ft. thence N 00-00-00 E 312.79 ft. thence N 21-37-41 W 292.35 ft. thence N 37-06-41 W 263.63 ft. thence N 51-21-33 W 328.47 ft. thence N 46-21-06 W 156.01 ft. thence N 21-48-53 W 193.32 ft. thence N 06-00-47 W 195.93 ft. thence N 00-00-00 E 67.11 ft. thence N 81-59-07 W 149.29 ft. thence S 90-00-00 W 265.54 ft. thence N 46-17-47 W 243.74 ft. thence N 30-17-57 W 128.13 ft. thence N 14-07-56 W 419.80 ft. thence N 04-42-40 W 405.48 ft. thence N 09-54-02 W 815.09 ft. to a point in the southern line of the Cameron Tract, thence with said southern line S 82-30-27 E 502.56 ft., thence S 83-03-58 E 1277.98 ft. thence S 83-40-32 E 1130.78 ft. thence S 84-19-00 E 59.29 ft., thence S 83-52-14 E 74.36 ft., thence S 83-52-57 E 1805.84 ft. to a point in the western line of N.C. Highway 133, thence with said right-of-way S 13-58-52 W 2047.09 ft. thence S 14-20-53 W 2425.42 ft. to the point of beginning and containing 434.42 acres as shown on map cabinet 21 page 489. All bearings are N.C. Grid NAD 1927.

TRACT 5

19.11 Acre Tract and 32.52 Acre Tract

CAMERON TRACT

BEGINNING at a point on the western right-of-way of N.C. Highway 133 said point is the southeastern corner of tract 3 map cabinet 19 page 461, records of Brunswick County, North Carolina: Proceed from said point of beginning and with the southern line of the Cameron Tract N 83-51-31 W 303.21 ft. to a point, thence leaving said southern line N 14-29-09 E 186.17 ft. thence N 17-54-33 E 128.08 ft. thence N 23-59-20 E 131.94 ft. thence N 28-29-02 E 125.64 ft. thence N 32-32-06 E 124.87 ft. thence N 36-49-12 E 125.41 ft. thence N 40-59-45 E 122.31 ft. thence N 44-13-11 E 117.03 ft. thence N 46-38-38 E 110.29 ft. thence N 47-35-06 E 261.58 ft. thence N 47-56-26 E 700.26 ft. thence N 47-57-15 W 160.97 ft. thence N 28-20-19 W 159.43 ft. thence N 23-56-09 W 200.83 ft. thence N 16-17-03 E 214.09 ft. thence N 59-50-03 E 169.28 ft. to a point in Jackeys Creek thence with said creek S

62-15-38 E 227.50 ft. to a point in the line of Creekside Estates, thence with the lines of Creekside Estates S 55-52-36 W 32.41 ft. thence S 55-52-36 W 72.88 ft. thence S 59-50-03 W 105.22 ft. thence S 16-17-03 W 60.97 ft. thence S 23-56-09 E 119.91 ft. thence S 28-20-19 E 117.17 ft. thence S 47-57-15 E 64.64 ft. thence S 47-57-15 E 34.07 ft. thence S 50-03-03 E 166.14 ft. thence S 58-10-05 E 183.13 ft. to a point on the western right-of-way of N.C. Highway 133, thence with said right-of-way S 44-56-16 W 145.32 ft. thence S 47-56-26 W 824.22 ft. thence S 47-35-06 W 258.19 ft. thence S 46-38-38 W 101.48 ft. thence S 44-13-11 W 102.24 ft. thence S 40-59-45 W 102.93 ft. thence S 36-49-12 W 103.25 ft. thence S 32-32-06 W 103.04 ft. thence S 28-29-02 W 103.26 ft. thence S 23-59-20 W 104.23 ft. thence S 17-54-33 W 103.18 ft. to the point of beginning and containing 19.11 acres. All bearings are magnetic relative to map cabinet 19 page 461, Brunswick County Registry.

BEGINNING at a point in the Eastern Right-of-Way line of N.C. Hwy. #133, said Beginning point being located South 18 degrees 56 minutes 00 seconds West 29.27 feet and South 23 degrees 16 minutes 45 seconds West 118.46 feet as measured along the Eastern Right-of-Way line of N.C. Hwy. #133 from its point of intersection with the centerline of Rice Hope Run; running thence, from said Beginning point the following bearings and distances: North 72 degrees 26 minutes 42 seconds East 154.13 feet, South 01 degree 27 minutes 19 seconds East 99.83 feet, South 16 degrees 07 minutes 47 seconds West 100.23 feet, South 44 degrees 54 minutes 13 seconds West 99.62 feet, South 54 degrees 49 minutes 38 seconds West 56.37 feet, South 10 degrees 19 minutes 02 seconds East 98.02 feet, South 10 degrees 16 minutes 52 seconds East 114.98 feet, South 10 degrees 15 minutes 28 seconds East 99.97 feet, North 81 degrees 49 minutes 02 seconds East 449.97 feet to a point in the Western line of the old layout basin at the Western edge of the Brunswick River; thence, with the Western line of the old layout basin South 06 degrees 08 minutes 45 seconds West 93.36 feet and South 05 degrees 28 minutes 10 seconds East 1191.36 feet to a point; running thence, North 87 degrees 38 minutes 07 seconds West 990.89 feet, North 10 degrees 54 minutes 17 seconds West 48.52 feet and North 87 degrees 05 minutes 30 seconds West 200.17 feet to a point in the Eastern Right-of-Way line of N.C. Hwy. #133 (60 foot Right-of-Way); running thence, with the Eastern Right-of-Way line of N.C. Hwy. #133 North 10 degrees 59 minutes 59 seconds West 84.80 feet, North 11 degrees 35 minutes 52 seconds West 105.91 feet, North 11 degrees 19 minutes 30 seconds West 105.98 feet, North 11 degrees 10 minutes 51 seconds West 106.20 feet and North 06 degrees 51 minutes 28 seconds West

113.0 feet to a point; running thence, South 87 degrees 50 minutes 31 seconds East 210.39 feet; thence, South 82 degrees 35 minutes 13 seconds East 109.75 feet; thence, North 25 degrees 42 minutes 42 seconds East 128.69 feet; thence, North 46 degrees 21 minutes 13 seconds West 80.73 feet; thence, North 75 degrees 10 minutes 54 seconds West 111.57 feet; thence, North 17 degrees 30 minutes 27 seconds East 20.25 feet; thence, North 15 degrees 04 minutes 27 seconds East 98.56 feet; thence, North 22 degrees 32 minutes 09 seconds East 102.76 feet; thence, North 30 degrees 49 minutes 50 seconds East 44.46 feet; thence, North 57 degrees 00 minutes 58 seconds West 68.20 feet; thence, North 40 degrees 56 minutes 42 seconds East 102.89 feet; thence, North 40 degrees 17 minutes 54 seconds East 105.72 feet; thence, North 19 degrees 03 minutes 56 seconds West 152.10 feet to a point in the Eastern Right-of-Way line of N.C. Hwy. #133; running thence, with the Eastern Right-of-Way line of N.C. Hwy. #133 North 48 degrees 19 minutes 10 seconds East 177.32 feet, North 42 degrees 33 minutes 42 seconds East 136.13 feet, North 40 degrees 48 minutes 28 seconds East 90.25 feet and North 29 degrees 31 minutes 38 seconds East 135.54 feet to the point of Beginning, containing 32.52 acres more or less.

TRACT 6

87.35 Acre Tract

BEGINNING at a point in the Southeastern Right-of-Way line of U.S. Hwy. #17, (320 Right-of-Way), said point being located 138.57 feet as measured Southwestwardly along the Southeastern Right-of-Way line of U.S. Hwy. #17 from its point of intersection with the Western Right-of-Way line of Bridle Way (50 foot Right-of-Way), said point being the Northwest corner of Lot 27, Section 1, Snee Farm Subdivision as recorded in Map Cabinet Q, Page 386 of the Brunswick County Registry; running thence, from said Beginning point with the Western lines of Section 1, Snee Farm Subdivision South 41 degrees 55 minutes East 189.54 feet, South 23 degrees 57 minutes 15 seconds East 62.9 feet, South 31 degrees 34 minutes 45 seconds East 338.62 feet, South 56 degrees 03 minutes 45 seconds East 42.67 feet, South 31 degrees 59 minutes 45 seconds East 62.65 feet, South 76 degrees 50 minutes 45 seconds East 51.93 feet, South 19 degrees 54 minutes 45 seconds East 24.09 feet, South 56 degrees 47 minutes 45 seconds East 85.38 feet, South 22 degrees 22 minutes 45 seconds East 74.98 feet, South 28 degrees 45 minutes 45 seconds East 60.66 feet, and South 12 degrees 05 minutes 15 seconds West 20.0 feet; running thence, South 44 degrees 53 minutes 15 seconds West 416.54 feet; thence, South 43 degrees 39 minutes 15 seconds East 520.01 feet; thence, South 31 degrees 16 minutes 15 seconds East 878.02 feet; thence, South 74 degrees 25 minutes 45

seconds West 76.11 feet; thence, South 54 degrees 10 minutes 45
seconds West 87.58 feet; thence, South 58 degrees 22 minutes 45
seconds West 40.50 feet; thence, South 58 degrees 19 minutes 55
seconds West 51.82 feet; thence, South 40 degrees 16 minutes 39
seconds West 78.45 feet; thence, South 50 degrees 55 minutes 42
seconds West 210.96 feet; thence, South 37 degrees 18 minutes 09
seconds West 103.05 feet; thence, South 19 degrees 30 minutes 45
seconds West 110.7 feet; thence, South 16 degrees 10 minutes 45
seconds West 175.10 feet; thence, South 34 degrees 39 minutes 15
seconds East 151.20 feet; thence, South 06 degrees 40 minutes 45
seconds West 168.40 feet; thence, South 21 degrees 34 minutes 15
seconds East 108.90 feet; thence, South 68 degrees 24 minutes 15
seconds East 96.10 feet; thence, South 26 degrees 25 minutes 45
seconds West 125.10 feet; thence, South 06 degrees 24 minutes 15
seconds East 153.80 feet; thence, South 15 degrees 45 minutes 45
seconds West 105.60 feet; thence, South 83 degrees 15 minutes 45
seconds West 212.10 feet; thence, North 55 degrees 39 minutes 15
seconds West 195.70 feet; thence, North 52 degrees 34 minutes 15
seconds West 137.50 feet; thence, South 74 degrees 10 minutes 45
seconds West 119.80 feet; thence, South 59 degrees 25 minutes 45
seconds West 75.20 feet; thence, North 68 degrees 09 minutes 15
seconds West 150.30 feet; thence, North 43 degrees 49 minutes 15
seconds West 135.20 feet; thence, North 12 degrees 24 minutes 15
seconds West 138.70 feet; thence, North 60 degrees 59 minutes 15
seconds West 304.20 feet; thence, North 67 degrees 46 minutes 50
seconds West 121.09 feet; thence, North 25 degrees 27 minutes 33
seconds West 358.18 feet; thence, North 55 degrees 30 minutes 32
seconds West 136.24 feet and North 57 degrees 06 minutes 22
seconds West 96.17 feet to a point in the run of a small branch;
thence, up and with the run of said small branch North 04 degrees 26
minutes 17 seconds West 108.73 feet, North 44 degrees 10 minutes
28 seconds East 176.23 feet, North 16 degrees 19 minutes 33 seconds
East 217.33 feet, North 16 degrees 44 minutes 28 seconds East 71.79
feet, North 31 degrees 32 minutes 28 seconds East 185.99 feet, North
01 degrees 12 minutes 13 seconds East 40.83 feet; thence, South 70
degrees 34 minutes 26 seconds East 141.50 feet; thence, South 02
degrees 16 minutes 58 seconds West 63.36 feet; thence, South 77
degrees 26 minutes 31 seconds East 157.00 feet; thence, North 74
degrees 45 minutes 24 seconds East 123.73 feet; thence, North 60
degrees 03 minutes 26 seconds East 90.00 feet; thence, North 13
degrees 42 minutes 39 seconds East 75.67 feet; thence, North 61
degrees 00 minutes 22 seconds East 202.13 feet; thence, North 25
degrees 19 minutes 59 minutes 59 seconds West 12.00 feet; thence,
North 25 degrees 43 minutes 12 seconds East 181.69 feet; thence,
North 38 degrees 37 minutes 00 seconds West 674.09 feet; thence,

North 20 degrees 27 minutes 48 seconds West 153.65 feet; thence, North 32 degrees 01 minutes 19 seconds West 101.97 feet; thence, North 18 degrees 53 minutes 13 seconds West 184.53 feet; thence, North 21 degrees 17 minutes 42 seconds West 48.17 feet; thence, North 01 degrees 40 minutes 13 seconds East 155.90 feet; thence, North 10 degrees 49 minutes 52 seconds West 37.10 feet; thence, North 22 degrees 21 minutes 41 seconds West 84.84 feet; thence, North 32 degrees 25 minutes 28 seconds West 108.79 feet; thence, North 43 degrees 34 minutes 40 seconds West 142.47 feet to a point in the Southeastern Right-of-Way line of U.S. #17; running thence with said line North 37 degrees 14 minutes 45 seconds East 189.88 feet; thence continuing with said line North 42 degrees 45 minutes 00 seconds East 398.95 feet; thence continuing with said line 50 degrees 45 minutes 30 seconds East 104.10 feet to the point of Beginning containing 87.35 acres more or less.

SECTION 2. This act is effective when it becomes law, but does not affect the validity of any tax liens for the 2001-2002 fiscal year, and ad valorem taxes for that fiscal year shall remain payable as if this act had not been enacted.

In the General Assembly read three times and ratified this the 4th day of September, 2001.

Became law on the date it was ratified.

H.B. 715

SESSION LAW 2001-402

AN ACT TO PROVIDE FOR AN ADDITIONAL DISTRIBUTION OF THE PROCEEDS OF THE MECKLENBURG OCCUPANCY TAX AMONG THE TOWNS OF MECKLENBURG COUNTY, TO SUNSET THE MECKLENBURG MEALS TAX AND THE ADDITIONAL DISTRIBUTION, AND TO MODIFY THE MEMBERSHIP OF THE CHARLOTTE COLISEUM AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 5(b) of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a new subdivision to read:

"(b) Definitions. – The definitions in G.S. 105-164.3 apply to this Part insofar as they are not inconsistent with the provisions of this Part. In addition, the following definitions apply in this Part.

...

(3a) Mecklenburg towns. – The towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville."

SECTION 2. Section 9 of Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, reads as rewritten:

"Sec. 9. (a) Distribution and Use of Proceeds. – The local administrative authority, acting on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes levied in this Part as provided in this subsection. The distribution shall be made by the 20th day of each month following the month in which the tax is collected.

- (1) Deduction of Administrative Expense. – The local administrative authority may deduct from the gross proceeds of the taxes collected under this Part an amount not to exceed three percent (3%) of the amount collected to pay for the direct cost it has incurred in administering and collecting the taxes authorized by this Part.
- (2) Distribution to Charlotte for Convention Center Facilities. – After deducting the amount provided above, the local administrative authority shall transfer an amount equal to three percent (3%) of the gross occupancy receipts and the entire net proceeds of the prepared food and beverage tax to the City of Charlotte. The net proceeds transferred to the City of Charlotte pursuant to this subdivision shall be applied in accordance with the following priorities. No application of any net proceeds to any class of the priorities set forth below in this subdivision shall be made until, with respect to each preceding class of priorities, either all payments for the current fiscal year have been provided for in full or no such payments are required for the current fiscal year.
 - a. To provide for when due payments for the current fiscal year with respect to any financing for new convention center facilities or for the expansion of existing convention center facilities, which may include off-street parking for use in conjunction with the facilities.
 - b. To pay costs incurred in an ~~aggregate amount not greater than~~ equal to the sum of one million five hundred thousand dollars (\$1,500,000) plus the total current fiscal year distributions to the Mecklenburg towns pursuant to sub-subdivision (a)(4)b. of this section in each fiscal year for marketing and promoting new or expanded convention center ~~facilities.~~ facilities and for activities and programs

- aiding and encouraging convention and visitor promotion.
- c. To pay other costs of acquiring, constructing, maintaining, operating, marketing, and promoting new or expanded convention center ~~facilities~~ facilities and of activities and programs aiding and encouraging convention and visitor promotion.
- (3) Distribution to Other Municipalities. – After deducting the amounts provided above, the local administrative authority shall determine the amount of the remaining occupancy tax net proceeds that were collected from taxable establishments located in each municipality, other than the City of Charlotte. The local administrative authority shall then distribute to each municipality, other than the City of Charlotte, an amount equal to one hundred twenty percent (120%) of the amount of the remaining occupancy tax net proceeds collected in that municipality. These funds may be expended only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.
- (4) Distribution to Charlotte for Convention and Visitor ~~Promotion~~. Promotion and Other Tourism-Related Purposes. –
- a. Of the occupancy tax net proceeds remaining after deducting the amounts provided in subsections (a)(1) and (a)(2) above, at least fifty percent (50%) of the first one million dollars (\$1,000,000) in each fiscal year, at least thirty-five percent (35%) of the second one million dollars (\$1,000,000) in each fiscal year, and at least twenty-five percent (25%) of the amount in excess of two million dollars (\$2,000,000) in each fiscal year shall be transferred by the local administrative authority to the City of ~~Charlotte~~ Charlotte.
- b. From these funds, during any fiscal year that the county prepared food and beverage tax authorized by Section 7(a) of this Part is in effect for the entire fiscal year, the City of Charlotte shall make the distributions provided in this sub-subdivision to the Mecklenburg towns. The Mecklenburg towns may

use the funds distributed to them under this sub-subdivision only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.

During each of the five fiscal years beginning with the 2001-2002 fiscal year, the City of Charlotte shall transfer from these funds to each Mecklenburg town an amount equal to fifty percent (50%) of the county prepared food and beverage tax net proceeds that were collected in that town during the preceding fiscal year, except that the total amount to be transferred to all of the towns each fiscal year may not exceed the applicable annual cap. Half of the amount to be transferred to each town each fiscal year shall be distributed on October 1 and the remaining half shall be distributed on April 1. The annual cap for the 2001-2002 fiscal year is one million fifty thousand dollars (\$1,050,000). The cap for the 2002-2003 fiscal year is one million one hundred forty thousand dollars (\$1,140,000) increased or decreased by the percentage by which the proceeds of the county prepared food and beverage tax levied under Section 7(a) of this Part increased or decreased during the preceding fiscal year. The annual cap for each fiscal year thereafter is the annual cap for the preceding fiscal year increased or decreased by the percentage by which the proceeds of the county prepared food and beverage tax levied under Section 7(a) of this Part increased or decreased during the preceding fiscal year. If fifty percent (50%) of the total county prepared food and beverage tax collected in the Mecklenburg towns during the preceding fiscal year exceeds the applicable cap, the amount to be transferred to each town shall be reduced in proportion to the amount of county prepared food and beverage tax collected in each town until the total amount to be transferred equals the cap.

During the five fiscal years beginning with the 2001-2002 fiscal year, the City of Charlotte and each of the Mecklenburg towns shall in good faith work to execute an interlocal agreement that may increase the amount to be distributed to the town thereafter.

During the 2006-2007 fiscal year and each fiscal year thereafter, the City of Charlotte shall transfer to each Mecklenburg town an amount equal to the greater of (i) fifty percent (50%) of the county prepared food and beverage tax net proceeds that were collected in that town during the preceding fiscal year and (ii) an amount agreed to by interlocal agreement between the Mecklenburg town and the City of Charlotte. Half of the amount to be transferred to each town each fiscal year shall be distributed on October 1, and the remaining half shall be distributed April 1.

For the purpose of this subdivision, net tax proceeds collected in a town include proceeds attributable to establishments that have locations in the town but are part of multilocation businesses that report proceeds on a countywide basis.

- c. Except as provided in sub-subdivision b. of this subdivision, the City of Charlotte may use the funds distributed to it under this subdivision only for activities and programs aiding and encouraging convention and visitor promotion. The City of Charlotte shall be acting as agent for each occupancy taxing entity.
- (5) Distribution of Remainder between Charlotte and Mecklenburg County. – The amount of occupancy tax net proceeds remaining after deducting the amounts provided above shall be allocated by the local administrative authority between Mecklenburg County and the City of Charlotte using the following formula: the ratio of expenditures by each of Mecklenburg County and the City of Charlotte for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, and museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals to total

expenditures by both Mecklenburg County and the City of Charlotte for such purposes. There shall be excluded from expenditures by the City of Charlotte for purposes of computing this ratio all expenditures for acquiring, constructing, financing, maintaining, operating, marketing, and promoting the new or expanded convention center facilities in the City of Charlotte for which net proceeds are allocated pursuant to subdivision (2) of this subsection. The ratio shall be computed annually on the basis of the prior fiscal year's expenditures. However, no amount shall be allocated to Mecklenburg County if it has not levied an occupancy tax and a prepared food and beverage tax for the current period. These funds may be expended only for acquiring, constructing, financing, maintaining, operating, marketing, and promoting convention centers, civic centers, performing arts centers, coliseums, auditoriums, museums, for off-street parking for use in conjunction with these facilities, and for tourism and tourism-related programs and activities including art and cultural programs, events, and festivals.

(b) Authority to Contract. = Mecklenburg County and each municipality located within Mecklenburg County may contract with any person, agency, association, or nonprofit corporation to undertake or carry out the activities and programs for which the proceeds may be expended. All contracts entered into pursuant to this subsection shall require an annual financial audit of any funds expended and a performance audit of contractual obligations."

SECTION 3. Chapter 908 of the 1983 Session Laws, as amended by Chapters 821 and 922 of the 1989 Session Laws, is amended by adding a new section to read:

"Sec. 9.1. Sunset of Certain Provisions. – Effective on the latest of the three dates listed below, Section 7 of this act and Section 9(a)(4)b. of this act are repealed:

(1) July 1 following the date of final satisfaction, by payment or other irrevocable defeasance, of any debt instruments or obligations that meet both of the following conditions:

a. They were issued by the City of Charlotte or by a related special purpose entity in connection with the financing of the Charlotte Convention Center or of any hotel or parking facility constructed or participated in by the city to support or serve the convention center.

- b. They were issued and outstanding on or before July 1, 2001.
- (2) July 1 following the date of final satisfaction, by payment or other irrevocable defeasance, of any debt instruments or obligations that were issued by the City of Charlotte or by a related special purpose entity in connection with a construction contract for expansion of the existing convention center that meets both of the following conditions:
 - a. The expansion contracted for will encompass at least 100,000 square feet of additional exhibit and meeting space and related support facilities.
 - b. The design contract for the expansion contracted for was awarded by January 1, 2011.
- (3) July 1, 2031."

SECTION 4. Section 5.21 of the Charter of the City of Charlotte, being S.L. 2000-26, as amended, reads as rewritten:

"Section 5.21. **Continuation.** (a) The control, management, and operation of the property and improvements now or hereafter made or acquired by the City for auditorium, coliseum, civic center, and baseball stadium purposes shall continue to be vested in the authority to be known as the auditorium-coliseum-convention center authority. The authority shall ~~continue to~~ be composed of at least seven and not more than nine members, as determined jointly by the Mayor and the City Council. If the authority has nine members, three shall be appointed by the Mayor and six shall be appointed by the City Council. If the authority has seven or eight members, two shall be appointed by the Mayor and the remainder shall be appointed by the City Council. ~~five members to be appointed by the Council and two members to be appointed by the Mayor.~~ One member of the authority must be an individual who is not an elected official and who is jointly nominated by the towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill, and Pineville and confirmed by the City's appointing authority. The City may, for good cause shown, reject the individual nominated by the towns. The City must appoint or reject the individual nominated by the towns in a timely manner. If the City rejects the nominee, the towns must jointly nominate a different individual. If the authority has nine members, one member must be an individual who is affiliated with the hotel, motel, or restaurant business in the City. The Council and the Mayor shall jointly determine which of the seats are subject to these conditions.

Each member shall serve a term of three years. No member shall serve more than two consecutive terms. ~~In case~~ If any vacancy ~~shall be is~~ created on ~~said~~ the authority, the Council or the Mayor, as the

case may be, shall appoint a member to fill the unexpired term. The members of the authority shall receive no compensation.

(b) Attendance of meetings and continued service on the authority shall be governed by the attendance policies established by the Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided herein."

SECTION 5. Section 4 of this act is effective on the first day of the second month after it becomes law. The remainder of this act becomes effective July 1, 2001, and applies to taxes collected on or after that date.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law on the date it was ratified.

S.B. 119**SESSION LAW 2001-403**

AN ACT TO PROVIDE FOR NONPARTISAN ELECTION OF DISTRICT COURT JUDGES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 25 of Chapter 163 of the General Statutes reads as rewritten:

"**SUBCHAPTER X. ELECTION OF SUPERIOR AND DISTRICT COURT JUDGES.**

"**ARTICLE 25.**

"Nomination and Election of Superior and District Court Judges.

"§ 163-321. *Applicability.*

The nomination and election of superior and district court judges of the General Court of Justice shall be as provided by this Article.

"§ 163-322. *Nonpartisan primary election method.*

(a) General. – Except as provided in G.S. 163-329, there shall be a primary to narrow the field of candidates to two candidates for each position to be filled if, when the filing period closes, there are more than two candidates for a single office or the number of candidates for a group of offices exceeds twice the number of positions to be filled. If only one or two candidates file for a single office, no primary shall be held for that office and the candidates shall be declared nominated. If the number of candidates for a group of offices does not exceed twice the number of positions to be filled, no primary shall be held for those offices and the candidates shall be declared nominated.

(b) Determination of Nominees. – In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. If two or more candidates receiving the

highest number of votes each receive the same number of votes, the State Board of Elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the same date as the primary canvass fixed under G.S. 163-188. The canvass shall be conducted in accordance with Article 16 of this Chapter.

(c) Determination of Election Winners. – In the election, the names of those candidates declared nominated without a primary and those candidates nominated in the primary shall be placed on the ballot. The candidate for a single office receiving the highest number of votes shall be elected. Those candidates for a group of offices receiving the highest number of votes, equal in number to the number of positions to be filled, shall be elected. If two candidates receiving the highest number of votes each received the same number of votes, the State Board of Elections shall determine the winner by lot.

"§ 163-323. *Notice of candidacy.*

(a) Form of Notice. – Each person offering to be a candidate for election shall do so by filing a notice of candidacy with the State Board of Elections in the following form, inserting the words in parentheses when appropriate:

Date _____ :

I hereby file notice that I am a candidate for election to the office of _____ in the regular election to be held _____, _____.

Signed _____ :

(Name of Candidate)

Witness: _____

The notice of candidacy shall be either signed in the presence of the chairman or secretary of the State Board of Elections, or signed and acknowledged before an officer authorized to take acknowledgments who shall certify the notice under seal. An acknowledged and certified notice may be mailed to the State Board of Elections. In signing a notice of candidacy, the candidate shall use only the candidate's legal name and, in his discretion, any nickname by which commonly known. A candidate may also, in lieu of that candidate's first name and legal middle initial or middle name, if any, sign that candidate's nickname, provided the candidate appends to the notice of candidacy an affidavit that the candidate has been commonly known by that nickname for at least five years prior to the date of making the affidavit. The candidate shall also include with the affidavit the way the candidate's name (as permitted by law) should be listed on the ballot if another candidate with the same last name files a notice of candidacy for that office.

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

(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the election:

Judges of the superior courts.

Judges of the district courts.

(c) Withdrawal of Notice of Candidacy. – Any person who has filed a notice of candidacy for an office shall have the right to withdraw it at any time prior to the date on which the right to file for that office expires under the terms of subsection (b) of this section.

(d) Certificate That Candidate Is Registered Voter. – Candidates shall file along with their notice a certificate signed by the chairman of the board of elections or the supervisor of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, and if the candidacy is for superior court judge and the county contains more than one superior court district, stating the superior court district of which the person is a resident. In issuing such certificate, the chairman or supervisor shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline, the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

(e) Candidacy for More Than One Office Prohibited. – No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section.

(f) Notice of Candidacy for Certain Offices to Indicate Vacancy. – In any election in which there are two or more vacancies for the office of district court judge to be filled by nominations, each candidate shall, at the time of filing notice of candidacy, file with the State Board of Elections a written statement designating the vacancy to which he seeks election. Votes cast for a candidate shall be

effective only for his election to the vacancy for which the candidate has given notice of candidacy as provided in this subsection.

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

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

"§ 163-324. Filing fees required of candidates; refunds.

(a) Fee Schedule. – At the time of filing a notice of candidacy under this Article, each candidate shall pay to the State Board of Elections a filing fee for the office he seeks in the amount of one percent (1%) of the annual salary of the office sought.

(b) Refund of Fees. – If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section withdraws his notice of candidacy within the period prescribed in G.S. 163-323(c), he shall be entitled to have the fee he paid refunded. The chairman of the State Board of Elections shall cause a warrant to be drawn on the State Treasurer for the refund payment.

If any person who has filed a notice of candidacy and paid the filing fee prescribed in subsection (a) of this section dies prior to the date of the election, the personal representative of the estate shall be entitled to have the fee refunded if application is made to the board of elections to which the fee was paid no later than one year after the date of death, and refund shall be made in the same manner as in withdrawal of notice of candidacy.

"§ 163-325. Petition in lieu of payment of filing fee.

(a) General. – Any qualified voter who seeks election under this Article may, in lieu of payment of any filing fee required for the office he seeks, file a written petition requesting him to be a candidate for a specified office with the State Board of Elections.

(b) Requirements of Petition; Deadline for Filing. – If the candidate is seeking the office of superior or district court judge, that individual shall file a written petition with the State Board of Elections no later than 12:00 noon on Monday preceding the filing

deadline before the primary. The petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for. The board of elections shall verify the names on the petition, and if the petition and notice of candidacy are found to be sufficient, the candidate's name shall be printed on the appropriate ballot. Petitions must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

"§ 163-326. Certification of notices of candidacy.

(a) Names of Candidates Sent to Secretary of State. – Within three days after the time for filing notices of candidacy with the State Board of Elections under the provisions of G.S. 163-323(b) has expired, the chairman or secretary of that Board shall certify to the Secretary of State the name and address of each person who has filed with the State Board of Elections, indicating in each instance the office sought.

(b) Notification of Local Boards. – No later than 10 days after the time for filing notices of candidacy under the provisions of G.S. 163-323(b) has expired, the chairman of the State Board of Elections shall certify to the chairman of the county board of elections in each county in the appropriate district the names of candidates for nomination to the offices of superior and district court judge who have filed the required notice and paid the required filing fee or presented the required petition to the State Board of Elections, so that their names may be printed on the official judicial ballot for superior and district court.

(c) Receipt of Notification by County Board. – Within two days after receipt of each of the letters of certification from the chairman of the State Board of Elections required by subsection (b) of this section, each county elections board chairman shall acknowledge receipt by letter addressed to the chairman of the State Board of Elections.

"§ 163-327. Vacancies of candidates or elected officers.

(a) Death or Disqualification of Candidate Before Primary. – If a candidate for nomination in a primary dies or becomes disqualified before the primary but after the ballots have been printed, the State Board of Elections shall determine whether or not there is time to reprint the ballots. If the Board determines that there is not enough time to reprint the ballots, the deceased or disqualified candidate's name shall remain on the ballots. If that candidate receives enough votes for nomination, such votes shall be disregarded and the candidate receiving the next highest number of votes below the number necessary for nomination shall be declared nominated. If the death or disqualification of the candidate leaves only two candidates

for each office to be filled, the nonpartisan primary shall not be held and all candidates shall be declared nominees.

(b) Death, Disqualification, or Resignation of Official After Election. – If a person elected to the office of superior or district court judge dies, becomes disqualified, or resigns on or after election day and before he has qualified by taking the oath of office, the office shall be deemed vacant and shall be filled as provided by law.

"§ 163-328. Failure of candidates to file; death or other disqualification of a candidate before election.

(a) Insufficient Number of Candidates. – If when the filing period expires, candidates have not filed for an office to be filled under this Article, the State Board of Elections shall extend the filing period for five days for any such offices.

(b) Death or Other Disqualification of Candidate; Reopening Filing. – If there is no primary because only one or two candidates have filed for a single office, or the number of candidates filed for a group of offices does not exceed twice the number of positions to be filled, and thereafter a candidate dies or otherwise becomes disqualified before the election and before the ballots are printed, the State Board of Elections shall, upon notification of the death or other disqualification, immediately reopen the filing period for an additional five days during which time additional candidates shall be permitted to file for election. If the ballots have been printed at the time the State Board of Elections receives notice of the candidate's death or other disqualification, the Board shall determine whether there will be sufficient time to reprint them before the election if the filing period is reopened for three days. If the Board determines that there will be sufficient time to reprint the ballots, it shall reopen the filing period for three days to allow other candidates to file for election, and such election shall be conducted on the plurality basis.

(c) Vacancy Caused by Nominated Candidate; Ballots Not Reprinted. – If the ballots have been printed at the time the State Board of Elections receives notice of a candidate's death, other disqualification, or resignation, and if the Board determines that there is not enough time to reprint the ballots before the election if the filing period is reopened for three days, then regardless of the number of candidates remaining for the office or group of offices, the ballots shall not be reprinted and the name of the vacated candidate shall remain on the ballots. If a vacated candidate should poll the highest number of votes in the election for a single office or enough votes to be elected to one of a group of offices, the State Board of Elections shall declare the office vacant and it shall be filled in the manner provided by law.

"§ 163-329. Elections to fill vacancy created after primary filing period to use plurality method.

(a) General. – If a vacancy is created in the office of judge of superior court after the filing period for the primary opens but more than 60 days before the general election, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted without a primary using the plurality method as provided in subsection (b) of this section. If a vacancy is created in the office of judge of superior court before the filing period for the primary opens, and under the Constitution of North Carolina an election is to be held for that position, such that the office shall be filled in the general election as provided in G.S. 163-9, the election to fill the office for the remainder of the term shall be conducted in accordance with G.S. 163-322.

(b) Plurality Election Rules. – Elections under this section shall be conducted using the following rules:

- (1) The filing period shall be prescribed by the State Board of Elections, but in no event may it be less than five working days. If a vacancy occurs in a second office in the same superior court district after the first filing period established under the section has closed, the State Board of Elections shall reopen filing for a period of not less than five working days for the office of superior court judge. All persons filing in either filing period shall run as a group and the election results shall be determined by subdivision (3) of this subsection.
- (2) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared elected.
- (3) When more persons are seeking election to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared elected.
- (4) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall determine the winner by lot.
- (5) Except as provided in this section, the provisions of this Article apply to elections conducted under this section.

"§ 163-330. *Voting in primary.*

Any person who will become qualified by age or residence to register and vote in the general election for which the primary is held, even though not so qualified by the date of the primary, shall be entitled to register for the primary and general election prior to the primary and then to vote in the primary after being registered. Such

person may register not earlier than 60 days nor later than the last day for making application to register under G.S. 163-82.6(c) prior to the primary.

"§ 163-331. *Date of primary.*

The primary shall be held on the same date as established for primary elections under G.S. 163-1(b).

"§ 163-332. *Ballots.*

(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of G.S. 163-140(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots.

(b) Ballots to ~~be~~Be Furnished by County Board of Elections. – It shall be the duty of the county board of elections to print official ballots for the following offices to be voted for in the primary:

Superior court judge.

District court judge.

In printing ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

Three days before the election, the chairman of the county board of elections shall distribute official ballots to the chief judge of each precinct in his county, and the chief judge shall give a receipt for the ballots received. On the day of the primary, it shall be the chief judge's duty to have all the ballots so delivered available for use at the precinct voting place.

"§ 163-333. *Canvass.*

The county board of elections shall, in addition to the requirements contained in G.S. 163-175, canvass the results in judicial primaries and elections, the number of legal votes cast in each precinct for each candidate, the name of each person voted for, and the total number of votes cast in the county for each person for each different office.

"§ 163-334. *Counting of ballots.*

Counting of ballots in primaries and elections held under this Article shall be under the same rules as for counting of ballots in nonpartisan municipal elections under Article 24 of this Chapter.

"§ 163-335. *Other rules.*

Except as provided by this Article, the conduct of elections shall be governed by Subchapter VI of this Chapter."

SECTION 2.(a) G.S. 7A-142 reads as rewritten:

"§ 7A-142. *Vacancies in office.*

A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the judicial district as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9 or 9B, only those members who reside in the district court district shall participate in the selection of the nominees. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the district court district shall participate in the selection of the nominees. If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. If the district court judge was not elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district and who are duly authorized to practice law in the district; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."

SECTION 2.(b) Effective on the first Monday in December of 2002, G.S. 7A-142, as amended by subsection (a) of this section, reads as rewritten:

"§ 7A-142. *Vacancies in office.*

A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the Governor from nominations submitted by the bar of the judicial district as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9 or 9B, only those members who reside in the district court district shall participate in the selection of the nominees. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the

district court district shall participate in the selection of the nominees. ~~If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence.~~ If the district court judge was not elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district and who are duly authorized to practice law in the district; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."

SECTION 3. G.S. 163-106 reads as rewritten:

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

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

"Date _____

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

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

Signed _____

Name of candidate

Witness:

(Title of witness)"

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

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

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

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

(b) Eligibility to File. – No person shall be permitted to file as a candidate in a primary if, at the time he offers to file notice of candidacy, he is registered on the appropriate registration book or record as an affiliate of a political party other than that in whose primary he is attempting to file. No person who has changed his political party affiliation or who has changed from unaffiliated status to party affiliation as permitted in G.S. 163-82.17, shall be permitted to file as a candidate in the primary of the party to which he changed unless he has been affiliated with the political party in which he seeks to be a candidate for at least 90 days prior to the filing date for the office for which he desires to file his notice of candidacy.

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

(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than

12:00 noon on the first Monday in January and no later than 12:00 noon on the first Monday in February preceding the primary:

Governor

Lieutenant Governor

All State executive officers

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

~~Judges of the district courts~~

United States Senators

Members of the House of Representatives of the United States

District attorneys

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

State Senators

Members of the State House of Representatives

All county offices.

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

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

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

(f) Candidates required to file their notice of candidacy with the State Board of Elections under subsection (c) of this section shall file

along with their notice a certificate signed by the chairman of the board of elections or the director of elections of the county in which they are registered to vote, stating that the person is registered to vote in that county, stating the party with which the person is affiliated, and that the person has not changed his affiliation from another party or from unaffiliated within three months prior to the filing deadline under subsection (c) of this section. In issuing such certificate, the chairman or director shall check the registration records of the county to verify such information. During the period commencing 36 hours immediately preceding the filing deadline the State Board of Elections shall accept, on a conditional basis, the notice of candidacy of a candidate who has failed to secure the verification ordered herein subject to receipt of verification no later than three days following the filing deadline. The State Board of Elections shall prescribe the form for such certificate, and distribute it to each county board of elections no later than the last Monday in December of each odd-numbered year.

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

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

~~(i) No person may file a notice of candidacy for superior court judge unless that person is at the time of filing the notice of candidacy a resident of the judicial district as it will exist at the time the person~~

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

SECTION 4. G.S. 163-107(a) reads as rewritten:

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

Office Sought	Amount of Filing Fee
Governor	One percent (1%) of the annual salary of the office sought
Lieutenant Governor	One percent (1%) of the annual salary of the office sought
All State executive offices	One percent (1%) of the annual salary of the office sought
All Justices, Judges, and District Attorneys of the General Court of Justice other than superior <u>and district</u> court judge	One percent (1%) of the annual salary of the office sought
United States Senator	One percent (1%) of the annual salary of the office sought
Members of the United States House of Representatives	One percent (1%) of the annual salary of the office sought
State Senator	One percent (1%) of the annual salary of the office sought
Member of the State House of Representatives	One percent (1%) of the annual salary of the office sought
All county offices not compensated by fees	One percent (1%) of the annual salary of the office sought
County commissioners, if compensated entirely by fees	Ten dollars (\$10.00)
Members of county board of education, if compensated entirely by fees	Five dollars (\$5.00)
Sheriff, if compensated entirely by fees	Forty dollars (\$40.00), plus one percent (1%) of the income of the office above four thousand dollars (\$4,000)

Clerk of superior court, if compensated entirely by fees	Forty dollars (\$40.00), plus one percent (1%) of the income of the office above four thousand dollars (\$4,000)
Register of deeds, if compensated entirely by fees	Forty dollars (\$40.00), plus one percent (1%) of the income of the office above four thousand dollars (\$4,000)
Any other county office, if compensated entirely by fees	Twenty dollars (\$20.00), plus one percent (1%) of the income of the office above two thousand dollars (\$2,000)
All county offices compensated partly by salary and partly by fees	One percent (1%) of the first annual salary to be received (exclusive of fees)."

SECTION 5. G.S. 163-111(c)(1) reads as rewritten:

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

Governor,
 Lieutenant Governor,
 All State executive officers,
 Justices, Judges, or District Attorneys of the General Court of Justice, other than superior and district court judge, judges,
 United States Senators,
 Members of the United States House of Representatives,
 State Senators in multi-county senatorial districts, and

Members of the State House of Representatives in multi-county representative districts."

SECTION 6. G.S. 163-140(a)(8) reads as rewritten:

"(8) Judicial ballot for superior and district court."

SECTION 7. G.S. 163-107.1(c) reads as rewritten:

"(c) County, Municipal and District Primaries. – If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by ten percent (10%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, and ~~judge of the District Court~~ or members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms."

SECTION 8. G.S. 163-114 reads as rewritten:

"§ 163-114. *Filling vacancies among party nominees occurring after nomination and before election.*

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	Vacancy is to be filled by
Any elective State office	appointment of State
United States Senator	executive committee of
	political party in which
	vacancy occurs

A district office, including:

Member of the United States House of Representatives

~~Judge of district court~~

District Attorney

State Senator in a multi-county senatorial district

Member of State House of Representatives in a multi-county representative district

State Senator in a single-county senatorial district

Member of State House of Representatives in a Single-county representative district

Any elective county office

Appropriate district executive committee of political party in which vacancy occurs

County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. If any person nominated as a candidate of a political party vacates such nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 9. G.S. 163-135(f) reads as rewritten:

"(f) Judicial Elections. – Except as provided by Article 25 of this Chapter, this Article shall apply to and control all elections for judges of the ~~superior court~~, superior and district courts."

SECTION 10. G.S. 163-140(b)(9) reads as rewritten:

"(9) Judicial ballot for superior and district court. The form of the judicial ballot for judges of the superior court and district court shall be prepared by the county board of elections. On the face of the ballot, shall be printed instructions for marking the voter's choice, in addition to the following instruction: "If you tear or deface or wrongly mark this ballot, return it and get another." On the bottom of the ballot shall be printed an identified facsimile of the signature of the chairman of the responsible county board of elections. This ballot may not be combined with any other ballot except another judicial ballot."

SECTION 11. G.S. 163-191 reads as rewritten:

"§ 163-191. *Contested primaries and elections; how tie broken.*

In a primary for party nomination for one or more of the offices to be canvassed by the State Board of Elections under the provisions of G.S. 163-187, the results shall be determined in accordance with the provisions of G.S. 163-111.

In a general election for one or more of the offices to be canvassed by the State Board of Elections under the provisions of G.S. 163-187, the persons having the highest number of votes for each office, respectively, shall be declared duly elected to that office by the State Board of Elections. But if two or more be equal and highest in votes for the office, then the State Board of Elections shall order a new election for the purpose of breaking the tie except if there is a tie for superior or district court judge the tie shall be broken in accordance with Article 25 of this Chapter."

SECTION 12. G.S. 163-123(g) reads as rewritten:

"(g) Municipal and Nonpartisan Elections Excluded. – This section does not apply to municipal elections conducted under Subchapter IX of Chapter 163 of the General Statutes, and does not

apply to nonpartisan elections except for superior court judge and district court judge elections under Article 25 of this Chapter."

SECTION 12.1. If Senate Bill 14, 2001 Session (ratified August 22, 2001) becomes law, then Section 11 of this act is repealed, and instead G.S. 163-329(b)(4) reads as rewritten:

"(4) If two or more candidates receiving the highest number of votes each receive the same number of votes, the board of elections shall ~~determine the winner by lot.~~ resolve the tie in accordance with G.S. 163-182.8."

SECTION 13. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 29th day of August, 2001.

Became law upon approval of the Governor at 11:14 a.m. on the 6th day of September, 2001.

H.B. 1257**SESSION LAW 2001-404**

AN ACT TO ESTABLISH A SURFACE WATER IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.25. Riparian Buffer Protection Program: Surface Water Identification Training and Certification Program.

(a) The Division of Water Quality of the Department shall develop a program to train and certify individuals to determine the presence of surface waters that would require the application of rules adopted by the Commission for the protection of riparian buffers. The Division may train and certify employees of the Division as determined by the Director of the Division of Water Quality; employees of units of local government to whom responsibility for the implementation and enforcement of the riparian buffer protection rules is delegated pursuant to G.S. 143-214.23; and employees of the Division of Forest Resources of the Department as determined by the Director of the Division of Forest Resources who are Registered Foresters under Chapter 89B of the General Statutes. The Director of the Division of Water Quality may review the determinations made by individuals who are certified pursuant to this section, may override a determination made by an individual certified under this section, and, if the Director of the Division of Water Quality determines that an individual is failing to make correct determinations, revoke the certification of that individual.

(b) The Division of Water Quality shall develop standard forms for use in making and reporting determinations. Each individual who is certified to make determinations under this section shall prepare a written report of each determination and shall submit the report to the agency that employs the individual. Each agency shall maintain reports of determinations made by its employees, shall forward a copy of each report to the Director of the Division of Water Quality, and shall maintain these reports and all other records related to determinations so that they will be readily accessible to the public."

SECTION 2. In implementing the Surface Water Identification Training and Certification Program established by G.S. 143-214.25, as enacted by Section 1 of this act, the Division of Water Quality of the Department of Environment and Natural Resources shall give priority to training and certifying the most highly qualified and experienced personnel in each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface Water Identification Training and Certification Program and shall submit written reports of its findings and recommendations, if any, to the Environmental Review Commission on or before 1 September 2002, 1 September 2003, and 1 March 2004.

SECTION 3. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this act applies shall implement the provisions of this act with funds otherwise appropriated or available to the agency.

SECTION 4. This act is effective when it becomes law and expires 1 September 2004.

In the General Assembly read three times and ratified this the 29th day of August, 2001.

Became law upon approval of the Governor at 3:25 p.m. on the 6th day of September, 2001.

H.B. 719

SESSION LAW 2001-405

AN ACT EXEMPTING THE TOWN OF MAYODAN FROM CERTAIN STATUTORY REQUIREMENTS CONCERNING A VOLUNTARY SATELLITE ANNEXATION OF SOME OR ALL OF CERTAIN DESCRIBED PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. The provisions of neither G.S. 160A-58.1(b)(4) nor G.S. 160A-58.1(b)(5) apply to the annexation by the Town of Mayodan of any or all of the following described property:

Avalon Industrial Park

A parcel of land being part of Tax parcel 7917-00-97-8095, known as Washington Mills being a part of Parcel G and located entirely on the southerly side of U.S. 220 Business at its intersection with Janet Road (SR#1395), located in Madison Township, Rockingham County, being more particularly described as follows:

Beginning at a new iron pipe at a point on a curve on the southerly sixty foot right-of-way line of U.S. Business 220 at the point of intersection with the east boundary line of Hassel F. Priddy and wife Jewel Priddy as recorded in Deed Book 813 at Page 242, being N 04°23'23" W a distance of 163.73 feet from an existing concrete monument being a boundary corner of the subject property, said concrete monument having NAD 83 NC State Plane coordinates of N=975,714.632 and E=1,717,782.768; thence northeasterly along said southerly right-of-way line along the arc of said curve to the right having a radius of 2,005.51 feet a distance of 394.93 feet (chord course N 72°54'16" E-394.29 feet); thence continuing along said southerly right-of-way line N 78°32'45" E a distance of 691.49 feet to the point of intersection with the L. Elize Holt estate as recorded in Deed Book 679 at Page 828; thence along said L. Elize Holt estate the following three courses:

- (1) S 25°43'45" E a distance of 49.93 feet;
 - (2) N 72°49'00" E a distance of 232.67 feet to a broken concrete monument;
 - (3) N 27°46'37" W a distance of 28.08 feet to the point of intersection with a curve at said southerly right-of-way line of U.S. Highway 220;
- thence along said southerly right-of-way line the following twelve courses:

- (1) along the arc of said curve to the left having a radius of 2,059.18 feet a distance of 628.94 feet (chord course N 63°38'43" E-626.50 feet);
- (2) N 54°53'42" E a distance of 1,954.61 feet to a point of curvature;
- (3) along the arc of said curve to the right having a radius of 729.38 feet a distance of 292.26 feet (chord course N 59°49'11" E-291.92 feet);
- (4) N 64°34'41" E a distance of 373.80 feet to a point of curvature;
- (5) along the arc of said curve to the left having a radius of 755.19 feet a distance of 528.94 feet (chord course N 48°34'21" E-518.19 feet);
- (6) N 24°26'54" E a distance of 769.74 feet to a point of curvature;

- (7) along the arc of said curve to the right having a radius of 1,413.71 feet a distance of 569.27 feet (chord N 35°59'03" E-565.43 feet) to a point of compound curvature;
- (8) along the arc of said compound curve to the right having a radius of 778.34 feet a distance of 212.59 feet (chord course N 58°33'06" E-211.93 feet);
- (9) N 66°19'45" E a distance of 177.16 feet to an existing iron pipe;
- (10) N 68°08'25" E a distance of 123.04 feet to a point of curvature;
- (11) along the arc of said curve to the right having a radius of 56,628.77 feet a distance of 156.0 feet (chord course N 70°53'07" E-156.00 feet);
- (12) N 71°10'18" E a distance of 557.32 feet more or less to the point of intersection with the mean waterline of the right-hand stream bank, looking downstream, of the Mayo River;

thence along said mean waterline along the following thirty-two meander survey courses:

- (1) S 23°12'43" E a distance of 518.94 feet;
- (2) S 30°29'10" E a distance of 253.34 feet;
- (3) S 12°26'22" E a distance of 55.55 feet;
- (4) S 05°04'16" W a distance of 60.15 feet;
- (5) S 31°44'31" W a distance of 64.12 feet;
- (6) S 48°1'53" W a distance of 98.80 feet;
- (7) S 69°12'10" W a distance of 72.39 feet;
- (8) S 81°42'49" W a distance of 84.32 feet;
- (9) N 82°06'12" W a distance of 112.86 feet;
- (10) N 69°37'32" W a distance of 113.16 feet;
- (11) N 64°04'52" W a distance of 255.88 feet;
- (12) N 64°59'41" W a distance of 322.39 feet;
- (13) N 74°17'52" W a distance of 132.71 feet;
- (14) N 87°34'10" W a distance of 101.42 feet;
- (15) S 82°01'41" W a distance of 197.23 feet;
- (16) S 52°56'28" W a distance of 171.98 feet;
- (17) S 35°52'31" W a distance of 116.15 feet;
- (18) S 24°04'04" W a distance of 359.26 feet;
- (19) S 08°10'23" W a distance of 349.58 feet;
- (20) S 05°33'45" W a distance of 377.55 feet;
- (21) S 14°16'09" W a distance of 250.44 feet;
- (22) S 49°41'23" W a distance of 240.57 feet;
- (23) S 76°19'48" W a distance of 400.06 feet;
- (24) S 62°37'15" W a distance of 268.07 feet;
- (25) S 57°15'00" W a distance of 98.97 feet;
- (26) S 43°03'00" W a distance of 98.04 feet;

- (27) S 25°33'28" W a distance of 102.71 feet;
- (28) S 21°46'19" W a distance of 273.16 feet;
- (29) S 19°38'23" W a distance of 197.10 feet;
- (30) S 15°45'25" W a distance of 127.94 feet;
- (31) S 09°53'09" W a distance of 82.31 feet;
- (32) S 14°25'12" W a distance of 121.70 feet to the northern boundary corner of H&H Properties Tract 1 as recorded in Deed Book 853 at Page 1922;

thence S 31°06'32" W along the northwesterly boundary line of said H&H Properties, passing a new iron pipe at 20.00 feet, a total distance of 203.80 feet to a new iron pipe at a point on a curve being twenty feet more or less southeasterly from the centerline of the Norfolk & Western Railway track; thence continuing along said northwestern boundary line, along a line being twenty feet more or less southeasterly from said centerline of track the following seven courses:

- (1) along the arc of said curve to the right having a radius of 3,878.95 feet a distance of 264.32 feet (chord course S 25°34'18" W-264.27 feet) to a point of compound curve;
- (2) along the arc of said compound curve to the right having a radius of 8,418.46 feet a distance of 264.25 feet (chord course S 28°52'05" W-264.24 feet) to a point of compound curve;
- (3) along the arc of said compound curve to the right having a radius of 13,040.73 feet a distance of 123.10 feet (chord course S 29°36'36" W-123.10 feet) to a point of compound curve;
- (4) along the arc of said compound curve to the right having a radius of 3,775.94 feet a distance of 350.16 feet (chord course S 32°07'26" W-350.03 feet) to a point of compound curve;
- (5) along the arc of said compound curve to the right having a radius of 3,058.52 feet a distance of 350.32 feet (chord course S 37°33'19" W-350.13 feet) to a point of compound curve;
- (6) along the arc of said compound curve to the right having a radius of 772.54 feet a distance of 313.55 feet (chord course S 51°46'41" W-311.40 feet) to a point of compound curve;
- (7) along the arc of said compound curve to the right having a radius of 732.89 feet a distance of 393.06 feet (chord course S 79°22'35" W-388.36 feet) to a new iron pipe at a point of Norfolk & Western Railway right-of-way width change;

thence S 04°38'03" W a distance of 20.00 feet to a new iron pipe at a point being forty feet more or less from said centerline of track; thence along a curve to the right, being forty feet southerly more or less from said centerline of track, having a radius of 740.75 feet a distance of 176.12 feet (chord course N 78°33'55" W-175.70 feet) to a new iron pipe at the point of intersection with a western boundary line of said H&H Properties; thence S 06°03'20" E along said western boundary line a distance of 57.07 feet to an existing angle iron; thence continuing S 06°03'20" E along said western boundary line a distance of 209.71 feet to an existing angle iron; thence continuing along said western boundary line N 69°15'08" W a distance of 296.92 feet to an existing angle iron; thence continuing along said western boundary line N 72°59'45" W, passing a new iron pipe at 313.99 feet, a total distance of 338.99 feet more or less to the point of intersection with said mean waterline of the right-hand stream bank, looking downstream, of the Mayo River; thence along said mean waterline along the following three meander survey courses:

(1) N 36°01'11" W a distance of 299.13 feet;

(2) N 40°18'52" W a distance of 250.37 feet;

(3) N 44°48'54" W a distance of 224.79 feet to the point of intersection with a property line of unknown ownership;

thence N 02°55'00" W along said property line passing a new iron pipe at 25.00 feet a total distance of 306.00 feet to an existing iron pipe; thence continuing along the property line of said unknown ownership N 81°36'20" W, passing an existing concrete monument at 25.4 feet a total distance of 674.27 feet to an existing concrete monument; thence N 04°23'23" W a distance of 163.73 feet to the Point of Beginning, containing 142.8245 acres more or less including 19.5056 acres in Railroad right-of-way.

Avalon Residential

A parcel of land being part of Tax parcel 7917-00-97-8095, known as Washington Mills being Parcel F and located entirely on the northerly side of U.S. 220 Business on the west side of Janet Road (SR#1395), located in Madison Township, Rockingham County, North Carolina, being more particularly described as follows:

Beginning at an existing iron pipe at a point on a curve on the northerly sixty foot right-of-way line of U.S. Business 220 at the point of intersection with the east boundary line of Hassel F. Priddy and wife Jewel Priddy as recorded in Deed Book 813 at Page 242, Tract 2, being N 04°23'23" W a distance of 226.83 feet from an existing concrete monument being a boundary corner of Washington Mills Parcel G, said concrete monument having NAD 83 NC State Plane coordinates of N =975,714,632 and E=1,717,782.768; thence N 04°23'23" W along said east boundary line of Hassel F. Priddy and

wife Jewel Priddy a distance of 377.80 feet to an existing concrete monument; thence S 89°04'41" W along the north boundary line of said Hassel F. Priddy and wife Jewel Priddy a distance of 440.58 feet to an existing iron pipe at the southeast corner of Avalon Heights lot 16, the southeast corner of Brenda Lou S. Coleman as recorded in Deed Book 1031 at Page 316; thence N 01°31'26" W along the east boundary line of said Avalon Heights lot 16 and along the east boundary line of said Brenda Lou S. Coleman a distance of 1,251.54 feet to an existing concrete monument at the southeast corner of Gerry G. Williams, et al. as recorded in Deed Book 702 at Page 270; thence N 01°31'23" W along the east boundary line of said Williams a distance of 569.93 feet to an existing concrete monument at the southwest corner of Hannah Kirby Dalton; thence along the south, east, and north boundary line of said Dalton the following three courses:

- (1) N 65°34'37" E a distance of 460.20 feet to an existing concrete monument;
- (2) N 17°30'29" W a distance of 553.90 feet to an existing concrete monument;
- (3) S 88°52'26" W a distance of 270.96 feet to an existing concrete monument at the point of intersection with the east boundary line of Carolyn Leandra McGuire as recorded in Deed Book 973 at Page 2159; thence N 01°00'26" E along said east boundary line a distance of 293.55 feet to an existing stone being S 89°11'32" E a distance of 3.70 feet from an existing iron pipe; thence S 89°11'32" E along the south boundary line of said McGuire a distance of 714.15 feet to an existing iron pipe at the southwest corner of Mildred F. Joyce/Barrett (Will #96E-431) as recorded in Deed Book 347 at Page 480; thence S 89°11'38" E along the south boundary line of said Joyce/Barrett a distance of 1,461.67 feet to an existing concrete monument at the southeast corner of said Joyce/Barrett; thence N 09°20'11" E along the east boundary line of said Joyce/Barrett a distance of 974.46 feet to an existing concrete monument; thence continuing along said east boundary line of Joyce/Barrett N 09°16'25" E, passing an existing concrete monument of 530.88 feet, a total distance of 548.78 feet to the centerline of a branch, the southwest corner of C. Wayne Cook and Kaye J. Cook as recorded in Deed Book 714 at Page 196; thence along said branch, along the south boundary line of said Cook the following four random survey lines:
 - (1) N 85°33'13" E a distance of 130.69 feet;
 - (2) S 61°58'17" E a distance of 133.54 feet;
 - (3) S 48°44'17" E a distance of 126.35 feet;
 - (4) S 64°00'17" E a distance of 158.86 feet to an existing concrete monument at the southeast corner of said Cook; thence N 01°33'12" E along the east boundary line of said Cook, passing iron

pipes at 248.88 feet and 493.45 feet a total distance of 761.90 feet to an existing iron pipe at the point of intersection with a curve on the apparent south right-of-way line (approximately 30' from centerline) of Ledbetter Road (SR#1336) in accordance with Plat Book 21 at Page 52; thence along said apparent south right-of-way line along the arc of said curve to the left having a radius of 2,533.40 feet a distance of 184.97 feet (chord course N 66°42'37" E-184.93 feet) to an existing iron pipe; thence continuing along said apparent south right-of-way line N 64°37'06" E a distance of 1,406.38 feet to an existing iron pipe at the point of intersection with a curve on the apparent west right-of-way line (approximately 50' from centerline) of Janet Road (SR#1395) in accordance with Plat Book 21 at Page 52; thence along said apparent west right-of-way line along the arc of said curve to the left having a radius of 1,338.56 feet a distance of 774.00 feet (chord course S 14°22'19" E-763.26 feet) to an existing iron pipe; thence continuing along said apparent west right-of-way line S 31°19'11" E a distance of 1,950.45 feet to an existing iron pipe at the point of intersection with a curve on the northerly sixty foot right-of-way line of U.S. Business 220; thence along said northerly right-of-way line the following seven courses:

- (1) along the arc of said curve to the left having a radius of 1,480.46 feet a distance of 596.43 feet (chord course S 35°59'23" W-592.41 feet) to an existing iron pipe;
- (2) S 24°26'54" W a distance of 769.74 feet to an existing iron pipe at a point of curvature;
- (3) along the arc of said curve to the right having a radius of 705.64 feet a distance of 486.72 feet (chord course S 48°55'21" W-477.13 feet) to an existing iron pipe;
- (4) S 64°34'41" W a distance of 373.80 feet to a point of curvature;
- (5) along the arc of said curve to the left having a radius of 789.33 feet a distance of 302.40 feet (chord course S 59°49'00" W-302.04 feet) to an existing iron pipe;
- (6) S 54°53'42" W a distance of 1,954.61 feet to an existing iron pipe at a point of curvature;
- (7) along the arc of said curve to the right having a radius of 1,985.26 feet a distance of 621.46 feet (chord course S 63°51'46" W-618.92 feet) to an existing iron pipe at the southeast corner of Edward Ray DeMoss and Louise B. DeMoss as recorded in Deed Book 840 at Page 2319;

thence along the easterly, northerly, and westerly boundary line of said DeMoss the following three courses:

- (1) N 27°47'35" W a distance of 329.40 feet to an existing concrete monument;

- (2) S 73°31'18" W a distance of 217.83 feet to an existing concrete monument;
- (3) S 25°43'45" E a distance of 307.48 feet to a new iron pipe at the point of intersection with said northerly sixty foot right-of-way line of U.S. Business 220;

thence S 78°32'45" W along said northerly right-of-way line a distance of 676.22 feet to an existing iron pipe at a point of curvature; thence continuing along said northerly right-of-way line along the arc of said curve to the left having a radius of 2,065.51 feet a distance of 386.91 feet (chord course S 73°10'46" W-386.35 feet) to the Point of Beginning, containing 389.7466 acres more or less.

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 13th day of September, 2001.

Became law on the date it was ratified.

H.B. 1431**SESSION LAW 2001-406**

AN ACT TO PREVENT DOUBLE TAXATION OF MOTOR VEHICLES WHOSE TAX YEAR CHANGES DUE TO A CHANGE IN REGISTRATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-330.6 reads as rewritten:

"§ 105-330.6. *Motor vehicle tax year; transfer of plates; surrender of plates.*

(a) Tax Year. – The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the staggered system ~~shall begin~~ begins on the first day of the first month following the date on which the registration expires or the new registration is applied for and ~~end~~ ends on the last day of the twelfth month following the date on which the registration expires or the new registration is applied for. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) and registered under the annual system ~~shall begin~~ begins on the first day of the first month following the date on which the registration expires or the new registration is applied for and ~~end~~ ends the following December 31. The tax year for a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) ~~shall be~~ is the fiscal year that opens in the calendar year in which the vehicle is required to be listed.

(a1) Change in Tax Year. – If the tax year for a classified motor vehicle changes because of a change in its registration for a reason other than the transfer of its registration plates to another classified motor vehicle pursuant to G.S. 20-64, and the new tax year begins before the expiration of the vehicle's original tax year, the taxpayer

may receive a credit, in the form of a release, against the taxes on the vehicle for the new tax year. The amount of the credit is equal to a proportion of the taxes paid on the vehicle for the original tax year. The proportion is the number of full calendar months remaining in the original tax year as of the first day of the new tax year, divided by 12. To obtain the credit allowed in this subsection, the taxpayer must apply within 30 days after the taxes for the new tax year are due and must provide the county tax collector information establishing the original tax year of the vehicle, the amount of taxes paid on the vehicle for that year, and the reason for the change in registration.

(b) Transfer of Plates. – If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) transfers the registration plates from the listed vehicle to another classified motor vehicle pursuant to G.S. 20-64 during the listed vehicle's tax year, the vehicle to which the plates are transferred is not required to be listed or taxed until the current registration expires or is renewed.

(c) Surrender of Plates. – If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within 120 days after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is 12 and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of September, 2001.

Became law upon approval of the Governor at 9:02 p.m. on the 14th day of September, 2001.

H.B. 226 SESSION LAW 2001-407

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF PHARMACY TO ACQUIRE REAL PROPERTY AND TO PURCHASE EQUIPMENT AND LIABILITY INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-85.11A. Acquisition of real property; equipment; liability insurance.

(a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(b) The Board may purchase, rent, or lease equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law upon approval of the Governor at 9:06 p.m. on the 14th day of September, 2001.

H.B. 170 SESSION LAW 2001-408

AN ACT TO ALLOW A FUEL TAX REFUND FOR OFF-ROAD FUEL USE BY MULCH-BLOWING EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.107(b) reads as rewritten:

"(b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the vehicles listed below may receive an annual refund for the amount of fuel consumed by ~~any of the following vehicles:~~the vehicle:

- (1) A concrete mixing vehicle.
- (2) A solid waste compacting vehicle.
- (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a power takeoff to unload the feed.
- (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
- (5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130, or motor fuel or another type of liquid

fuel into storage tanks and uses a power takeoff to make the delivery.

- (6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of the flat cents-per-gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle."

SECTION 2. This act is effective when it becomes law and applies to motor fuel and alternative fuel consumed on or after January 1, 2001.

In the General Assembly read three times and ratified this the 4th day of September, 2001.

Became law upon approval of the Governor at 9:06 p.m. on the 14th day of September, 2001.

H.B. 115 SESSION LAW 2001-409

AN ACT TO AMEND THE LAW REGARDING BUSINESS TRANSACTIONS INVOLVING PUBLIC FUNDS AND CONFLICTS OF INTEREST.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-234 reads as rewritten:

"§ 14-234. Public officers or employees benefiting from public contracts; exceptions.~~Director of public trust contracting for his own benefit; participation in business transaction involving public funds; exemptions.~~

- (a) (1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.
- (2) A public officer or employee who will derive a direct benefit from a contract with the public agency he or she serves, but who is not involved in making or

administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

- (3) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency he or she serves.

~~If any person appointed or elected a commissioner or director to discharge any trust wherein the State or any county, city or town may be in any manner interested shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contract, or in the profits thereof, either privately or openly, singly or jointly with another, he shall be guilty of a misdemeanor. Provided, that this section shall not apply to public officials transacting business with banks or banking institutions or savings and loan associations or public utilities regulated under the provisions of Chapter 62 of the General Statutes in regular course of business: Provided further, that such undertaking or contracting shall be authorized by said governing board by specific resolution on which such public official shall not vote.~~

(a1) For purposes of this section:

- (1) As used in this section, the term "public officer" means an individual who is elected or appointed to serve or represent a public agency, other than an employee or independent contractor of a public agency.
- (2) A public officer or employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to make decisions regarding the contract or to interpret the contract.
- (3) A public officer or employee is involved in making a contract if he or she participates in the development of specifications or terms or in the preparation or award of the contract. A public officer is also involved in making a contract if the board, commission, or other body of which he or she is a member takes action on the contract, whether or not the public officer actually participates in that action, unless the contract is approved under an exception to this section under which the public officer is allowed to benefit and is prohibited from voting.
- (4) A public officer or employee derives a direct benefit from a contract if the person or his or her spouse: (i) has more than a ten percent (10%) ownership or other

interest in an entity that is a party to the contract; (ii) derives any income or commission directly from the contract; or (iii) acquires property under the contract.

(5) A public officer or employee is not involved in making or administering a contract solely because of the performance of ministerial duties related to the contract.

(b) Subdivision (a)(1) of this section does not apply to any of the following:

(1) Any contract between a public agency and a bank, banking institution, savings and loan association, or with a public utility regulated under the provisions of Chapter 62 of the General Statutes.

(2) An interest in property conveyed by an officer or employee of a public agency under a judgment, including a consent judgment, entered by a superior court judge in a condemnation proceeding initiated by the public agency.

(3) Any employment relationship between a public agency and the spouse of a public officer of the agency.

(4) Nothing in this section nor in any general principle of common law shall render unlawful the acceptance of remuneration—Remuneration from a governmental board, public agency or commission—for services, facilities, or supplies furnished directly to needy individuals by a member of said board, agency or commission—a public officer or employee of the agency under any program of direct public assistance being rendered under the laws of this State or the United States to needy persons administered in whole or in part by such board, the agency or commission; provided, however, that such if: (i) the programs of public assistance to needy persons are open to general participation on a nondiscriminatory basis to the practitioners of any given profession, professions or occupation; and provided further that the board, (ii) neither the agency or commission, nor any of its employees or agents, shall have no control over who, among licensed or qualified providers, shall be selected by the beneficiaries of the assistance, and that assistance; (iii) the remuneration for such the services, facilities or supplies shall be are in the same amount as would be paid to any other provider; and (iv) provided further that, although the board, agency or commission member public officer or employee may participate in making determinations of eligibility of needy persons to receive

the assistance, he ~~or she shall take~~ takes no part in approving his ~~or her~~ own bill or claim for remuneration.

(b) No public officer who will derive a direct benefit from a contract entered into under subsection (b) of this section may deliberate or vote on the contract or attempt to influence any other person who is involved in making or administering the contract.

~~(e) No director, board member, commissioner, or employee of any State department, agency, or institution shall directly or indirectly enter into or otherwise participate in any business transaction involving public funds with any firm, corporation, partnership, person or association which at any time during the preceding two year period had a financial association with such director, board member, commissioner or employee.~~

~~(e1) The fact that a person owns ten percent (10%) or less of the stock of a corporation or has a ten percent (10%) or less ownership in any other business entity or is an employee of said corporation or other business entity does not make the person "in any manner interested" or "concerned or interested in making such contract, or in the profits thereof," as such phrase is used in subsection (a) of this section, and does not make the person one who "had a financial association," as defined in subsection (e) of this section; provided that in order for the exception provided by this subsection to apply, such undertaking or contracting must be authorized by the governing board by specific resolution on which such public official shall not vote.~~

~~(d) The provisions of subsection (e) shall not apply to any transactions meeting the requirements of Article 3, Chapter 143 of the General Statutes or any other transaction specifically authorized by the Advisory Budget Commission.~~

(d1) The first sentence of subsection (a) shall Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 7,50015,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 7,50015,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 7,50015,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 7,50015,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health,

developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than ~~7,500~~15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital ~~if~~if all of the following apply:

- (1) The undertaking or contract or series of undertakings or contracts between the village, town, city, county, county social services board, county or city board of education, local health board or area mental health, developmental disabilities, and substance abuse board, or public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting, and recorded in its minutes and the amount does not exceed ~~ten thousand dollars (\$10,000)~~ twelve thousand five hundred dollars (\$12,500) for medically related services and ~~fifteen thousand dollars (\$15,000)~~ twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month ~~period;~~ and period.
- (2) The official entering into the contract ~~or undertaking~~ with the unit or agency does not ~~in his official capacity~~ participate in any way or ~~vote;~~ and vote.
- (3) The total annual amount of ~~undertakings or contracts~~ with each official, shall be specifically noted in the audited annual financial statement of the village, town, city, or ~~county;~~ and county.
- (4) The governing board of any village, town, city, county, county social services board, county or city board of education, local health board, area mental health, developmental disabilities, and substance abuse board, or public hospital which ~~undertakes or contracts~~ with any of the officials of their governmental unit shall post in a conspicuous place in its village, town, or city hall, or courthouse, as the case may be, a list of all such officials with whom such ~~undertakings or contracts~~ have been made, briefly describing the subject matter of the undertakings or contracts and showing their total amounts; this list shall cover the preceding 12 months and shall be brought up-to-date at least quarterly.

(d2) ~~The provision of subsection~~ Subsection (d1) shall of this section does not apply to contracts required by that are subject to Article 8 of Chapter 143 of the General Statutes, Public Building Contracts.

(d3) Subsection (a) of this section does not apply to an application for or the receipt of a grant under the Agriculture Cost Share Program

for Nonpoint Source Pollution Control created pursuant to G.S. 143-215.74 by a member of the Soil and Water Conservation Commission if the requirements of G.S. 139-4(e) are met, and does not apply to a district supervisor of a soil and water conservation district if the requirements of G.S. 139-8(b) are met.

(d4) Subsection (a) of this section does not apply to an application for, or the receipt of a grant or other financial assistance from, the Tobacco Trust Fund created under Article 75 of Chapter 143 of the General Statutes by a member of the Tobacco Trust Fund Commission or an entity in which a member of the Commission has an interest provided that the requirements of G.S. 143-717(g) are met.

(d5) This section does not apply to a public hospital subject to G.S. 131E-14.2 or a public hospital authority subject to G.S. 131E-21.

(e) Anyone violating this section shall be guilty of a Class 1 misdemeanor.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

(1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the chairman of the Local Government Commission.

(2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare."

SECTION 2. G.S. 14-236 is repealed.

SECTION 3. G.S. 14-237 is repealed.

SECTION 4. G.S. 115C-48(a) reads as rewritten:

"(a) Members of local boards of education are criminally liable for certain conduct as provided in G.S. 14-234. ~~G.S. 14-234 through 14-237.~~"

SECTION 5. G.S. 115D-26 reads as rewritten:

"§ 115D-26. *Conflict of interest.*

All local trustees and employees of community colleges covered under this Chapter ~~must adhere~~ are subject to the conflict of interest provisions found in G.S. 14-234. ~~G.S. 14-236."~~

SECTION 6. Part A of Article 2 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-14.2. Conflict of interest.

(a) No member of the board of directors or employee of a public hospital, as defined in G.S. 159-39(a), or that person's spouse shall do either of the following:

- (1) Acquire any interest, direct or indirect, in any hospital facility or in any property included or planned to be included in a hospital facility.
- (2) Have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any hospital facility, except an employment contract for an employee. This restriction shall not apply to any contract, undertaking, or other transaction with a bank or banking institution, savings and loan association or public utility in the regular course of its business provided that the contract, undertaking, or other transaction shall be authorized by the board by specific resolution on which no director having an interest, direct or indirect, shall vote.

(b) The fact that a person or that person's spouse owns ten percent (10%) or less stock of a corporation or has a ten percent (10%) or less ownership in any other business entity or is an employee of that corporation or other business entity does not make the person have an "interest, direct or indirect" as this phrase is used in subsection (a) of this section; provided that, in order for the exception to apply, the contract, undertaking, or other transaction shall be authorized by the board of directors by specific resolution on which no director or employee having an interest, direct or indirect, shall vote.

(c) If a member of the board of directors or an employee of a public hospital or that person's spouse owns or controls an interest, direct or indirect, in any property included or planned to be included in any hospital facility, the member of the board of directors or the employee shall immediately disclose the same in writing to the board and the disclosure shall be entered upon the minutes of the board. Failure to disclose shall constitute misconduct in office and shall be grounds for removal.

(d) Subsection (a) of this section shall not apply to any member of the board of directors of a public hospital if (i) the undertaking or contract or series of undertakings or contracts between the public hospital and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting and

recorded in its minutes and the amount does not exceed twelve thousand five hundred dollars (\$12,500) for medically related services and twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month period; and (ii) the official entering into the contract or undertaking with the public hospital does not in an official capacity participate in any way or vote.

(e) Subsection (a) of this section shall not apply to any employment relationship between a public hospital and the spouse of a member of the board of directors of the public hospital.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public hospital that is a party to the contract may request approval to continue contracts under this subsection from the chairman of the Local Government Commission. Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare."

SECTION 7. G.S. 131E-21 reads as rewritten:

"§ 131E-21. *Conflict of interest.*

(a) No commissioner or employee of the hospital authority or that person's spouse shall:shall do either of the following:

- (1) Acquire any interest, direct or indirect, in any hospital facility or in any property included or planned to be included in a hospital facility; or facility.
- (2) Have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any hospital facility, except an employment contract for an employee. The foregoing restriction shall not apply to any contract, undertaking, or other transaction with a bank or banking institution, savings and loan association or public utility in the regular course of its business; Provided that any such contract, undertaking, or other transaction shall be authorized by the commissioners by specific resolution on which no commissioner having an interest, direct or indirect, shall vote.

(b) The fact that a person or that person's spouse owns ten percent (10%) or less stock of a corporation or has a ten percent (10%) or less ownership in any other business entity or is an employee of that corporation or other business entity does not make the person have an "interest, direct or indirect" as this phrase is used in ~~subsections (1) and (2)~~ subsection (a) of this section; provided that, in order for the exception to apply, the contract, undertaking or

other transaction shall be authorized by the commissioners by specific resolution on which no commissioner or employee having an interest, direct or indirect, shall vote.

(c) If a commissioner or employee of an authority or that person's spouse owns or controls an interest, direct or indirect, in any property included or planned to be included in any hospital facility, the commissioner or employee shall immediately disclose the same in writing to the authority and the disclosure shall be entered upon the minutes of the authority. Failure to disclose shall constitute misconduct in office and shall be grounds for a commissioner's removal from office under G.S. 131E-22.

(d) Subsection (a) of this section shall not apply to any commissioner of a hospital authority if (i) the undertaking or contract or series of undertakings or contracts between the hospital authority and one of its officials is approved by specific resolution of the governing body adopted in an open and public meeting and recorded in its minutes and the amount does not exceed twelve thousand five hundred dollars (\$12,500) for medically related services and twenty-five thousand dollars (\$25,000) for other goods or services within a 12-month period; and (ii) the official entering into the contract or undertaking with the hospital authority does not in an official capacity participate in any way or vote.

(e) Subsection (a) of this section shall not apply to any employment relationship between a hospital authority and the spouse of a commissioner of the hospital authority.

(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A hospital authority that is a party to the contract may request approval to continue contracts under this subsection from the chairman of the Local Government Commission. Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare."

SECTION 8. G.S. 153A-44 reads as rewritten:
 "§ 153A-44. *Members excused from voting.*

The board may excuse a member from voting, but only upon questions involving his the member's own financial interest or his official conduct. ~~conduct or on matters on which the member is prohibited from voting under G.S. 14-234.~~ ~~(For For~~ purposes of this section, the question of the compensation and allowances of members of the board does not involve a member's own financial interest or official ~~conduct.)~~ conduct."

SECTION 9. G.S. 160A-75 reads as rewritten:

"§ 160A-75. *Voting.*

No member shall be excused from voting except upon matters involving the consideration of ~~his~~the member's own financial interest or official ~~conduct.~~conduct or on matters on which the member is prohibited from voting under G.S. 14-234. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in ~~issue (including issue, including~~issue, including the mayor's vote in case of an equal ~~division)~~division, shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two thirds of all the actual membership of the council, excluding vacant seats ~~(not and not including the mayor unless he the~~mayor has the right to vote on all questions before the council)~~council.~~ For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council."

SECTION 10. Section 10 and G.S. 14-234(d1), as rewritten in Section 1 of this act, are effective April 1, 2001, and apply to actions taken and offenses committed on or after that date. The remainder of this act becomes effective July 1, 2002, and applies to actions taken and offenses committed on or after that date. Prosecutions for offenses committed before the effective dates of the provisions of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law upon approval of the Governor at 9:07 p.m. on the 14th day of September, 2001.

H.B. 1147

SESSION LAW 2001-410

AN ACT TO PERMIT A HOSPITAL TO TEMPORARILY INCREASE ITS BED CAPACITY AFTER NOTIFYING THE DIVISION OF FACILITY SERVICES; PERTAINING TO

HOSPITAL PAYMENTS FOR TREATMENT AND SERVICES RENDERED TO WORKERS' COMPENSATION PATIENTS; AND TO DIRECT THE MEDICAL CARE COMMISSION TO ADOPT TEMPORARY RULES FOR THE LICENSING OF NEONATAL CARE BEDS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 131E of the General Statutes is amended by adding a new section to read:

"§ 131E-83. Temporary change of hospital bed capacity.

A hospital may temporarily increase its bed capacity by up to ten percent (10%) over its licensed bed capacity by utilizing observation beds for hospital inpatients if the hospital notifies and obtains the approval of the Division of Facility Services. For purposes of this section, 'temporarily' means not longer than 60 consecutive days."

SECTION 2. Notwithstanding G.S. 150B-21.1(a), the Medical Care Commission shall adopt temporary rules setting forth conditions for licensing all levels of neonatal care beds. After having the proposed temporary rules published in the North Carolina Register and at least 30 days prior to adopting any temporary rules pursuant to this section, the Commission shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt the temporary rules.
- (2) Accept oral and written comments on the proposed temporary rules.
- (3) Hold at least one public hearing on the proposed temporary rules.

When the Commission adopts temporary rules pursuant to this section, the Commission shall submit a reference to this section as the Commission's statement of need to the Codifier of Rules. The Codifier of Rules shall review the Commission's proposed temporary rules in accordance with G.S. 150B-21.1(b).

SECTION 3. G.S. 96-27(b) reads as rewritten:

"(b) Hospital Fees. – Each hospital subject to the provisions of this subsection shall be reimbursed the amount provided for in this subsection unless it has agreed under contract with the insurer, managed care organization, employer (or other payor obligated to reimburse for inpatient hospital services rendered under this Chapter) to accept a different amount or reimbursement methodology.

Except as otherwise provided herein, payment for medical treatment and services rendered to workers' compensation patients by a hospital shall be ~~equal to the payment the hospital is authorized to receive for the same treatment or service under the State Plan, provided that:~~

- ~~(1) Payment for inpatient hospital inpatient services provided on or after July 1, 1997, and on or before December 31, 1997, shall not be less than a minimum of ninety percent (90%) nor more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form.~~
- ~~(2) Payment for inpatient hospital services provided on or after January 1, 1998, through and including December 31, 1998, shall be not more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than a minimum percentage of such charges that the Commission determines would have been required to have produced an average payment rate equal to ninety-three and one tenth percent (93.1%) of aggregate charges for all inpatient claims processed by the Commission during the fiscal year ending June 30, 1997.~~
- ~~(3) Payment for inpatient hospital services provided on or after January 1, 1999, shall be not more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage established annually by the Commission as follows:
 - ~~a. Beginning in the third quarter (July, August, and September) of 1998, and annually thereafter, the Commission shall review data from the State Plan to ascertain the aggregate hospital itemized charges and aggregate amounts authorized for payment by the State Plan (including payments actually made by the State Plan and deductible, coinsurance, or other amounts for which the patient/insured may have been liable) for inpatient hospital claims paid to participating hospitals by the State Plan during the immediately preceding fiscal year ending June 30. The Commission shall then utilize the data described in the preceding sentence to calculate the extent, if any, to which aggregate State Plan authorized payments were less than aggregate charges on inpatient hospital claims paid by the State Plan during the preceding fiscal year.~~
 - ~~b. Beginning in the third quarter (July, August, and September) of 1998, and annually thereafter, the Commission shall calculate aggregate hospital itemized charges and aggregate payments authorized by the Commission on all inpatient~~~~

hospital workers' compensation claims approved for payment by the Commission during the preceding fiscal year ending June 30.

~~e. Based on the data described in sub-subdivisions a. and b. of this subdivision, the Commission shall on or before December 1, 1998, and December 1 of each subsequent year establish a minimum percentage that will result in a payment rate for inpatient workers' compensation cases that in the aggregate bears a percentage relationship to hospital itemized charges that is equal to the State Plan relationship between aggregate payments authorized and aggregate itemized charges for claims paid by the State Plan during the preceding fiscal year ending June 30. The percentage rate established shall be effective for the next succeeding calendar year beginning January 1 of that year. a reasonable fee determined by the Commission. Effective September 16, 2001, through June 30, 2002, the fee shall be the following amount unless the Commission adopts a different fee schedule in accordance with the provisions of this section:~~

- (1) For inpatient hospital services, the amount that the hospital would have received for those services as of June 30, 2001. The payment shall not be more than a maximum of one hundred percent (100%) of the hospital's itemized charges as shown on the UB-92 claim form nor less than the minimum percentage for payment of inpatient DRG claims that was in effect as of June 30, 2001.
- (2) For outpatient hospital services and any other services that were reimbursed as a discount off of charges under the State Plan as of June 30, 2001, the amount calculated by the Commission as a percentage of the hospital charges for such services. The percentage applicable to each hospital shall be the percentage used by the Commission to determine outpatient rates for each hospital as of June 30, 2001.
- (3) For any other services, a reasonable fee as determined by the Industrial Commission.

Notwithstanding any other provisions of law, the Commission's determination of payment rates under this subsection shall:

- (1) Comply with the procedures for adoption of a fee schedule established in G.S. 97-26(a);

- (2) Include publication ~~on or before October 1 of each year~~ of the proposed payment rate, and a summary of the data and calculations on which the rate is ~~based;~~based at least 90 days before the proposed effective date;
- (3) Be subject to the declaratory ruling provisions of G.S. 150B-4; and
- (4) Be deemed to constitute a final permanent rule under Article 2A of Chapter 150B for purposes of judicial review under Article 4 of that Chapter.

~~Payment for a particular type of medical compensation that is not covered under the State Plan shall be based on the allowable charge under the State Plan for comparable services or treatment, as determined by the Commission.~~

A hospital's itemized charges on the UB-92 claim form for workers' compensation services shall be the same as itemized charges for like services for all other payers."

SECTION 4. Section 1 of this act becomes effective November 1, 2001. Section 2 of this act is effective when it becomes law and expires 180 days from the effective date. Section 3 of this act becomes effective September 15, 2001. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 9:09 p.m. on the 14th day of September, 2001.

S.B. 646**SESSION LAW 2001-411**

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO HARM OR ATTEMPT TO HARM A LAW ENFORCEMENT AGENCY ANIMAL OR AN ASSISTANCE ANIMAL, OR TO OBSTRUCT, DELAY, TEASE, OR HARASS THE ANIMAL IN THE PERFORMANCE OF ITS DUTIES AS A LAW ENFORCEMENT AGENCY ANIMAL OR ASSISTANCE ANIMAL, AND TO MAKE IT UNLAWFUL TO RESTRAIN A DOG BY A CHAIN OR WIRE GROSSLY IN EXCESS OF THE SIZE NECESSARY TO RESTRAIN THE DOG SAFELY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-163.1 reads as rewritten:
 "§ 14-163.1. ~~Injuring, maiming, or killing law enforcement~~Assaulting a law enforcement agency animal or an assistance animal.

~~Any person who knows or has reason to know that an animal is used for law enforcement purposes such as investigation, detection of~~

~~narcotics or explosives, or crowd control, by any law enforcement agency and who willfully and not in self defense, causes serious injury to, maims, or kills that animal is guilty of a Class I felony.~~

(a) The following definitions apply in this section:

- (1) Assistance animal. – An animal that is trained and may be used to assist a 'handicapped person' as defined in G.S. 168-1. The term 'assistance animal' is not limited to a dog and includes any animal trained to assist a handicapped person as provided in Article 1 of Chapter 168 of the General Statutes.
- (2) Law enforcement agency animal. – An animal that is trained and may be used to assist a law enforcement officer in the performance of the officer's official duties.
- (3) Physical harm. – Any injury, illness, or other physiological impairment.
- (4) Serious physical harm. – Physical harm that does any of the following:
 - a. Creates a substantial risk of death.
 - b. Causes maiming or causes substantial loss or impairment of bodily function.
 - c. Causes acute pain of a duration that results in substantial suffering.

(b) Any person who knows or has reason to know that an animal is a law enforcement agency animal or an assistance animal and who willfully causes or attempts to cause serious physical harm to the animal is guilty of a Class I felony.

(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal or an assistance animal and who willfully causes or attempts to cause physical harm to the animal is guilty of a Class 1 misdemeanor.

(d) Unless the conduct is covered under some other provision of law providing greater punishment, any person who knows or has reason to know that an animal is a law enforcement agency animal or an assistance animal and who willfully taunts, teases, harasses, delays, obstructs, or attempts to delay or obstruct the animal in the performance of its duty as a law enforcement agency animal or assistance animal is guilty of a Class 2 misdemeanor.

(e) This section shall not apply to a licensed veterinarian whose conduct is in accordance with Article 11 of Chapter 90 of the General Statutes.

(f) Self-defense is an affirmative defense to a violation of this section."

SECTION 2. Article 47 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-362.3. Restraining dogs in a cruel manner.

A person who maliciously restrains a dog using a chain or wire grossly in excess of the size necessary to restrain the dog safely is guilty of a Class 1 misdemeanor. For purposes of this section, 'maliciously' means the person imposed the restraint intentionally and with malice or bad motive."

SECTION 3. Section 1 of this act becomes effective December 1, 2001, and applies to offenses committed on or after that date. Prosecutions for offenses committed under Section 1 before its effective date are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions. The remainder of this act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law upon approval of the Governor at 9:10 p.m. on the 14th day of September, 2001.

H.B. 435**SESSION LAW 2001-412**

AN ACT TO ALLOW THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO PROVIDE STAFF AND OTHER ASSISTANCE TO A NONPROFIT CORPORATION ESTABLISHED TO SUPPORT THE GOVERNOR MOREHEAD SCHOOL.

The General Assembly of North Carolina enacts:

SECTION 1. Part 9A of Article 3 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-164.18. Establishment of private, nonprofit corporations.

The Department of Health and Human Services may encourage the establishment of private, nonprofit corporations to support the Governor Morehead School. If the sole purpose of a corporation is to support the Governor Morehead School, the Department may, with the approval of the Board of Directors of the Governor Morehead School, assign employees to assist with the establishment and operation of the nonprofit corporation and may make available to the corporation office space, equipment, supplies, and other related resources. The limitation on hours of service by an employee provided in G.S. 143B-139.4 does not apply to employees assisting a nonprofit corporation established pursuant to this section.

The board of directors of each private, nonprofit corporation that obtains assistance under this section shall secure and pay for the services of the State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the

corporation. The board of directors of the corporation shall transmit to the Department of Health and Human Services a copy of the annual financial audit report of the corporation."

SECTION 2. G.S. 143B-164.11 is amended by adding a new subsection to read:

"(c) The Board of Directors of the Governor Morehead School may encourage the establishment of private, nonprofit corporations to support the institution. If the sole purpose of a corporation is to support the Governor Morehead School, the Department of Health and Human Services may, with the approval of the Board of Directors, assign employees to assist with the establishment and operation of the corporation and may make available to the corporation office space, equipment, supplies, and other related resources. The limitation on hours of service by an employee provided in G.S. 143B-139.4 does not apply to employees assisting a nonprofit corporation pursuant to this subsection. The board of directors of each private, nonprofit corporation that obtains assistance under this subsection shall secure and pay for the services of the State Auditor or employ a certified public accountant to conduct an annual audit of the financial accounts of the corporation. The board of directors of the corporation shall transmit to the Department of Health and Human Services a copy of the annual financial audit report of the corporation."

SECTION 3. G.S. 143B-139.4(a) reads as rewritten:
 "§ 143B-139.4. *Department of Health and Human Services; authority to assist private nonprofit organizations.*

(a) The Secretary of the Department of Health and Human Services may allow employees of the Department or provide other appropriate services to assist any private nonprofit organization which works directly with services or programs of the Department and whose sole purpose is to support the services and programs of the Department. ~~A~~Except as provided in G.S. 143B-164.18, a Department employee shall be allowed to work with an organization no more than ~~twenty~~ 20 hours in any one month. These services are not subject to the provisions of Chapter 150B of the General Statutes."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law upon approval of the Governor at 9:11 p.m. on the 14th day of September, 2001.

H.B. 1070

SESSION LAW 2001-413

AN ACT TO AMEND THE PROVISIONS FOR THE RESIGNATION, REMOVAL, AND RENUNCIATION OF

TRUSTEES AND FOR THE APPOINTMENT OF SUCCESSOR TRUSTEES, TO MAKE VARIOUS CHANGES IN THE LAW OF FIDUCIARIES AND DECEDENTS' ESTATES, AND TO MAKE TECHNICAL CORRECTIONS TO HOUSE BILL 1073, SENATE BILL 815, AND SENATE BILL 842, AS ENACTED BY THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

PART I: RESIGNATION, REMOVAL, AND RENUNCIATION OF TRUSTEES AND APPOINTMENT OF SUCCESSOR TRUSTEES.

SECTION 1. Article 3 of Chapter 36A of the General Statutes reads as rewritten:

"Article 3.

~~"Resignation, Removal, and Renunciation of Trustees. Trust Administration.~~

~~"§ 36A-22. Applicability of this Article.~~

~~(a) Except when otherwise provided by law, the term "trustee," as used in this Article, includes "trustees," "guardians," and other fiduciaries.~~

~~(b) The resignation, removal, and renunciation of personal representatives and collectors shall be governed by the provisions of Articles 5, 9, and 10 of Chapter 28A.~~

~~(c) The substitution of trustees in mortgages and deeds of trust shall be governed by the provisions of G.S. 45-10.~~

~~"§ 36A-22.1. Definitions.~~

~~As used in this Article:~~

- ~~(1) "Beneficiary" means a person who has any present or future interest, vested or contingent, in a trust, including (i) the owner of an interest by assignment or other transfer; and (ii) any person entitled to enforce a charitable trust.~~
- ~~(2) "Fiduciary" includes personal representatives, guardians of the person, guardians of the estate, attorneys-in-fact, and trustees.~~
- ~~(3) "Interested person" includes creditors, beneficiaries, and any others having a property right in or a claim against a trust estate which may be affected by the proceeding. The term also includes fiduciaries representing interested persons. The meaning of the term as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of and matter involved in a particular proceeding.~~

- (4) "Person" means an individual person, a corporation, an organization, or other legal entity.
- (5) "Trust" includes any express trust, private or charitable, with additions to the trust, wherever and however created. The term includes both testamentary and inter vivos trusts, regardless of whether the trustee is required to account to the clerk. The term also includes a trust created for or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. The term does not include other constructive trusts, resulting trusts, conservatorships, personal representatives, trust accounts as defined in G.S. 53-146.2, 54-109.57, 54B-130, and 54C-166, trust funds subject to G.S. 90-210.61, custodial arrangements pursuant to G.S. 33A-1 through G.S. 33A-24 and G.S. 33B-1 through G.S. 33B-22, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, or any arrangement under which a person is nominee or escrowee for another.
- (6) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court. The term does not include trustees in mortgages and deeds of trust. Substitution of trustees in mortgages and deeds of trust are governed by the provisions of G.S. 45-10.

"§36A-23. Clerk's power to accept resignations.

The clerks of superior courts of this State have power and jurisdiction to accept the resignation of trustees and to appoint their successors in the manner provided by this Article.

"§ 36A-23.1. Court; jurisdiction of trusts.

(a) The clerks of superior court of this State have original jurisdiction over all proceedings initiated by interested persons concerning the internal affairs of trusts except proceedings to modify or terminate trusts. Except as provided in subdivision (3) of this subsection, the clerk's jurisdiction is exclusive. Proceedings that may be maintained under this subsection are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

- (1) To appoint or remove a trustee;
- (2) To review trustees' fees pursuant to G.S. 32-50 and review and settle interim or final accounts; and
- (3) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments, and to determine the existence or nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. The clerk, on the clerk's own motion, may determine that a proceeding to determine an issue listed in this subdivision shall be originally heard by a superior court judge.

(b) The management and distribution of a trust estate, submission of accounts and reports to beneficiaries, payment of trustees' fees and other obligations of a trust, acceptance and change of trusteeship, and other aspects of the administration of a trust shall proceed expeditiously, consistent with the terms of the trust, free of judicial intervention and without order, approval, or other action of any court, subject to the jurisdiction of the clerk as invoked by interested parties or as otherwise exercised as provided by law. Nothing in this section shall be construed (i) to confer upon the clerk any authority to regulate or supervise the actions of a trustee except to the extent that the trustee's actions are inconsistent with the provisions of the governing instrument or of State law, or (ii) to confer upon any interested person any additional right, remedy, or cause of action not otherwise conferred by law.

(c) Nothing in this section affects the right of a person to file an action for declaratory relief under the provisions of Article 26 of Chapter 1 of the General Statutes.

"§ 36A-24. *Petition; contents and verification.*

When any trustee desires to resign his trust, he shall file his petition in the office of the clerk of superior court of the county in which he qualified or in which the instrument under which he claims is registered. The petition shall set forth all the facts in connection with the appointment and qualifications as such trustee, with a copy of the instrument under which he acts; shall state the names, ages, and residences of all the beneficiaries and other parties interested in the trust estate; shall contain a full and complete statement of all debts or liabilities due by the estate, and a full and complete statement of all assets belonging to said estate, and a full and complete statement of all moneys, securities, or assets in the hands of the trustee and due the estate, together with a full statement of the reasons the applicant should be permitted to resign his trust. The petition shall be verified by the oath of the applicant.

"§ 36A-24.1. Trust proceedings; venue.

(a) If the trustee is required to account to the clerk, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36A-23.1 involving trusts is the place where the accountings are filed.

(b) If the trustee is not required to account to the clerk, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36A-23.1 involving trusts is in any county of this State in which the trust has its principal place of administration or where any beneficiary resides.

(c) Unless otherwise designated in the governing instrument, the principal place of administration of the trust is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if the trustee has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the governing instrument, is:

- (1) The usual place of business of the corporate trustee if there is but one corporate cotrustee; or
- (2) The usual place of business or residence of any of the cotrustees.

"§ 36A-25. Parties; hearing; successor appointed.

~~Upon the filing of the petition, the clerk shall docket the cause as a special proceeding, with the trustee as plaintiff and the beneficiaries as defendants, and shall issue the summons for the defendants. Proceedings under this section are subject to Article 33 of Chapter 1 of the General Statutes. A beneficiary, creditor, or other person interested in the trust estate has the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. The clerk shall then proceed to hear and determine the matter. If it appears to the clerk that the best interests of the creditors and the beneficiaries demand that the resignation of the trustee be accepted or if it appears to the clerk that sufficient reasons exist for allowing the resignation and that the resignation can be allowed without prejudice to the rights of creditors or the beneficiaries, the clerk may, in the exercise of the clerk's discretion, allow the applicant to resign. The clerk shall appoint the successor of the petitioner in the manner provided in this Article.~~

"§ 36A-25.1. Trust proceedings; dismissal of matters relating to foreign trusts.

The clerk of superior court shall not, over the objection of a party, entertain proceedings under G.S. 36A-23.1 involving a trust having its principal place of administration in another state, except:

- (1) When all appropriate parties could not be bound by litigation in the courts of the state in which the trust had its principal place of administration; or

- (2) When the interests of justice otherwise would be seriously impaired.

The clerk may condition a stay or dismissal of a proceeding under this section on the consent of any party to jurisdiction of the state in which the trust has its principal place of administration, or the clerk may grant a continuance or enter any other appropriate order.

"§ 36A-26. Resignation allowed; costs; judge's approval.

In making an order allowing the trustee to resign, the clerk shall make such order concerning the costs of the proceedings and commissions to the trustee as may be just. If there is no appeal from the decision and order of the clerk within the time prescribed by law, the proceedings shall be submitted to the judge of the superior court and approved by him before the same shall become effective.

"§ 36A-26.1. Trust proceedings; necessary parties.

Proceedings under G.S. 36A-23.1 are initiated by filing a petition or complaint in the office of the clerk of superior court. Upon the filing of the petition, the clerk shall docket the cause as an estate matter. All known beneficiaries, trustees, or cotrustees not joined as petitioners shall be joined as respondents. The clerk shall issue the summons for the respondents. The clerk may order notification of additional persons. An order is valid as to all persons who are given notice of the proceeding even if all interested persons are not notified. The beneficiaries, creditors, or any other persons interested in the trust estate have the right to answer the petition and to offer evidence against granting the petition. The clerk shall then proceed to hear and determine the matter as provided for in G.S. 1-301.3.

"§ 36A-26.2. Waiver of notice.

An interested person, or a person representing an interested person as provided in G.S. 36A-26.3, may waive notice by a writing signed by the person or the person's attorney and filed in the proceeding.

"§ 36A-26.3. When parties represented by others.

In proceedings involving trusts, the following rules apply:

- (1) Interests to be affected shall be described in pleadings that give reasonable information to interested persons by name or class, by reference to the instrument creating the interests, or in some other appropriate manner.
- (2) Interested persons shall be represented by others in the following cases:
 - a. The sole holder or all coholders of a power of revocation or a presently exercisable general power of appointment, including one in the form of a power of amendment, shall represent other persons to the extent that their interests, as objects, takers in default, or otherwise, are subject to the power.

- b. If the clerk finds that there is no conflict of interest between the interested person and the person representing the interested person, or among persons represented, a guardian of the estate shall represent the person whose estate the guardian controls; a guardian of the person shall represent the ward if no guardian of the ward's estate has been appointed; a trustee shall represent beneficiaries of the trust in proceedings to probate a will establishing or adding to the trust, to review the acts or accounts of a prior fiduciary, and in other proceedings involving creditors or other third parties; and a personal representative shall represent persons interested in the undistributed assets of the decedent's estate in actions or proceedings by or against the estate. If there is no conflict of interest and no guardian of the estate or guardian of the person has been appointed, a parent shall represent a minor child.
 - c. If the clerk finds that another party has an interest in the proceeding substantially identical to the interest of an unborn or unascertained person who is not otherwise represented, that party shall represent the unborn or unascertained person.
 - d. At any point in a proceeding, a clerk shall allow an attorney-in-fact to represent the attorney-in-fact's principal, provided that, if the principal is incapacitated, the power of attorney is durable as defined in G.S. 32A-8, and provided that the power of attorney grants to the attorney-in-fact either (i) the authority to do, execute, or perform any act that the principal might or could do or otherwise evidences the principal's intent to give the attorney-in-fact full power to handle the principal's affairs or deal with the principal's property; (ii) the powers described under G.S. 32A-2(2) and G.S. 32A-2(8) and, if interests in real property are affected, the powers described in G.S. 32A-2(1); or (iii) other direct or indirect authority the clerk deems sufficient in the clerk's discretion.
- (3) At any point in the proceeding, the clerk may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn, or unascertained person, or a person whose identity is unknown, if the clerk determines that representation of the interest otherwise

would be inadequate. If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests. The clerk shall set forth the clerk's reasons for appointing a guardian ad litem as a part of the record of the proceedings.

Nothing in this section authorizes the disbursement of funds distributable to an interested person to a person authorized to represent that person under this section.

"§ 36A-27. Appeal; stay effected by appeal. Appeal.

Any party in interest may appeal from the decision of the clerk to the judge at chambers, and in such event the procedure for appeal is governed by Article 27A of Chapter 1 of the General Statutes. If the clerk allows the resignation and an appeal is taken from the decision of the clerk, the appeal stays the judgment and order of the clerk until the cause is heard and determined by the judge upon the appeal taken a superior court judge as provided for estate matters in G.S. 1-301.3.

"§ 36A-28: Repealed by Session Laws 1999-216, s. 2.

"§ 36A-29. Final accounting before resignation.

¶ If the trustee is required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, no trustee shall be allowed or permitted to resign his trust as trustee until he shall first file with the court his a final account of the trust estate, estate is filed with the clerk, and until the court shall be satisfied that the said account is true and correct.

§ 36A-30. Resignation effective on settlement with successor.

In case the resignation of the trustee is accepted by the court, the resignation shall not release or discharge the trustee from liability, until he shall have filed an account acceptable to his successor in full for all moneys, securities, property, or other assets or things of value in his possession or under his control or which should be in his possession or under his control belonging to the trust estate, and such account has been approved by the court.

"§ 36A-31. Court to appoint successor; when When bond required.

If the court shall allow any trustee to resign his trust upon compliance with the provisions of this Article, it shall be the duty of the court to proceed to appoint some fit and suitable person as the successor of such trustee; and the court shall require the person so appointed to give bond with sufficient surety, approved by the court, A trustee need not provide bond to secure performance of the trustee's duties unless required by the terms of the governing instrument, reasonably requested by a beneficiary, or found by the clerk to be necessary to protect the interests of beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented. However, in no event shall bond be required if the governing instrument directs otherwise. On petition of the trustee or

other interested person, the clerk may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. If the governing instrument is silent as to the requirement of a bond and the clerk finds that no bond is necessary, or if the clerk excuses or reduces the bond requirement, the clerk's decision must be approved by a superior court judge unless all beneficiaries have been notified of the decision. If bond is required, it shall be in a sum double the value of the personal property to come into his the trustee's hands when bond is executed by a personal surety surety, and in an amount not less than one and one-fourth times the value of all personal property of the decedent trust estate when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property exceeds one hundred thousand dollars (\$100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof, conditioned upon the faithful performance of his the trustee's duties as such trustee and for the payment to the persons entitled to receive the same of all moneys, assets, or other things of value which may come into his hands; provided, that where by the terms of the creating instrument the trustee who has resigned was not required to give bond and did not give bond and an intent is expressed in the creating instrument that a successor trustee shall serve without bond, or where the clerk, upon due investigation finds that bond is not necessary for the protection of the estate, the clerk, with the approval of the judge, upon the petition of any party in interest, may waive the requirement of a bond for the successor trustee and permit said successor trustee to serve without bond. the trustee's hands. All bonds executed under the provisions of this Article shall be filed with the clerk.

"§ 36A-32. *Rights and duties devolve on successor.*

Upon the acceptance by the court of the resignation of any trustee, and upon the appointment by the court of his successor in the manner provided by this Article, the A successor trustee shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee unless a contrary intent appears from the creating governing instrument.

"§ 36A-33. *Appointment of successors to deceased or incapacitated trustees. successor trustee on clerk's own motion.*

Upon the death or incapacity of a trustee, a new trustee may be appointed on application by a beneficiary or other interested person by petition to the clerk of the superior court of the county in which the instrument under which the deceased or incapacitated trustee

~~claimed is registered. The petition shall make all necessary parties defendants. Proceedings under this section are special proceedings subject to Article 33 of Chapter 1 of the General Statutes. A beneficiary, creditor, or other person interested in the trust estate has the right to answer the petition and to offer evidence why the prayer of the petition should not be granted. After hearing the matter, the clerk may appoint the person named in the petition or some other fit and suitable person or corporation to act as the successor of the deceased or incapacitated trustee. The clerk shall require the person so appointed to give bond as required in G.S. 36A 31. If the instrument under which the deceased or incapacitated trustee claimed, however, does not require the trustee to give bond and expresses an intent that a successor trustee serve without bond, or if the clerk upon due investigation, finds that bond is not necessary for the protection of the estate, the requirement of a bond for the successor trustee may be waived as provided in G.S. 36A 31. Any party in interest may appeal from the order or judgment of the clerk as provided in Article 27A of Chapter 1 of the General Statutes.~~

~~Nothing Unless the governing instrument provides otherwise, if the trustee is required to account to the clerk of court, nothing in this section Article shall be construed to limit the authority of the clerk of superior court to appoint a successor trustee to a deceased or incapacitated trustee upon the clerk's own motion.~~

~~"§ 36A 34. Testamentary trustee may renounce.~~

~~(a) Any person or corporation named as trustee in any will admitted to probate in this State, or any substitute trustee, may at any time prior to qualifying as required by G.S. 36A 107 or taking any action as trustee if such qualification is not required, and whether or not such person or corporation is entitled to so qualify or act, renounce such trusteeship by a writing filed with the clerk of superior court of the county in which the will is admitted to probate. Upon receipt of such renunciation the clerk shall give notice thereof to all persons interested in the trust, including successor or substitute trustees named in the will, which notice shall also comply with the requirements of subsection (e) of this section.~~

~~(b) If the will names or identifies a substitute trustee in case of renunciation, the provisions of the will shall be complied with, and the clerk shall enter an appropriate order appointing the substitute trustee in accordance therewith unless the substitute trustee also renounces. A substitute trustee so named shall succeed to the office of trustee upon the date of the order of appointment by the clerk unless the will provides otherwise.~~

~~(c) If the will does not name or identify a substitute trustee in case of renunciation, and it appears that a substitute trustee should be appointed, the clerk shall appoint some fit and suitable person or~~

corporation as substitute trustee. If the will does not name or identify a substitute trustee, but contains provisions regarding the selection of a substitute trustee, such provisions shall be complied with unless the clerk determines that such provisions would result in the selection of an unfit or unsuitable trustee. A substitute trustee so appointed shall succeed to the office of trustee upon the date of the order of appointment unless the will provides otherwise.

(d) A substitute trustee shall, upon succeeding to the office of trustee, unless the will provides otherwise, have such powers and duties and be vested with the title to the property included in the trust, as if the substitute trustee had been originally named in the will.

(e) Each notice required by this section shall be written notice, and shall identify the proceeding and apprise the person to be notified of the nature of the action to be taken. Service of such notice may be in the same manner as is provided for service of notice in civil actions, or by mailing the notice to the person to be notified at his last known address. Service of notice must be completed not less than 10 days prior to the date the hearing is held or the action is taken. Service by mail shall be complete upon deposit of the notice enclosed in a postpaid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office Department.

(f) The clerk of superior court shall file, docket, and index all proceedings pursuant to this section in the same manner as special proceedings, and shall also enter with the will a notation that the trustee has renounced and a reference to the file, or other place where the record may be found.

"§ 36A 35. Removal of trustee.

Any beneficiary, cotrustee or other person interested in the trust estate may file a petition in the office of the clerk of superior court of the county having jurisdiction over the administration of the trust for the removal of a trustee or cotrustee who fails to comply with the requirements of this Chapter or a court order, or who is otherwise unsuitable to continue in office. Upon the filing of the petition, the clerk shall docket the cause as a special proceeding, with the petitioner as plaintiff. All known beneficiaries, trustees, or cotrustees not joined as plaintiffs shall be joined as defendants. Upon proper notice and hearing, the clerk may, in the exercise of his discretion, order the removal of the trustee or cotrustee and proceed to appoint a successor. The procedure for notice, hearing, appeals, and the effective date of the order, shall be in accord with that provided for in the case of a resignation of a trustee and the appointment of a successor in G.S. 36A 24 through 36A 32.

Nothing in this section shall be construed to limit the authority of the clerk of superior court to remove a trustee or cotrustee for failure

~~to comply with the requirements of this Chapter or a court order, or who is otherwise unsuitable to continue in office.~~

"§ 36A-36. *Appointment of special trustee.*

If it appears necessary to the protection of the trust estate, the clerk of superior court having jurisdiction ~~of~~ over the administration of the trust may appoint a special trustee until a successor trustee can be appointed or, where a trust has terminated, to distribute the assets. A special trustee may be appointed without notice and may be removed whenever the court so orders. The special trustee shall give such bond, if any, as the court may require and shall have the powers conferred by the order of appointment.

"§ 36A-37. *Consolidation, merger, reorganization, reincorporation, or transfer of assets and liabilities by a corporate trustee.*

Whenever any corporate trustee doing business in this State shall consolidate or merge with or shall sell to and transfer its assets and liabilities to any other corporation, or where such corporate trustee is in any manner reorganized or ~~reincorporated~~ reincorporated, all existing rights, powers, duties, and liabilities of such consolidating, merging, transferring, reorganizing or reincorporating corporation as trustee shall, upon the effective date of such consolidation, merger, reorganization or reincorporation, or sale and transfer, vest in and devolve upon the transferee corporation or the consolidated, merged, reorganized or reincorporated corporation in the manner prescribed in G.S. 53-17.

~~"§ 36A-38. *Powers of successor trustee.*~~

~~Unless otherwise provided in the creating instrument, all powers conferred upon the trustee by such instrument attached to the office, as provided in G.S. 36A-72, and are exercisable by the trustee from time to time holding the office.~~

"§ 36A-39. *Powers of cotrustees.*

Unless otherwise provided in the ~~creating~~ governing instrument, if one of several trustees dies, resigns, or is removed, the remaining trustees shall have all rights, title, and powers of all the original trustees. If the ~~creating~~ governing instrument manifests an intent that a successor trustee be appointed to fill a vacancy, the remaining trustees may exercise the powers of all the original trustees until such time as a successor is ~~appointed~~ appointed, except those powers which the remaining trustees are prohibited from exercising under the governing instrument or by law.

"§ 36A-40. *Vesting of title.*

A special or successor trustee is vested with the title of the ~~original~~ predecessor trustee. A ~~predecessor~~ predecessor trustee ~~who resigns, is removed, or is otherwise severed from his office~~ shall execute such documents transferring title to trust property as may be appropriate to facilitate administration of the trust and upon ~~his~~ the predecessor trustee's

failure to do so, the clerk may order ~~him~~ the predecessor trustee to execute such documents, or the clerk may ~~himself~~ transfer title.

~~"§ 36A-41. Applicability.~~

~~The provisions of this Article shall not apply to proceedings begun before January 1, 1978.~~

~~"§§ 36A-42 through 36A-46: Reserved for future codification purposes."~~

SECTION 1.2. G.S. 7A-307(a) reads as rewritten:

"(a) In the administration of the estates of decedents, minors, incompetents, of missing persons, and of trusts under wills and under powers of attorney, in trust proceedings under G.S. 36A-23.1, and in collections of personal property by affidavit, the following costs shall be assessed:

- (1) For the use of the courtroom and related judicial facilities, the sum of ten dollars (\$10.00), to be remitted to the county. Funds derived from the facilities fees shall be used in the same manner, for the same purposes, and subject to the same restrictions, as facilities fees assessed in criminal actions.
- (2) For support of the General Court of Justice, the sum of twenty-six dollars (\$26.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars (\$3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be ten dollars (\$10.00). Sums collected under this subsection shall be remitted to the State Treasurer.
- (2a) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate, not to

exceed three thousand dollars (\$3,000), shall not be assessed on personalty received by a trust under a will when the estate of the decedent was administered under Chapters 28 or 28A of the General Statutes. Instead, a fee of fifteen dollars (\$15.00) shall be assessed on the filing of each annual and final account.

- (2b) Notwithstanding subdivisions (1) and (2) of this subsection, no costs shall be assessed when the estate is administered or settled pursuant to G.S. 28A-25-6.
- (2c) Notwithstanding subdivision (2) of this subsection, the fee of forty cents (40¢) per one hundred dollars (\$100.00), or major fraction, of the gross estate shall not be assessed on the gross estate of a trust that is the subject of a proceeding under G.S. 36A-23.1 if there is no requirement in the trust that accountings be filed with the clerk.
- (3) For probate of a will without qualification of a personal representative, the clerk shall assess a facilities fee as provided in subdivision (1) of this subsection and shall assess for support of the General Court of Justice, the sum of seventeen dollars (\$17.00)."

PART II. AUTHORIZE COMBINATION OF HEARINGS FOR CONTROL OF REAL PROPERTY BY PERSONAL REPRESENTATIVE

SECTION 2. G.S. 28A-13-3(c) reads as rewritten:

"(c) Prior to the personal representative exercising possession, custody or control over real property of the estate he shall petition the clerk of court to obtain an order authorizing such possession, custody or control. The petition shall include:

- (1) A description of the real property which is the subject of the petition;
- (2) The names, ages, and addresses, if known, of the devisees and heirs of the decedent;
- (3) A statement by the personal representative that he has determined that such possession, custody or control is in the best interest of the administration of the estate.

The devisees and heirs will be made parties to the proceeding by service of summons in the manner prescribed by law. If the clerk of court determines that it is in the best interest of the administration of the estate to authorize the personal representative to take possession, custody or control he shall grant an order authorizing that power. If a special proceeding has been instituted by the personal representative pursuant to G.S. 28A-15-1(c), the personal representative may

petition for sale, lease or mortgage of any real property as a part of that proceeding and is not required to institute a separate special proceeding."

SECTION 2.1. G.S. 28A-15-1(c) reads as rewritten:

"(c) If it shall be determined by the personal representative that it is in the best interest of the administration of the estate to sell, lease, or mortgage any real estate or interest therein to obtain money for the payment of debts and other claims against the decedent's estate, the personal representative shall institute a special proceeding before the clerk of superior court for such purpose pursuant to Article 17 of this Chapter, except that no such proceeding shall be required for a sale made pursuant to authority given by will. A general provision granting authority to the personal representative to sell the testator's real property, or incorporation by reference of the provisions of G.S. 32-27(2) shall be sufficient to eliminate the necessity for a proceeding under Article 17. If a special proceeding has been instituted by the personal representative pursuant to G.S. 28A-13-3(c), the personal representative may petition for possession, custody or control of any real property as a part of that proceeding and is not required to institute a separate special proceeding."

PART III. PROVIDE FOR DISTRIBUTION OF ASSETS OF INOPERATIVE TRUSTS

SECTION 3. Article 22 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"§ 28A-22-10. Distribution of assets of inoperative trust.

When the facts at the time of distribution of property to a trust are such that the trust would be inoperative under the terms of the instrument creating the trust for any reason, including the death of a beneficiary, renunciation by a beneficiary, the exercise of a right to withdraw the property by a beneficiary, or the attainment of a stipulated age by a beneficiary, the personal representative or the trustee authorized or required to make the distribution of that property to the trust may distribute the property directly to the person or persons entitled to it under the terms of the instrument creating the trust without the interposition of the establishment of the trust. If only a portion of the trust would be inoperative, the property distributable to that portion of the trust may be distributed directly to the person or persons entitled to the property under the terms of the instrument creating the trust."

SECTION 3.1. Article 13 of Chapter 36A of the General Statutes is amended by adding a new section to read:

"§ 36A-141. Distribution of assets of inoperative trust.

A trustee may distribute the assets of an inoperative trust consistent with the authority granted under the provisions of G.S. 28A-22-10."

PART IV. PROVIDE THAT A FIDUCIARY EXPRESSLY EXCLUDED FROM INVESTMENT DECISIONS IS NOT LIABLE FOR DECISIONS MADE BY THOSE AUTHORIZED TO MAKE INVESTMENT DECISIONS

SECTION 4. G.S. 36A-3 is amended by adding a new subsection to read:

"(d) Whenever an instrument reserves to the settlor or vests in any person, including an advisory or investment committee or one or more co-fiduciaries, the authority to direct the making or retention of any investment to the exclusion of the fiduciary or to the exclusion of one or more of several co-fiduciaries, the excluded fiduciary or co-fiduciary who has no discretion in selecting the person authorized to make or retain investments is not liable to the beneficiaries or to the trust for the decisions or actions of the settlor or other person authorized to direct the making or retention of investments. As used in this subsection, the term 'person' includes an individual, a corporation, or any legal or commercial entity authorized to hold property or do business in the State."

PART V. TECHNICAL CORRECTIONS TO REFERENCES TO THE INTERNAL REVENUE CODE

SECTION 5. G.S. 32-34(a) reads as rewritten:

"(a) For purposes of this section:

- (1) "General power of appointment" means any power that would cause income to be taxed to the fiduciary in his individual capacity under section 678 of the Internal Revenue Code and any power that would be a general power of appointment, in whole or in part, under section 2041(b)(1) or 2514(c) of the Internal Revenue Code.
- (2) "Internal Revenue Code" means the "Code" as defined in ~~G.S. 105-2-1~~G.S. 105-228.90.
- (3) The term "fiduciary" has the meaning set forth in G.S. 32-25."

SECTION 5.1. G.S. 32A-2(14) reads as rewritten:

"(14) Gifts to Charities, and to Individuals Other Than the Attorney-In-Fact.

- a. Except as provided in G.S. 32A-2(14)b., to make gifts of any of the principal's property to any

individual other than the attorney-in-fact or to any organization described in sections 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. As used in this subdivision "Internal Revenue Code" means the "Code" as defined in G.S. 105-2.1.G.S. 105-228.90.

- b. Except as provided in G.S. 32A-2(14)c., or unless gifts are expressly authorized by the power of attorney under G.S. 32A-2(15), a power described in G.S. 32A-2(14)a. may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or creditors of the estate of the attorney-in-fact.
- c. If the power described in G.S. 32A-2(14)a. is conferred upon two or more attorneys-in-fact, it may be exercised by the attorney-in-fact or attorneys-in-fact who are not disqualified by G.S. 32A-2(14)b. from exercising the power of appointment as if they were the only attorney-in-fact or attorneys-in-fact.
- d. An attorney-in-fact expressly authorized by this section to make gifts of the principal's property may elect to request the clerk of the superior court to issue an order to make a gift of the property of the principal."

SECTION 5.2. G.S. 32A-14.1(a) reads as rewritten:

"(a) Except as provided in subsection (b) of this section, if any power of attorney authorizes an attorney-in-fact to do, execute, or perform any act that the principal might or could do or evidences the principal's intent to give the attorney-in-fact full power to handle the principal's affairs or deal with the principal's property, the attorney-in-fact shall have the power and authority to make gifts in any amount of any of the principal's property to any individual or to any organization described in sections 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. As used in this subsection, "Internal Revenue Code" means the "Code" as defined in G.S. 105-2.1.G.S. 105-228.90.

PART VI. TECHNICAL CORRECTIONS TO HOUSE BILL 1073, SENATE BILL 815, AND SENATE BILL 842, AS ENACTED BY THE GENERAL ASSEMBLY

SECTION 6. Section 175(a) of S.L. 2001-387 (Senate Bill 842, 2001 General Assembly), reads as rewritten:

"**SECTION 175.(a)** Section 173 of this act is effective when it becomes law. Section 59A of this act becomes effective September 1, 2001. The remainder of this act becomes effective January 1, 2002."

SECTION 7. G.S. 55-14-22(a1), as enacted by S.L. 2001-390 (House Bill 1073, 2001 General Assembly), reads as rewritten:

"(a1) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under ~~G.S. 55-4-01~~, G.S. 55D-21, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement."

SECTION 7.1. G.S. 55-14-22(b), as amended by S.L. 2001-390 (House Bill 1073, 2001 General Assembly), reads as rewritten:

"(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section, that the information is correct, and that the name of the corporation complies with ~~G.S. 55-4-01~~G.S. 55D-21 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation."

SECTION 7.2. G.S. 55A-14-22(a1), as amended by S.L. 2001-390 (House Bill 1073, 2001 General Assembly), reads as rewritten:

"(a1) If, at the time the corporation applies for reinstatement, the name of the corporation is not distinguishable from the name of another entity authorized to be used under ~~G.S. 55A-4-01~~, G.S. 55D-21, then the corporation must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement."

SECTION 7.3. G.S. 55A-14-22(b), as amended by S.L. 2001-390 (House Bill 1073, 2001 General Assembly), reads as rewritten:

"(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section, that the information is correct, and that the name of the corporation complies with ~~G.S. 55A-4-01~~ G.S. 55D-21 and any other applicable section, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the Secretary of State's determination and the effective date of reinstatement, file the original of the certificate, and mail a copy to the corporation."

SECTION 7.4. G.S. 57C-6-03(c), as amended by S.L. 2001-390 (House Bill 1073, 2001 General Assembly), reads as rewritten:

"(c) A limited liability company administratively dissolved under this section may apply to the Secretary of State for reinstatement. The procedures for reinstatement and for the appeal of any denial of the limited liability company's application for reinstatement shall be the same procedures applicable to corporations under G.S. 55-14-22, 55-14-23, and 55-14-24. If, at the time the limited liability company applies for reinstatement, the name of the limited liability company is not distinguishable from the name of another entity authorized to be used under ~~G.S. 57C-2-30~~, G.S. 55D-21, then the limited liability company must change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the other entity before the Secretary of State may prepare a certificate of reinstatement. The effect of reinstatement of a limited liability company shall be the same as for a corporation under G.S. 55-14-22."

SECTION 8. G.S. 59-210(g), as enacted by S.L. 2001-387 (Senate Bill 842, 2001 General Assembly) reads as rewritten:

"(g) A limited liability limited partnership shall be subject to the provisions of ~~G.S. 59-84.4(f)~~ G.S. 59-84.4 regarding annual reports and revocation of registration as if it were a registered limited liability partnership."

SECTION 8.2.(a) If House Bill 1147, 2001 Session, becomes law, Section 3 of that act is amended by deleting "G.S. 96-27(b)", and substituting "G.S. 97-26(b)".

SECTION 8.2.(b) This section becomes effective September 15, 2001.

SECTION 9. Section 2 of S.L. 2001-340 (Senate Bill 815, 2001 General Assembly), reads as rewritten:

SECTION 2. This act becomes effective ~~October 1, 2001~~, July 1, 2002, and applies to loans applied for on or after that date."

PART VII. EFFECTIVE DATES

SECTION 10. Part I of this act becomes effective January 1, 2002, and applies to all trustees covered by the provisions of Article 36A of the General Statutes, whether administering trusts established before, on or after that date. Parts II through IV of this act are effective when they become law and apply to actions by personal representatives on or after that date. Sections 7 through 8 become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of September, 2001.

Became law upon approval of the Governor at 9:18 p.m. on the 14th day of September, 2001.

S.B. 165 SESSION LAW 2001-414**AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.**

The General Assembly of North Carolina enacts:

SECTION 1. Section 10(h) of S.L. 2000-56, as amended by Section 92A(c) of S.L. 2000-140, reads as rewritten:

"Section 10.(h) Technical Correction. – Section 9 of this act becomes effective May 1, 1999, and applies to taxes paid on or after that date. Section ~~42-9~~ is repealed for taxes paid on or after January 1, 2008."

SECTION 2. G.S. 105-111 is repealed.

SECTION 3. G.S. 105-113.21(a) reads as rewritten:

"(a) Discount. – A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

SECTION 4. G.S. 105-113.39 reads as rewritten:
"§ 105-113.39. *Discount.*

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this ~~Part and Part~~, who files a timely report under ~~G.S. 105-113.37~~ G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of four percent (4%). This discount covers losses due to damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond."

SECTION 5. G.S. 105-113.85 reads as rewritten:

"§ 105-113.85. *Discount.*

Each wholesaler or importer who ~~remits the excise taxes on malt beverages or wine~~ files a timely return and sends a timely payment may deduct from the amount payable ~~by him~~ a discount of four percent (4%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond."

SECTION 6. G.S. 105-129.3A(c) reads as rewritten:

"(c) Relationship With Enterprise Tiers. – For the purpose of the wage standard requirement of G.S. ~~105-129.3(b)~~, 105-129.4, the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located."

SECTION 7. G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the credit for worker training if the jobs for which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central office or aircraft facility if the jobs at the location with respect to which the credit is claimed meet the wage standard at the time the taxpayer applies for the credit. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the immediately preceding taxable year even if they are not filled at the time the taxpayer applies for the credit.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county

divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State."

SECTION 8. G.S. 105-129.8(a) reads as rewritten:

"(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during ~~that the taxable year~~ to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit ~~shall~~must be taken in equal installments over the four years following the taxable year in which the additional employee was hired and ~~shall be is~~ conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

Jobs transferred from one area in the State to another area in the State ~~shall not be are~~ not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit ~~shall~~must be calculated as if the position had been created initially in the area to which it was moved."

SECTION 9. G.S. 105-129.13(c) reads as rewritten:

"(c) Certification. – Before certifying that a development zone agency will undertake an improvement project in a development zone, the Secretary of Commerce must require the agency to provide sufficient documentation to establish the identity of the agency, the nature of the project, and that the project is for a community development purpose and is located in a development zone. The Secretary of Commerce shall not certify a development zone agency under this section if the agency, any of the agency's officers or directors, or any partner of the agency has ever used any part of a contribution made under this section for any purpose other than an improvement project."

SECTION 10. G.S. 105-129.19 reads as rewritten:

"§ 105-129.19. (*See Editor's note for repeal*) Reports.

The Department of Revenue ~~shall report to the Legislative Research Commission~~ must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- (1) The number of taxpayers that claimed the credits allowed in this Article.
- (2) The cost of business property and renewable energy property with respect to which credits were claimed.
- (2a) The location of each qualified North Carolina low-income building with respect to which a low-income housing credit was claimed.
- (3) The total cost to the General Fund of the credits claimed."

SECTION 11. G.S. 105-151.21(b)(1) reads as rewritten:

"(b) Definitions. The following definitions apply in this section:

- (1) Farm machinery. Machinery subject to State sales tax at the rate of one percent (1%) under G.S. ~~105-164.4(a)(1d)~~ 105-164.4A."

SECTION 12. G.S. 105-163.013(g) reads as rewritten:

"(g) Report by Secretary of State. – The Secretary of State shall report to the ~~Legislative Services Commission~~ Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified business ventures and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

SECTION 13. G.S. 105-163.41(a) reads as rewritten:

"(a) Except as provided in subsection (d), if the amount of estimated tax paid by a corporation during the taxable year is less than the amount of tax imposed upon the corporation under Article 4 of this Chapter for the taxable year, the corporation ~~shall~~must be assessed an additional tax as a penalty in an amount determined by multiplying the amount of the underpayment as determined under subsection (b), for the period of the underpayment as determined under subsection (c), by the percentage established as the rate of interest on assessments under G.S. 105-241.1(i) that is in effect for the period of the underpayment. For the purpose of this section, the amount of tax imposed under Article 4 of this Chapter is the net amount after subtracting the credits against the tax allowed by this Chapter other than the credit allowed by this Article."

SECTION 14. G.S. 105-164.3(4) is repealed.**SECTION 15.** G.S. 105-164.6(a) reads as rewritten:

"(a) An excise tax at the following percentage rates is imposed on the storage, use, or consumption in this State of tangible personal property purchased inside or outside the State for storage, use, or consumption in the State:

- (1) At the applicable percentage rate of the ~~cost~~purchase price of each item or article of tangible personal property that is stored, used, or consumed in this State. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is stored, used, or consumed.
- (2) At the applicable percentage rate of the monthly lease or rental price paid, contracted, or agreed to be paid by the lessee or renter to the owner of tangible personal property that is stored, used, or consumed in this State. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a lease or rental of the property that is stored, used, or consumed."

SECTION 16. G.S. 105-164.12B(a) reads as rewritten:

"(a) Bundled Transaction Defined. – A bundled transaction is a transaction in which all of the following conditions are met:

- (1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.
- (2) The agreement requires the consumer to pay a cancellation fee to the service provider if the consumer cancels the contract for services within the minimum period.
- (3) For the item transferred, the seller:

- a. Does not charge the consumer; or
- b. Charges the consumer a price that, after any discount or rebate the seller gives the consumer, is below the ~~cost-purchase~~ price the seller paid for the item."

SECTION 17. G.S. 105-164.12B(f) reads as rewritten:

"(f) Determination of ~~Cost-Purchase~~ Price. – For the purpose of this section, the ~~cost-purchase~~ price a seller paid for an item is presumed to be no greater than the price the seller paid for the same model within 12 months before the bundled transaction, as shown on the seller's invoices."

SECTION 18. G.S. 105-164.16(a), as amended by S.L. 2001-347, reads as rewritten:

"(a) General. – Sales and use taxes are payable quarterly, monthly, or semimonthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and must be signed by the taxpayer or the taxpayer's agent.

A sales tax return must state the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. A use tax return must state the ~~cost-purchase~~ price of tangible personal property that was purchased or received during the reporting period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other information required by the Secretary. Returns that do not contain the required information will not be accepted. When an unacceptable return is submitted, the Secretary will require a corrected return to be filed."

SECTION 19. G.S. 105-164.23 reads as rewritten:

"§ 104-164.23. *Consumer must keep records.*

Every consumer shall keep such records, receipts, invoices and other pertinent papers in such form as may be required by the Secretary and all such books, invoices and other records shall be open for examination by the Secretary or any of his duly authorized agents. In the event the retailer, user or consumer has imported the tangible personal property and fails to produce an invoice showing the ~~cost purchase~~ price of the tangible personal property as defined in this Article which is subject to tax or the invoices do not reflect the true or actual cost as defined herein, then the Secretary shall ascertain in any manner feasible the true ~~cost-purchase~~ price and assess and collect the tax with interest, plus penalties, if such have accrued, on the true cost price as determined by him."

SECTION 20. G.S. 105-164.27A(d) reads as rewritten:

"(d) Revocation. – A direct pay certificate is valid until the holder returns it to the Secretary or it is revoked by the Secretary. The

Secretary may revoke a direct pay certificate if the holder of the certificate does not file a sales and use tax return on time, does not pay sales and use tax on time, or otherwise fails to comply with the sales and use tax laws."

SECTION 21. G.S. 105-164.32 reads as rewritten:

"§ 105-164.32. *Incorrect returns; estimate.*

In the event any retailer, wholesale merchant or consumer fails to make a return and to pay the tax as provided by this Article or in case any retailer, wholesale merchant or consumer makes a grossly incorrect return or a report that is false or fraudulent, it shall be the duty of the Secretary or his authorized agent to make an estimate for the taxable period of wholesale and/or retail sales of such retailer or wholesale merchant or of the gross proceeds of rentals or leases of tangible personal property by the retailer and to estimate the ~~cost~~ purchase price of all articles of tangible personal property imported by the consumer for use, storage, or consumption in this State and to assess and collect the tax and interest, plus penalties, if such have accrued, upon the basis of such estimate."

SECTION 22. G.S. 105-187.16(a) reads as rewritten:

"§ 105-187.16. *(Effective until June 30, 2002) Tax imposed.*

(a) Levy. – A privilege tax is imposed on a tire retailer at a percentage rate of the sales price of each new tire sold at retail by the retailer. A privilege tax is imposed on a tire retailer and on a tire wholesale merchant at a percentage rate of the sales price of each new tire sold by the retailer or wholesale merchant to a wholesale merchant or retailer for placement on a vehicle offered for sale, lease, or rental by the retailer or wholesale merchant. An excise tax is imposed on a new tire purchased for storage, use, or consumption in this State or for placement in this State on a vehicle offered for sale, lease, or rental. This excise tax is a percentage rate of the ~~cost~~ purchase price of the tire. These taxes are in addition to all other taxes."

SECTION 23. G.S. 105-228.90 reads as rewritten:

"§ 105-228.90. *Scope and definitions.*

(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, to the annual report filing requirements of G.S. 55-16-22, to the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied under Article 3 of Chapter 119 of the General Statutes.

(b) Definitions. – The following definitions apply in this Article:

(1) Charter school. – A nonprofit corporation that has a charter under G.S. 115C-238.29D to operate a charter school.

(1a) City. – A city as defined by G.S. 160A-1(2). The term also includes an urban service district defined by the

governing board of a consolidated city-county, as defined by G.S. 160B-2(1).

- (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2000, including any provisions enacted as of that date which become effective either before or after that date.
- (1c) County. – Any one of the counties listed in G.S. 153A-10. The term also includes a consolidated city-county as defined by G.S. 160B-2(1).
- (2) Department. – The Department of Revenue.
- (3) Electronic Funds Transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.
- (4) Reserved.
- (5) Person. – An individual, a fiduciary, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit. The term includes an officer or employee of a corporation, a member, a manager, or an employee of a limited liability company, and a member or employee of a partnership who, as officer, employee, member, or manager, is under a duty to perform an act in meeting the requirements of Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, of G.S. 55-16-22, of Article 12 of Chapter 113A of the General Statutes, or of Article 3 of Chapter 119 of the General Statutes.
- (6) Secretary. – The Secretary of Revenue.
- (7) Tax. – A tax levied under Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, the primary forest product assessment levied under Article 12 of Chapter 113A of the General Statutes, or an inspection tax levied under Article 3 of Chapter 119 of the General Statutes. Unless the context clearly requires otherwise, the terms "tax" and "additional tax" include penalties and interest as well as the principal amount.
- (8) Taxpayer. – A person subject to the tax or reporting requirements of Subchapter I, V, or VIII of this ~~Chapter~~ Chapter, of Article 12 of Chapter 113A of the General Statutes, or of Article 3 of Chapter 119 of the General Statutes."

SECTION 24. G.S. 105-249.2, as amended by S.L. 2001-87, reads as rewritten:

"§ 105-249.2. *Due date extended and penalties waived for certain military personnel or individuals affected by a presidentially declared disaster.*

(a) Combat. – The Secretary may not assess interest or a penalty against a taxpayer for any period that is disregarded under section 7508 of the Code in determining the taxpayer's liability for a federal tax. A taxpayer is granted an extension of time to file a return or take another action concerning a State tax for any period during which the Secretary may not assess interest or a penalty under this section.

(b) Disaster. – The penalties in G.S. 105-236(2), (3), and (4) may not be assessed for any period in which the time for filing a federal return or report or for paying a federal tax is extended under section 7508A of the Code because of a presidentially declared disaster. For the purpose of this section, 'presidentially declared disaster' has the same meaning as in section 1033(h)(3) of the Code."

SECTION 25. G.S. 143B-218.1 is recodified as G.S. 105-256(a)(6), and G.S. 105-256(a)(6) reads as rewritten:

"(a) Reports. – The Secretary shall prepare and publish the following:

...

- (6) ~~The Department of Revenue shall report annually to the Joint Legislative Commission on Governmental Operations~~ On an annual basis, a report on the quality of services provided to taxpayers, including telephone and walk-in assistance and taxpayer education. The report must be submitted to the Joint Legislative Commission on Governmental Operations."

SECTION 26. G.S. 105-256 is amended by adding a new subsection to read:

"(d) Other Requirements. – The following requirements apply to the Secretary:

- (1) Video Poker. – G.S. 14-306.1(j) requires the Department to provide summary reports quarterly to the Joint Legislative Commission on Governmental Operations.
- (2) Escheats. – G.S. 116B-60(g) requires the Secretary to furnish information to the Escheat Fund on October 1 of each year."

SECTION 27. G.S. 105-449.60(41) reads as rewritten:

"(41) User. – A person who owns or operates a licensed highway vehicle that has a registered gross vehicle weight of at ~~last~~ least 10,001 pounds and who does not maintain storage facilities for motor fuel."

SECTION 28. G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, ~~shall~~must begin and continue only on and after the first day of the month of either January or July, as set by the ~~board of county commissioner set by the~~ board of county commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution. The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change."

SECTION 29. G.S. 105-467(5) reads as rewritten:

"§ 105-467. *Scope of sales tax.*

The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

...

- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but ~~would be~~is exempt from the State sales and use tax pursuant to ~~G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51-G.S. 105-164.13B."~~

SECTION 30. Subdivision (5) in the first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"(5) The sales price of food and other items that are not otherwise exempt from tax pursuant to G.S. 105-164.13 but ~~would be~~is exempt from the State sales and use tax pursuant to ~~G.S. 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C. § 51-G.S. 105-164.13B."~~

SECTION 31. G.S. 20-87(6) reads as rewritten:

"§ 20-87. *Passenger vehicle registration fees.*

These shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

...

- (6) Private Motorcycles. – The base ~~tax-fee~~fee on private passenger motorcycles shall be nine dollars (\$9.00); except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base ~~tax-fee~~fee shall be sixteen dollars (\$16.00). An additional ~~tax-fee~~fee of three dollars (\$3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base ~~tax-fee~~fee. The revenue from the additional ~~tax-fee~~fee, in addition to any other funds appropriated for this purpose, shall be ~~credited to the General Fund, and may be used to implement fund~~ the Motorcycle Safety Instruction Program created in G.S. 115D-72."

SECTION 32. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Animal Lovers	\$10	\$10	0
Ducks Unlimited	\$10	\$10	0
Goodness Grows	\$10	\$10 <u>\$15</u>	0
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Kids First	\$10	\$15	0
Litter Prevention	\$10	\$10	0
March of Dimes	\$10	\$10	0
Olympic Games	\$10	\$15	0
Omega Psi Phi Fraternity	\$10	\$10	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Soil and Water Conservation	\$10	\$10	0
Special Olympics	\$10	\$10	0
State Attraction	\$10	\$20	0
Support Public Schools	\$10	\$10	0
University Health Systems of			
Eastern Carolina	\$10	\$15	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0".

SECTION 33. G.S. 69-25.4 reads as rewritten:

"§ 69-25.4. *Tax to be levied and used for furnishing fire protection.*

(a) If a majority of the qualified voters voting at said election vote in favor of levying and collecting a tax in said district, then the board of county commissioners is authorized and directed to levy and collect a tax in said district in such amount as it may deem necessary, not exceeding ten cents (10¢) on the one hundred dollars (\$100.00) valuation of property in said district from year to year, and shall keep the same as a separate and special fund, to be used only for furnishing fire protection within said district, as provided in G.S. 69-25.5.

Provided, that if a majority of the qualified voters voting at such elections vote in favor of levying and collecting a tax in such district,

or vote in favor of increasing the tax limit in said district, then the board of county commissioners is authorized and directed to levy and collect a tax in such districts in such amount as it may deem necessary, not exceeding fifteen cents (15¢) on the one hundred dollars (\$100.00) valuation of property in said district from year to year.

(b) For purposes of this Article, the term "fire protection" and the levy of a tax for that purpose may include the levy, appropriation, and expenditure of funds for furnishing emergency medical, rescue and ambulance services to protect persons within the district from injury or death; and the levy, appropriation, and expenditure of the tax to provide such services are proper, authorized and lawful. In providing these services the fire district shall be subject to G.S. 153A-250.

(c) For purposes of this Article, a fire protection district is a municipal corporation organized for a special purpose. Except in cases when a fire protection district commission is appointed to govern the district, the board of county commissioners, or joint boards of county commissioners when the area lies in more than one county, shall serve as the governing body."

SECTION 34. G.S. 96-8(8) is recodified as G.S. 96-8(7c).

SECTION 35. G.S. 96-8 is amended by adding a new subdivision to read:

"(7f) Internal Revenue Code. – The Code as defined in G.S. 105-228.90."

SECTION 36. G.S. 96-8(5)k. reads as rewritten:

"k. Notwithstanding any other provision of this Chapter, any nonprofit organization or a group of organizations (hereafter, where the words "nonprofit organization" are used in this Chapter, it shall include a group of nonprofit organizations), ~~corporations, any corporation, or any community chest, fund, or foundation which are that is~~ organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or ~~animals and which animals, and that~~ is exempt or may be exempted from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954, ~~provided such Code, as long as the~~ employing unit for some portion of a day in each of 20 different calendar weeks within the current or preceding calendar year (whether or not ~~such the~~ weeks are or were consecutive) has or had in employment four or more individuals (not necessarily simultaneously

and irrespective of whether the same individuals are or were employed in each ~~such~~ week)."

SECTION 37. G.S. 96-8(6)k.12. reads as rewritten:

"12. Service in any calendar quarter in the employ of any organization exempt from income tax under the provisions of section 501(a) of the Internal Revenue Code ~~of 1954~~ (other than an organization described in section 401(a) of ~~said the Internal Revenue Code of 1954~~ Code) or under section 521 of the Internal Revenue ~~Code of 1954, Code~~, Code, if the remuneration for ~~such the~~ service is less than fifty dollars (\$50.00)."

SECTION 38. G.S. 96-8(6)k.16. reads as rewritten:

"16. Notwithstanding the provisions of G.S. 96-8(6)f.3. and 96-8(6)k.6., service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under the arrangement with the owner or operator of such boat pursuant to which: (A) ~~Such The~~ individual does not receive any cash remuneration (other than as provided in subparagraph (B)), (B) ~~Such The~~ individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of such catch, and (C) The amount of ~~such the~~ individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life, but only if the operating crew of ~~such the~~ boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals. In order to preserve the State's right to collect State unemployment taxes for which a credit against federal unemployment taxes may be taken for contributions paid into a State unemployment insurance fund, this paragraph 16 ~~shall does~~ not apply, with respect to any individual, to service during any period for which an assessment for federal

unemployment taxes is made by the Internal Revenue Service pursuant to the Federal Unemployment Tax Act which assessment becomes a final determination (as defined by section 1313 of the Internal Revenue ~~Code of 1954 as amended~~ Code).

SECTION 39. G.S. 96-8(13)b. reads as rewritten:

"b. "Wages" shall not include:

1. Any payment made to, or on behalf of, an employee or ~~his~~ the employee's beneficiary from or to a trust ~~which that~~ qualifies under the conditions set forth in Sections—sections 401(a)(1) and (2) of the Internal Revenue Code of 1954; Code;
2. Any payment made to, or under, an annuity plan which at the time of the payment meets the requirements of ~~Sections—sections 401(a)(3), (4), (5) and (6) of the Internal Revenue Code~~ and exempt from tax under Section—section 501(a) of the Internal Revenue Code at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as beneficiary of the trust; or
3. Any payment made to, or on behalf of, an employee or his beneficiary under a Cafeteria Plan within the meaning of ~~Section—section 125~~ of the Internal Revenue Code."

SECTION 40. The first paragraph of G.S. 96-9(d) reads as rewritten:

"(d) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this paragraph. For the purposes of this paragraph, a nonprofit organization is an organization (or group of organizations) described in section 501(c)(3) of the ~~United States Internal Revenue Code of 1954~~ which that is exempt from income tax under section 501(a) of said—the Internal Revenue Code."

SECTION 41. G.S. 96-12(g)(3) reads as rewritten:

"(3) The individual may elect to have federal individual income tax deducted and withheld from the individual's payment of unemployment compensation at the amount specified in section 3402 of the Internal Revenue Code. ~~The term "Code" has the same meaning as defined in G.S. 105-228.90.~~"

SECTION 42. G.S. 96-12.01(a) is recodified as G.S. 91-12.01(a1).

SECTION 43. The first sentence of G.S. 96-12.01 is designated as subsection (a) of that section and reads as rewritten:

"(a) ~~Effective January 1, 1972, extended~~ Extended benefits shall be paid under this Chapter as ~~herein specified; provided in this section.~~"

SECTION 44. G.S. 96-12.01(a1)(11) reads as rewritten:

"(11) "State law" means the unemployment insurance law of any state approved by the United States Secretary of Labor under section 3304 of the Internal Revenue ~~Code of 1954.~~ Code."

SECTION 45. G.S. 116D-11(g) reads as rewritten:

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

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any university improvements authorized by this Article may be placed by the State Treasurer in the University Improvement Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act ~~[the Michael K. Hooker Higher Education Facilities Financing Act, S. L. 2000-3].~~ Article.

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

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

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

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any community college capital facilities authorized by this Article may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act ~~the Michael K. Hooker Higher Education Facilities Financing Act, S. L. 2000 3}~~ Article.

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

SECTION 47. G.S. 143B-221 is repealed.

SECTION 48. G.S. 159-81(3) reads as rewritten:

"(3) "Revenue bond project" means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the ~~following~~ revenue-producing utility or public service enterprise facilities or systems listed in this subdivision, ~~owned or leased as lessee by the issuing unit,~~ to be financed through the issuance of revenue bonds, thereby providing funds to pay the costs of the undertaking or to reimburse funds loaned or advanced by

or on the behalf of either the State or a municipality to pay the costs of the ~~undertaking~~; undertaking.

A revenue bond project shall be (i) owned or leased as lessee by the issuing unit or (ii) owned by one or more of the municipalities participating in an undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes. If the revenue bond project is owned by one or more municipalities as provided in (ii) of this subdivision, any one or more of the participating municipalities may each be an issuing unit consistent with their agreement to establish a joint undertaking. In addition, any joint agency established by participating municipalities pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes may be an issuing unit without owning the revenue bond project or leasing it as lessee.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with the undertaking; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project.

The following facilities or systems may be revenue bond projects under this subdivision:

- a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.
- b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
- c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease

of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.

- d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.
- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackage, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.
- i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers.
- k. Recreational facilities.
- l. In addition to the foregoing, in the case of the State of North Carolina, low-level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.
- m. Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to provide employment opportunities for citizens of the municipality.
- n. Facilities for the use of any agency or agencies of the government of the United States of America.
- o. Structural and natural stormwater and drainage systems of all types.

~~The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with any of the~~

~~foregoing utilities and enterprises; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project."~~

SECTION 49. Section 47 of this act does not derogate any existing powers.

SECTION 50. G.S. 159-96(a) reads as rewritten:

"(a) Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate ~~limits.~~ limits or, in the case of a joint agency or undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, for the use of the municipalities that established the joint agency or undertaking and for the use of the public and private consumers residing within their corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate ~~limits.~~ limits or, in the case of two or more municipalities participating in a joint agency or undertaking, when operated primarily for the use of the municipalities that established the joint agency or undertaking, may be operated incidentally for users outside ~~its~~ the corporate limits. ~~limits of either the issuing unit or a participating municipality.~~ Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed), facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems, facilities or equipment may be operated for users outside the corporate limits of a municipality that is an issuing unit where the municipality finds that the system, facilities ~~systems, facilities,~~ or equipment so financed would benefit the municipality; provided further that revenue municipality or, in the case of two or more municipalities participating in a joint agency or undertaking, where the municipalities that are the issuing units find that the systems, facilities, or equipment so financed would benefit the municipalities that established the joint agency or undertaking.

Revenue bonds may not be issued for the purpose of financing in whole or in part systems or facilities for the transmission or distribution of gas (natural, artificial, or mixed) to users outside the

corporate limits of a municipality to whom service is available or will be available within a reasonable time from a local distribution natural gas utility pursuant to a certificate of public convenience and necessity issued by the North Carolina Utilities Commission. A finding by the governing body of a municipality that is an issuing unit that the systems or facilities to be provided by the financing will not provide service to users to whom such service is available or will be available within a reasonable time from a local distribution natural gas utility shall be conclusive upon (i) the expiration of a 45 day period following the making of such finding, (ii) the mailing by the municipality of a copy of such notice within five days after the making of such finding to any local distribution company certificated to provide service to the area in which the facilities are to be located, and (iii) the absence of a written objection to such finding being mailed by any such certificated local distribution company to ~~a~~the municipality by not later than five days prior to the end of such 45 day period, all such mailings to be properly given or made if sent by United States registered mail, return receipt requested, postage prepaid. Time shall be computed pursuant to G.S. 1A-1, Rule 6(a)."

SECTION 51. G.S. 160A-215.1(e) reads as rewritten:

"(e) The following definitions apply in this section:

- (1) Vehicle. – Any of the following:
 - a. A motor vehicle of the passenger type, including a passenger van, minivan, or sport utility vehicle.
 - b. A motor vehicle of the cargo type, including cargo van, pickup truck, or truck with a gross vehicle weight rating of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.
 - c. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less.

(2) Short-term lease or rental. – Defined in G.S. 105-187.1."

SECTION 52. S.L. 1997-380 is repealed.

SECTION 53. Section 32 of this act is effective retroactively to August 2, 2000. Sections 14 through 19, 21, 22, 29, and 30 become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of September, 2001.

Became law upon approval of the Governor at 10:00 p.m. on the 14th day of September, 2001.

H.B. 1272

SESSION LAW 2001-415

AN ACT REQUIRING STATE AGENCIES TO USE LIFE-CYCLE COST ANALYSIS FOR THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, AND RENOVATION OF STATE FACILITIES AND FOR THE PURCHASE, OPERATION, AND MAINTENANCE OF EQUIPMENT FOR THESE FACILITIES AND IMPLEMENTING A PILOT PROGRAM TO REVIEW THE USE OF THE TRIANGLE J COUNCIL OF GOVERNMENTS' HIGH PERFORMANCE GUIDELINES IN THE RENOVATION OR CONSTRUCTION OF STATE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.10(a) reads as rewritten:

"(a) The General Assembly hereby finds:

- (1) That the State ~~should~~shall take a leadership role in aggressively undertaking energy conservation in North Carolina;
- (2) That State facilities have a significant impact on the State's consumption of energy;
- (3) That energy conservation practices adopted for the design, construction, operation, maintenance, and renovation of these facilities and for the purchase, operation, and maintenance of equipment for these facilities will have a beneficial effect on the State's overall supply of energy;
- (4) That the cost of the energy consumed by these facilities and the equipment for these facilities over the life of the facilities ~~must~~shall be considered, in addition to the initial cost;
- (5) That the cost of energy is significant and facility designs ~~must~~shall take into consideration the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption; and
- (6) That State government ~~should~~shall undertake a program to reduce energy use in State facilities and equipment in those facilities in order to provide its citizens with an example of energy-use efficiency."

SECTION 2. G.S. 143-64.11(2a) reads as rewritten:

"For purposes of this Article:

...

- (2a) "~~Energy Division~~"Energy Office' means the State Energy DivisionOffice of the Department of ~~Commerce~~Administration.

...."

SECTION 3. G.S. 143-64.12 reads as rewritten:

"§ 143-64.12. *Authority and duties of State agencies.*

(a) The General Assembly authorizes and directs that State agencies shall carry out the construction and renovation of State facilities, under their jurisdiction in such a manner as to further the policy declared herein, ~~insuring that~~ensuring the use of life-cycle cost analyses and energy-conservation ~~practices are considered and are employed whenever feasible and practicable.~~practices.

(b) The Department of Administration ~~shall, to the extent feasible and practicable,~~shall develop and implement policies, procedures, and standards to ensure that State purchasing practices improve energy efficiency and take the cost of the product over the economic life of the product into consideration. The Department of Administration shall adopt and implement Building Energy Design Guidelines. These guidelines shall include energy-use goals and standards, economic assumptions for life-cycle cost analysis, and other criteria on building systems and technologies. The Department of Administration shall modify the design criteria for construction and renovation of facilities to require that a life-cycle cost analysis be conducted pursuant to G.S. 143-64.15. The Department of Administration, as part of the Facilities Condition and Assessment Program, shall identify and recommend energy conservation maintenance and operating procedures that are designed to reduce energy consumption within the facility and that require no significant expenditure of funds. State departments, institutions, or agencies shall implement these recommendations. Where energy management equipment is proposed for State facilities, the maximum interchangeability and compatibility of equipment components shall be required.

The Department of Administration shall develop a comprehensive energy management program for State government. Each State agency shall develop and implement an energy management plan that is consistent with the State's comprehensive energy management program.

- (c) through (g) Repealed by Session Laws 1993, c. 334, s. 4."

SECTION 4. G.S. 143-64.15(c) reads as rewritten:

"(c) The General Assembly ~~encourages any~~requires each entity to conduct a life-cycle cost analysis pursuant to this section for the construction ~~of any State-assisted facility~~ or the renovation of any State facility or State-assisted facility of 40,000-20,000 or more gross square feet."

SECTION 5. G.S. 143-64.15(f) reads as rewritten:

~~"(f) Selection of the optimum system or combination of systems to be incorporated into the design of the facility shall take into consideration the life-cycle cost analysis over the economic life of the facility. Each State agency shall use the life-cycle cost analysis over the economic life of the facility in selecting the optimum system or combination of systems to be incorporated into the design of the facility."~~

SECTION 6. Part 1 of Article 3B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-64.15A. Certification of life-cycle cost analysis.

All State agencies under the jurisdiction of the Department of Administration performing a life-cycle cost analysis for the purpose of constructing or renovating any State facility shall, prior to selecting a design option or advertising for bids for construction, submit the life-cycle cost analysis to the Department for certification. The Department shall review the material submitted by the State agency, reserve the right to require agencies to complete additional analysis to comply with certification, perform any additional analysis, as necessary, to comply with G.S. 143-341(11), and require that all construction or renovation conducted by the State agency comply with the certification issued by the Department."

SECTION 7.(a) Triangle J Guidelines Pilot Program. – The General Assembly recognizes the State's need to understand how energy conservation measures are utilized in the construction or renovation of State facilities and how these measures benefit the State through cost savings and the protection of our natural resources. The General Assembly promotes the use of the Triangle J Council of Governments' High Performance Guidelines to achieve these goals and encourages any State entity to rate itself in accordance with these guidelines for the design, construction, operation, maintenance, or renovation of any State-assisted or State-owned facility.

SECTION 7.(b) To accomplish the goals described in Section 7(a) of this act, the Department of Administration shall implement a pilot program to review the use of the Triangle J Council of Governments' High Performance Guidelines in projects for the renovation or construction of State facilities.

The Board of Governors of The University of North Carolina shall select at least four projects to participate in the pilot program, and the State Board of Community Colleges and the Office of State Budget, Planning, and Management shall select at least three projects each to participate in the program. One-third of the projects participating in this program shall be projects for the repair or renovation of a State facility, and the remaining projects shall be projects for the construction of State facilities.

SECTION 7.(c) The Department of Administration shall oversee the pilot program, and each entity involved shall submit all applicable information to the Department as it deems necessary, including compiling and submitting energy usage and cost data. The program shall include a one-year postoccupancy evaluation that shall be included as part of the evaluation of the Triangle J Council of Governments' High Performance Guidelines for each facility. The entities participating in this program shall explore the concept of a "high performing facility" in assessing the use of the Triangle J Guidelines for these projects. For purposes of this section, "high performing facility" means a building and surrounding environs designed using features that are energy efficient, incorporate reusable and renewable resources, provide natural lighting, are nontoxic, require low maintenance, are congruent with the natural characteristics of the site, incorporate water conservation measures, and cause minimum adverse impact to the environment as enacted in Section 2(11) of S.L. 2000-143.

SECTION 7.(d) The Department of Administration shall submit an interim report on the implementation of this program to the Senate and House of Representatives' Chairs of the Appropriations Committees, Chairs of General Government Appropriations Subcommittee, and the Joint Legislative Commission on Governmental Operations not later than December 15, 2002. The report shall discuss the benefits of using the Triangle J Council of Governments' High Performance Guidelines and make recommendations regarding the use of the Triangle J Guidelines in the projects participating in the program and other projects. The Department of Administration shall submit a final report to the Senate and House of Representatives' Chairs of the Appropriations Committees, Chairs of General Government Appropriations Subcommittee, and the Joint Legislative Commission on Governmental Operations not later than 18 months after completion of the last project participating in this program, if practicable.

SECTION 7.(e) This act shall not be construed to obligate the General Assembly to appropriate funds to implement the Triangle J Guidelines pilot program.

SECTION 8. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 11th day of September, 2001.

Became law upon approval of the Governor at 11:10 a.m. on the 22nd day of September, 2001.

S.B. 247

SESSION LAW 2001-416

AN ACT TO REALLOCATE THE PROCEEDS OF THE CLEAN WATER BONDS AND TO DEFER THE ISSUANCE OF THE CLEAN WATER BONDS, NATURAL GAS BONDS, AND PUBLIC SCHOOL BUILDING BONDS UNTIL AFTER JANUARY 1, 2002.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding any other provision of law, the State Treasurer shall defer the issuance of any of the following until after January 1, 2002:

- (1) State of North Carolina Clean Water Bonds authorized in S.L. 1998-132.
- (2) State of North Carolina Natural Gas Bonds authorized for the construction of natural gas facilities in S.L. 1998-132.
- (3) State of North Carolina Public School Building Bonds authorized for public school building capital improvements in S.L 1995-631.

SECTION 1.(b) Payments to local government units or payments to match federal funds that otherwise would have been made from the proceeds of Clean Water Bonds issued during the period between September 1, 2001, and January 1, 2002, may, at the discretion of the Director of the Budget, be paid from General Fund cash balances. The total of the payments shall not exceed fifty million dollars (\$50,000,000). Any payment from General Fund cash balances made pursuant to this authorization shall be repaid to the General Fund from the proceeds of Clean Water Bonds issued after January 1, 2002.

SECTION 2. Withdrawal of Loan Funds. – Pursuant to Section 5.1(i) of S.L. 1998-132, the following amounts of the Clean Water Bond proceeds allocated for loans in Section 5.1(h) of S.L. 1998-132 are withdrawn from allocation under Section 5.1(h) of S.L. 1998-132 and reallocated as provided in this act:

- (1) Water supply and distribution systems and water conservation projects:
 - a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating \$ 340,000
 - b. Reserved for loans to local government units whose bond rating is 75 or more \$28,483,251

- (2) Wastewater collection systems and wastewater treatment works:
- a. Reserved for loans to local government units whose bond rating is less than 75 or who have no bond rating \$ 2,900,000
 - b. Reserved for loans to local government units whose bond rating is 75 or more \$39,701,795
- Total Withdrawn for Reallocation..... \$71,425,046

SECTION 3. Reallocation for Unsewered Community Grants. – Of the funds withdrawn pursuant to this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of thirty-five million six hundred twelve thousand five hundred twenty-three dollars (\$35,612,523) is reallocated to be used to provide unsewered community grants to eligible local government units to assist with wastewater treatment works and wastewater collection systems for the same purpose and in accordance with Section 5.1(g) of S.L. 1998-132. Grants from amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(g) of S.L. 1998-132. The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(g) of S.L. 1998-132.

SECTION 4. Reallocation for Supplemental Grants. – Of the funds withdrawn pursuant to this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of thirty-five million six hundred twelve thousand five hundred twenty-three dollars (\$35,612,523) is reallocated to be used to provide supplemental grants to eligible local government units to match federal, State, and other grant or loan program funds to plan or improve needed water and sewer projects. Grants from amounts reallocated shall be awarded and administered by the Rural Economic Development Center in accordance with Section 5.1(f) of S.L. 1998-132 and this act. The funds reallocated under this section shall be awarded on the criteria set out in Section 5.1(f) of S.L. 1998-132.

SECTION 5. Cap on Supplemental Grants. – Notwithstanding the provisions of Section 5.1(f) of S.L. 1998-132 and Section 2(b) of S.L. 2000-156, a maximum of twenty-one million five hundred thousand dollars (\$21,500,000) of supplemental grant funds may be certified by the Rural Economic Development Center to the State Treasurer each fiscal year through June 30, 2005, and the State Treasurer may issue the amount certified up to this maximum each fiscal year through June 30, 2005. Upon certification for the fiscal year ending June 30, 2005, the State Treasurer may issue the remaining balance of the funds allocated under Section 5.1(f) of S.L.

1998-132, Section 2(b) of S.L. 2000-156, and this act for any purpose authorized under Section 5.1(f) of S.L. 1998-132.

SECTION 6. Reallocation by Rural Economic Development Center. – Notwithstanding the provisions of S.L. 1998-132, S.L. 2000-156, and Sections 3 and 4 of this act, if the Rural Economic Development Center determines that there has been a change in any fiscal year in the relative needs between the purposes provided in Section 3 of this act and the purposes provided in Section 4 of this act, the Rural Economic Development Center may reallocate funds from Section 3 purposes to Section 4 purposes or from Section 4 purposes to Section 3 purposes. The Board of Directors of the Rural Economic Development Center must approve in advance any reallocation under this section. At least 30 days before making a reallocation under this section, the Rural Economic Development Center must consult with the Joint Legislative Commission on Governmental Operations.

SECTION 7.(a) Reallocation for Administrative Expenses. – Of the funds withdrawn pursuant to this act from allocation under Section 5.1(h) of S.L. 1998-132, the sum of two hundred thousand dollars (\$200,000) is reallocated to the Rural Economic Development Center to be used in the 2001-2002 fiscal year to administer bond funds allocated for grants pursuant to S.L. 1998-132, S.L. 2000-156, and this act. This amount shall be remitted to the Rural Economic Development Center as soon as possible after July 1, 2001.

SECTION 7.(b) Reports. – Section 11(a) of S.L. 1998-132 reads as rewritten:

"Section 11. Reports on Grants.

(a) The Rural Economic Development Center shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a report for the preceding fiscal year concerning the allocation and making of grants authorized by this act. The report shall be signed by the Chair of the Board of Directors of the Rural Economic Development Center. The report shall set forth for the preceding fiscal year:

- (1) Itemized and total allocations of grants authorized and unallocated funds for the grant program as of the end of the preceding fiscal ~~year;~~year.
- (2) Identification of each grant agreement entered into by the Rural Economic Development Center during the preceding fiscal year and the total amount of grants authorized by the grant ~~agreements;~~agreements.
- (3) The amount disbursed to each local government unit pursuant to the grant agreements during the preceding

fiscal year and the total amount of the ~~disbursements;~~
~~and disbursements.~~

- (4) A summary for the five preceding years of the information required by subdivisions (1) through (3) of this subsection.
- (5) An itemized accounting of the Center's expenditures of bond funds allocated for administering grants under this act, as amended, and a certification that bond funds allocated for this purpose have been used for no other purpose.
- (6) A detailed description of the criteria and point system used for awarding grants.

(a1) The Rural Economic Development Center shall report to the Joint Legislative Commission on Governmental Operations at least 60 days before making any change to the criteria or point system used for awarding grants authorized by this act."

SECTION 8. Effective Date. – This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of September, 2001.

Became law upon approval of the Governor at 11:11 a.m. on the 22nd day of September, 2001.

H.B. 351 SESSION LAW 2001-417

AN ACT TO MAKE TECHNICAL AND SUBSTANTIVE CHANGES IN THE LAW GOVERNING MANAGED CARE UTILIZATION REVIEW AND GRIEVANCE PROCEDURES; TO CLARIFY THE DEFINITION OF "HEALTH CARE PROVIDER" IN THE PROMPT PAYMENT LAW; AND TO MAKE A CORRECTION IN THE DEFINITION OF "HMO".

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-225(a)(4) reads as rewritten:

"(4) 'Health care provider' means an individual who is licensed, certified, or otherwise authorized under Chapter 90 or 90B of the General Statutes or under the laws of another state to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program."

SECTION 2. G.S. 58-50-61(a)(6) reads as rewritten:

"(6) 'Grievance' means a written complaint submitted by a covered person about any of the following:

- a. An insurer's decisions, policies, or actions related to availability, delivery, or quality of health care services. A written complaint submitted by a covered person about a decision rendered solely on the basis that the health benefit plan contains a benefits exclusion for the health care service in question is not a grievance if the exclusion of the specific service requested is clearly stated in the certificate of coverage.
- b. Claims payment or handling; or reimbursement for services.
- c. The contractual relationship between a covered person and an insurer.
- d. The outcome of an appeal of a noncertification under this section."

SECTION 3. G.S. 58-50-61(a)(8) reads as rewritten:

"(8) 'Health care provider' means any person who is licensed, registered, or certified under Chapter 90 of the General ~~Statutes~~; Statutes or the laws of another state to provide health care services in the ordinary care of business or practice or a profession or in an approved education or training program; a health care facility as defined in ~~G.S. 131E-176(9b)~~; or G.S. 131E-176(9b) or the laws of another state to operate as a health care facility; or a pharmacy."

SECTION 4. G.S. 58-50-61(a)(13) reads as rewritten:

"(13) 'Noncertification' means a determination by an insurer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon the information provided, does not meet the insurer's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, or does not meet the prudent layperson standard for coverage of emergency services in G.S. 58-3-190, and the requested service is therefore denied, reduced, or terminated. A 'noncertification' is not a decision rendered solely on the basis that the health benefit plan does not provide benefits for the health care service in question, if the exclusion of the specific service requested is clearly stated in the certificate of coverage. A 'noncertification' includes any situation in which an insurer or its designated agent makes a decision about a covered person's condition to determine whether a requested treatment is experimental, investigational, or

cosmetic, and the extent of coverage under the health benefit plan is affected by that decision."

SECTION 5. G.S. 58-50-61(a)(17) reads as rewritten:

"(17) 'Utilization review' means a set of formal techniques designed to monitor the use of or evaluate the clinical necessity, appropriateness, efficacy or efficiency of health care services, procedures, providers, or facilities. These techniques may include:

- a. Ambulatory review. – Utilization review of services performed or provided in an outpatient setting.
- b. Case management. – A coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or other health conditions.
- c. Certification. – A determination by an insurer or its designated URO that an admission, availability of care, continued stay, or other service has been reviewed and, based on the information provided, satisfies the insurer's requirements for medically necessary services and supplies, appropriateness, health care setting, level of care, and effectiveness.
- d. Concurrent review. – Utilization review conducted during a patient's hospital stay or course of treatment.
- e. Discharge planning. – The formal process for determining, before discharge from a provider facility, the coordination and management of the care that a patient receives after discharge from a provider facility.
- f. Prospective review. – Utilization review conducted before an admission or a course of treatment including any required preauthorization or precertification.
- g. Retrospective review. – Utilization review of medically necessary services and supplies that is conducted after services have been provided to a patient, but not the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment. Retrospective review includes the review of claims for emergency services to determine whether the prudent layperson standard in G.S. 58-3-190 has been met.
- h. Second opinion. – An opportunity or requirement to obtain a clinical evaluation by a provider other than

the provider originally making a recommendation for a proposed service to assess the clinical necessity and appropriateness of the proposed service."

SECTION 6. G.S. 58-50-61(i) reads as rewritten:

"(i) Requests for Informal Reconsideration. – An insurer may establish procedures for informal reconsideration of ~~noncertifications~~ noncertifications and, if established, the procedures shall be in writing. ~~The~~ After a written notice of noncertification has been issued in accordance with subsection (h) of this section, the reconsideration shall be conducted between the covered person's provider and a medical doctor licensed to practice medicine in this State designated by the insurer. An insurer shall not require a covered person to participate in an informal reconsideration before the covered person may appeal a noncertification under subsection (j) of this section. If, after informal reconsideration, the insurer upholds the noncertification decision, the insurer shall issue a new notice in accordance with subsection (h) of this section. If the insurer is unable to render an informal reconsideration decision within 10 business days after the date of receipt of the request for an informal reconsideration, it shall treat the request for informal reconsideration as a request for an appeal; provided that the requirements of subsection (k) of this section for acknowledging the request shall apply beginning on the day the insurer determines an informal reconsideration decision cannot be made before the tenth business day after receipt of the request for an informal reconsideration."

SECTION 7. G.S. 58-50-61(k) reads as rewritten:

"(k) Nonexpedited Appeals. – Within three business days after receiving a request for a standard, nonexpedited appeal, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material. For standard, nonexpedited appeals, the insurer shall give written notification of the ~~decision~~ decision, in clear terms, to the covered person and the covered person's provider within 30 days after the insurer receives the request for an appeal. If the decision is not in favor of the covered person, ~~The~~ the written decision shall contain:

- (1) The professional qualifications and licensure of the person or persons reviewing the appeal.
- (2) A statement of the reviewers' understanding of the reason for the covered person's appeal.
- (3) The reviewers' decision in clear terms and the medical rationale in sufficient detail for the covered person to respond further to the insurer's position.

- (4) A reference to the evidence or documentation that is the basis for the decision, including the clinical review criteria used to make the determination, and instructions for requesting the clinical review criteria.
- (5) A statement advising the covered person of the covered person's right to request a second-level grievance review and a description of the procedure for submitting a second-level grievance under G.S. 58-50-62."

SECTION 8. G.S. 58-50-62(b) reads as rewritten:

"(b) Availability of Grievance Process. – Every insurer shall have a grievance process whereby a covered person may voluntarily request a review of any decision, policy, or action of the insurer that affects that covered person. A decision rendered solely on the basis that the health benefit plan does not provide benefits for the health care service in question is not subject to the insurer's grievance procedures, if the exclusion of the specific service requested is clearly stated in the certificate of coverage. The grievance process may provide for an immediate informal consideration by the insurer of a grievance. If the insurer does not have a procedure for informal consideration or if an informal consideration does not resolve the grievance, the grievance process shall provide for first- and second-level reviews of ~~grievances; except that an appeal~~ grievances. Appeal of a noncertification that has been reviewed under G.S. 58-50-61 shall be reviewed as a second-level grievance under this section."

SECTION 9. G.S. 58-50-62 is amended by adding the following new subsection to read:

"(b1) Informal Consideration of Grievances. – If the insurer provides procedures for informal consideration of grievances, the procedures shall be in writing, and the following requirements apply:

- (1) If the grievance concerns a clinical issue and the informal consideration decision is not in favor of the covered person, the insurer shall treat the request as a request for a first-level grievance review, except that the requirements of subdivision (e)(1) of this section apply on the day the decision is made or on the tenth business day after receipt of the request for informal consideration, whichever is sooner;
- (2) If the grievance concerns a nonclinical issue and the informal consideration decision is not in favor of the covered person, the insurer shall issue a written decision that includes the information set forth in subsection (c) of this section; or
- (3) If the insurer is unable to render an informal consideration decision within 10 business days after

receipt of the grievance, the insurer shall treat the request as a request for a first-level grievance review, except that the requirements of subdivision (e)(1) of this section apply beginning on the day the insurer determines an informal consideration decision cannot be made before the tenth business day after receipt of the grievance."

SECTION 10. G.S. 58-50-62(e) reads as rewritten:

"(e) First-Level Grievance Review. —~~A grievance maybe submitted by a covered person or his or her provider acting on the covered person's behalf. A covered person or a covered person's provider acting on the covered person's behalf may submit a grievance.~~

- (1) The insurer does not have to allow a covered person to attend the first-level grievance review. A covered person may submit written material. Except as provided in subdivision (3) of this subsection, Within within three business days after receiving a grievance, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material.
- (2) An insurer shall issue a written ~~decision~~ decision, in clear terms, to the covered person and, if applicable, to the covered person's provider, within 30 days after receiving a grievance. The person or persons reviewing the grievance shall not be the same person or persons who initially handled the matter that is the subject of the grievance and, if the issue is a clinical one, at least one of whom shall be a medical doctor with appropriate expertise to evaluate the matter. ~~The~~ Except as provided in subdivision (3) of this subsection, if the decision is not in favor of the covered person, the written decision issued in a first-level grievance review shall contain:
 - a. The professional qualifications and licensure of the person or persons reviewing the grievance.
 - b. A statement of the reviewers' understanding of the grievance.
 - c. The reviewers' decision in clear terms and the contractual basis or medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
 - d. A reference to the evidence or documentation used as the basis for the decision.
 - e. A statement advising the covered person of his or her right to request a second-level grievance review

and a description of the procedure for submitting a second-level grievance under this section.

- (3) For grievances concerning the quality of clinical care delivered by the covered person's provider, the insurer shall acknowledge the grievance within 10 business days. The acknowledgement shall advise the covered person that (i) the insurer will refer the grievance to its quality assurance committee for review and consideration or any appropriate action against the provider and (ii) State law does not allow for a second-level grievance review for grievances concerning quality of care."

SECTION 11. G.S. 58-50-62(f) reads as rewritten:

"(f) Second-Level Grievance Review. – An insurer shall establish a second-level grievance review process for covered persons who are dissatisfied with the first-level grievance review decision or a utilization review appeal decision. A covered person or the covered person's provider acting on the covered person's behalf may submit a second-level grievance.

- (1) An insurer shall, within 10 business days after receiving a request for a second-level grievance review, make known to the covered person:
- a. The name, address, and telephone number of a person designated to coordinate the grievance review for the insurer.
 - b. A statement of a covered person's rights, which include the right to request and receive from an insurer all information relevant to the case; attend the second-level grievance review; present his or her case to the review panel; submit supporting materials before and at the review meeting; ask questions of any member of the review panel; and be assisted or represented by a person of his or her choice, which person may be without limitation to: a provider, family member, employer representative, or attorney. If the covered person chooses to be represented by an attorney, the insurer may also be represented by an attorney.
- (2) An insurer shall convene a second-level grievance review panel for each request. The panel shall comprise persons who were not previously involved in any matter giving rise to the second-level grievance, are not employees of the insurer or URO, and do not have a financial interest in the outcome of the review. A person who was previously involved in the matter may appear

before the panel to present information or answer questions. All of the persons reviewing a second-level grievance involving a noncertification or a clinical issue shall be providers who have appropriate expertise, including at least one clinical peer. Provided, however, an insurer that uses a clinical peer on an appeal of a noncertification under G.S. 58-50-61 or on a first-level grievance review panel under this section may use one of the insurer's employees on the second-level grievance review panel in the same matter if the second-level grievance review panel comprises three or more persons."

SECTION 12. G.S. 58-65-60(c)(3) reads as rewritten:

"(3) A statement of the terms and conditions, if any, upon which the contract may be cancelled or otherwise terminated at the option of either party. ~~Said~~ The statement shall be in the following language:

- a. "Renewability": Any contract subject to the provisions ~~hereof~~ of this subdivision is renewable at the option of the subscriber unless sufficient notice in writing of nonrenewal is mailed to the subscriber by the corporation addressed to the last address recorded with the corporation.
- b. "Sufficient notice" shall be as follows:
 1. During the first year of any such contract, or during the first year following any lapse and reinstatement, or reenrollment, a period of 30 days.
 2. During the second and subsequent years of continuous coverage, a number of full calendar months most nearly equivalent to one fourth the number of months of continuous coverage from the first anniversary of the date of issue or reinstatement or reenrollment, whichever date is more recent, to the date of mailing of such notice.
 3. No period of required notice shall exceed two years, and no renewal hereunder shall renew any such contract for any period beyond the required period of notice except by written agreement of the subscriber and corporation.

~~Any such~~ The contract may be modified, terminated or cancelled by the corporation at any time at its option, upon:

- a. Nonpayment by the subscriber of fees or dues as ~~required, or required.~~
- b. Failure or refusal by the subscriber to comply with rate or benefit changes approved by the ~~State Insurance Department after public hearing as outlined in~~ Commissioner under G.S. 58-65-45.
- c. Failure or refusal by the subscriber after 30 days' written notice to subscriber to transfer into ~~hospital and medical and/or hospital, medical, or dental~~ service plan serving the area to which ~~he~~ the subscriber has changed residence and is eligible for or to which corporation is required to transfer by interplan agreement of transfer.
- d. ~~The provisions of these amendments to subsection (c) and (c)(3) shall apply only to such contracts as are first issued on and after January 1, 1956."~~

SECTION 13. G.S. 58-67-5(f) reads as rewritten:

"(f) 'Health maintenance organization' or 'HMO' means any person who undertakes to provide or arrange for the delivery of ~~basic~~ health care services to enrollees on a prepaid basis except for enrollee responsibility for copayments and deductibles. For the purposes of 11 U.S.C. § 109(b)(2) and (d), an HMO is a domestic insurance company."

SECTION 14. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 15. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 11th day of September, 2001.

Became law upon approval of the Governor at 11:12 a.m. on the 22nd day of September, 2001.

H.B. 189

SESSION LAW 2001-418

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY RULES TO ESTABLISH ADDITIONAL EXCEPTIONS TO THE 30-FOOT BUFFER REQUIREMENT ALONG PUBLIC TRUST AND ESTUARINE WATERS IN CERTAIN CIRCUMSTANCES AND TO ALLOW STRUCTURAL MODIFICATIONS TO PIERS TO PREVENT OR MINIMIZE STORM DAMAGE, AND TO EXTEND THE TIME THAT TEMPORARY RULES TO PROTECT WATER QUALITY AND RIPARIAN BUFFERS IN

CERTAIN RIVER BASINS WILL REMAIN IN EFFECT SO AS TO ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION ADDITIONAL TIME TO CONSULT WITH PERSONS WHO ARE INTERESTED IN OR MAY BE AFFECTED BY THE ADOPTION OF PERMANENT RULES TO REPLACE THOSE TEMPORARY RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend 15A NCAC 7H.0209(d) and 15A NCAC 7H.0209(e) to establish additional exceptions to the 30-foot buffer requirement set out in 15A NCAC 7H.0209(d) to allow the following uses that would otherwise be prohibited:

- (1) Construction of a residential structure on a lot, parcel, or tract of 7,500 square feet or less that was platted prior to 1 June 1999, that will be served by an on-site septic system, and that is located in an intensely developed area.
- (2) Construction of a residential structure, as provided in 15A NCAC 7H.0209(e)(1), with a footprint of up to 1,200 square feet on a lot, parcel, or tract of 5,000 square feet or more that was platted prior to 1 June 1999, where strict application of the buffer requirement would preclude construction of the residential structure.
- (3) Construction of nonwater dependent uses that have minimal impact on water quality, including, but not limited to, fences.

SECTION 2. Notwithstanding G.S. 150B-21.3(a) and 26 NCAC 2C.0102(11), the Coastal Resources Commission may adopt temporary rules to amend 15A NCAC 7H.1205 to allow structural modifications to piers in existence on 1 July 2001, to prevent or minimize damage due to storm events.

SECTION 3. Notwithstanding G.S. 150B-21.1(d), each temporary rule adopted pursuant to Sections 1 and 2 of this act shall become effective upon its adoption by the Coastal Resources Commission and shall remain in effect until a permanent rule to replace it becomes effective.

SECTION 4.(a) Notwithstanding G.S. 150B-21.1(d), temporary rules 15A NCAC 2B.0243 and 15A NCAC 2B.0244, which were adopted pursuant to Section 7.1 of S.L. 1999-329 and which became effective on or before 1 July 2001, shall continue in effect until 1 September 2003 in order to provide sufficient time for the Environmental Management Commission to further consult with businesses and industries, local governments, landowners, and other

interested or potentially affected persons in the upper and lower Catawba River Basin as to the appropriate scope of permanent rules to protect water quality and riparian buffers in that river basin. In developing permanent rules, the Commission shall consider whether riparian buffers on the main stem of the Catawba River and on lake shorelines are adequate to protect water quality in the river and whether riparian buffer protection requirements should or should not be extended to some or all of the tributary streams in the river basin, taking into account the sources of water quality degradation in the river, the topography of the land in the river basin, and other relevant factors.

SECTION 4.(b) Vested rights recognized or established under the common law or by G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 shall include the right, as provided in this subsection, to undertake and complete development in the Catawba River Basin without application of temporary rule 15A NCAC 2B.0243. The Commission and the Department shall not apply temporary rule 15A NCAC 2B.0243 to development with vested rights recognized or established under G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 prior to 1 July 2001. The Commission and the Department shall not apply temporary rule 15A NCAC 2B.0243 to development with vested rights recognized or established under the common law prior to the date this section becomes effective if the Commission has issued a certification pursuant to G.S. 143B-282(a)(1)u. prior to 1 July 2001. The Commission shall not adopt or enforce rules that confer or restrict a vested right to undertake or complete development. It is the intent of the General Assembly that this subsection apply only to the particular circumstances that are the subject of this section. This subsection does not establish a precedent as to the application of vesting under a zoning or land-use planning program administered by a local government or to any other environmental program.

SECTION 4.(c) Notwithstanding G.S. 150B-21.3(a), this section shall not be construed to authorize the adoption of additional temporary rules related to protection of water quality and riparian buffers.

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 11:12 a.m. on the 22nd day of September, 2001.

S.B. 1002

SESSION LAW 2001-419

AN ACT TO STRENGTHEN THE CAMPAIGN ENFORCEMENT
AND DISCLOSURE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-278.34 reads as rewritten:

"§ 163-278.34. ~~Filings; penalty for late filings.~~ Civil penalties.

(a) Civil Penalties for Late Filing. – Except as provided in G.S. ~~163-278.9, 163-278.9 and G.S. 163-278.9A,~~ all reports, statements or other documents required by this Article to be filed with the Board shall be filed either by manual delivery to or by mail addressed to the Board. Timely filing shall be complete if postmarked on the day the reports, statements or other documents are to be delivered to the Board. If a report, statement or other document is not filed within the time required by this Article, then the individual, person, media, candidate, political committee, referendum committee or treasurer responsible for filing shall pay to the State Board of Elections election enforcement costs and a civil late penalty as follows:

- (1) Two hundred fifty dollars (\$250.00) per day for each day the filing is late for a report that affects statewide elections, not to exceed a total of ten thousand dollars (\$10,000); and
- (2) Fifty dollars (\$50.00) per day for each day the filing is late for a report that affects only nonstatewide elections, not to exceed a total of five hundred dollars (\$500.00).

The State Board shall immediately notify, or cause to be notified, late filers, from which reports are apparently due, by registered or certified mail, return receipt requested, of the penalties under this section. The State Board of Elections may waive a late penalty if it determines there is good cause for the waiver.

(b) Civil Penalties for Illegal Contributions. – If an individual, person, political committee, referendum committee, candidate, or other entity intentionally makes or accepts a contribution in violation of this Article, then that entity shall pay to the State Board of Elections, in an amount to be determined by that Board, a civil penalty and the costs of investigation, assessment, and collection. The civil penalty shall not exceed three times the amount of the unlawful contribution or expenditure involved in the violation. The State Board of Elections may, in addition to the civil penalty, order that the amount unlawfully received be paid to the State Board by check, and any money so received by the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North Carolina.

(c) Civil Remedies Other Than Penalties. – The State Board of Elections, in lieu of or in addition to imposing a civil penalty under

subsection (a) or (b) of this section, may take one or more of the following actions with respect to a violation for which a civil penalty could be imposed:

- (1) Issue an order requiring the violator to cease and desist from the violation found.
- (2) Issue an order to cease receiving contributions and making expenditures until a delinquent report has been filed and any civil penalty satisfied.
- (3) Issue an order requiring the violator to take any remedial action deemed appropriate by the Board.
- (4) Issue an order requiring the violator to file any report, statement, or other information as required by this Article or the rules adopted by the Board.
- (5) Publicly reprimand the violator for the violation.

(d) Facts in Mitigation. – An individual or other entity notified that a penalty has been assessed against it may submit an affidavit to the State Board of Elections stating the facts in mitigation. The State Board of Elections may waive a civil penalty in whole or in part if it determines there is good cause for the waiver.

~~(a)(c)~~(e) Calculation and Assessment. – The State Board shall calculate and assess the amount of the civil penalty due under subsection (a) or (b) of this section and shall notify the person who is assessed the civil penalty of the amount. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator either to pay the assessment or to contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Board within 30 days after it is due, the Board shall request the Attorney General to institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the report was due to be filed or any county where the violator resides or maintains an office. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment. ~~Consistent with G.S. 115C-437, the State Controller~~ The State Board of Elections shall pay the clear proceeds of civil penalties collected under this section to the County School Fund in the county in which the person charged with the violation resides. The State Controller Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2. The State Board of Elections shall reduce the monies collected by the enforcement costs and the collection costs to determine the clear proceeds payable to the County School Civil Penalty and Forfeiture Fund. Monies set aside

for the costs of enforcement and the costs of collection shall be credited to accounts of the State Board of Elections.

~~(b) The State Board of Elections may waive a late penalty if it determines there is reasonable cause.~~

(f) Notifying and Consulting With District Attorney. – Before assessing a civil penalty under subsection (b) of this section or imposing a civil remedy under subsection (c) of this section, the State Board of Elections shall notify and consult with the district attorney who would be responsible under G.S. 163-278.27 for bringing a criminal prosecution concerning the violation."

SECTION 2. G.S. 163-278.27 reads as rewritten:

"§ 163-278.27. ~~Penalty for violations; Criminal penalties; duty to report and prosecute.~~

(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who intentionally violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor. The statute of limitations shall run from the day the last report is due to be filed with the appropriate board of elections for the election cycle for which the violation occurred.

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

- (1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;
- (2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

- (3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and
- (4) In the case of a person or any group of individuals: report to the district attorney or district attorneys [of] the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside.

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

(d) As a condition of probation, a sentencing judge may order that the costs incurred by the State Board of Elections in investigating and aiding the prosecution of a case be paid to the State Board of Elections by the defendant on such terms and conditions as set by the judge."

SECTION 3. G.S. 163-278.40B reads as rewritten:

"§ 163-278.40B. *Campaign report; partisan election.*

In any city election conducted on a partisan basis in accordance with G.S. 163-279(a)(2) and 163-291, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary.
- (1a) Pre-primary Report. – The treasurer shall file a report with the board no later than the tenth day preceding each primary election.
- (2) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary.
- (3) Repealed by Session Laws 1985, c. 164, s. 2, effective January 1, 1986.
- (4) Annual Report. ~~Semiannual Reports.~~ – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported ~~by the last Friday in January of the following year.~~ on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 4. G.S. 163-278.40C reads as rewritten:

"§ 163-278.40C. *Campaign report; nonpartisan election and runoff.*

If any city election conducted under the nonpartisan election and runoff basis in accordance with G.S. 163-279(a)(4) and 163-293, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (1a) Pre-election Report. – The treasurer shall file a report with the board ~~no later than~~ 10 days ~~prior to~~ before the election.
- (1b) Pre-runoff Report. – The treasurer shall file a report with the board 10 days before the runoff if the candidate is in a runoff.
- (2) Repealed by Session Laws 1985, c. 164, s. 3, effective January 1, 1986.
- (3) Annual Report. Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all ~~such~~ those contributions and expenditures shall be reported by the last Friday in January of the following year. on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 5. G.S. 163-278.40D reads as rewritten:

"§ 163-278.40D. *Campaign report; nonpartisan primary and elections.*

In any city election conducted under the nonpartisan primary method in accordance with G.S. 163-279(a)(3) and 163-294, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the primary if the candidate is in a primary or the same length of time before the election if the candidate is not in a primary.
- (1a) Pre-primary and Pre-election Report. Reports. – The treasurer shall file a report 10 days ~~prior to~~ before the primary if the candidate is in a primary ~~or~~ and 10 days ~~prior to~~ before the election, if the candidate is not in a primary election.
- (2) Repealed by Session laws 1985, c. 164, s. 4, effective January 1, 1986.
- (3) Annual Report. Semiannual Reports. – If contributions are received or expenditures made during any part of a

calendar year, for which no reports are otherwise required by this section, any and all those contributions and expenditures shall be reported by the last Friday in January of the following year, on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 6. G.S. 163-278.40E reads as rewritten:

"§ 163-278.40E. *Campaign report; nonpartisan plurality.*

In any city election conducted under the nonpartisan plurality method under G.S. 163-279(a)(1) and 163-292, the following reports shall be filed in addition to the organizational report:

- (1) Thirty-five-day Report. – The treasurer shall file a report with the board 35 days before the election.
- (1a) Pre-election Report. – The treasurer shall file a report 10 days ~~prior to~~ before the election.
- (2) Repealed by Session Laws 1985, c. 164, s. 5, ~~effective January 1, 1986.~~
- (3) ~~Annual Report.~~ Semiannual Reports. – If contributions are received or expenditures made during any part of a calendar year, for which no reports are otherwise required by this section, any and all such—those contributions and expenditures shall be reported by the last Friday in January of the following year, on semiannual reports due on the last Friday in July, covering the period through June 30, and due on the last Friday in January, covering the period through December 31 of the previous year."

SECTION 7. G.S. 163-278.9(j) reads as rewritten:

"(j) Treasurers for the following entities shall electronically file each report required by this section that shows a cumulative total for the election cycle in excess of five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

- (1) A candidate for statewide office;
- (2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office;
- (3) A political committee that makes contributions in excess of five thousand dollars (\$5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars (\$5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

SECTION 8. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 11:12 a.m. on the 22nd day of September, 2001.

S.B. 790**SESSION LAW 2001-420**

AN ACT TO REVISE THE GOOD FUNDS SETTLEMENT ACT TO CLARIFY THE AUTHORITY OF A SETTLEMENT AGENT TO DISBURSE SETTLEMENT PROCEEDS IN RELIANCE ON A DEPOSIT IN THE FORM OF A CHECK ISSUED BY AN AGRICULTURAL CREDIT ASSOCIATION OR IN THE FORM OF A CHECK DRAWN ON THE ACCOUNT OF OR ISSUED BY A LICENSED MORTGAGE BANKER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 45A-4 reads as rewritten:

"§ 45A-4. *Duty of settlement agent.*

The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified check;
- (2) A check issued by the ~~State of North Carolina, State, the United States, or a political subdivision of the State of North Carolina or the United States;~~ State, or an agency or instrumentality of the United States, including an agricultural credit association;

- (3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government;
- (4) A check drawn on the trust account of an attorney licensed to practice in the State of North Carolina;
- (5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General Statutes;
- (6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars (\$5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account;
- (7) A check drawn on the account of or issued by a ~~lender which is approved by the United States Department of Housing and Urban Development as either a supervised or nonsupervised mortgagee as defined in 24 C.F.R. section 202.2.~~ mortgage banker registered under Article 19 of Chapter 53 of the General Statutes that has posted with the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars (\$300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check."

SECTION 2. G.S. 45A-4, as amended by Section 1 of this act, reads as rewritten:

"§ 45A-4. *Duty of settlement agent.*

The settlement agent shall cause recordation of the deed, if any, the deed of trust or mortgage, or other loan documents required to be recorded at settlement. The settlement agent shall not disburse any of the closing funds prior to the recordation of any deeds or loan documents required to be filed by the lender, if applicable, and verification that the closing funds used to fund disbursement are deposited in the settlement agent's trust or escrow account in one or more forms prescribed by this Chapter. Unless otherwise provided in this Chapter, a settlement agent shall not cause a disbursement of settlement proceeds unless those settlement proceeds are collected funds. Notwithstanding that a deposit made by a settlement agent to its trust or escrow account does not constitute collected funds, the settlement agent may cause a disbursement of settlement proceeds from its trust or escrow account in reliance on that deposit if the deposit is in one or more of the following forms:

- (1) A certified check;
- (2) A check issued by the State, the United States, a political subdivision of the State, or an agency or instrumentality of the United States, including an agricultural credit association;
- (3) A cashier's check, teller's check, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government;
- (4) A check drawn on the trust account of an attorney licensed to practice in the State of North Carolina;
- (5) A check or checks drawn on the trust or escrow account of a real estate broker licensed under Chapter 93A of the General Statutes;
- (6) A personal or commercial check or checks in an aggregate amount not exceeding five thousand dollars (\$5,000) per closing if the settlement agent making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the settlement agent's trust or escrow account;
- (7) A check drawn on the account of or issued by a mortgage banker ~~registered under Article 19~~ licensed under Article 19A of Chapter 53 of the General Statutes that has posted with the Commissioner of Banks a surety bond in the amount of at least three hundred thousand dollars (\$300,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any settlement agent with a claim against the licensee for a dishonored check."

SECTION 3. Section 1 of this act becomes effective January 1, 2002. Section 2 of this act becomes effective July 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 11:13 a.m. on the 22nd day of September, 2001.

H.B. 355**SESSION LAW 2001-421**

AN ACT TO PROVIDE THAT THE DEPARTMENT OF INSURANCE IS NOT LIABLE FOR COSTS INCURRED IN SATISFYING THE FISCAL NOTE REQUIREMENT FOR CHANGES IN THE STATE BUILDING CODE; TO UPDATE REFERENCES TO ORGANIZATIONS WHOSE STANDARDS MAY BE USED IN ADOPTING CODE PROVISIONS; TO

GIVE THE BUILDING CODE COUNCIL EXPLICIT AUTHORITY TO USE STANDARDS OF INTERNATIONAL AGENCIES; TO MAKE TECHNICAL CORRECTIONS IN THE BUILDING CODE COUNCIL STATUTES; TO PROHIBIT MEMBERS OF THE MANUFACTURED HOUSING AND HOME INSPECTOR LICENSING BOARDS FROM SPONSORING OR PROVIDING CONTINUING EDUCATION COURSES WHILE SERVING ON THE BOARD; TO AUTHORIZE THE MANUFACTURED HOUSING BOARD TO ADOPT TEMPORARY RULES REGARDING CONTINUING EDUCATION REQUIREMENTS; TO CLARIFY THAT SALES MANAGERS OF A MANUFACTURED HOUSING RETAIL DEALER SHALL BE LICENSED AS SALESPERSONS; TO ENSURE THAT BUILDING INSPECTORS APPLY THE MANUFACTURED HOME INSTALLATION STANDARDS; TO MAKE A TECHNICAL CORRECTION IN THE FIREMEN'S RELIEF FUND LAW; AND TO AMEND THE BEACH PLAN LAW REGARDING LOSS ADJUSTMENT EXPENSE REIMBURSEMENTS.

The General Assembly of North Carolina enacts:

PART I. BUILDING CODE AND BUILDING CODE COUNCIL.

SECTION 1.1. G.S. 143-138(a), as rewritten by Section 1 of S.L. 2001-141, reads as rewritten:

"(a) Preparation and Adoption. – The Building Code Council ~~is hereby empowered to~~ may prepare and adopt, in accordance with the provisions of this Article, a North Carolina State Building Code. ~~Prior to~~ Before the adoption of ~~this~~ the Code, or any part ~~thereof~~, of the Code, the Council shall hold at least one public hearing. A notice of ~~such~~ the public hearing shall be published in the North Carolina Register at least 15 days ~~prior to~~ before the date of the hearing. Notwithstanding G.S. 150B-2(8a)h., the North Carolina State Building Code as adopted by the Building Code Council is a rule within the meaning of G.S. 150B-2(8a) and shall be adopted in accordance with the procedural requirements of Article 2A of Chapter 150B of the General Statutes.

The Council shall request the Office of State Budget, Planning, and Management to prepare a fiscal note for a proposed Code change that has a substantial economic impact, as defined in G.S. 150B-21.4(b1), or that increases the cost of residential housing by eighty dollars (\$80.00) or more per housing unit. The change can become effective only in accordance with G.S. 143-138(d). Neither the Department of Insurance nor the Council shall be required to

expend any monies to pay for the preparation of any fiscal note under this section by any person outside of the Department or Council unless the Department or Council contracts with a third-party vendor to prepare the fiscal note."

SECTION 1.2. G.S. 143-138(c) reads as rewritten:

"(c) Standards to Be Followed in Adopting the Code. – All regulations contained in the North Carolina State Building Code shall have a reasonable and substantial connection with the public health, safety, morals, or general welfare, and their provisions shall be construed reasonably to those ends. Requirements of the Code shall conform to good engineering practice. The Council may use as guidance, but is not required to adopt, the requirements of the ~~National Building Code of the American Insurance Association, formerly the National Board of Fire Underwriters, the Southern International Building Code of the International Code Council, the Standard Building Code of the Southern Building Code Congress, Congress International, Inc., the Uniform Building Code of the Pacific Coast Building Officials Conference, International Conference of Building Officials, the Basic National Building Code of the Building Officials Conference of America, Inc., and Code Administrators, Inc., the National Electric Code, the Life Safety Code Code, the National Fuel Gas Code, and the Fire Prevention Code of the National Fire Protection Association, the American Standard Safety Code for Elevators, Dumbwaiters, Elevators and Escalators, and the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, Standards of the American Insurance Association for the Installation of Gas Piping and Gas Appliances in Buildings, and standards promulgated by the United States of America American National Standards Institute, formerly the American Standards Association, Underwriters' Laboratories, Inc., and similar national or international agencies engaged in research concerning strength of materials, safe design, and other factors bearing upon health and safety.~~"

SECTION 1.3. G.S. 150B-21.5(d), as enacted by Section 5 of S.L. 2001-141, reads as rewritten:

"(d) State Building Code. – The Building Code Council is not required to publish a notice of text in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to publish a notice of rule-making proceeding in the North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State Building Code. The Building Code Council is required to submit to the Commission for review a rule for which notice and hearing is not required under this subsection. In adopting a rule, the

Council shall comply with the procedural requirements of G.S. 150B-21.3."

SECTION 1.4. G.S. 150B-21.17(a), as rewritten by Section 6 of S.L. 2001-141, reads as rewritten:

"(a) Content. – The Codifier of Rules must publish the North Carolina Register. The North Carolina Register must be published at least two times a month and must contain the following:

- (1) Temporary rules entered in the North Carolina Administrative Code.
- (1a) Notices of rule-making proceedings, the text of proposed rules, and the text of permanent rules approved by the Commission. This Except with regard to notices of rule-making proceedings, this subdivision does not apply to the North Carolina State Building Code.
- (2) Notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165.
- (3) Executive orders of the Governor.
- (4) Final decision letters from the United States Attorney General concerning changes in laws that affect voting in a jurisdiction subject to section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H.
- (5) Orders of the Tax Review Board issued under G.S. 105-241.2.
- (6) Other information the Codifier determines to be helpful to the public."

SECTION 1.5. G.S. 143-138(d), as rewritten by Section 2 of S.L. 2001-141, reads as rewritten:

"(d) Amendments of the Code. – The Building Code Council may revise and amend the North Carolina State Building Code, either on its own motion or upon application from any citizen, State agency, or political subdivision of the State. In adopting any amendment, the Council shall comply with the same procedural requirements and the same standards set forth above for adoption of the Code.

Handbooks providing explanatory material on Code provisions shall be provided no later than January 1, 2000, and shall be updated with each ~~triennial~~ revision of the Code or, in the discretion of the Council, more frequently. The Department may charge a reasonable fee for the handbooks."

PART II. MANUFACTURED HOUSING, CODE OFFICIALS, AND HOME INSPECTOR BOARDS.

SECTION 2.1. G.S. 143-143.9(9) reads as rewritten:

"(9) Manufactured home salesperson or salesperson. – Any person employed by a manufactured home dealer to sell

manufactured homes to buyers. Manufactured home salesperson or salesperson also includes sales managers, lot managers, general managers, or others who manage or supervise salespersons."

SECTION 2.2. G.S. 143-143.11B(a) reads as rewritten:

"(a) The Board may establish programs and requirements of continuing education for licensees, but shall not require licensees to complete more than eight credit hours of continuing education. ~~Prior to~~ Before the renewal of a license, a licensee shall present evidence to the Board that ~~he or she~~ the licensee has completed the required number of continuing education hours in courses approved by the Board during the two months immediately preceding the expiration of ~~his or her~~ the licensee's license. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board."

SECTION 2.3. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a6) Notwithstanding the provisions of subsection (a) of this section, the Manufactured Housing Board may adopt temporary rules regarding continuing education course approval under G.S. 143-143.11B(c). After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Board shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
- (2) Accept oral and written comments on the proposed temporary rule; and
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Board adopts a temporary rule pursuant to this subsection, the Board must submit a reference to this subsection as the Board's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Board in accordance with this subsection."

SECTION 2.4. G.S. 143-151.8(2) reads as rewritten:

- "(2) 'Code' means the North Carolina State Building Code and related local building rules approved by the Building Code Council ~~heretofore or hereinafter~~ enacted, adopted or approved ~~pursuant to~~ under G.S. 143-138, ~~and~~ any resolution adopted by a federally recognized Indian Tribe under G.S. 153A-350.1 in which the Tribe adopts the North Carolina State Building Code and related local

building rules, rules, and the standards adopted by the Commissioner of Insurance under G.S. 143-143.15(a)."

SECTION 2.5. G.S. 143-151.64(a) reads as rewritten:

"(a) Requirements. – The Board may establish programs of continuing education for licensees under this Article. A licensee subject to a program under this section shall present evidence to the Board upon the license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person licensee has completed the required number of classroom hours of instruction in courses approved by the Board. Annual continuing education hour requirements shall be determined by the Board, but shall not be more than 12 credit hours. No member of the Board shall provide or sponsor a continuing education course under this section while that person is serving on the Board."

PART III. FIREMEN'S RELIEF FUND TECHNICAL CORRECTION.

SECTION 3. G.S. 58-84-46 reads as rewritten:

"§ 58-84-46. *Certification to Commissioner.*

On or before October 31 of each year the clerk or finance officer of each ~~fire district~~ city or county that has a local board of trustees under G.S. 58-84-30 shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

- (1) The ~~fire district~~ city or county that failed to file the certificate shall forfeit the payment next due to be paid to its board of trustees.
- (2) The Commissioner shall pay over that amount to the treasurer of the North Carolina State Firemen's Association.
- (3) That amount shall constitute a part of the Firemen's Relief Fund."

PART IV. BEACH PLAN LOSS ADJUSTMENT REIMBURSEMENTS.

SECTION 4.1. G.S. 58-45-35(e) reads as rewritten:

"(e) Policies of windstorm and hail insurance provided for in subsection (b) of this section are available only for risks in the beach and coastal areas for which essential property insurance has been written by licensed insurers. Whenever such other essential property

insurance written by licensed insurers includes replacement cost coverage, the Association shall also offer replacement cost coverage. In order to be eligible for a policy of windstorm and hail insurance, the applicant shall provide the Association, along with the premium payment for the windstorm and hail insurance, a certificate that the essential property insurance is in force. The policy forms for windstorm and hail insurance shall be filed by the Association with the Commissioner for ~~his~~ the Commissioner's approval before they may be used. Catastrophic losses, as determined by the Association and approved by the Commissioner, that are covered under the windstorm and hail coverage in the beach and coastal areas shall be adjusted by the licensed insurer that issued the essential property insurance and not by the Association. ~~Expenses incurred by the licensed insurer in adjusting windstorm and hail losses shall be reimbursed by the Association.~~ The Association shall reimburse the insurer for reasonable expenses incurred by the insurer in adjusting windstorm and hail losses."

SECTION 4.2. G.S. 58-45-50 reads as rewritten:

"§ 58-45-50. *Appeal from acts of Association to Commissioner; appeal from Commissioner to superior court.*

(a) Any person or any insurer who may be aggrieved by an act, ~~ruling~~ ruling, or decision of the Association other than an act, ~~ruling~~ ruling, or decision relating to (i) the cause or amount of a claimed loss, loss or (ii) the reasonableness of expenses incurred by an insurer in adjusting windstorm and hail losses, may, within 30 days after the ruling, appeal to the Commissioner. Any hearings held by the Commissioner under the appeal shall be in accordance with rules adopted by the Commissioner: Provided, however, the Commissioner is authorized to appoint a member of the Commissioner's staff as deputy commissioner for the purpose of hearing those appeals and a ruling based upon the hearing shall have the same effect as if heard by the Commissioner. All persons or insureds aggrieved by any order or decision of the Commissioner may appeal as is provided in G.S. 58-2-75.

(b) No later than 10 days before each hearing, the appellant shall file with the Commissioner or the Commissioner's designated hearing officer and shall serve on the appellee a written statement of the appellant's case and any evidence that the appellant intends to offer at the hearing. No later than five days before the hearing, the appellee shall file with the Commissioner or the designated hearing officer and shall serve on the appellant a written statement of the appellee's case and any evidence that the appellee intends to offer at the hearing. Each hearing shall be recorded and may be transcribed. If the matter is between an insurer and the Association, the cost of the recording and transcribing shall be borne equally by the appellant and appellee;

provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. If the matter is between an insured and the Association, the cost of transcribing shall be borne equally by the appellant and appellee; provided that the Commissioner may order the Association to pay recording or transcribing costs for which the insured is financially unable to pay. Each party shall, on a date determined by the Commissioner or the designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or the designated hearing officer and serve on the other party, a proposed order. The Commissioner or the designated hearing officer shall then issue an order."

PART V. EFFECT OF HEADINGS, SEVERABILITY, AND EFFECTIVE DATE.

SECTION 5.1. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 5.2. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5.3. This act is effective when it becomes law. Sections 1.1, 1.3, 1.4, and 1.5 apply to revisions made to the North Carolina State Building Code on or after January 1, 2002. Section 2.3 of this act expires June 30, 2002.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 11:14 a.m. on the 22nd day of September, 2001.

S.B. 241 SESSION LAW 2001-422

AN ACT TO STRENGTHEN THE LAW MAKING IT A FELONY
FOR AN INSURANCE FIDUCIARY TO CAUSE
TERMINATION OF GROUP HEALTH OR LIFE INSURANCE
COVERAGE BY NONPAYMENT OF PREMIUM WITHOUT
GIVING NOTICE TO MEMBERS OF THE GROUP.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-40 reads as rewritten:

"§ 58-50-40. *Willful failure to pay group insurance premiums; willful termination of a group health plan; notice to persons insured; penalty; restitution; examination of insurance transactions.*

(a) As used in this section and in G.S. 58-50-45, the term "group health insurance" means: (1) any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; (2) any group insurance certificate or group subscriber contract issued by a hospital service corporation pursuant to Articles 65 and 66 of this Chapter; (3) any health care plan provided or arranged by a health maintenance organization pursuant to Article 67 of this Chapter; or (4) any multiple employer welfare arrangement as defined in G.S. 58-49-30(a). As used in this section and in G.S. 58-50-45, the term "insurance fiduciary" means any person, employer, principal, agent, trustee, or third party administrator, who is responsible for the payment of group health or group life insurance premiums. As used in this section and in G.S. 58-50-45, "premiums" includes contributions to a multiple employer welfare arrangement. G.S. 58-50-45:

- (1) 'Group health insurance' means any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; any group insurance certificate or group subscriber contract issued by a service corporation pursuant to Articles 65 and 66 of this Chapter; any health care plan provided or arranged by a health maintenance organization pursuant to Article 67 of this Chapter; or any multiple employer welfare arrangement as defined in G.S. 58-49-30(a).
 - (2) 'Group health plan' means a single employer self-insured group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1167(1), as amended.
 - (3) 'Insurance fiduciary' means any person, employer, principal, agent, trustee, or third-party administrator who is responsible for the payment of group health or group life insurance premiums or who is responsible for funding a group health plan.
 - (4) 'Premiums' includes contributions to a group health plan or to a multiple employer welfare arrangement.
- (b) No insurance fiduciary shall:
- (1) Cause the cancellation or nonrenewal of group health or group life insurance and the consequential loss of the coverages of the persons insured by willfully failing to pay such premiums in accordance with the terms of a group health or group life insurance contract; or, in the case of a group health plan to which there are no premiums contributed, terminate the plan by willfully failing to fund the plan; and

- (2) Willfully fail to deliver, at least 45 days before the termination of ~~such insurance, the group health or group life insurance or group health plan,~~ to all persons covered by the group policy or group health plan a written notice of the insurance fiduciary's intention to stop payment of premiums, premiums for the group life or health insurance or the insurance fiduciary's intention to cease funding of a group health plan.

(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of a Class H felony.

(e) Upon conviction under subsection (c) of this section the court shall order the insurance fiduciary to make full restitution to persons insured who incurred expenses that would have been covered by the group health insurance or group health plan or full restitution to beneficiaries of the group life insurance for death benefits that would have been paid if the coverage had not been terminated.

(f) Insurance fiduciaries subject to this section shall be subject to the provisions of G.S. 58-2-200 with respect only to transactions involving group health or life insurance.

(g) In the notice required by subsection (b) of this section, the insurance fiduciary shall also notify those persons of their rights to health insurance conversion policies under Article 53 of this Chapter and their rights ~~under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA).~~ to purchase individual policies under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and Article 68 of this Chapter.

(h) In the event of the insolvency of an employer or insurance fiduciary who has violated this section, any person specified in subsection (e) of this section shall have a lien upon the assets of the employer or insurance fiduciary for the expenses or benefits specified in subsection (e) of this section. With respect to personal property within the estate of the insolvent employer or insurance fiduciary, the lien shall have priority over unperfected security interests.

(i) Upon the termination of a group health insurance contract by the insurer, the insurer shall notify every subscriber and certificate holder under the contract of the termination of the contract along with the certification required to be provided under G.S. 58-68-30(e).

(j) This section shall not apply to the cessation of individual contributions made by any person covered by a group health or group life insurance policy or group health plan."

SECTION 2. G.S. 58-50-45 reads as rewritten:

"§ 58-50-45. *Group health or life insurers to notify insurance fiduciaries of obligations.*

(a) ~~On and after January 1, 1986, upon~~ Upon the issuance or renewal of any policy, contract, certificate, or evidence of coverage of group health or life insurance, the insurer, corporation, or health maintenance organization shall give written notice to the insurance fiduciary of the provisions of G.S. 58-50-40.

(b) The notice required by subsection (a) of this section shall be printed in 10 point type and shall read as follows:

'UNDER NORTH CAROLINA GENERAL STATUTE SECTION 58-50-40, NO PERSON, EMPLOYER, PRINCIPAL, AGENT, TRUSTEE, OR THIRD PARTY ADMINISTRATOR, WHO IS RESPONSIBLE FOR THE PAYMENT OF GROUP HEALTH OR LIFE INSURANCE OR GROUP HEALTH CARE PLAN PREMIUMS, SHALL: (1) CAUSE THE CANCELLATION OR NONRENEWAL OF GROUP HEALTH OR LIFE INSURANCE, HOSPITAL, MEDICAL, OR DENTAL SERVICE CORPORATION PLAN, MULTIPLE EMPLOYER WELFARE ARRANGEMENT, OR GROUP HEALTH CARE PLAN COVERAGES AND THE CONSEQUENTIAL LOSS OF THE COVERAGES OF THE PERSONS INSURED, BY WILLFULLY FAILING TO PAY SUCH THOSE PREMIUMS IN ACCORDANCE WITH THE TERMS OF THE INSURANCE OR PLAN CONTRACT, AND (2) WILLFULLY FAIL TO DELIVER, AT LEAST 45 DAYS BEFORE THE TERMINATION OF SUCH THOSE COVERAGES, TO ALL PERSONS COVERED BY THE GROUP POLICY A WRITTEN NOTICE OF THE PERSON'S INTENTION TO STOP PAYMENT OF PREMIUMS. THIS WRITTEN NOTICE MUST ALSO CONTAIN A NOTICE TO ALL PERSONS COVERED BY THE GROUP POLICY OF THEIR RIGHTS TO HEALTH INSURANCE CONVERSION POLICIES UNDER ARTICLE 53 OF CHAPTER 58 OF THE GENERAL STATUTES ~~CHAPTER 58~~ AND THEIR RIGHTS TO PURCHASE INDIVIDUAL POLICIES UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT (COBRA). HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AND UNDER ARTICLE 68 OF CHAPTER 58 OF THE GENERAL STATUTES. VIOLATION OF THIS LAW IS A FELONY. ANY PERSON VIOLATING THIS LAW IS ALSO SUBJECT TO A COURT ORDER REQUIRING THE PERSON TO COMPENSATE PERSONS INSURED FOR EXPENSES OR LOSSES INCURRED AS A RESULT OF THE TERMINATION OF THE INSURANCE.'

SECTION 3. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 4. This act becomes effective December 1, 2001.

In the General Assembly read three times and ratified this the 12th day of September, 2001.

Became law upon approval of the Governor at 11:15 a.m. on the 22nd day of September, 2001.

H.B. 164 SESSION LAW 2001-423

AN ACT TO AUTHORIZE AUTOMOBILE INSURANCE PREMIUM DISCOUNTS FOR CERTAIN PERSONS WHO COMPLETE ACCIDENT PREVENTION COURSES; TO CLARIFY THE INSURANCE LAW BY PROVIDING THAT THE COMMISSIONER'S APPROVAL OR DISAPPROVAL OF A FILING IS NOT AN AGENCY DECISION WITH RESPECT TO PERSONS OTHER THAN THE FILER OR AN INTERVENOR IN THE FILING; AND TO EXTEND THE EFFECTIVE DATE FOR A LAW FACILITATING THE PURCHASE OF PERSONAL UMBRELLA INSURANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-36-30(d) reads as rewritten:

"(d) Notwithstanding any other provision of law prohibiting insurance rate differentials based on age, with respect to nonfleet private passenger motor vehicle insurance under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this State, subject to the Commissioner's approval, a downward deviation in the rates for insureds who are 55 years of age or older. A member of the Bureau may condition a deviation under this subsection or a deviation under subsection (a) of this section on the successful completion of a motor vehicle accident prevention course that has been approved by the Commissioner of Motor Vehicles, as designated in the deviation."

SECTION 2. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-2-53. Filing approvals and disapprovals; clarification of law.

Whenever any provision of this Chapter requires a person to file rates, forms, classification plans, rating plans, plans of operation, the Safe Driver Incentive Plan, or any other item with the Commissioner or Department for approval, the approval or disapproval of the filing is an agency decision under Chapter 150B of the General Statutes only with respect to the person making the filing or any person that intervenes in the filing."

SECTION 3. Section 4 of S.L. 2001-236 reads as rewritten:

"SECTION 4. This act becomes effective ~~October 1, 2001~~, January 1, 2002."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of September, 2001.

Became law upon approval of the Governor at 11:15 a.m. on the 22nd day of September, 2001.

S.B. 1005

SESSION LAW 2001-424

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

INTRODUCTION

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

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2001."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions,

and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 2003, according to the following schedule:

Current Operations –

General Fund	2001-2002	2002-2003
EDUCATION		
Community Colleges System Office	643,695,459	643,195,459
Department of Public Instruction	5,879,640,364	5,922,188,546
University of North Carolina – Board of Governors		
Appalachian State University	85,231,527	85,494,527
East Carolina University		
Academic Affairs	120,720,504	121,983,572
Health Affairs	46,062,074	46,062,074
Elizabeth City State University	21,649,628	21,649,628
Fayetteville State University	30,796,571	30,796,571
NC Agricultural and Technical University	59,512,768	59,512,768
North Carolina Central University	44,381,352	44,381,352
North Carolina School of the Arts	16,408,836	16,682,455
North Carolina State University		
Academic Affairs	265,376,229	265,861,181
Agricultural Extension	37,434,400	37,434,400
Agricultural Research	46,704,489	46,678,373
University of North Carolina at Asheville	25,479,187	25,635,286
University of North Carolina at Chapel Hill		
Academic Affairs	199,610,018	200,119,532
Health Affairs	154,439,887	156,170,103
Area Health Education Centers	46,072,336	46,072,336
University of North Carolina at Charlotte	95,659,924	96,131,150
University of North Carolina at Greensboro	93,245,204	93,322,528
University of North Carolina at Pembroke	24,591,556	24,532,869
University of North Carolina at Wilmington	59,584,977	59,936,359

S.L. 2001-424**[SESSION LAWS**

Western Carolina University	51,888,048	52,156,307
Winston-Salem State University	28,095,527	28,519,116
General Administration	40,280,589	41,276,013
University Institutional Programs	40,397,754	41,247,754
Related Educational Programs	103,637,912	103,637,912
North Carolina School of Science and Mathematics	11,487,156	11,839,342
UNC Hospitals at Chapel Hill	40,587,322	40,587,322
Total	1,789,335,775	1,797,720,830

HEALTH AND HUMAN SERVICES

Department of Health and Human Services

Office of the Secretary	48,108,705	48,008,705
Division of Aging	29,531,910	29,531,910
Division of Child Development	289,058,396	289,058,396
Division of Education Services	69,581,525	69,581,525
Division of Public Health	108,459,083	107,434,083
Division of Social Services	188,690,237	194,763,531
Division of Medical Assistance	1,981,237,528	2,219,046,892
NC Health Choice	32,987,142	37,487,142
Division of Blind Services/Deaf/HH	10,168,115	10,168,115
Division of Mental Health	581,394,627	581,068,627
Division of Facility Services	15,246,969	15,442,236
Division of Vocational Rehabilitation	42,768,956	42,088,956
Total	3,397,233,193	3,643,680,118

NATURAL AND ECONOMIC RESOURCESDepartment of Agriculture
and Consumer Services

55,368,040 55,168,040

Department of Commerce

Commerce	59,280,374	44,280,374
Commerce State-Aid	7,125,000	5,200,000
NC Biotechnology Center	5,270,468	6,270,468
Rural Economic Development Center	4,091,055	5,090,749

2001]		S.L. 2001-424
Department of Environment and Natural Resources		
Environment and Natural Resources	159,072,700	158,722,700
Clean Water Management Trust Fund	40,000,000	70,000,000
Office of the Governor – Housing Finance Agency	5,300,000	5,300,000
Department of Labor	15,517,906	15,117,906
JUSTICE AND PUBLIC SAFETY		
Department of Correction	923,995,281	930,964,916
Department of Crime Control and Public Safety	31,749,131	28,493,506
Judicial Department	305,491,140	305,465,135
Judicial Department – Indigent Defense	70,181,601	68,867,771
Department of Justice	73,142,775	73,720,793
Department of Juvenile Justice and Delinquency Prevention	140,800,030	142,554,017
GENERAL GOVERNMENT		
Department of Administration	61,085,019	60,815,019
Office of Administrative Hearings	2,795,155	2,795,155
Department of State Auditor	11,864,673	11,864,673
Office of State Controller	11,523,868	11,523,868
Department of Cultural Resources		
Cultural Resources	60,227,419	59,427,419
Roanoke Island Commission	1,859,463	1,859,463
State Board of Elections	3,186,269	3,186,269
General Assembly	39,383,848	39,553,848

S.L. 2001-424**[SESSION LAWS**

Office of the Governor		
Office of the Governor	5,442,905	5,442,905
Office of State Budget and Management	5,458,547	5,354,938
Mapping and Surveying	0	0
Reserve for Special Appropriations	3,635,000	3,080,000
Department of Insurance		
Insurance	23,750,037	23,527,552
Insurance -- Volunteer Safety Workers' Compensation	1,050,000	4,500,000
Office of Lieutenant Governor	669,545	669,545
Department of Revenue	77,100,467	77,955,704
Rules Review Commission	325,795	325,795
Department of Secretary of State	8,481,776	8,286,850
Department of State Treasurer		
State Treasurer	7,216,817	7,216,817
State Treasurer – Retirement for Fire and Rescue Squad Workers	10,301,897	12,379,780
TRANSPORTATION		
Department of Transportation	10,030,000	13,393,341
RESERVES AND DEBT SERVICE		
Contingency and Emergency	5,000,000	5,000,000
Reserve for Compensation Increases	193,842,000	193,842,000
Reserve for Salary Adjustments	500,000	500,000
State Employee Health Benefit Plan		
Statewide Reserve for State Health Plan	114,000,000	200,000,000

2001]		S.L. 2001-424
State Budget Office Reserve for State Health Plan		36,000,000
Reserve for Teachers' and State Employees' Retirement Rate Adjustment	(241,002,720)	(241,002,720)
Reserve for Consolidated Judicial Retirement Rate Adjustment	(2,265,000)	(2,265,000)
Reserve for Mental Health Reform	47,525,675	0
Reserve to Implement HIPPA	15,000,000	0
Reserve for Information Technology Rate Adjustment	(4,000,000)	(4,000,000)
Debt Service		
General Debt Service	250,822,092	352,266,860
Federal Reimbursement	1,155,948	1,155,948

**GRAND TOTAL
CURRENT OPERATIONS –
GENERAL FUND** **\$14,368,256,787** **\$14,780,657,357**

Requested by: Senators Plyler, Odom, Lee; Representatives
Easterling, Oldham, Redwine, Thompson

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in
developing the 2001-2003 biennial budget is shown below:

General Fund Budget	2001-2002	2002-2003
Reform Statement	(\$ Millions)	(\$ Millions)

BUDGET REFORM STATEMENT

1. Composition of the 2001-2002 beginning availability:
 - a. Unappropriated balance 0.0
 - b. Revenue collections in fiscal year
2000-2001 in excess of
authorized estimates 0.0
 - c. Unexpended appropriations during
fiscal year 2000-2001 (Reversions) 0.0
 - Beginning Unreserved Credit Balance 0.0
2. Revenues Based on

Existing Tax Structure	13,303.4	13,979.0
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3. Non-Tax Revenues:		
Investment Income	164.0	171.0
Judicial Fees	112.8	115.9
Disproportionate Share	107.0	107.0
Insurance	45.5	47.4
Other Non-Tax Revenues	96.5	97.3
Highway Trust Fund Transfer	170.0	170.0
Highway Fund Transfer	<u>14.5</u>	<u>15.3</u>
Subtotal	14,013.7	14,702.9
4. Other Adjustments		
IRC Conformity Adjustment (included in House Bill 232)	(3.4)	(3.8)
North Carolina Railroad General Fund Repayment	19.0	
Senate Bill 353 Enhance Department of Revenue Collections	50.0	50.0
Education/Human Services/Mental Health/Revenue Initiatives	435.3	614.4
House Bill 1157 Implementation – Closure of Tax Loopholes	61.3	64.3
House Bill 232 Implementation – Budget Revenue Provisions (Accelerations)	112.1	6.0
Increase in Nontax Revenues -- Patients' Bill of Rights (Senate Bill 199)	0.4	0.9
Transfer/Adjustment of Cash from Special, Trust, Internal Service, and Reserve Funds	23.4	0.5
Court Fee Funds to State Bar	(0.8)	(1.7)
Credit to the Savings Reserve Account	<u>(181.0)</u>	
Subtotal	516.3	730.6
TOTAL GENERAL FUND AVAILABILITY	\$14,530.0	\$15,433.5

SECTION 2.2.(b) Notwithstanding the provisions of Section 7.2.(a) of S.L. 2000-67, nineteen million dollars (\$19,000,000) of the North Carolina Railroad Company dividends received by the State during the 2000-2001 fiscal year and the 2001-2002 fiscal year shall: (i) be applied to increase the capital of the North Carolina Railroad Company, (ii) reduce the obligations described in subsection (c) of Section 32.30 of S.L. 1997-443, as amended by subsection (d) of Section 27.11 of S.L. 1999-237, and (iii) be deposited in the General Fund.

SECTION 2.2.(d) Effective July 1, 2001, cash balances remaining in special funds on June 30, 2001, shall be transferred to the State Controller to be deposited in Nontax Budget Code 19978

2001]

S.L. 2001-424

(Intra State Transfers) according to the schedule that follows. These funds shall be used to support General Fund appropriations for the 2001-2002 fiscal year.

Fund	Amount Transferred
Department of Agriculture and Consumer Services	
Budget Code 23701, Fund Code 2201 (Warehouse Investment Fund)	\$500,000
Department of Environment and Natural Resources	
Budget Code 24300, Fund Code 2106 (DEH - Sleep Products)	46,437
Budget Code 24300, Fund Code 2331 (DAQ - Air Permits)	77,889
Budget Code 24300, Fund Code 2735 (DLR - Sedimentation Fees)	148,562
Budget Code 24300, Fund Code 2620 (DLR - Land Env Controls)	111,261
Budget Code 24300, Fund Code 2740 (DLR - Dam Safety Account)	18,522
Budget Code 64305, Fund Code 6372 (DWM - Inactive Hazardous Sites Cleanup)	499,263
Budget Code 64305, Fund Code 6373 (DWM - Emergency Response Fund)	49,771
Budget Code 24300, Fund Code 2341 (DWQ - Water Permits)	371,682
Budget Code 64306, Fund Code 6341 (DWQ - WW Treatment Maintenance & Repair)	43,256
Budget Code 24300, Fund Code 2335 (DWQ - Lab Certification Fees)	16,371
Budget Code 24300, Fund Code 2130 (DWQ - Well Construction Fund)	18,134
Budget Code 24300, Fund Code 2310 (DWQ - Oil Pollution Control)	8,170
Budget Code 24303, Fund Code 2980 (DWQ - Wetlands Restoration)	3,400,000
Department of Commerce	
Budget Code 24610, Fund Code 2431 (International Trade Show Fund)	\$77,338
Department of Correction	
Budget Code 24502 (Inmate Canteen/Welfare Fund)	380,000

SECTION 2.2.(e) Effective October 1, 2001, the sum of one million two hundred thousand dollars (\$1,200,000) shall be transferred from the Department of Administration, Budget Code 74100, Fund Code 7211 (Motor Fleet Management) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2001-2002 fiscal year.

Effective April 1, 2002, the sum of two million dollars (\$2,000,000) shall be transferred from the Department of Administration, Budget Code 74100, Fund Code 7211 (Motor Fleet Management) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2001-2002 fiscal year.

SECTION 2.2.(f) The transfer of cash from Department of Correction, Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code 19978 (Intra State Transfers) shall be increased by one million dollars (\$1,000,000), effective July 1, 2001, for the 2001-2002 fiscal year.

The transfer of cash from Department of Correction, Budget Code 74500, Fund Code 7100 (Prison Enterprises) to Nontax Budget Code 19978 (Intra State Transfers) shall be increased by five hundred thousand dollars (\$500,000), effective July 1, 2002, for the 2002-2003 fiscal year and for subsequent fiscal years.

SECTION 2.2.(g) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the 2000-2001 fiscal year only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Savings Reserve Account on June 30, 2001. The State Controller shall credit the sum of one hundred eighty-one million dollars (\$181,000,000) from the General Fund to the Savings Reserve Account on July 1, 2001. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(2) of the North Carolina Constitution.

This subsection becomes effective June 30, 2001.

SECTION 2.2.(h) Notwithstanding G.S. 143-15.3B(a) for the 2001-2003 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2001-2002 fiscal year is only forty million dollars (\$40,000,000) as provided by this act and is only seventy million dollars (\$70,000,000) for the 2002-2003 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

SECTION 2.2.(i) Effective November 1, 2001, the sum of three million dollars (\$3,000,000) shall be transferred from the Office of Information Technology Services, Budget Code 74660, Fund Code

7100 to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2001-2002 fiscal year.

Effective February 1, 2002, the sum of four million dollars (\$4,000,000) shall be transferred from the Office of Information Technology Services, Budget Code 74660, Fund Code 7100 to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2001-2002 fiscal year.

Effective June 15, 2002, the sum of three million dollars (\$3,000,000) shall be transferred from the Office of Information Technology Services, Budget Code 74660, Fund Code 7100 to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2001-2002 fiscal year.

The Office of Information Technology Services shall not increase rates to offset any reductions required by this act.

SECTION 2.2.(j) Notwithstanding the provisions of G.S. 105-187.19(b), effective for taxes levied during the 2001-2002 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.19(b) directs the Secretary to credit to the Scrap Tire Disposal Account.

Notwithstanding the provisions of G.S. 105-187.24 effective for taxes levied during the 2001-2002 fiscal year, the Secretary of Revenue shall credit to the General Fund the net tax proceeds that G.S. 105-187.24 directs the Secretary to credit to the White Goods Management Account.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the Highway Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2003, according to the following schedule:

Current Operations - Highway Fund	2001-2002	2002-2003
(1) Transportation admin. (84210)	\$69,195,895	\$69,195,895
(2) Transportation operations (84220)	28,801,650	28,801,650

(3) Transportation programs (84230)		
State construction		
Primary	-	-
Secondary	87,462,000	89,387,000
Urban	14,000,000	14,000,000
Public access	2,000,000	2,000,000
Spot safety	9,100,000	9,100,000
Contingency	15,000,000	10,000,000
Federal aid match	5,212,266	5,212,266
Maintenance	578,632,263	571,609,292
Asphalt plant/OSHA	425,000	425,000
Capital	1,634,000	
Ferry operations	19,747,132	19,747,132
Aid to municipalities	87,462,000	89,387,000
Rail	31,125,000	10,575,000
Public transit	64,460,834	64,460,834
Airports	5,000,000	
(4) Governor's highway safety (84240)	266,693	266,693
(5) Transportation regulation (84260)	98,654,012	98,649,802
(6) Reserves and transfers (84270)	200,511,255	205,084,808

GRAND TOTAL**CURRENT OPERATIONS****AND EXPANSION****\$1,318,690,000 \$1,287,902,372**

Requested by: Senators Plyler, Odom, Lee; Representatives
Easterling, Oldham, Redwine, Thompson

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2.The Highway Fund availability used in developing the
2001-2003 biennial budget is shown below:

Highway Fund Budget

Reform Statement		2001-2002	2002-2003
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Beginning Credit Balance	\$ 14,860,000		-
Estimated Revenue	1,303,280,000	\$1,311,720,000	
Additional Reversions	550,000		-

Total Highway**Fund Availability****\$1,318,690,000 \$1,311,720,000****PART IV. HIGHWAY TRUST FUND APPROPRIATIONS**

Requested by: Senators Plyler, Odom, Lee; Representatives
Easterling, Oldham, Redwine, Thompson

SECTION 4.1. Appropriations from the Highway Trust Fund of the State for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2003, according to the following schedule:

Current Operations - Highway Trust Fund	2001-2002	2002-2003
Intrastate System	\$464,295,516	\$489,403,290
Urban Loops	187,741,771	197,894,308
Aid to Municipalities	48,715,429	51,349,821
Total for Secondary Roads	83,827,858	87,445,392
Program Administration	34,142,426	36,181,189
Transfer to General Fund	170,000,000	170,000,000
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	\$988,723,000	\$1,032,274,000

PART V. BLOCK GRANTS

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine, Thompson

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2002, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT

01. Community Action Agencies	\$ 14,160,375
02. Limited Purpose Agencies	979,017
03. Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	500,000
TOTAL COMMUNITY SERVICES BLOCK GRANT	\$ 15,639,392

SOCIAL SERVICES BLOCK GRANT

01. County departments of social services (Transfer from TANF - \$4,500,000)	\$ 27,395,663
02. Allocation for in-home services provided by county departments of social services	2,101,113
03. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04. Division of Services for the Blind	3,105,711
05. Division of Facility Services	426,836
06. Division of Aging - Home and Community Care Block Grant	1,840,234
07. Child Care Subsidies	3,000,000
08. Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
09. State administration	1,693,368
10. Child Medical Evaluation Program	238,321
11. Adult day care services	2,155,301
12. Comprehensive Treatment Services Program	750,000
13. Transfer to Preventive Health Services Block Grant for emergency medical services	213,128
14. Transfer to Preventive Health Services Block Grant for HIV/AIDS Prevention Activities	395,789
15. Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
16. Division of Vocational Rehabilitation - Easter Seals Society	116,779

2001]

S.L. 2001-424

17. UNC-CH CARES Program for training and consultation services	247,920
18. Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
19. Transfer from TANF Block Grant for Division of Social Services - Child Caring Agencies	1,500,000
20. Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
21. Transfer to Maternal and Child Health Block Grant for Newborn Screenings	90,611
22. Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	66,939
TOTAL SOCIAL SERVICES BLOCK GRANT	\$ 53,888,298
LOW-INCOME ENERGY BLOCK GRANT	
01. Energy Assistance Programs	\$ 8,092,113
02. Crisis Intervention	5,795,825
03. Administration	1,984,934
04. Weatherization Program	2,684,116
05. Department of Administration - N.C. State Commission of Indian Affairs	39,765
06. Heating Air Repair and Replacement Program	1,252,588
TOTAL LOW-INCOME ENERGY BLOCK GRANT	\$ 19,849,342

MENTAL HEALTH SERVICES BLOCK GRANT

01. Provision of community-based services in accordance with the Mental Health Study Commission's Adult Severe and Persistently Mentally Ill Plan	\$ 5,192,826
02. Provision of community-based services to children	2,378,540
03. Establish Child Residential Treatment Services Program	1,500,000
04. Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT	\$ 9,855,277

SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT

01. Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	\$ 14,501,711
02. Continuation of services for pregnant women and women with dependent children	6,007,303
03. Continuation of services to IV drug abusers and others at risk for HIV diseases	5,209,934
04. Provision of services to children and adolescents	6,839,190
05. Juvenile Services - Family Focus	774,414
06. Child Residential Treatment Services Program	700,000
07. Administration	2,423,049

2001]

S.L. 2001-424

TOTAL SUBSTANCE ABUSE PREVENTION
AND TREATMENT BLOCK GRANT \$ 36,455,601

CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT

01. Child care subsidies	\$148,343,839
02. Quality and availability initiatives	17,259,661
03. Administrative expenses	6,550,000
04. Transfer from TANF Block Grant for child care subsidies	76,675,000

TOTAL CHILD CARE AND
DEVELOPMENT FUND BLOCK GRANT \$248,828,500

TEMPORARY ASSISTANCE TO NEEDY FAMILIES
(TANF) BLOCK GRANT

01. Work First Cash Assistance	\$114,181,958
02. Work First County Block Grants	92,018,855
03. Transfer to the Child Care and Development Fund Block Grant for child care subsidies	76,675,000
04. Allocation to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for Work First substance abuse screening, diagnostic, and support treatment services and drug testing	3,500,000
05. Cash Assistance Reserve	11,676,624
06. Allocation to the Division of Social Services for staff development	500,000
07. Reduction of out-of-wedlock births	1,440,000
08. Substance Abuse Services for Juveniles	1,182,280
09. Special Children Adoption Fund	2,811,687

10. Business Process Reengineering Project Reserve	3,000,000
11. Work First Job Retention – NC Rural Center (\$270,000) Work Central Career Advancement Center (\$380,000)	650,000
12. Allocation to the Division of Public Health for teen pregnancy prevention	2,015,335
13. Transfer to Social Services Block Grant for Child Caring Agencies	1,500,000
14. Child Care Subsidies for TANF Recipients	26,621,241
15. Work First Housing Initiative - Existing programs (\$1,800,000) - New programs (\$900,000)	2,700,000
16. Allocation to the Division of Social Services for Domestic Violence Prevention and Awareness	900,000
17. County Child Protective Services, Foster Care, and Adoption Workers	2,727,550
18. Intensive Family Preservation Program	1,800,000
19. Work First/Boys and Girls Clubs	900,000
20. Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
21. Support Our Students – Department of Juvenile Justice and Delinquency Prevention	2,475,607
22. Residential Substance Abuse Services for Women With Children	4,500,000
23. Domestic Violence Services for Work First Families	1,800,000

2001]	S.L. 2001-424
24. After-School Services for At-Risk Children	2,700,000
25. Division of Social Services - Administration	500,000
26. Child Welfare workers and services for local departments of social services	7,654,841
27. Child Welfare Training	2,000,000
28. Individual Development Accounts	180,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT	\$373,110,978
MATERNAL AND CHILD HEALTH BLOCK GRANT	
01. Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,838,074
02. High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,012,102
03. Services to Children With Special Health Care Needs	5,078,647
04. Transfer from Social Services Block Grant for Newborn Screenings	90,611
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT	\$ 17,019,434
PREVENTIVE HEALTH SERVICES BLOCK GRANT	
01. Statewide Health Promotion Programs	\$3,061,182
02. Dental Services/Fluoridation	100,800

03. Rape Crisis/Victims' Services Program - Council for Women	190,134
04. Rape Prevention and Education Program - Division of Public Health and Council for Women	1,139,869
05. Transfer from Social Services Block Grant - HIV/AIDS Prevention Activities	395,789
06. Transfer from Social Services Block Grant - Emergency Medical Services	213,128
07. Transfer from Social Services Block Grant – HIV/AIDS education, counseling, and testing	
08. Office of Minority Health	159,459
09. Administrative Costs	108,546
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT	\$5,435,846

SECTION 5.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

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

of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

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

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

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

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

SECTION 5.1.(f) Limitations on Preventive Health Services Block Grant Funds. – Twenty-five percent (25%) of funds allocated for Rape Prevention and Rape Education shall be allocated as grants to nonprofit organizations to provide rape prevention and education programs targeted for middle, junior high, and high school students.

If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2001-2002 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

SECTION 5.1.(g) The Department of Health and Human Services, Division of Social Services, shall do the following:

- (1) Continue the current evaluation of the Work First Program to assess former recipients' earnings, barriers to advancement to economic self-sufficiency, utilization of community support services, and other longitudinal employment data. Assessment periods shall include six and 18 months following closure of the case.
- (2) Continue the current evaluation of the Work First Program to profile the State's child-only caseload to include indicators of economic and social well-being, academic and behavioral performance, demographic data, description of living arrangements including length of placement out of the home, social and other human services provided to families, and other information needed to assess the needs of the child-only Work First Family Assistance clients and families.

The Division of Social Services may use up to seven hundred fifty thousand dollars (\$750,000) in TANF funds to complete the evaluation of Work First.

The Department of Health and Human Services shall make a report on its progress in complying with this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than September 30, 2001, and shall make a final report no later than September 30, 2002.

SECTION 5.1.(h) The sum of two million eight hundred eleven thousand six hundred eighty-seven dollars (\$2,811,687) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2001-2002 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 5.1.(i) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2001-2002 fiscal year shall

be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

SECTION 5.1.(j) The sum of three hundred thousand dollars (\$300,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used to develop and implement a Medical Child Care Pilot open to children throughout the State.

SECTION 5.1.(k) The sum of nine hundred thousand dollars (\$900,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

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

SECTION 5.1.(m) The sum of two million seven hundred thousand dollars (\$2,700,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the Work First Housing Initiative shall be used to provide direct housing support to Work First clients. Direct housing support includes using funds for rental assistance, loans, moving expenses, and other financial assistance. No more than ten percent (10%) of these funds may be used for administration. These funds may be used for counseling or similar services only if it is demonstrated that those services are not otherwise available in the community.

SECTION 5.1.(n) The sum of five hundred thousand dollars (\$500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of

Social Services, for the 2001-2002 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(o) The sum of four million five hundred thousand dollars (\$4,500,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year shall be used to provide regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children. These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

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

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2001, and March 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

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

SECTION 5.1.(p) The sum of two million four hundred seventy-five thousand six hundred seven dollars (\$2,475,607) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2001-2002 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the program.

SECTION 5.1.(q) The sum of one million eight hundred thousand dollars (\$1,800,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars (\$75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2001. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of ten thousand dollars (\$10,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2001, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2001. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(r) The sum of two million seven hundred thousand dollars (\$2,700,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2002, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(s) The sum of seven million six hundred fifty-four thousand eight hundred forty-one dollars (\$7,654,841) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 5.1.(t) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year and the sum of seven hundred thousand dollars (\$700,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse

Services, for the 2001-2002 fiscal year shall be used to continue a Comprehensive Treatment Services Program in accordance with Section 21.60 of this act.

SECTION 5.1.(u) The sum of two million dollars (\$2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2001-2002 shall be used to support various child welfare training projects as follows:

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

SECTION 5.1.(v) The sum of nine million one hundred forty-seven thousand six hundred thirty-one dollars (\$9,147,631) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Cash Assistance Reserve may only be used for cash assistance payment if the funds appropriated in this act for cash assistance payments are not sufficient to pay Work First cash assistance in the 2001-2002 fiscal year. Prior to the use of these funds, the Office of State Budget and Management shall review all proposals for expenditure of these funds in order to ensure compliance with this subsection.

The sum of two million five hundred twenty-eight thousand nine hundred ninety-three dollars (\$2,528,993) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Cash Assistance Reserve shall be held in the Cash Assistance Reserve until the Department of Health and Human Services and the Office of State Budget and Management can certify that these funds are not needed to ensure the continuation of the Work First Family Assistance payments to recipients during the 2001-2002 fiscal year. These funds may be used only for the payment of Work First Family Assistance and the allocations listed in this subsection. If the Department of Health and Human Services and the Office of State Budget and Management certify that these funds are not needed to ensure the continuation of Work First Family Assistance payments, the Department may make the following transfers from the Cash Assistance Reserve:

- | | |
|--|-----------|
| (1) Reduction of out-of-wedlock births. | \$160,000 |
| (2) Work First Job Retention –
Rural Center (\$30,000)
Work Central Career Center (\$20,000) | \$50,000 |

(3) Teen Pregnancy Prevention	\$223,926
(4) Work First Housing Initiative	\$300,000
(5) Domestic Violence Prevention and Awareness	\$100,000
(6) Intensive Family Preservation Program	\$200,000
(7) Work First Boys and Girls Clubs	\$100,000
(8) Support Our Students	\$275,674
(9) Residential Substance Abuse Services for Women with Children	\$500,000
(10) Domestic Violence Services for Work First Families	\$200,000
(11) After School Services for At-Risk Children	\$300,000
(12) Individual Development Accounts	\$20,000.

SECTION 5.1.(w) The sum of three million dollars (\$3,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for a Business Process Reengineering Project Reserve may only be used for the project if funds appropriated in this act for Business Process Reengineering are not sufficient to continue the project through the 2001-2002 fiscal year. Prior to the use of these funds, the Office of State Budget and Management shall review all proposals for expenditure of these funds in order to ensure compliance with this subsection.

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

SECTION 5.1.(y) The sum of nine hundred thousand dollars (\$900,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2001-2002 fiscal year for Domestic Violence Prevention and Awareness shall be used for grants to support initiatives by local domestic violence programs to prevent domestic violence. Prevention activities shall include efforts to reach under-served populations and shall be culturally sensitive and multilingual. The Department shall award grants to community-based organizations that demonstrate the ability to collaborate and coordinate services with other local human services agencies and organizations in order to serve children and families where domestic violence has occurred or is occurring. The Department shall report on the use of these funds no later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(z) The sum of three hundred ninety-five thousand seven hundred eighty-nine dollars (\$395,789) appropriated in this section in the Social Services Block Grant and transferred to the Preventive Health Service Block Grant to the Department of Health and Human Services for the 2001-2002 fiscal year for HIV/AIDS Prevention Activities shall be used to create a position in the Office of the Secretary and to enhance activities for HIV/AIDS awareness and education. The position shall be responsible for all planning, programming, and budgeting for compliance with this subsection. These prevention activities shall be targeted to the general public and programs identified in this subsection and shall not be used to augment the current grant programs that target high-risk populations through the community-based organizations.

It is the intention of the General Assembly to focus current resources and activities to strengthen and enhance prevention and intervention programs directed at the reduction of HIV/AIDS. The Department shall coordinate efforts to enhance awareness, education, and outreach with the North Carolina AIDS Advisory Council, North Carolina Minority Health Advisory Council, representatives of faith communities, representatives of nonprofit agencies, and other State agencies.

The Department of Health and Human Services shall coordinate and ensure the implementation of developmentally appropriate education, awareness, and outreach campaigns to comply with this subsection in the following programs and services:

- (1) Division of Social Services programs and services:
 - a. Domestic Violence Prevention and Awareness.
 - b. Domestic Violence Services for Work First Families.
 - c. After School Services for At Risk Children.
 - d. Work First Boys/Girls Clubs.
- (2) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services programs and services:
 - a. Substance Abuse Services for Juveniles.
 - b. Residential Substance Abuse Services for Women and Children.
- (3) Division of Public Health programs and services:
 - a. Teen Pregnancy Prevention Activities.
 - b. Out-of-Wedlock Births.
 - c. School Health Program.
 - d. High-Risk Maternity Clinic Services.
 - e. Perinatal Education and Training.
 - f. Public Information and Education.
 - g. Technical Assistance to Local Health Departments.
- (4) Other divisions, services, and programs:

- a. Family Support Services.
- b. Family Resource Centers.
- c. Independent Living Services.
- d. Residential schools and facilities.
- e. Other programs, services, or contracts that provide education and awareness services to children and families.

Other State agencies, including the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Administration, shall ensure the incorporation of developmentally appropriate HIV/AIDS education, awareness, and outreach information into their programs.

The Department shall report on the implementation of this subsection on March 15, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(aa) The sum of one hundred eighty thousand dollars (\$180,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services for the 2001-2002 fiscal year shall be used for Individual Development Accounts (IDA) for TANF-eligible individuals. The Social Services Commission shall adopt rules for the implementation of this subsection.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

NER BLOCK GRANT FUNDS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2002, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01. State Administration	\$1,000,000
02. Urgent Needs and Contingency	1,000,000
03. Scattered Site Housing	13,200,000
04. Economic Development	8,710,000
05. Community Revitalization	13,500,000

2001]	S.L. 2001-424
06. State Technical Assistance	450,000
07. Housing Development	2,000,000
08. Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT - 2002 Program Year	\$45,000,000

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

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

SECTION 5.2.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars (\$1,000,000) may be used for State administration; up to one million dollars (\$1,000,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars (\$13,200,000) may be used for Scattered Site Housing; up to eight million seven hundred ten thousand dollars (\$8,710,000) may be used for Economic Development; not less than thirteen million five hundred thousand dollars (\$13,500,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars (\$450,000) may be used for State Technical Assistance; up to two million dollars (\$2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars (\$5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 5.2.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity

building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 5.2.(f) Study. – The Department of Commerce shall study the development of a training program designed to provide a minimum level of knowledge and skills for Community Development Block Grant administrators. In conducting the study, the Department shall consult the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, the North Carolina Community Development Association, and the Institute of Government at the University of North Carolina at Chapel Hill. The Department may use unencumbered and unspent State Technical Assistance funds from previous program years to conduct the study. The Department shall report its findings to the House and Senate Appropriations Subcommittees on Natural and Economic Resources and the Fiscal Research Division by February 1, 2002.

PART VI. GENERAL PROVISIONS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

SPECIAL FUNDS, FEDERAL FUNDS, DEPARTMENTAL RECEIPTS, AND CASH BALANCES/AUTHORIZATION FOR EXPENDITURES

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

Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes may be used for new

permanent employee positions or to raise the salary of existing employees only as follows:

- (1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or
- (2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the chairmen of the appropriations committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

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

SECTION 6.1.(b) There is appropriated from the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for each fiscal year an amount equal to the amount of the distributions required by law to be made from that reserve for that fiscal year.

SECTION 6.1.(c) The Director of the Budget shall develop necessary budget controls, regulations, and systems to ensure that these funds and other State funds subject to the Executive Budget Act are not spent in a manner that would cause a deficit in expenditures.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

INSURANCE AND FIDELITY BONDS

SECTION 6.2. All insurance and all official fidelity and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Department of Insurance, and the cost of placement shall be paid by the affected department, institution, or agency with the approval of the Commissioner of Insurance.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.3.(a) Funds in the amount of five million dollars (\$5,000,000) for the 2001-2002 fiscal year and five million dollars (\$5,000,000) for the 2002-2003 fiscal year are appropriated in this act to the Contingency and Emergency Fund. Of the funds:

- (1) The sum of three million eight hundred seventy-five thousand dollars (\$3,875,000) for the 2001-2002 fiscal year and the sum of three million eight hundred seventy-five thousand dollars (\$3,875,000) for the 2002-2003 fiscal year shall be used only to respond to an unanticipated disaster such as a fire, hurricane, or tornado;
- (2) The sum of nine hundred thousand dollars (\$900,000) for the 2001-2002 fiscal year and the sum of nine hundred thousand dollars (900,000) for the 2002-2003 fiscal year shall be used only (i) for the purposes set out in subdivision (1) of this subsection, (ii) as required by a court, Industrial Commission, or administrative hearing officer's order or award, or (iii) to match unanticipated federal funds; and
- (3) The sum of two hundred twenty-five thousand dollars (\$225,000) for the 2001-2002 fiscal year and the sum of two hundred twenty-five thousand dollars (\$225,000) for the 2002-2003 fiscal year shall be used for the purposes set out in subdivisions (1) and (2) of this subsection or for other allocations from the Contingency and Emergency Fund.

SECTION 6.3.(b) Funds appropriated to the Contingency and Emergency Fund shall not be used to lease office space unless the expenditure is for a purpose set out in subdivision (1) or (2) of subsection (a) of this section.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

AUTHORIZED TRANSFERS FROM SALARY ADJUSTMENT RESERVES

SECTION 6.4. The Director of the Budget may transfer to General Fund budget codes from the General Fund Salary Adjustment Reserves appropriation and may transfer to Highway Fund budget codes from the Highway Fund Salary Adjustment Reserve appropriation, amounts required to support approved salary adjustments made necessary by difficulties in recruiting and holding qualified employees in State government. The funds may be transferred only when salary reserve funds in individual operating budgets are not available.

The Director of the Budget shall report to the Fiscal Research Division prior to approving salary adjustments and transferring funds pursuant to this section.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EXPENDITURES OF FUNDS IN RESERVES LIMITED

SECTION 6.5. All funds appropriated by this act into reserves may be expended only for the purposes for which the reserves were established.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

STATE MONEY RECIPIENTS/CONFLICT OF INTEREST POLICY

SECTION 6.6. Each private, nonprofit entity eligible to receive State funds, either by General Assembly appropriation, or by grant, loan, or other allocation from a State agency, before funds may be disbursed to the entity, shall file with the disbursing agency a notarized copy of that entity's policy addressing conflicts of interest that may arise involving the entity's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the entity's employees or members of the board or other governing body, from the entity's disbursing of State funds, and shall include actions to be taken by the entity or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

DISBURSEMENTS TO NONPROFITS

SECTION 6.7. G.S. 143-26 reads as rewritten:

"§ 143-26. *Director to have discretion as to manner of paying annual appropriations.*

(a) Unless otherwise provided, Except as provided in subsection (b) of this section or as otherwise provided by law, it shall be discretionary with the Director of the Budget whether any annual appropriation shall be paid in monthly, quarterly or semiannual installments or in a single payment.

(b) Except as otherwise provided by law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation shall be paid in a single annual payment. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be paid in

quarterly or monthly installments, in the discretion of the Director of the Budget."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

BUDGETING OF PILOT PROGRAMS

SECTION 6.8.(a) Any program designated by the General Assembly as experimental, model, or pilot shall be shown as a separate budget item and shall be considered as an expansion item until a succeeding General Assembly reapproves it.

Any new program funded in whole or in part through a special appropriations bill shall be designated as an experimental, model, or pilot program.

SECTION 6.8.(b) The Governor shall submit to the General Assembly with his proposed budget a report of which items in the proposed budget are subject to the provisions of this section.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

APPROPRIATIONS EFFICIENCY REVIEW

SECTION 6.9. The Appropriations Committees of the Senate and House of Representatives may convene at least once a month during the interim period between the 2001 General Assembly and the 2002 Regular Session of the 2001 General Assembly to study the structure, duties, and functions of the various agencies and programs of State government. The review by the Appropriations Committees shall focus on ways to ensure that State government functions efficiently and to generate cost savings to the citizens of the State. The Appropriations Committees shall apply zero-base budgeting principles in evaluating the fiscal functions and funding needs of State agencies. The Appropriations Committees shall consider the recommendations of the Governor's Efficiency Commission and shall evaluate the feasibility of consolidating, eliminating, transferring, or privatizing certain State programs, operations, or entities where there is duplication of services or functions or where the functions being performed are not cost-effective.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

LIMITATIONS ON AGENCY LEGISLATIVE LIAISON

SECTION 6.10.(a) Article 9A of Chapter 120 of the General Statutes is amended by adding the following new section to read:

"§ 120-47.12. Limitations on agency legislative liaisons.

(a) No principal State department may use State funds to contract with persons who are not employed by the State to lobby the General Assembly.

(b) No more than two persons in each principal State department and constituent institution of The University of North Carolina may be registered to lobby the General Assembly or designated as legislative liaisons pursuant to this Article."

SECTION 6.10.(b) G.S. 120-47.1 is amended by adding a new subdivision to read:

"(4a) The term "legislative liaison personnel" means any State officer or employee whose principal duties in practice or as set forth in that person's job description involve lobbying the General Assembly."

SECTION 6.10.(c) This section is effective when it becomes law.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

RESERVE TO IMPLEMENT THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

SECTION 6.11.(a) Funds in the amount of fifteen million dollars (\$15,000,000) are appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be located in the Office of State Budget and Management.

SECTION 6.11.(b) The federal Health Insurance Portability and Accountability Act (HIPAA) was enacted in 1996 and set many goals for the health care industry. The act's primary purpose is to protect health insurance coverage for workers and their families when workers change or lose jobs. This new protection requires major administrative changes for health care programs. The most comprehensive changes include: (i) moving from paper-based transactions to electronic transactions, (ii) establishing national identifiers for providers, payers, and employers, and (iii) upgrading security and privacy of health care information. Failure to implement HIPAA requirements may result in denied or delayed reimbursements and severe civil and criminal penalties.

SECTION 6.11.(c) The Office of State Budget and Management, in consultation with the State Chief Information Officer and the Secretary of Health and Human Services, shall develop a strategic plan to implement the requirements outlined in HIPAA. Specifically, the plan shall:

- (1) Identify and document all requirements outlined in the federal HIPAA legislation as they relate to State agencies;

- (2) Include an assessment of the State's existing administrative systems, policies, and information technology systems, as they relate to the requirements of HIPAA;
- (3) Include a timeline for implementing all necessary administrative, policy, and technology changes to ensure compliance; and
- (4) Provide a detailed cost and cash flow analysis for each State agency subject to compliance. The analysis shall include personnel requirements, information technology equipment needs, and other operating and start-up expenses needed to implement HIPAA requirements.

SECTION 6.11.(d) The Office of State Budget and Management shall report on the strategic plan developed pursuant to this section to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Information Technology, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by October 1, 2001.

SECTION 6.11.(e) Funds spent to implement this section shall not exceed one million five hundred thousand dollars (\$1,500,000) until the Office of State Budget and Management reports to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Information Technology, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division on actual and proposed expenditures and actual and projected monthly cash requirements for the 2001-2002 fiscal year and beyond. After making this report, the Office of State Budget and Management shall report quarterly on its progress in implementing this section to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Information Technology, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

LIMITATIONS ON USE OF STATE AIRCRAFT

SECTION 6.12. No airplane or helicopter operated or maintained with State funds may be used to transport any member of a board or commission to or from a meeting of the board or commission to which that member is appointed unless:

- (1) The member is an elected official or head of a principal State department who serves on the board or commission by virtue of his or her office;
- (2) The member is traveling with another member who is an elected official who serves on the board or commission by virtue of his or her office;
- (3) The member is traveling on an airplane or helicopter that is flying to a particular destination for official State business other than a meeting of a board or commission; or
- (4) The Director of the Office of State Budget and Management has approved the use of the State airplane or helicopter as an exceptional circumstance.

The Director of the Office of State Budget and Management shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives by December 31 each year on the use of State aircraft in the prior year pursuant to subdivision (4) of this section.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson
PRIVATE LICENSE PLATES ON PUBLICLY OWNED MOTOR VEHICLES

SECTION 6.14.(a) Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-39.1. Publicly owned vehicles to be marked; private license plates on publicly owned vehicles.

(a) Except as otherwise provided in this section, the executive head of every department of State government and every county, institution, or agency of the State shall mark every motor vehicle owned by the State, county, institution, or agency with a statement that the vehicle belongs to the State, county, institution, or agency. The requirements of this subsection are complied with if:

- (1) The vehicle has imprinted on the license plate, above the license number, the words "State Owned" and the vehicle has affixed to the front the words "State Owned";
- (2) In the case of a county, the vehicle has painted or affixed on its side a circle not less than eight inches in diameter showing a replica of the seal of the county; or
- (3) In the case of vehicles assigned to members of the Council of State, the vehicle has imprinted on the license plate the license number assigned to the appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a member of the Council of State shall not be assessed any registration fee if the member elects to have

a State-owned motor vehicle assigned to the member designated by the official plate number.

(b) A motor vehicle used by any State or county officer or official for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the laws of this State is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to local, State, or federal departments or agencies for use on publicly owned or leased vehicles used for those purposes. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(c) A motor vehicle used by a county for transporting day or residential facility clients of area mental health, developmental disabilities, and substance abuse authorities established under Article 4 of Chapter 122C of the General Statutes is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to counties for use on publicly owned or leased vehicles used for that purpose. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

(d) For purposes of this section, the term "private license plate" refers to a license plate that would normally be issued to a private party and therefore lacks any markings indicating that it has been assigned to a publicly owned vehicle. "Confidential" license plates are a specialized form of private license plate for which a confidential registration has been authorized under subsection (e) of this section. "Fictitious" license plates are a specialized form of private license plate for which a fictitious registration has been issued under subsection (f) or (g) of this section.

(e) Upon approval and request of the Director of the State Bureau of Investigation, the Commissioner shall issue confidential license plates to local, State, or federal law enforcement agencies and agents of the Internal Revenue Service in accordance with the provisions of this subsection. Applicants in these categories shall provide satisfactory evidence to the Director of the State Bureau of Investigation of the following:

- (1) The confidential license plate requested is to be used on a publicly owned or leased vehicle that is primarily used for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the State of North Carolina;
- (2) The use of a confidential license plate is necessary to protect the personal safety of an officer or for placement

on a vehicle used primarily for surveillance or undercover operations; and

- (3) The application contains an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Confidential license plates issued under this subsection shall be issued on an annual basis and the Division shall maintain a separate registration file for vehicles bearing confidential license plates. That file shall be confidential for the use of the Division and is not a public record within the meaning of Chapter 132 of the General Statutes. Upon the annual renewal of the registration of a vehicle for which a confidential status has been established under this section, the registration shall lose its confidential status unless the agency or department supplies the Director of the State Bureau of Investigation with information demonstrating that an officer's personal safety remains at risk or that the vehicle is still primarily used for surveillance or undercover operations at the time of renewal.

(f) The Commissioner may to the extent necessary provide law enforcement officers of the Division on special undercover assignments with motor vehicle operator's licenses and motor vehicle license plates under assumed names, using false or fictitious addresses. The Commissioner shall be responsible for the request for issuance and use of such licenses and license plates, and may direct the immediate return of any license or license plate issued pursuant to this subsection.

(g) The Commissioner may, upon the request of the Director of the State Bureau of Investigation and to the extent necessary, lawfully provide local, State, and federal law enforcement officers on special undercover assignments with motor vehicle drivers licenses and motor vehicle license plates under assumed names, using false or fictitious addresses. Fictitious license plates shall only be used on publicly owned or leased vehicles. A request for fictitious licenses and license plates by a local, State or federal law enforcement agency or department shall be made in writing to the Director of the State Bureau of Investigation and shall contain an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Prior to the issuance of any fictitious license or license plate, the Director of the State Bureau of Investigation shall make a specific written finding that the request is justified and necessary. The Director shall maintain a record of all such licenses, license plates, assumed names, false or fictitious addresses, and law enforcement officers using the licenses or license plates. That record shall be

confidential and is not a public record within the meaning of Chapter 132 of the General Statutes. The Director shall request the immediate return of any license or registration that is no longer necessary.

Licenses and license plates provided under this subsection shall expire six months after initial issuance unless the Director of the State Bureau of Investigation has approved an extension in writing. The head of the local, State, or federal law enforcement agency shall be responsible for the use of the licenses and license plates and shall return them immediately to the Director for cancellation upon either (i) their expiration, (ii) request of the Director of the State Bureau of Investigation, or (iii) request of the Commissioner. Failure to return a license or license plate issued pursuant to this subsection shall be punished as a Class 2 misdemeanor. At no time shall the number of valid licenses issued under this subsection exceed two hundred nor shall the number of valid license plates issued under this subsection exceed one hundred twenty-five unless the Director determines that exceptional circumstances justify exceeding those amounts. However, fictitious licenses and license plates issued to special agents of the State Bureau of Investigation and alcohol law enforcement agents shall not be counted against the limitation on the total number of fictitious licenses and plates established by this subsection and shall be renewable annually.

(h) No private, confidential, or fictitious license plates issued under this section shall be used on privately owned vehicles under any circumstances.

(i) The Commissioner shall administer the issuance of private plates for State-owned vehicles under the provisions of this section to ensure strict compliance with those provisions. The Division shall report to the Joint Legislative Commission on Governmental Operations by January 1 and July 1 of each year on the total number of private plates issued to each agency, the total number of confidential plates issued to each agency, and the total number of fictitious licenses and plates issued by the Division."

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

"(b) A motor vehicle used by any ~~State or~~ county officer or official for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the laws of this State is not required to be marked as provided in subsection (a) of this section. The Commissioner may lawfully provide private license plates to ~~local, State,~~ local or federal law enforcement agencies for use on publicly owned or leased vehicles used for those purposes. Private license plates issued under this subsection shall be issued on an annual basis and the records of issuance shall be maintained in accordance with the provisions of G.S. 20-56."

SECTION 6.14.(c) All information placed in a confidential file pursuant to the provisions of G.S. 20-56(b) prior to the effective date of this section may remain in that file through December 31, 2001, unless that confidential registration expires prior to that date. Effective January 1, 2002, all confidential license plates issued by the Division of Motor Vehicles shall be converted to private plates unless prior to that date the agency or department that requested the maintenance of a confidential file has supplied the Director of the State Bureau of Investigation with the information required under G.S. 20-39.1(e), as enacted by this subsection (a) of this section.

SECTION 6.14.(d) G.S. 14-250 is repealed.

SECTION 6.14.(e) G.S. 20-39(g) and G.S. 20-39(h) are repealed.

SECTION 6.14.(f) The catchline of G.S. 20-39 reads as rewritten:

"§ 20-39. *Administering and enforcing laws; rules and regulations; agents, etc.; seal; fees; licenses and plates for undercover officers. fees.*"

SECTION 6.14.(g) G.S. 20-56(b) is repealed.

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

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EXTEND THE COMMISSION TO ADDRESS SMART GROWTH, GROWTH MANAGEMENT, AND DEVELOPMENT ISSUES

SECTION 6.16. Section 16.7(g) of S.L.1999-237 reads as rewritten:

"Section 16.7.(g) Report. – The Commission shall submit an interim report to the 2000 Regular Session of the 1999 General Assembly and shall submit a final report of its findings and recommendations by ~~January 15, 2001~~, November 1, 2001, to the General Assembly, the Governor, and the citizens of the State. The report may include recommendations to (i) enact and implement a program of comprehensive planning, supportive infrastructure development, and growth management and (ii) address the issue of continued oversight of growth and development in the State, including whether a permanent commission should be established. The Commission shall terminate upon filing its final report."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

MASTERS LEVEL INTERNSHIPS IN STATE AGENCIES

SECTION 6.17. The Governor's Public Management Fellowship Program (GPMFP) is reinstated. The Office of State Personnel shall continue to provide central coordination of the Program as provided by Executive Order No. 169, April 13, 2000. State agencies may resume paid internships for recent graduates of in-State Masters of Public Administration and Masters of Public Policy programs as provided by Executive Order No. 169, April 13, 2000, subject to the availability of agency funds.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

APPLICATION OF TORT CLAIMS ACT TO BUS DRIVERS

SECTION 6.18. G.S. 143-300.1(d) reads as rewritten:

"(d) Except as otherwise provided in this subsection, the ~~The~~ Attorney General may—may, upon the request of an employee or former employee, defend any civil action brought against the driver, transportation safety assistant, or monitor of a public school bus or school transportation service vehicle or school bus maintenance mechanic when the driver or mechanic is employed and paid by the local school administrative unit, when the monitor is acting in accordance with G.S. 115C-245(d), when the transportation safety assistant is acting in accordance with G.S. 115C-245(e), or when the driver is an unpaid school bus driver trainee under the supervision of an authorized employee of the Department of Transportation, Division of Motor Vehicles, or an authorized employee of a county or city board of education or administrative unit. The Attorney General may afford this defense through the use of a member of his staff or, in his discretion, employ private counsel. The Attorney General is authorized to pay any judgment rendered in the civil action not to exceed the limit provided under the Tort Claims Act. The funds necessary to cover the first one hundred fifty thousand dollars (\$150,000) of liability per claim shall be made available from funds appropriated to the State Board of Education. The balance of any liability owed shall be paid in accordance with G.S. 143-299.4. The Attorney General may compromise and settle any claim covered by this section to the extent that he finds the same to be valid, up to the limit provided in the Tort Claims Act, provided that the authority granted in this subsection shall be limited to only those claims that would be within the jurisdiction of the Industrial Commission under the Tort Claims Act.

The Attorney General shall refuse to provide for the defense of a civil action or proceeding brought against an employee or former employee if the Attorney General determines that:

- (1) The act or omission was not within the scope and course of his employment as a State employee; or
- (2) The employee or former employee acted or failed to act because of actual fraud, corruption, or actual malice on his part; or
- (3) Defense of the action or proceeding by the State would create a conflict of interest between the State and the employee or former employee; or
- (4) Defense of the action or proceeding would not be in the best interests of the State."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

PERSONAL SERVICES CONTRACTS/REPORTING REQUIREMENTS

SECTION 6.19.(a) By January 1, 2002, and quarterly thereafter, each State department, agency, and institution shall make a detailed written report to the Office of State Budget and Management and the Office of State Personnel on its utilization of personal services contracts. The report by each State department, agency, and institution shall include the following:

- (1) The total number of personal services contractors in service during the reporting period.
- (2) The type, duration, status, and cost of each contract.
- (3) The number of contractors utilized per contract.
- (4) A description of the functions and projects requiring contractual services.
- (5) The number of contractors for each function or project.
- (6) Identification of the State employee responsible for oversight of the performance of each contract and the number of contractors reporting to each contract manager or supervisor.

SECTION 6.19.(b) By March 15, 2002, and biannually thereafter, the Office of State Budget and Management and the Office of State Personnel shall compile and analyze the information required under subsection (a) of this section and shall submit to the Joint Legislative Commission on Governmental Operations a detailed report on the type, number, duration, cost and effectiveness of State personal services contracts throughout State government.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

INCLUDE CONTINUING RESOLUTION ITEMS

SECTION 6.20.(a) All appropriations made in S.L. 2001-250, S.L. 2001-287, S.L. 2001-322, and S.L. 2001-395, are repealed

and funds appropriated pursuant to those acts shall revert to the appropriate fund. The Director of the Budget shall adjust allocations made pursuant to the Current Operations and Capital Improvements Act of 2001 to reflect allocations made pursuant to S.L. 2001-250, S.L. 2001-287, S.L. 2001-322, and S.L. 2001-395, so as to give effect to the Current Operations and Capital Improvements Act of 2001 from July 1, 2001.

SECTION 6.20.(b) Section 5 of S.L. 2001-250, Section 5 of S.L. 2001-322, and Sections 2.1, 3, 4, 5, 6, 7, 8, 10, 15, and 16 of S.L. 2001-395 are repealed.

SECTION 6.20.(c) The provisions of S.L. 2001-250, S.L. 2001-287, S.L. 2001-322, and S.L. 2001-395, S.L. 2001 remain in effect for the 2001-2002 fiscal year except to the extent that:

- (1) Those provisions are expressly repealed or amended in this act or
- (2) Those provisions conflict with the provisions of this act. To the extent of such a conflict, the provisions of this act shall prevail.
- (3) Those provisions expire or expired pursuant to the provisions of those acts.

PART VII. DEPARTMENT OF ADMINISTRATION

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Walend, Easterling, Oldham, Redwine, Thompson

VETERANS' SCHOLARSHIP PROGRAM

SECTION 7.1.(a) G.S. 165-20(3) reads as rewritten:
"§ 165-20. *Definitions.*

As used in this Article the terms defined in this section shall have the following meaning:

- ...
- (3) "Child" means a ~~person~~ person: (i) who is a domiciliary of North Carolina and is a resident of North Carolina when applying for a scholarship, (ii) who is a senior in high school or its equivalent and who will graduate at the end of the academic year or a person who has completed high school or its equivalent prior to receipt of a scholarship as may be awarded under this Article, equivalent, (iii) who has complied with the requirements of the Selective Service System, if applicable, and (iv) who further meets one of the following requirements:
 - a. A person whose veteran parent was a legal resident of North Carolina at the time of said veteran's entrance into that period of service in the armed

forces during which eligibility is established under G.S. 165-22.

- b. A veteran's child who was born in North Carolina and has lived in North Carolina continuously since birth. Provided, that the requirement in the preceding sentence as to birth in North Carolina may be waived by the Department of Administration if it is shown to the satisfaction of the Department that the child's mother was a native-born resident of North Carolina and was such resident at the time of her marriage to the veteran and was outside the State temporarily at the time of the child's birth, following which the child was returned to North Carolina within a reasonable period of time where said child has since lived continuously.
- c. A person meeting either of the requirements set forth in subdivision (3)a or b above, and who was legally adopted by the veteran prior to said person's reaching the age of 15 years."

SECTION 7.1.(b) G.S. 165-21 reads as rewritten:

"§ 165-21. *Scholarship.*

(a) A scholarship granted pursuant to this Article shall consist of the following benefits in either a State or private educational institution:

- (1) With respect to State educational institutions, unless expressly limited elsewhere in this Article, a scholarship shall consist of:
 - a. Tuition,
 - b. A reasonable board allowance,
 - c. A reasonable room allowance,
 - d. Matriculation and other institutional fees required to be paid as a condition to remaining in said institution and pursuing the course of study selected, excluding charges or fees for books, supplies, tools and clothing.
- (2) With respect to private educational institutions, a scholarship shall consist of a monetary allowance as prescribed in G.S. 165-22.1(d).
- (3) Only one scholarship may be granted pursuant to this Article with respect to each child and it shall not extend for a longer period than four academic years, which years, however, need not be consecutive.
- (4) No educational assistance shall be afforded a child under this Article after the end of a 10-year period beginning

on the date the scholarship is first awarded. Those persons who have been granted a scholarship under this Article prior to the effective date of this act shall be entitled to the remainder of their period of scholarship eligibility if used prior to August 1, 1999. Whenever a child is enrolled in an educational institution and the period of entitlement ends while enrolled in a term, quarter or semester, such period shall be extended to the end of such term, quarter or semester, but not beyond the entitlement limitation of four academic years.

(b) If a child is awarded a scholarship under this Article and the child is a senior in high school or its equivalent, then the scholarship shall be awarded pending the graduation of the child."

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Gibson, Easterling, Oldham, Redwine, Thompson

MODIFICATIONS TO THE STATE EMPLOYEE INCENTIVE BONUS PROGRAM

SECTION 7.2.(a) G.S. 143-340(1) reads as rewritten:

"(1) To establish the State Employee Incentive Bonus Program pursuant to Article 36A of this Chapter, with the authority to adopt all rules necessary to implement the program. The Secretary shall serve ex officio on all program committees and shall designate an executive secretary to administer the program."

SECTION 7.2.(b) G.S. 143-345.20 reads as rewritten:

"§ 143-345.20. *Definitions.*

The following definitions apply in this Article:

- (1) Baseline reversion. – The two-year historical average of reversions by a State department, agency, or institution.
- (2) ~~Employing unit. — Any of the following:~~
 - a. ~~The principal Council of State office or department enumerated in G.S. 143A 11 for which a State employee works.~~
 - b. ~~The principal State department enumerated in G.S. 143B 6 for which a State employee works.~~
 - c. ~~The constituent institution of The University of North Carolina or the General Administration of The University of North Carolina for which a State employee works.~~
 - d. ~~The local school administrative unit for which a State employee works.~~
 - e. ~~The board, commission, or agency and its staff for which a State employee works, if that agency is not~~

~~organizationally housed in any of the other offices, departments, or institutions listed in this subdivision.~~

- (2a) Participating agency. – Any State department, agency, or institution, or any local school administrative unit that employs State employees eligible to participate in the State Employee Incentive Bonus Program. The term includes the North Carolina Community Colleges System, The University of North Carolina and its constituent institutions, and charter schools. The term does not include federal or local government agencies.
- (2b) SEIBP. – Acronym for the State Employee Incentive Bonus Program.
- (3) State employee. – Any of the following:
- a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
 - b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision."

SECTION 7.2.(c) G.S. 143-345.21 reads as rewritten:

"§ 143-345.21. *State employee incentive bonus.*

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

~~(b) In addition to any bonuses paid directly to individual State employees, a portion of the cost savings associated with any savings realized from permanent efficiencies implemented pursuant to this Article may be contributed to a reserve fund for State employee performance bonuses. Funds for State employee incentive bonuses shall only come from savings including reversions above the baseline reversion of the employing State department, agency, or institution.~~

(b1) The amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation. No incentive bonus shall be paid prior to the expiration of 12 months, and payment may be delayed further as reasonably required to ensure that a complete cost implementation cycle is evaluated fully.

~~(c) Savings generated by suggestions and innovations shall be determined at the end of the fiscal year in which the suggestion or~~

~~innovation is implemented or the determination may be carried over for one full fiscal year after implementation before making an award if the actual savings cannot be verified before the end of the fiscal year. Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. The savings or revenue increases realized from any suggestion or innovation implemented for less than one full fiscal year shall be annualized. Any savings realized through the State Employee Incentive Bonus Program shall be weighed against continued service to the public, public and the assurance that there is not a negative impact on State programs.~~

(d) If a suggestion or innovation affects a program, activity, or service for which no separate budgeted amount has been made, the State Coordinator, in conjunction with the agency evaluator or agency fiscal officer, or both for that suggestion or innovation, shall determine the budgetary impact of the suggestion or innovation.

(e) Federal and local government funds and corporate and foundation grant funds are excluded from the SEIBP.

(f) The Department of Administration shall establish the SEIBP reserve fund in which all savings for all suggestions shall be deposited as earned. Each participating agency shall be responsible for transferring savings to the SEIBP reserve fund. The funds may be encumbered as needed to ensure payment to the General Fund, to the suggester, and for distribution as required by G.S. 143-345.22. The Department of Administration shall provide the SEIBP reserve fund summary at the close of each fiscal year to the Office of State Budget and Management and to the participating agencies. The Office of State Budget and Management shall have oversight responsibility for ensuring that the required reversions and transfers are made to the General Fund, and that all encumbered funds are accounted for and paid as required by law.

(g) No distribution of suggester awards shall occur until reversion requirements to the General Fund are met and distributions as required by G.S. 143-345.22 are satisfied and verified by the Office of State Budget and Management. When all of the requirements of G.S. 143-345.22 are fulfilled, the Department of Administration shall transfer to the suggester's agency funds required to award the suggester. The suggester's agency shall make the suggestion award and ensure that all taxes and withholding requirements are met.

(h) Implementation costs may be prorated over a maximum of three years for suggestions or innovations that are capital intensive,

involve leading-edge technology, or involve unconventional processes that require longer than 12 months for implementation. The amount of the average annual savings minus the average annual implementation cost shall be used as the basis for the agency to recommend a suggester award. The State Review Committee shall consult the Office of State Budget and Management to make the final award determination in these cases.

(i) There is established in the Department of Administration a nonreverting fund to be administered by the Office of State Personnel for the training and education of permanent State employees to address specific mission critical needs and objectives. Funds shall be credited from the SEIBP to the fund as provided by this Article."

SECTION 7.2.(d) G.S. 143-345.22 reads as rewritten:

"§ 143-345.22. *Allocation of incentive bonus funds; nonmonetary recognition.*

(a) If a State employee's suggestion or innovation results in a monetary savings or increased revenue to the State, the funds saved or increased shall be distributed according to the following scale or subject to guidelines as set forth by the funding source:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member ~~may shall~~ receive in excess of twenty thousand dollars (\$20,000), nor ~~may shall~~ the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000). These funds shall not revert.
- (2) Thirty percent (30%) ~~for all current employees in the work unit, as designated by the agency head, of the employing unit of the suggester, allocated as follows:~~
 - a. Ten percent (10%) to the implementing agency for nonrecurring budget items to be used (i) by the implementing agency to provide equipment, supplies, training, and limited but appropriate recognition for the division, section, or group responsible for the implementation of the cost-saving measure and (ii) to meet other similar needs within the agency.
 - b. Ten percent (10%) to the Department of Administration for augmenting funding for the management and administration of the SEIBP. These funds shall not revert.

c. Ten percent (10%) to the State employee education and training fund administered by the Office of State Personnel under G.S. 143-342.21(i). These funds shall not revert.

(3) The remainder to the General Fund for nonrecurring budget items.

(a1) Of the pool of funds identified in subsection (a) of this section, only the General Fund appropriations shall be subject to reversion, except during declared budget emergencies. Under nonemergency budget conditions, SEIBP funds arising from savings at The University of North Carolina, the North Carolina Community Colleges System, the Highway Trust Fund, enterprise funds, and receipt-supported organizations shall be exempt from the General Fund reversion requirements.

(b) The budget of a State agency shall not be reduced in the following fiscal year by an amount similar to the monetary savings or increased revenues realized by the State Employee Incentive Bonus Program. The agency budget shall be reduced in subsequent years only if structural or organizational changes are made that warrant the reductions, including the transfer of responsibility for an activity or service to another agency or the elimination of some function of State government.

(c) If a suggestion or innovation results in improved quality of services to the public or to other State agencies, departments, and institutions, but not in monetary savings to the State, the suggester shall receive a nonmonetary award in the form of a certificate, leave with pay, or other similar recognition."

SECTION 7.2.(e) G.S. 143-345.23 reads as rewritten:

"§ 143-345.23. *Suggestion and review process; role of agency coordinator and agency evaluator.*

(a) The process for a State employee or team of State employees to submit a cost-saving or revenue-increasing proposal shall begin by with the employee or team of employees submitting the suggestion or innovation to an agency coordinator designated by the State department, agency, or institution impacted by the suggestion or innovation coordinator. The agency coordinator, in conjunction with an agency evaluator, shall review the suggestion or innovation for submission to the State Review Committee established in ~~G.S. 143-345.14~~. G.S. 143-345.24.

(b) An agency coordinator shall be appointed by the head of each participating agency to serve as liaison between the agency, the suggester, the agency evaluator, and the SEIBP office. The duties of the agency coordinator shall include:

(1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.

- (2) ~~Responsibility for presenting, Presenting~~, in conjunction with the agency evaluator, the ~~plan of implementation for a suggestion or innovation recommendation for an award~~ to the State Review Committee.
- (3) Working in conjunction with the agency evaluator ~~designated by the Agency Coordinator for to process~~ a particular suggestion or ~~innovation innovation within 180 days, except when there are extenuating circumstances~~.

An agency may have more than one coordinator if required to provide sufficient services to State employees.

(c) An agency evaluator shall be designated by the management of the implementing agency to evaluate one or more suggestions. The duties of an agency evaluator shall include:

- (1) Reviewing Receiving from the agency coordinator and reviewing within 90 days, when possible, the feasibility and effectiveness of cost-saving or revenue-increasing measures suggested by State employees.
- (2) Being knowledgeable of the subject program, activity, or service.
- (3) Determining, in conjunction with the agency fiscal officer, the budgetary impact of a suggestion or innovation.
- (4) Judging impartially both the positive and negative effects of a suggestion or innovation on the current functions of the subject program, activity, or service.

~~The specific assignments of the agency evaluator shall be determined by the agency coordinator.~~

(d) ~~The State Coordinator executive secretary~~ shall be responsible for general oversight and coordination of the State Employee Incentive Bonus Program. ~~The State Coordinator coordinator shall be a State an employee working in of the Department of Administration. The State coordinator shall be responsible for day-to-day SEIBP program management and administration of the technical aspects of the program. The State coordinator shall be an ex officio voting member of the State Review Committee."~~

SECTION 7.2.(f) G.S. 143-345.24 reads as rewritten:

"§ 143-345.24. *Incentive Bonus Review Committee.*

(a) The Incentive Bonus Review Committee, hereinafter "State Review Committee", shall consist of nine members, as follows:

- (1) The State Coordinator.
- (2) A representative of the Office of State Budget and Management.
- (3) A representative of the Office of State Personnel.
- (4) A representative of The University of North Carolina.

- (5) A representative of the Department of Justice.
 - (6) A representative of the Department of Labor.
 - (7) One State employee appointed by the Speaker of the House of Representatives.
 - (8) One State employee appointed by the President Pro Tempore of the Senate.
 - (9) One State employee appointed by the Governor upon the recommendation of the State Employees Association of North Carolina, Inc.
- (b) The duties of the State Review Committee shall include:
- (1) ~~Responsibility for receiving~~ Receiving from the various agency coordinators recommendations on ~~suggestion and innovation implementation plans, suggestions and innovations.~~
 - (2) Determining the impact of a suggestion or innovation on State government services by judging the monetary savings, increased revenues, or improved quality of services generated by a suggestion or innovation.
 - (3) Ensuring that the State employee incentive bonus process does not result in a negative impact on services provided to taxpayers by State government.

(c) All administrative, management, clerical, and other functions and services required by the State Review Committee shall be supplied by the Department of Administration. The Department of Administration and the State Review Committee shall report annually to the Joint Legislative Commission on Governmental Operations on the administration of the State Employee Incentive Bonus Program."

SECTION 7.2.(g) G.S. 143-345.25 reads as rewritten:

"§ 143-345.25. ~~Effect~~ Innovations deemed property of the State; effect of decisions regarding bonuses.

(a) All suggestions or innovations submitted by State employees pursuant to this Article are the property of the ~~State~~. State, and all related intellectual property rights shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall establish a policy regarding intellectual property rights that arise from the SEIBP.

(b) Decisions regarding the award of bonuses by the agency coordinator and the State Review Committee are final and are not subject to review under the contested case procedures of Chapter 150B of the General Statutes."

SECTION 7.2.(h) This section becomes effective July 1, 2001, and applies to State employee suggestions and innovations approved or awarded on or after that date.

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

STUDY OF MOTOR FLEET MANAGEMENT

SECTION 7.3. The Office of State Budget and Management shall study the operations of the State motor fleet management system and shall consider the feasibility of privatizing the function. The Office of State Budget and Management shall report the results of this study to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

MOTOR POOL OPERATIONS AND ASSIGNMENT OF VEHICLES

SECTION 7.4. G.S. 143-341(8)(i) reads as rewritten:
 "§ 143-341. *Powers and duties of Department.*

The Department of Administration has the following powers and duties:

- ...
- (8) General Services:
- ...
- i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:
- ...
4. To maintain, store, repair, dispose of, and replace state-owned motor vehicles under the control of the Department. The Department shall ensure that state-owned vehicles are not normally replaced until they have been driven for ~~90,000~~ 110,000 miles or more.
5. Upon proper requisition, proper showing of need for use on State business only, and proper showing of proof that all persons who will be driving the motor vehicle have valid drivers' licenses, to assign economically suitable transportation, either on a temporary or permanent basis, to any State employee or agency. An agency assigned a motor vehicle may not allow a person to operate that motor vehicle unless that person displays to the agency and allows the agency to copy that person's valid driver's license. Notwithstanding G.S. 20-30(6), persons or agencies requesting assignment of motor vehicles may photostat or otherwise reproduce drivers' licenses for purposes of complying with this subpart.

As used in this subpart, "economically suitable transportation" means the most cost-effective standard vehicle in the State motor fleet, unless special towing provisions are required by the ~~employee or~~ agency. The Department may not assign any employee or agency a motor vehicle that is not economically suitable. The Department shall not approve requests for vehicle assignment or reassignment when the purpose of that assignment or reassignment is to provide any employee with a newer or lower mileage vehicle because of his or her rank, management authority, or length of service or because of any non-job-related reason. The Department shall not assign "special use" vehicles, such as four-wheel drive vehicles or law enforcement vehicles, to any agency or individual except upon written justification, verified by historical data, and accepted by the Secretary. The Department may provide law enforcement vehicles only to those agencies which have statutory pursuit authority."

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

TRANSFER BOARD OF SCIENCE AND TECHNOLOGY

SECTION 7.6. The statutory authority, power, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting and purchasing, of the North Carolina Board of Science and Technology, as established in G.S. 143B-426.30, are transferred to the Department of Commerce. Part 27 of Article 9 of Chapter 143B of the General Statutes is recodified as Part 18 of Article 10 of Chapter 143B of the General Statutes and the Revisor of Statutes shall substitute the term "Commerce" for the term "Administration" everywhere that term appears in Part 18 of Article 10 of Chapter 143B of the General Statutes.

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

DOMESTIC VIOLENCE COMMISSION STAFFING

SECTION 7.7. G.S. 143B-394.15 is amended by adding a new subsection to read:

"(1) Staffing. – The Secretary of the Department of Administration shall be responsible for staffing the Commission. To that end, the Secretary shall, at a minimum, assign an employee to serve as a Deputy Director within the North Carolina Council for Women whose primary duties shall be to staff the Commission. The person assigned as Deputy Director shall have the education, experience, and any other qualifications necessary for the position."

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

PETROLEUM OVERCHARGE FUNDS ALLOCATION

SECTION 7.8.(a) There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one million three hundred thousand dollars (\$1,300,000) for the 2001-2002 fiscal year to be allocated to the Weatherization Assistance Program.

SECTION 7.8.(b) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

Requested by: Senators Plyler, Odom, Lee; Representatives Wainwright, Easterling, Oldham, Redwine, Thompson

HISTORICALLY UNDERUTILIZED BUSINESSES

SECTION 7.9. The Secretary of the Department of Administration shall maintain the Office of Historically Underutilized Businesses (HUB) as established by Executive Order 150. The HUB shall have the same duties, responsibilities, and functions as under Executive Order 150 until further action is taken by the General Assembly concerning the HUB. Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services shall report its use of historically underutilized businesses to the HUB on a quarterly basis. The HUB shall report annually to the Chairs of the Appropriation Subcommittee on General Government of the Senate and the House of Representatives by May 1 of each year.

PART VIII. OFFICE OF ADMINISTRATIVE HEARINGS

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

**OFFICE OF ADMINISTRATIVE HEARINGS
RECLASSIFICATION OF POSITIONS**

SECTION 8.1. The Office of Administrative Hearings shall reclassify positions in the Rules Division, Civil Rights Division, Hearings Division, and Administration Division of the Office of Administrative Hearings in accordance with the findings and recommendations of the Office of State Personnel submitted to the General Assembly on January 30, 2001.

PART IX. OFFICE OF THE STATE AUDITOR

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

ELECTRONIC DISTRIBUTION OF AUDITOR'S REPORTS

SECTION 9.1.(a) G.S. 147-64.6(c) reads as rewritten:

"(c) The Auditor shall be responsible for the following acts and activities:

...

(12) The Auditor shall provide ~~in a written statement a report~~ to the Governor and Attorney General, and other appropriate officials, of such facts as are in his possession which pertain to the apparent violation of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee.

...

(14) The Auditor shall ~~provide copies of each audit report to~~ notify the General Assembly, the Governor, the Chief Executive Officer of each agency audited, and other persons as the Auditor deems ~~appropriate.~~ appropriate that an audit report has been published, its subject and title, and the locations, including State libraries, at which the report is available. The Auditor shall then distribute copies of the report only to those who request a report. The copies shall be in written or electronic form, as requested. He shall also file a copy of the audit report in the Auditor's office, which will be a permanent public record; Provided, nothing in this subsection shall be construed as authorizing or permitting the publication of information whose disclosure is otherwise prohibited by law.

...."

SECTION 9.1.(b) G.S. 147-64.5(a) reads as rewritten:

"(a) Joint Legislative Commission on Governmental Operations. – The Auditor shall furnish copies of any and all audits only when requested by the Joint Legislative Commission on Governmental

Operations. The copies shall be in written or electronic form, as requested. Accordingly, the Auditor shall, upon request by the chairmen, appear before the Commission to present findings and answer questions concerning the results of these audits. The Commission is hereby authorized to use these audit findings in its inquiries concerning the operations of State agencies and is empowered to require agency heads to advise the Commission of actions taken or to be taken on any recommendations made in the report or explain the reasons for not taking action."

PART X. OFFICE OF THE STATE CONTROLLER

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

OVERPAYMENTS AUDIT

SECTION 10.1.(a) During the 2001-2002 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 10.1.(b) For the 2001-2002 fiscal year, two hundred thousand dollars (\$200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 10.1.(c) All funds available in the Special Reserve Account 24172 on July 1, 2001, are transferred to the General Fund on that date.

SECTION 10.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2002 Regular Session of the 2001 General Assembly.

SECTION 10.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

PART XI. DEPARTMENT OF CULTURAL RESOURCES

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

COMPLETION OF THE INFORMATION TECHNOLOGY EXPANSION PROJECT AND THE INFORMATION RESOURCE MANAGEMENT COMMISSION PROJECT CERTIFICATION

SECTION 11.1. Of the funds appropriated to the Department of Cultural Resources, the sum of fifty thousand dollars (\$50,000) shall be used to complete the planning for the Information Technology Expansion Project and the Information Resource Management Commission (IRMC) Project Certification. The Department shall not expend any additional funds for information technology expansion prior to review of the IRMC Project Certification by the Joint Select Committee on Information Technology. The results of the IRMC Project Certification shall be presented to the Joint Select Committee on Information Technology no later than March 1, 2002.

Requested by: Senators Lee, Warren, Rand, Kerr, Harris, Plyler, Odom, Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

CIVIL WAR SITES TOURISM

SECTION 11.2.(a) The Department of Cultural Resources and the Department of Commerce and other public and private organizations shall study the feasibility of creating tourism programs that highlight the State's Civil War history.

SECTION 11.2.(b) The Departments shall consider the following information in conducting the study:

- (1) Existing Civil War tourism programs in the State, including ways that those Departments already collaborate in promoting Civil War tourism.
- (2) Successful Civil War tourism programs in other states.
- (3) The acquisition of federal funds and ways in which private funds can be raised to support the preservation, development, and promotion of Civil War tourism recommended by the study.
- (4) An analysis of the fiscal impact of each recommendation.

SECTION 11.2.(c) The Departments shall submit a final report of their findings and recommendations, including draft legislation to implement the recommendations, to the Joint Appropriations Subcommittee on General Government and the Joint Appropriations Subcommittee on Natural and Economic Resources by April 15, 2002.

PART XII. OFFICE OF THE GOVERNOR

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Baddour, Easterling, Oldham, Redwine, Thompson

ADVISORY COMMISSION ON MILITARY AFFAIRS

SECTION 12.1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 127C.

"Advisory Commission on Military Affairs.

"§ 127C-1. Creation of the North Carolina Advisory Commission on Military Affairs.

There is created in the Office of the Governor the North Carolina Advisory Commission on Military Affairs to advise the Governor and the Secretary of Commerce on protecting the existing military infrastructure in this State and to promote new military missions and economic opportunities for the State and its citizens.

"§ 127C-2. Membership.

(a) The North Carolina Advisory Commission on Military Affairs shall consist of 21 voting members, who shall serve on the Executive Committee, and nine nonvoting, ex officio members who shall serve by reason of their positions.

(b) The Executive Committee shall be appointed as follows:

- (1) Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.
- (2) Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.
- (3) Fifteen members appointed by the Governor, consisting of:
 - a. Three representatives from the Jacksonville community.
 - b. Three representatives from the Havelock community.
 - c. Three representatives from the Goldsboro community.
 - d. Three representatives from the Fayetteville community.
 - e. Three public members from across the State.

(c) The following members shall serve ex officio:

- (1) Secretary of Crime Control and Public Safety, or a designee.
- (2) Secretary of Commerce, or a designee.
- (3) Commanding General 18th Airborne Corps, Fort Bragg.

- (4) Commanding General Marine Corps Base, Camp Lejeune.
- (5) Commanding General Marine Corps Air Station, Cherry Point.
- (6) Commander 4th FW, Seymour Johnson Air Force Base.
- (7) Commander 43rd Airlift Wing, Pope Air Force Base.
- (8) Commander of the U.S. Coast Guard Support Center, Elizabeth City.
- (9) Adjutant General of the North Carolina National Guard.

(d) The Executive Committee appointed pursuant to subsection (b) of this section shall choose a Chairman and four Vice-Chairmen from amongst its membership.

"§ 127C-3. Military Advisor.

The Military Advisor within the Office of the Governor shall serve as the administrative head of the Commission and be responsible for the operations and normal business activities of the Commission, with oversight by the Executive Committee.

"§ 127C-4. Purposes.

The Commission shall have the following responsibilities and duties:

- (1) Advise the Governor and Secretary of Commerce on how to strengthen the State's relationship with the military to protect the installations of this State from the results of any future defense budget cuts or military downsizing by providing a sound infrastructure, affordable housing, and affordable education for military members and their families, working to be viewed by national military leaders as the most military-friendly State in the nation.
- (2) Develop a strategic plan to provide initiatives to support the long-term viability and prosperity of the military of this State that shall include, at least:
 - a. A comprehensive Economic Impact Study of Military Activities in North Carolina to be conducted by the North Carolina State University Department of Economics and the East Carolina University Office of Regional Development.
 - b. A Strengths/Weaknesses/Opportunities/Threats (SWOT) Analysis conducted by a professional strategic planning group on the current status of the military in North Carolina.
- (3) Study ways to improve educational opportunities for military personnel in North Carolina.
- (4) Assist in coordinating the State's interests in future activities of the Department of Defense.

- (5) Promote initiatives to improve the quality of life for military personnel in this State."

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

ELIMINATE STATE PLANNING UNIT AND RENAME BUDGET OFFICE

SECTION 12.2.(a) G.S. 143-10.3, 143-10.4, 143-10.5, and 143-10.6 are repealed.

SECTION 12.2.(b) The phrase "Office of State Budget, Planning, and Management" is deleted and replaced by the phrase "Office of State Budget and Management" wherever it occurs in each of the following General Statutes:

G.S. 7A-101.	Compensation.
G.S. 7A-113.	Bookkeeping and accounting systems equipment.
G.S. 18B-1009.	In-stand sales.
G.S. 20-7.	Issuance and renewal of drivers licenses.
G.S. 47-30.	Plats and subdivisions; mapping requirements.
G.S. 58-6-25.	Insurance regulatory charge.
G.S. 58-85A-1.	Creation of Fund; allocation to local fire districts and political subdivisions of the State.
G.S. 62A-25.	Use of funds.
G.S. 96-4.	Administration.
G.S. 96-32.	Common follow-up information management system created.
G.S. 96-35.	Reports on common follow-up system activities.
G.S. 97-80.	Rules and regulations; subpoena of witnesses; examination of books and records; depositions; costs.
G.S. 105-130.5.	Adjustments to federal taxable income in determining State net income.
G.S. 105-134.6.	Adjustments to taxable income.
G.S. 105-262.	Rules.

S.L. 2001-424**[SESSION LAWS**

G.S. 108A-27.8.	Standard Program Counties – Duties of Department.
G.S. 115C-457.1.	Creation of Fund; administration.
G.S. 115C-457.2.	Remittance of moneys to the Fund.
G.S. 115C-457.3.	Transfer of funds to the State School Technology Fund.
G.S. 115C-546.1.	Creation of Fund; administration.
G.S. 115D-31.	State financial support of institutions.
G.S. 116-220.	Establishment and administration of self-insurance trust funds; rules and regulations; defense of actions against covered persons; application of § 143-300.6.
G.S. 120-30.45.	Fiscal note on legislation.
G.S. 120-30.49.	Compiling federal mandates; annual report.
G.S. 120-36.8.	Certification of legislation required by federal law.
G.S. 120-131.1.	Requests from legislative employees for assistance in the preparation of fiscal notes.
G.S. 120-166.	Additional criteria; nearness to another municipality.
G.S. 122A-16.	Oversight by committees of General Assembly; annual reports.
G.S. 122C-112.	Powers and duties of the Secretary.
G.S. 122C-185.	Application of funds belonging to State facilities.
G.S. 131D-4.2.	Adult care homes; family care homes; annual cost reports; exemptions; enforcement.
G.S. 131E-13.	Lease or sale of hospital facilities to or from for-profit or nonprofit corporations or other business entities by

	municipalities and hospital authorities.
G.S. 135-39.3.	Oversight team.
G.S. 138-6.	Travel allowances of State officers and employees.
G.S. 138-8.	Moving expenses of State employees.
G.S. 143-1.	Scope and definitions.
G.S. 143-2.	Purposes.
G.S. 143-3.5.	Coordination of statistics; fiscal analysis required for any bill proposed by a State agency that affects the budget.
G.S. 143-4.	(For applicability see note) Advisory Budget Commission.
G.S. 143-6.	Information from departments and agencies asking State aid.
G.S. 143-6.1.	Report on use of State funds by non-State entities.
G.S. 143-10.1A.	Same – Continuation and expansion costs.
G.S. 143-10.2.	Limit on number of State employees.
G.S. 143-10.3.	Strategic planning process.
G.S. 143-10.4.	Departmental operations plans.
G.S. 143-10.5.	Development of performance measures for major programs.
G.S. 143-10.7.	Review of department forms and reports.
G.S. 143-12.1.	Vending facilities.
G.S. 143-15.4.	General Fund operating budget size limited.
G.S. 143-19.	Help for Director.
G.S. 143-20.1.	Annual financial statements.
G.S. 143-27.	Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.

G.S. 143-28.1.	Highway Fund appropriation.
G.S. 143-31.1.	Study and review of plans and specifications for building, improvement, etc., projects.
G.S. 143-34.2.	Information as to requests for nonstate funds for projects imposing obligation on State; statement of participation in contracts, etc., for nonstate funds; limiting clause required in certain contracts or grants.
G.S. 143-34.41.	Legislative intent; purpose.
G.S. 143-34.43.	Capital improvement needs criteria.
G.S. 143-34.44.	Agency capital improvement needs estimates.
G.S. 143-138.	North Carolina State Building Code.
G.S. 143-215.94P.	Groundwater Protection Loan Fund.
G.S. 143-299.4.	Payment of State excess liability.
G.S. 143-345.24.	Incentive Bonus Review Committee.
G.S. 143B-133.1.	Powers of Commission.
G.S. 143B-336.1.	Special Zoo Fund.
G.S. 143B-372.3.	Staff.
G.S. 143B-426.39.	Powers and duties of the State Controller.
G.S. 146-30.	Application of net proceeds.
G.S. 147-33.78.	Information Resource Management Commission.
G.S. 147-33.87.	Financial reporting and accountability for information technology investments and expenditures.
G.S. 147-86.22.	Statewide accounts receivable program.
G.S. 150B-21.	Agency must designate rule-making coordinator; duties of coordinator.

G.S. 150B-21.4.	Fiscal notes on rules.
G.S. 150B-21.9.	Standards and timetable for review by Commission.
G.S. 150B-21.28.	Role of the Office of State Budget and Management.
G.S. 153A-230.1.	Definitions.
G.S. 153A-230.2.	Creation of Satellite Jail/Work Release Unit Fund.
G.S. 153A-230.5.	Satellite jails/work release units built with non-State funds.
G.S. 159I-25.	Disbursement.
G.S. 159I-28.	Rules.
G.S. 159I-29.	Annual reports to Joint Legislative Commission on Governmental Operations.
G.S. 160A-486.	Estimates of population.
G.S. 163-132.5.	Cooperation of State and local agencies.

SECTION 12.2.(c) G.S. 147-33.85(b) reads as rewritten:

"(b) The Office shall coordinate with the ~~Office of State Budget, Planning, and Management~~ Office of State Budget and Management to integrate agency strategic and business planning, technology planning and budgeting, and project expenditure processes into the Office's information technology portfolio-based management. The Office shall provide recommendations for agency annual budget requests for information technology investments, projects, and initiatives to the ~~Office of State Budget, Planning, and Management~~ Office of State Budget and Management."

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

TRANSFER THE CENTER FOR GEOGRAPHIC INFORMATION ANALYSIS/GEODETIC SURVEY AND THE STATEWIDE FLOODPLAIN MAPPING UNIT

SECTION 12.3.(a) The Center for Geographic Information Analysis/Geodetic Survey is transferred from the Office of State Budget and Management to the Department of Environment and Natural Resources, Division of Land Resources. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

SECTION 12.3.(b) The Statewide Floodplain Mapping Unit is transferred from the Office of State Budget and Management to the Department of Crime Control and Public Safety, Division of

Emergency Management. This transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6.

PART XIII. OFFICE OF STATE PERSONNEL

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

ABOLISH OFFICE OF STATE PERSONNEL PREPARE PROGRAM

SECTION 13.1. The General Assembly encourages the Department of State Treasurer to include the model of the PREPARE program in its current delivery of retirement services. The PREPARE program in the Office of State Personnel is abolished.

PART XIV. GENERAL GOVERNMENT

Requested by: Senators Warren, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Easterling, Oldham, Redwine, Thompson

USE OF INTERNET FOR AGENCY PUBLICATIONS

SECTION 14.1.(a) Each of the State agencies listed in subsection (b) of this section shall review its printing and publication requirements and schedules and develop a plan to reduce the cost of printing, publishing, and distributing agency information and materials, including documents, reports, and other publications by using computer technology and the Internet, in particular, to distribute information and materials to the public. In developing the plan, each State agency shall review the statutory and regulatory requirements of the agency with regard to publishing and distributing information to the public and make recommendations on any statutory revisions needed to publish and distribute agency information over the Internet or by other computer-related means. Each agency shall submit a written report to the Fiscal Research Division of the General Assembly by April 1, 2002, outlining the required information and the recurring adjustments in the agency budget.

SECTION 14.1.(b) This section applies to the Office of the Governor, the Office of the Lieutenant Governor, the Department of Administration, the Office of the State Auditor, the Office of State Budget and Management, the Board of Elections, the Department of Insurance, the Office of the Secretary of State, the Office of the State Treasurer, the Office of Administrative Hearings, the Office of the State Controller, the Department of Cultural Resources, the General Assembly, the Office of State Personnel, the Department of Revenue, and the Rules Review Commission.

PART XIV-B. STATE BOARD OF ELECTIONS

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Baddour, Nesbitt, Easterling, Oldham, Redwine, Thompson

EARLY VOTING FUNDS/GRANTS

SECTION 14B.1.(a) The State Board of Elections shall make grants as specified in subsection (b) of this section to certain counties that provided additional one-stop absentee voting sites in the 2000 General Election at locations other than the county board of elections office or the county courthouse. The funds for such grants shall come from funds previously appropriated, but not granted, to the State Board of Elections by S.L. 2000-136, for grants to counties to provide additional one-stop absentee voting sites. Under no circumstances shall any new grants by the State Board, under this act, be funded by any new appropriations. No other grants from funds previously appropriated, but not granted, to the State Board of Elections by S.L. 2000-136, for grants to counties to provide additional one-stop absentee voting shall be made other than those specified in subsection (b) of this section. Any funds from the fiscal year 2000-2001 appropriation remaining on June 30, 2001, shall not revert to the General Fund until the grant awards are made.

SECTION 14B.1.(b) The State Board of Elections shall make grants to the following county boards of elections in the amounts specified:

- (1) Buncombe in the amount of fifteen thousand dollars (\$15,000).
- (2) Chatham in the amount of five thousand dollars (\$5,000).
- (3) Durham in the amount of ten thousand dollars (\$10,000).
- (4) Edgecombe in the amount of five thousand dollars (\$5,000).
- (5) Lenoir in the amount of ten thousand dollars (\$10,000).
- (6) Orange in the amount of five thousand dollars (\$5,000).
- (7) Wake in the amount of ten thousand dollars (\$10,000).

PART XIV-D. DEPARTMENT OF REVENUE

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

PROJECT COLLECT TAX

SECTION 14D.1. Funds appropriated to the Department of Revenue for Project Collect Tax shall be transferred to a separate Fund Code in the Department's budget.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

REQUEST FOR PROPOSAL FOR PERFORMANCE-BASED CONTRACT FOR OVERDUE TAX COLLECTIONS

SECTION 14D.2. The Department of Revenue shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by October 1, 2001, and monthly thereafter regarding its progress in developing a request for proposal for a performance-based contract to collect overdue tax debts as defined in G.S. 105-243.1. The report shall include a list of any funds expended in developing the request for proposal and the purposes for which the funds were spent.

The Department of Revenue shall consult with the Joint Legislative Commission on Governmental Operations prior to issuing the request for proposal for performance-based contracts.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

SALES TAX RATE ADMINISTRATIVE COSTS

SECTION 14D.3 The Department of Revenue may use up to two hundred thirty thousand one hundred sixty dollars (\$230,160) in lapsed salary funds for the 2001-2002 fiscal year to hire temporary personnel to implement the change in the State sales tax rate effective October 16, 2001, as enacted by this act. In addition, the Department of Revenue may draw up to two hundred thirty thousand dollars (\$230,000) from collections under Article 5 of Chapter 105 of the General Statutes for the 2001-2002 fiscal year to pay for printing, mailing, and other one-time costs necessary to implement the changes in the State sales tax effective October 16, 2001, as enacted by this act.

PART XIV-E. DEPARTMENT OF INSURANCE

Requested by: Senators Warren, Rand, Kerr, Harris, Plyler, Odom, Lee; Representatives Jeffus, Sherrill, Dedmon, Wainwright, Easterling, Oldham, Redwine, Thompson

AUTHORIZATION OF REIMBURSEMENT FROM THE INSURANCE REGULATORY FUND

SECTION 14E.1(a) G.S. 58-6-25(d) is amended by adding the following new subdivisions to read:

"(4) Money appropriated for the office of Managed Care Patient Assistance Program established under G.S. 143-730 to pay the actual costs of administering the program.

(5) Money appropriated to the Department of Insurance for the implementation and administration of independent external review procedures required by Part 4 of Article 50 of this Chapter."

SECTION 14E.1.(b) This section becomes effective only if Senate Bill 199, 2001 General Assembly, becomes law.

PART XIV-F. SECRETARY OF STATE

Requested by: Senators Warren, Harris, Rand, Kerr, Representatives Jeffus, Sherrill, Dedmon, Wainwright

PRINTING AND DISTRIBUTION OF NORTH CAROLINA MANUAL

SECTION 14F.1. G.S. 147-54 reads as rewritten:

"§ 147-54. *Printing, distribution and sale of the North Carolina Manual.*

The Secretary of State shall have printed biennially for distribution and sale, ~~five thousand (5,000)~~ two thousand three hundred fifty (2,350) copies of the North Carolina Manual, and shall make distribution to the State agencies, individuals, institutions and others as herein set forth.

NORTH CAROLINA STATE GOVERNMENT:

- Members of the General Assembly.....~~2 ea.~~1 ea.
- Officers of the General Assembly..... 1 ea.
- Offices of the Clerk of each House of
 - the General Assembly 1 ea.
- Legislative Services Officer..... 1
- Legislative Library.....6
- Members of the Council of State 2 ea.
- Appointed Secretaries of Executive Departments 2 ea.
- Personnel of the Department of the Secretary of State 1 ea.
- State Board of Elections 2
- Divisions of Archives and History, Director 1
 - Search Room3
 - Publications Section 2
- State Library 10
- Libraries within State Agencies 1 ea.
- Justices of the North Carolina Supreme Court..... 1 ea.
- Judges of the North Carolina Court of Appeals..... 1 ea.
- Judges of the North Carolina Superior Court..... 1 ea.
- Supreme Court Library 12
- Court of Appeals Library 2
- Clerk of the Supreme Court 1
- Clerk of the Court of Appeals..... 1
- Reporter of the Supreme Court and Court of Appeals..... 1

Administrative Office of the Court5

NORTH CAROLINA EDUCATIONAL INSTITUTIONS:

University of North Carolina System

 General Administration Offices 12

 Chancellors of the Constituent Institutions..... 1 ea.

 University of North Carolina – Chapel Hill Library 15

 North Carolina State University Library.....5

 East Carolina University Library5

 North Carolina Central University Library5

 Appalachian State University Library4

 University of North Carolina – Charlotte Library4

 University of North Carolina – Greensboro Library.....4

 Western Carolina University Library.....4

 Other Constituent Institutions Libraries..... 3 ea.

 North Carolina School of the Arts 2

 Institute of Government 2

 Community Colleges and Technical Institutes 2 ea.

 Private Colleges and Universities

 Duke University Library 6

 Wake Forest University 6

 Campbell University Library 5

 Davidson College Library.....4

 All other Libraries of Senior and Junior Colleges 2 ea.

 Public and Private Schools containing grades 8-12 1 ea.

COUNTY GOVERNMENT:

 Clerks of Court..... 1 ea.

 Registers of Deeds 1 ea.

 Public Libraries of North Carolina 1 ea.

FEDERAL GOVERNMENT:

 President of the United States 1

 North Carolina Members of the Presidential Cabinet..... 1 ea.

 North Carolina Members of the United States Congress 2 ea.

 Library of Congress 3

 Resident Judges of the Federal Judiciary
 and United States Attorneys in North Carolina..... 1 ea.

 Secretaries of State of the United States
 and Territories 1 ea.

After making the above distribution, the remainder shall be sold at the cost of publication plus tax and postage and the proceeds from such sales deposited with the State Treasurer for use by the Publications Division of the Secretary of State's Office to defray the expense of publishing the North Carolina Manual. Libraries and educational institutions not covered in the above distribution shall be entitled to a twenty percent (20%) discount on the cost of any purchase(s)."

PART XV. INFORMATION TECHNOLOGY

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

STATE AGENCIES TO REPORT ON INTELLECTUAL PROPERTY/STUDY STATE INTELLECTUAL PROPERTY ASSETS AND TECHNOLOGY TRANSFERS

SECTION 15.1.(a) Prior to (i) the transfer of any patentable intellectual property or (ii) the release of any State grants or loans to non-State entities for purposes related to the development of patentable intellectual property, the transferring State agency, institution, or other entity of the State shall prepare and submit to the Governor, the Joint Legislative Commission on Governmental Operations, and the Chairs of the House of Representatives Science and Technology Committee and the Senate Information Technology Committee a written evaluation of the following matters:

- (1) If the proposed or pending transaction involves the transfer of patentable intellectual property developed by State employees within the scope of their employment:
 - a. The nature of the State's interest in the patentable intellectual property.
 - b. The potential value of the State's interest in the patentable intellectual property.
 - c. How to best protect the State's interest in the patentable intellectual property, as appropriate.
- (2) If the proposed or pending transaction involves the release of State grants or loans to a non-State entity for purposes related to the development of patentable intellectual property, the measures employed by the non-State entity to assure that the State funds do not inappropriately inure to the benefit of individuals serving in an official capacity for the State, a State agency, or the non-State entity that receives the funds.

SECTION 15.1.(b) The provisions of subsection (a) of this section do not apply to The University of North Carolina and its constituent institutions, or to the North Carolina Community Colleges System, or to employees of these respective institutions who are subject to the intellectual property and inventor policies of the institutions employing them.

SECTION 15.1.(c) The Board of Science and Technology shall study the transfer and use of intellectual property developed with State resources, including State funds, State personnel, or facilities. The Board shall recommend to the Governor and the General Assembly legislation or other mechanisms to promote and

regulate the transfer and use of intellectual property assets developed with State resources. In conducting the study required by this section, the Board of Science and Technology shall consider the following:

- (1) Economic benefits, including accelerated State revenue growth, that result from the commercialization of intellectual property assets developed with State resources.
- (2) Potential methods, benefits, and detriments of recouping costs incurred by the State in the development of intellectual property assets that are subsequently commercialized.
- (3) Potential methods, benefits, and detriments of sharing between the public and private sectors the profits or losses resulting from the commercialization of intellectual property assets developed with State resources.
- (4) Existing and potential mechanisms for assuring that intellectual property assets developed with State resources do not inappropriately inure to the benefit of individuals serving in an official capacity for the State, a State agency, or an entity receiving or using State resources.
- (5) Current and potential interplay between State and federal law governing the use and transfer of intellectual property assets developed with State resources.
- (6) The experience of other states in addressing the transfer and use of intellectual property assets developed using State resources.
- (7) Any other factors that the Board considers appropriate.

SECTION 15.1.(d) In formulating the recommendations enumerated in subsection (c) of this section, the Board of Science and Technology shall solicit input from affected parties, including State agencies, public and private universities, businesses with experience in the development, financing, and valuation of intellectual property assets, and organizations representing information technology and biotechnology businesses.

SECTION 15.1.(e) The Board of Science and Technology shall report the recommendations required by subsection (c) of this section to the Governor and to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

SECURITY STANDARDS FOR STATE INFORMATION TECHNOLOGY

SECTION 15.2.(a) G.S. 147-33.81 reads as rewritten:

"§ 147-33.81. *Definitions.*

As used in this Article:

- (1) "Distributed information technology assets" means hardware, software, and communications equipment not classified as traditional mainframe-based items, including personal computers, local area networks (LANs), servers, mobile computers, peripheral equipment, and other related hardware and software items.
- (2) "Information technology" means electronic data processing goods and ~~services~~ and services, telecommunications goods and services, security goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes.
- (3) "Information technology enterprise management" means a method for managing distributed information technology assets from acquisition through retirement so that total ownership costs (purchase, operation, maintenance, disposal, etc.) are minimized while maximum benefits are realized.
- (4) "Information technology portfolio management" means a business-based approach for analyzing and ranking potential technology investments and selecting those investments that are the most cost-effective in supporting the strategic business and program objectives of the agency.
- (5) "Office" means the Office of Information Technology Services as established in this Article.
- (6) "State agency" means any department, institution, commission, committee, board, division, bureau, office, officer, or official of the State. The term does not include any State entity excluded from coverage under this Article by G.S. 147-33.80, unless otherwise expressly provided."

SECTION 15.2.(b) G.S. 147-33.82 reads as rewritten:

"§ 147-33.82. *Powers and duties of the State Chief Information Officer and the Office of Information Technology Services.*

- (a) The Office of Information Technology Services shall:

- (1) Procure all information technology for State agencies, as provided in Part 4 of this Article.
- (2) Submit for approval of the Information Resources Management Commission all rates and fees for common, shared State government-wide technology services provided by the Office.
- (3) Submit for approval of the Information Resources Management Commission recommended State government-wide, enterprise-level policies for information technology.
- (4) Develop standards, procedures, and processes to implement policies approved by the Information Resources Management Commission.
- (5) Assure that State agencies implement and manage information technology portfolio-based management of State information technology resources, in accordance with the direction set by the State Chief Information Officer.
- (6) Assure that State agencies implement and manage information technology enterprise management efforts of State government, in accordance with the direction set by the State Chief Information Officer.
- (7) Provide recommendations to the Information Resources Management Commission for its biennial technology strategy and to develop State government-wide technology initiatives to be approved by the Information Resources Management Commission.
- (8) Develop a project management, quality assurance, and architectural review process that adheres to the Information Resources Management Commission's certification program and portfolio-based management initiative.
- (9) Establish and utilize the Information Technology Management Advisory Council to consist of representatives from other State agencies to advise the Office on information technology business management and technology matters.

(b) Notwithstanding any other provision of law, local governmental entities may use the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office. For purposes of this subsection, "local governmental entities" includes local school administrative units, as defined in G.S. 115C-5, and community colleges. Local governmental entities are not required to comply with otherwise applicable

competitive bidding requirements when using contracts established by the Office. Any other State entities may also use the information technology programs, services, or contracts offered by the Office, including information technology procurement, in accordance with the statutes, policies, and rules of the Office.

(c) The State Chief Information Officer shall establish an enterprise-wide set of standards for information technology security to maximize the functionality, security, and interoperability of the State's distributed information technology assets, including communications and encryption technologies. As part of this function, the State Chief Information Officer shall review periodically existing security standards and practices in place among the various State agencies to determine whether those standards and practices meet enterprise-wide security and encryption requirements. The State Chief Information Officer may assume the direct responsibility of providing for the information technology security of any State agency that fails to adhere to security standards adopted pursuant to this section. Any actions taken by the State Chief Information Officer under this subsection shall be reported to the Information Resources Management Commission at its next scheduled meeting.

(d) Notwithstanding G.S. 143-48.3 or any other provision of law, and except as otherwise provided by this subsection, all information technology security purchased using State funds, or for use by a State agency or in a State facility, shall be subject to approval by the State Chief Information Officer in accordance with security standards adopted under this section.

(1) If the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units as defined by G.S. 115C-5, or the North Carolina Community Colleges System develop their own security standards, taking into consideration the mission and functions of that entity, that are comparable to or exceed those set by the State Chief Information Officer under this section, then these entities may elect to be governed by their own respective security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. The State Chief Information Officer shall consult with the legislative branch, the judicial branch, The University of North Carolina and its constituent institutions, local school administrative units, and the North Carolina Community Colleges System in reviewing the security standards adopted by those entities.

(2) If the State Chief Information Officer certifies that a State agency has developed security standards that meet or exceed those set under this section, then the agency may elect to be governed by its own security standards, and approval of the State Chief Information Officer shall not be required before the purchase of information technology security. This certification by the State Chief Information Officer is subject to annual renewal and may be revoked by the State Chief Information Officer at any time that a State agency's standards no longer exceed those set under this section.

(e) The State Chief Information Officer shall submit the enterprise-wide set of standards for the State's information technology security to the Information Resources Management Commission for approval. The Information Resources Management Commission shall report approval of the standards to the Joint Legislative Commission on Governmental Operations prior to implementation of the standards. The State Chief Information Officer shall review and revise the standards at least annually, and the revisions shall be subject to approval by the Information Resources Management Commission, with the Commission reporting to the Joint Legislative Commission on Governmental Operations on the revisions.

(f) The head of each State agency shall cooperate with the State Chief Information Officer in the discharge of his or her duties by:

- (1) Providing the full details of the agency's information technology and operational requirements.
- (2) Providing comprehensive information concerning the information technology security employed to protect the agency's information technology.
- (3) Forecasting the parameters of the agency's projected future information technology security needs and capabilities.
- (4) Designating an agency liaison in the information technology area to coordinate with the State Chief Information Officer.

The information provided by State agencies to the State Chief Information Officer under this subsection is protected from public disclosure pursuant to G.S. 132-6.1(c)."

SECTION 15.2.(c) G.S. 147-64.6(c) is amended by adding a new subdivision to read:

- "(18) The Auditor shall, after consultation and in coordination with the State Chief Information Officer, assess, confirm, and report on the security practices of information technology systems. If an agency has adopted standards pursuant to G.S. 147-33.82(d)(1) or

(2), the audit shall be in accordance with those standards. The Auditor's assessment of information security practices shall include an assessment of network vulnerability. The Auditor may conduct network penetration or any similar procedure as the Auditor may deem necessary. The Auditor may investigate reported information technology security breaches, cyber attacks, and cyber fraud in State government. The Auditor shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision but may provide agencies with detailed reports of the security issues identified pursuant to this subdivision which shall not be disclosed as provided in G.S. 132-6.1(c). For the purposes of this subdivision only, the Auditor is exempt from the provisions of Article 3 of Chapter 143 of the General Statutes in retaining contractors."

SECTION 15.2.(d) This section is effective when it becomes law.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

**EXECUTIVE BUDGET ACT INFORMATION
TECHNOLOGY PROVISIONS**

SECTION 15.3.(a) G.S. 143-6 is amended by adding a new subsection to read:

"(b2) Any department, bureau, division, officer, board, commission, institution, or other State agency or undertaking desiring to request financial aid from the State for the purpose of acquiring or maintaining information technology as defined by G.S. 147-33.81(2) shall, before making the request for State financial aid, submit to the State Chief Information Officer (CIO) a statement of its needs in terms of information technology and other related requirements and shall furnish the CIO with any additional information requested by the CIO. The CIO shall then review the statement of needs submitted by the requesting department, bureau, division, officer, board, commission, institution, or other State agency or undertaking and perform additional analysis, as necessary, to comply with G.S. 147-33.82. All requests for financial aid for the purpose of acquiring or maintaining information technology shall be accompanied by a certification from the CIO deeming the request for financial aid to be consistent with Article 3D of Chapter 147 of the General Statutes. The CIO shall make recommendations to the Governor regarding the merits of requests for financial aid for the purpose of acquiring or

maintaining information technology. This subsection shall not apply to requests for appropriations of less than one hundred thousand dollars (\$100,000)."

SECTION 15.3.(b) G.S. 143-7 reads as rewritten:

"§ 143-7. *Itemized statements and forms; exemptions from G.S. 147-64.6(c)(10).*

(a) The statements and estimates required under G.S. 143-6 shall be itemized in accordance with the budget classification adopted by the State Controller, and upon forms prescribed by the Director, and shall be approved and certified by the respective heads or responsible officer of each department, bureau, board, commission, institution, or agency submitting same. Official estimate blanks which shall be used in making these reports shall be furnished by the Director of the Budget.

(b) The budget classification adopted by the State Controller and the forms prescribed by the Director shall include budget account codes relating specifically to information technology to allow reliable and meaningful analysis of information technology funding and expenditures throughout State government."

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

**COMPUTER NETWORKING
COSTS/TELECOMMUNICATIONS SERVICE BILLING
FOR STATE AGENCIES**

SECTION 15.4.(a) The Office of the State Controller, the Office of State Budget and Management, and the Office of Information Technology Services shall adopt a common definition for computer networking costs. The definition shall include a specific and detailed list of the separate components that comprise overall networking costs. These agencies shall define a process to capture all such costs without redundancy.

SECTION 15.4.(b) The Office of the State Controller, the Office of State Budget and Management, and the Office of Information Technology Services shall complete the definition by December 15, 2001. By January 1, 2002, the agencies shall provide an interim report to the Joint Select Committee on Information Technology and to the Chairs of the House of Representatives Appropriations Subcommittee on Information Technology and the Senate Appropriations Committee on Information Technology on the process to capture networking costs, with a final report by May 1, 2002.

SECTION 15.4.(c) The Office of State Personnel, in conjunction with the Office of Information Technology Services,

shall devise a mechanism for identifying, by specific industry-relevant categories, State information technology positions across all relevant classifications in State government employment. The Office of State Personnel shall identify the results of market analyses comparing State information technology workers with private sector information technology workers. By January 1, 2002, the Office of State Personnel shall report on the results of the market analyses and its identification of State information technology personnel to the Joint Select Committee on Information Technology and to the Chairs of the House of Representatives Appropriations Subcommittee on Information Technology and the Senate Appropriations Committee on Information Technology.

SECTION 15.4.(d) The Office of Information Technology Services shall accurately identify and present State agencies with detailed information on the cost of the ITS services for telecommunications data and video services. The bill should clearly indicate the usage and the rate for the service.

SECTION 15.4.(e) By January 15, 2002, the Office of State Budget and Management shall conduct a detailed and comprehensive study of the costs of all information technology networks operated by or for the Administrative Office of the Courts and report the results of the study to the Joint Select Committee on Information Technology.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

STUDY STATE AGENCY USE OF CONTRACTORS FOR INFORMATION TECHNOLOGY/PILOT PROJECT FEASIBILITY STUDY

SECTION 15.5.(a) The Office of State Personnel, the Office of Information Technology Services, the Office of State Budget and Management, and the Office of the State Controller shall study the issue of State agency's use of information technology contractors. The study shall report on the number of contractors currently in use by State agencies, the duration of the working period for individual contractors, and the length of the contracts. The purpose of the contracts should be clearly identified, and the unit and actual costs of the contracts should be clearly identified.

SECTION 15.5.(b) The study report should recommend the most appropriate use of contractors (i.e., for discrete projects) and the most appropriate use of permanent employees (i.e., for ongoing activities such as LAN/WAN management). In cases where the study indicates that permanent employees are best suited for a given task or

activity, the Office of State Personnel is directed to identify effective mechanisms for recruiting and retaining employees.

SECTION 15.5.(c) The study shall also compare the costs of outsourcing discrete functions and activities versus performing those activities with State government employees or contractors working for State agencies.

SECTION 15.5.(d) By March 1, 2002, the study group shall report its findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Joint Select Committee on Information Technology.

SECTION 15.5.(e) The Joint Select Committee on Information Technology shall conduct a feasibility study of a pilot program to allow budget flexibility for converting information technology contractors to employees in State agencies. The study shall include, but is not limited to, the following:

- (1) Assessment of the need for budget flexibility for information technology staffing in the various agencies.
- (2) Review of agency plans and projects pertaining to information technology operations and personal services contracts.
- (3) Identification of the State agencies best suited to participate in a pilot project allowing budget flexibility for information technology staffing.
- (4) Consideration of the advisability of limiting the number, type, and duration of new positions that would be created as the result of the budget flexibility pilot.
- (5) Consideration of the training and career development initiatives that would be required to support and maximize the technical competencies needed in any new information technology positions created by the budget flexibility pilot.

The Joint Select Committee on Information Technology shall report its findings and recommendations to the General Assembly by the convening of the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

E-PROCUREMENT/PROCUREMENT CARD PROGRAM

SECTION 15.6.(a) Section 20.3 of S.L. 1998-212, Section 24 of S.L. 1999-237, and Section 21.3 of S.L. 2000-67 are repealed.

SECTION 15.6.(b) G.S. 143-48.3 reads as rewritten:
"§ 143-48.3. *Electronic procurement.*

(a) The Department of Administration and the Office of the State Controller, in conjunction with the Office of Information Technology Services (ITS), the Department of State Auditor, the Department of State Treasurer, the University of North Carolina General Administration, the Community Colleges System Office, and the Department of Public Instruction shall collaborate to develop electronic or digital procurement standards.

(b) The Department of Administration, in conjunction with the Office of the State Controller and the Office of Information Technology Services may, upon request, provide to all State agencies, universities, local school administrative units, and the community colleges, training in the use of the electronic procurement system.

(c) The Office of Information Technology Services shall act as an Application Service Provider for an electronic procurement system and shall establish, manage, and operate this electronic procurement system and shall establish, manage, and operate, through State ownership or commercial leasing, in accordance with the requirements and operating standards developed by the Department of Administration, the Office of the State Controller, and ITS.

(d) ~~Nothing in this section modifies~~ This section does not otherwise modify existing law relating to procurement between The University of North Carolina, UNC Health Care, local school administrative units, community colleges, and the Department of Administration.

(e) The Board of Governors of The University of North Carolina may exempt North Carolina State University and the University of North Carolina at Chapel Hill from the electronic procurement system authorized by this Article until May 1, 2003, if the Board of Governors determines that each exemption is in the best interest of the respective constituent institutions. Each exemption shall be subject to the Board of Governors' annual review and reconsideration. Exempted constituent institutions shall continue working with the North Carolina E-Procurement Service as that system evolves and shall ensure that their proposed procurement systems are compatible with the North Carolina E-Procurement Service so that they may take advantage of this service to the greatest degree possible. Before an exempted institution expands any electronic procurement system, that institution shall consult with the Joint Legislative Commission on Governmental Operations and the Joint Select Committee on Information Technology. By May 1, 2003, the General Assembly shall evaluate the efficacy of the State's electronic procurement system and the inclusion and participation of entities in the system.

(f) Any State entity, local school administrative unit, or community college operating a functional electronic procurement system established prior to September 1, 2001, may until May 1,

2003, continue to operate that system independently or may opt into the North Carolina E-Procurement Service. Each entity subject to this section shall notify the Information Resources Management Commission by January 1, 2002, and annually thereafter, of its intent to participate in the North Carolina E-Procurement Service."

SECTION 15.6.(c) The Board of Governors of The University of North Carolina shall take appropriate action to encourage the effective utilization of the North Carolina Electronic Procurement Service by the constituent institutions. By April 1, 2002, and annually thereafter, the Department of Administration and the Office of Information Technology Services, in conjunction with the UNC General Administration, shall review the effect of the exemptions granted under subsection (b) of this section upon the North Carolina Electronic Procurement Service and shall report their findings to the Joint Select Committee on Information Technology and the Joint Legislative Commission on Governmental Operations.

SECTION 15.6.(d) G.S. 143-49 is amended by adding a new subdivision to read:

"(8) To establish and maintain a procurement card program for use by State agencies, community colleges, constituent institutions of The University of North Carolina, and local school administrative units. The Secretary of Administration may adopt temporary rules for the implementation and operation of the program in accordance with the payment policies of the State Controller, after consultation with the Office of Information Technology Services. These rules would include the establishment of appropriate order limits that leverage the cost savings and efficiencies of the procurement card program in conjunction with the fullest possible use of the North Carolina E-Procurement Service. Procurement cards shall be utilized only through the E-Procurement Service. North Carolina State University and the University of North Carolina at Chapel Hill may use procurement cards consistent with the rules adopted by the Secretary, provided that the procurement cards have a purchase limit of two hundred fifty dollars (\$250.00) per month. Prior to implementing the program, the Secretary shall consult with the State Controller, the UNC General Administration, the Community Colleges System Office, the State Auditor, the Department of Public Instruction, and the Office of Information Technology Services. The Secretary may periodically adjust the order limit authorized in this section after consulting with the State Controller, the

UNC General Administration, the Community Colleges System Office, the Department of Public Instruction, and the Office of Information Technology Services."

SECTION 15.6.(e) This section is effective when it becomes law.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

NORTH CAROLINA INFORMATION HIGHWAY SITES

SECTION 15.7.(a) Of the funds available in the Office of Information Technology Services' operating cash, the sum of three million twenty-four thousand one hundred eighty-five dollars (\$3,024,185) shall be used for the 2001-2002 fiscal year to fund North Carolina Information Highway (NCIH) sites that received funding from ITS operating cash during the 2000-2001 fiscal year. In consultation with the Community Colleges System Office, the Department of Public Instruction, and the respective NCIH sites, the Office of Information Technology Services shall take appropriate action to ensure that NCIH funds are utilized efficiently, including modification of the allocations of funding for NCIH sites.

SECTION 15.7.(b) In consultation with the Office of Information Technology Services, the Community Colleges System Office shall:

- (1) Evaluate utilization of the existing NCIH sites at community colleges.
- (2) Consider appropriate actions relative to those community college sites that have experienced low utilization of the NCIH in the past year, including how funding for low-utilization sites should be reallocated to provide NCIH service to other community colleges that have higher usage, a demonstrated need, and the necessary facilities to utilize the NCIH most effectively and efficiently.

The Office of Information Technology Services may reallocate funding for NCIH sites at community colleges based upon the recommendations of the Community Colleges System Office.

SECTION 15.7.(c) In consultation with the Office of Information Technology Services, the Department of Public Instruction shall:

- (1) Evaluate utilization of the existing NCIH sites in the public schools.
- (2) Consider appropriate actions relative to those public school sites that have experienced low utilization of the NCIH in the past year, including how funding for low-

utilization sites should be reallocated to provide NCIH service to other public schools that have higher usage, a demonstrated need, and the necessary facilities to utilize the NCIH most effectively and efficiently.

The Office of Information Technology Services may reallocate funding for NCIH sites in the public schools based upon the recommendations of the Department of Public Instruction.

SECTION 15.7.(d) The House of Representatives and Senate Appropriations Subcommittees on Education shall jointly review the use of the North Carolina Information Highway and recommend a mechanism for funding the sites beyond the 2001-2002 fiscal year.

Requested by: Senators Reeves, Hagan, Miller, Plyler, Odom, Lee; Representatives Tolson, Tucker, Russell, Miner, Easterling, Oldham, Redwine, Thompson

REDUCTION IN EXPENDITURES BASED ON ITS RATE REDUCTIONS/NO RATE INCREASES TO OFFSET REDUCTIONS

SECTION 15.8.(a) The Office of State Budget and Management shall administer reductions in the Telephone (532811), Telecommunications Data (532812), and Computer Data Processing (532821) expenditure accounts in an amount equal to four million dollars (\$4,000,000) of General Fund appropriations through the allotment system established in G.S. 143-17. The reductions in expenditures shall be based on a percentage reduction in the rates for telephone/telecommunications and computer data processing services provided by the Office of Information Technology Services.

The Office of Information Technology Services shall have flexibility in establishing the rate reductions based upon a clear showing of cost reductions achieved through operational efficiencies or cost reductions achieved through less costly contractual arrangements. Based upon the rate reductions established by the Office of Information Technology Services, the Office of State Budget and Management shall have flexibility in allocating the reduction amounts among the Telephone (532811), Telecommunications Data (532812), and Computer Data Processing (532821) expenditure accounts. During Fiscal Years 2001-2002 and 2002-2003 allotments to each spending agency shall be reduced by a percentage of the General Fund amounts appropriated to that agency for telephone/telecommunications and computer data processing services.

The Office of State Budget and Management shall coordinate the rate reductions and agency expenditure accounts reductions to ensure that expenditure reductions match rate reductions. The Office

of Information Technology Services shall report the rate reductions to the Information Resources Management Commission, the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the Joint Appropriations Subcommittees on Information Technology, and to the Fiscal Research Division within 30 days of the certification of the 2001-2003 biennial budget.

SECTION 15.8.(b) The Office of Information Technology Services shall not increase rates to offset any reductions required by this act.

PART XVI. HOUSING FINANCE AGENCY

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

HOME PROGRAM MATCHING FUNDS

SECTION 16.1.(a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

- (1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and
- (2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

SECTION 16.1.(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

SECTION 16.1.(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2002, or on June 30, 2003.

**PART XVII. DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**AUTHORIZE PROMOTION OF NC FARM PRODUCTS AT
REST AREAS AND WELCOME CENTERS**

SECTION 17.1. Article 6D of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-89.59A. Promotion of North Carolina farm products at rest areas and welcome centers.

Subject to the approval of the Department, the Department of Agriculture and Consumer Services may distribute promotional materials and free samples of North Carolina farm products at rest areas and welcome centers located on controlled-access facilities and operated by the State for the purpose of promoting North Carolina farm products."

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**TRANSFER RURAL REHABILITATION CORPORATION TO
AGRICULTURAL FINANCE AUTHORITY**

SECTION 17.2.(a) G.S. 143A-63 reads as rewritten:

"§ 143A-63. North Carolina Rural Rehabilitation Corporation; transfer.

The North Carolina Rural Rehabilitation Corporation, and board of directors, as contained in Chapter 137 of the General Statutes and the laws of this State, is hereby transferred by a ~~Type II~~ Type I transfer to the North Carolina Agricultural Finance Authority in the Department of Agriculture and Consumer Services."

SECTION 17.2.(b) Article 2 of Chapter 137 of the General Statutes is repealed.

SECTION 17.2.(c) No later than January 15, 2002, the North Carolina Agricultural Finance Authority shall report to the Joint Legislative Commission on Governmental Operations, the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives, and the Fiscal Research Division on the status of the transfer required under this section. This report shall include any statutory changes that are needed to implement the transfer required under this section.

SECTION 17.2.(d) This section is effective when it becomes law.

Requested by: Senators Cunningham, Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

FARMLAND PRESERVATION FUNDS

SECTION 17.3. The sum of two hundred thousand dollars (\$200,000) appropriated in this act to the Department of Agriculture and Consumer Services for the North Carolina Farmland Preservation Trust Fund established in G.S. 106-744 shall be used to continue the purposes for which the Fund was established.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

FARMERS MARKETS AND AGRICULTURAL CENTERS/VENDING FACILITY EXEMPTION

SECTION 17.4. G.S. 111-42(c), as amended by S.L. 2000-41, reads as rewritten:

"(c) "State property or State building" means building and land owned, leased, or otherwise controlled by the State, exclusive of schools, colleges and universities, the North Carolina State Fair, farmers markets and agricultural centers, the Legislative Office Building, and the State Legislative Building."

PART XVIII. DEPARTMENT OF LABOR

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

LABOR DEPARTMENT/ ELEVATOR INSPECTION FEE RECEIPTS

SECTION 18.1. If House Bill 232 of the 2001 General Assembly becomes law, the Department of Labor shall allocate the increased elevator and amusement device inspection fee receipts to support the Elevator and Amusement Device Bureau, and the Director of the Budget shall reduce appropriations to the Department as provided in G.S. 143-25.

PART XIX. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUNDS

SECTION 19.1. Of the funds appropriated in this act to the Wildlife Resources Commission, the sum of five hundred thousand dollars (\$500,000) for the 2001-2002 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars (\$25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

GRASSROOTS SCIENCE PROGRAM

SECTION 19.2. Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of three million one hundred twenty thousand dollars (\$3,120,000) for fiscal year 2001-2002 and the sum of three million one hundred twenty thousand dollars (\$3,120,000) for fiscal year 2002-2003 are allocated as grants-in-aid for each fiscal year as follows:

	2001-2002	2002-2003
Aurora Fossil Museum	\$58,733	\$58,733
Cape Fear Museum	\$209,018	\$209,018
Catawba Science Center	\$167,833	\$167,833
Colburn Gem and Mineral Museum, Inc.	\$71,336	\$71,336
Discovery Place	\$699,985	\$699,985
Granville County Museum Commission, Inc. - Harris Gallery	\$61,553	\$61,553
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	\$157,305	\$157,305
Imagination Station	\$94,815	\$94,815
Iredell County Children's Museum	\$58,342	\$58,342
Museum of Coastal Carolina	\$64,141	\$64,141
Natural Science Center of Greensboro	\$250,850	\$250,850
North Carolina Museum of Life and Science	\$445,843	\$445,843
Rocky Mount Children's Museum	\$88,855	\$88,855
Schiele Museum of Natural History	\$348,433	\$348,433
Sci Works Science Center and Environmental Park of Forsyth County	\$178,947	\$178,947
Western North Carolina Nature Center	\$164,011	\$164,011

Total	\$3,120,000	\$3,120,000
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Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

AGRICULTURE COST SHARE TECHNICAL ASSISTANCE PROGRAM FUNDS

SECTION 19.2A. Of the funds appropriated by this act to the Department of Environment and Natural Resources for the Agriculture Cost Share Program for Nonpoint Source Pollution Control for financial assistance funding, the sum of two hundred forty thousand dollars (\$240,000) for the 2001-2002 fiscal year and the sum of two hundred forty thousand dollars (\$240,000) for the 2002-2003 fiscal year shall be used to support the cost-share technical assistance in soil and water conservation districts participating in the Agriculture Cost Share Program for Nonpoint Source Pollution Control. This reallocation of funds is permanent, and the transfer of funds as provided by this section shall continue in subsequent fiscal years unless directed otherwise by the General Assembly.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

TERMS FOR MEMBERS OF THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY

SECTION 19.3.(a) G.S. 143B-313.2(b) reads as rewritten:

"(b) Terms. – Members shall serve ~~two-year terms~~ staggered terms of office of three years. Members shall serve no more than two ~~full two-year terms~~ consecutive three-year terms. After serving two consecutive three-year terms, a member is not eligible for appointment to the Authority for at least one year after the expiration date of that member's most recent term. Upon the expiration of a ~~two-year~~ three-year term, a member may continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7. The term of members appointed under odd numbered subdivisions of subsection (a) of this section shall expire on 30 June of odd numbered years. The term of members appointed under even numbered subdivisions of subsection (a) of this section shall expire on 30 June of even numbered years. The terms of members appointed under subdivision (1), (5), (7), or (9) of subsection (a) of this section shall expire on July 1 of years that are evenly divisible by three. The terms of members appointed under subdivision (2), (4), (8), or (11) of subsection (a) of this section shall expire on July 1 of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (3), (6), or (10) of

subsection (a) of this section shall expire on July 1 of years that precede by one year those years that are evenly divisible by three."

SECTION 19.3.(b) In order to alter the length of the staggered terms from two years to three years for the North Carolina Parks and Recreation Authority and to provide for an orderly transition in membership of the Authority as specified in G.S. 143B-313.2, as amended by subsection (a) of this section, notwithstanding G.S. 143B-313.2(b), as amended by subsection (a) of this section, the following apply:

- (1) John D. Runkle shall serve in the position established by G.S. 143B-313.2(a)(1) until July 1, 2001.
- (2) Wendell Begley shall serve in the position established by G.S. 143B-313.2(a)(2) until July 1, 2002.
- (3) Jonathon B. Howes shall serve in the position established by G.S. 143B-313.2(a)(3) until July 1, 2003.
- (4) Ron Kincaid shall serve in the position established by G.S. 143B-313.2(a)(4) until July 1, 2002.
- (5) Russell Robinson III shall serve in the position established by G.S. 143B-313.2(a)(5) until July 1, 2001.
- (6) Roy Alexander shall serve in the position established by G.S. 143B-313.2(a)(6) until July 1, 2003.
- (7) Kenneth Sadler shall serve in the position established by G.S. 143B-313.2(a)(7) until July 1, 2001.
- (8) Leslie Anderson shall serve in the position established by G.S. 143B-313.2(a)(8) until July 1, 2002.
- (9) Troy Boyd shall serve in the position established by G.S. 143B-313.2(a)(9) until July 1, 2001.
- (10) Harriet L. Farrior shall serve in the position established by G.S. 143B-313.2(a)(10) until July 1, 2003.
- (11) Eddie Holbrook shall serve in the position established by G.S. 143B-313.2(a)(11) until July 1, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

RECEIPTS FOR NC ZOOLOGICAL PARK ADMISSION FEE INCREASE TO BE USED FOR MARKETING PURPOSES

SECTION 19.4. Subject to the approval of the Secretary of Environment and Natural Resources, up to four hundred thousand dollars (\$400,000) of the receipts from the increase in admission fees to the North Carolina Zoological Park for the 2001-2002 fiscal year and up to four hundred thousand dollars (\$400,000) of those receipts for the 2002-2003 fiscal year may be used for marketing activities related to promoting the North Carolina Zoological Park.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

NORTH CAROLINA WATER QUALITY WORKGROUP INITIATIVE/RIVERNET MONITORING SYSTEM PILOT PROGRAM/RESEARCH FUNDS

SECTION 19.5. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.8D. North Carolina Water Quality Workgroup; Rivernet.

(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

- (1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.
- (2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.
- (3) To maintain a web-based water quality data distribution site.
- (4) To organize and evaluate existing scientific and State agency water quality databases.
- (5) To prioritize recognized knowledge gaps in water quality issues for immediate funding.

(b) The North Carolina Water Quality Workgroup shall be composed of no more than 15 members. Those members shall be jointly appointed by the Chancellor of North Carolina State University and the Secretary of Environment and Natural Resources. Any person appointed as a member of the Workgroup shall be knowledgeable in one of the following areas:

- (1) Water Quality Assessment, Water Quality Monitoring, and Water Quality Permitting.
- (2) Nutrient Management.
- (3) Water Pollution Control.

- (4) Waste Management.
- (5) Groundwater Resources.
- (6) Stream Hydrology.
- (7) Aquatic Biology.
- (8) Environmental Education and Web-Based Data Dissemination.

(c) North Carolina State University shall provide meeting facilities for the North Carolina Water Quality Workgroup as requested by the Chair.

(d) The members of the North Carolina Water Quality Workgroup shall elect a Chair. The Chair shall call meetings of the Workgroup and set the meeting agenda.

(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, to the Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup.

(f) The North Carolina Water Quality Workgroup shall develop a water quality monitoring system to be known as Rivernet that effectively uses the combined resources of North Carolina State University and State agencies. The Rivernet system shall be designed to implement advances in monitoring technology and information management systems with web-based data dissemination in the waters that are impaired based on the criteria of the State's basinwide water quality management plans. Water quality and nutrient parameters shall be continuously monitored at each station, and the data shall be sent back to a centralized computer server.

The Rivernet system shall be coordinated with related data collection and monitoring activities of the Department of Environment and Natural Resources, the Water Resources Research Institute, the North Carolina Water Quality Workgroup, and other research efforts pursued by academic institutions or State government entities. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are testing procedure guidelines promulgated by the United States Environmental Protection Agency, the American Public Health Association, the American Water Works Association, or the Water Environment Federation then the testing procedures shall comply with the appropriate guidelines. If the North Carolina Water Quality Workgroup chooses to employ a technology for which there are no testing procedure guidelines promulgated by

any of the groups cited in this subsection, then the North Carolina Water Quality Workgroup may establish testing procedure guidelines.

The Rivernet system shall also have the capabilities to trigger alarms and notify the appropriate member of the Workgroup when monitoring stations exceed defined limits indicating a spill or a significant water quality or nutrient measurement event, which then can be comprehensively analyzed."

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

CONTINUE ONE-STOP PERMIT ASSISTANCE PILOT PROGRAM

SECTION 19.6.(a) The Department of Environment and Natural Resources shall continue the one-stop environmental permit application assistance and tracking system pilot project established under Section 13.7 of S.L. 2000-67 during the 2001-2003 fiscal biennium. It is the intent of the General Assembly that the Department of Environment and Natural Resources expand this pilot program to a statewide program effective in all of the Department's regional offices if the resources are available to do so during the 2001-2003 fiscal biennium. The provisions of Section 13.7(a) through (d) of S.L. 2000-67 apply to the pilot program under this section.

SECTION 19.6.(b) The Department of Environment and Natural Resources shall report to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives, the Fiscal Research Division, and the Environmental Review Commission no later than April 1, 2002, and again no later than April 1, 2003, regarding the results of the pilot project continued under this section. This report shall include the number of environmental permits in the pilot project that took more than 90 days to issue or deny; the types of permits those were; the reasons for the extended processing time of those permits; how the time within which the permit was actually issued or denied compared with the projected time frame provided to the applicant by the Department; based on the data gathered in the pilot project, any recommendations regarding what the permit time frames should be for all major permits issued by the Department; and to what extent, if any, the program has been expanded to a statewide program under this section.

SECTION 19.6.(c) The Department of Environment and Natural Resources may adopt temporary rules to implement this section.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**DIVISION OF RADIATION PROTECTION
SELF-SUFFICIENCY PLAN**

SECTION 19.7. The Department of Environment and Natural Resources shall develop a plan to make the Division of Radiation Protection of the Department of Environment and Natural Resources self-supporting within two years. The Department of Environment and Natural Resources shall report the details of this plan to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives no later than January 15, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**DENR TO STUDY FEASIBILITY OF TRANSFERRING
SEDIMENTATION PROGRAM TO LOCAL
GOVERNMENTS**

SECTION 19.8. The Department of Environment and Natural Resources shall study the feasibility of transferring the program within the Department of Environment and Natural Resources under the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, to local governments. The Department of Environment and Natural Resources shall consider the economic impact that the proposed transfer would have on local governments, any savings that would be generated for the State by the proposed transfer, and any statutory changes that would be needed to implement such a transfer. The Department of Environment and Natural Resources shall report its findings and recommendations, including legislative proposals, to the Appropriations Subcommittees on Natural and Economic Resources in both the Senate and the House of Representatives no later than April 1, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**SUBMERGED LANDS PROGRAM/SECRETARY
DESIGNATE PROGRAM MANAGER**

SECTION 19.9. The Secretary of Environment and Natural Resources shall designate from existing staff within the Department of Environment and Natural Resources a staff position to be responsible for managing the Submerged Lands Program. By

November 1, 2001, the Secretary shall report to both the Senate and House of Representatives Cochairs of the Appropriations Subcommittees on Natural and Economic Resources what position will manage the Program.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

DENR RECLASSIFICATION OF SENIOR FIELD OFFICER POSITIONS REPORT

SECTION 19.10. The Department of Environment and Natural Resources shall report to the Senate and House of Representatives Cochairs of the full Appropriations Committee, and to the Senate and House of Representatives Cochairs of the Natural and Economic Resources Appropriations Subcommittees by January 1, 2002, on the Department's reclassification of its regional office managers as directed by Section 26.12 of S.L. 1995-324. The report shall include the following: the location and title of the four remaining positions, a description of the duties and responsibilities assigned to each position, a description of the day-to-day activities of each of the positions, an explanation of the purposes each of the positions serve, an explanation of how the positions benefit the Department, and a description of the role that the positions play in each of the respective communities and regions in which the positions are located.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

DENR STUDY OF ENVIRONMENTAL PERMITTING PROCESS

SECTION 19.11.(a) The Department of Environment and Natural Resources shall study the permitting process in the Division of Water Quality, the Division of Coastal Management as it relates to CAMA permits, and the Division of Land Resources as it relates to the sedimentation and erosion control plans. The study shall at a minimum include the following:

- (1) A description of how the permitting process currently works.
- (2) The number and types of permits issued by each of these Divisions.
- (3) The time frame within which each of the types of permits is issued.
- (4) The adequacy of existing staff levels to complete the issuance of permits in a timely manner.

- (5) Whether duplication in the permitting process exists between the regional office and the central office staff.
- (6) Efficiencies to be gained from delegation of authority to regional offices.
- (7) Efficiencies to be gained from issuing more general permits.
- (8) The amount of revenue generated by the permits and retained as departmental receipts.
- (9) Any other information or issue deemed relevant by the Fiscal Research Division to provide an accurate analysis of the issues.

SECTION 19.11.(b) In conducting this study, the Department shall record its tracking of the permits and the statistical data regarding those permits in a format that is easily accessible and usable for fiscal analysis by the Fiscal Research Division.

SECTION 19.11.(c) The Department shall make a report with its findings and recommendations to the Senate and House of Representatives Cochairs of the full Appropriations Committee and to the Senate and House of Representatives Cochairs of the Natural and Economic Resources Appropriations Subcommittees, on ways to improve, expedite, or simplify the permitting process no later than March 10, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Baker, Easterling, Oldham, Redwine, Thompson

REALLOCATE TOWN FORK CREEK FUNDS

SECTION 19.12.(a) Section 15.11(a) of S.L. 1997-443, as amended by Section 15.3 of S.L. 1999-237, Section 13.5 of S.L. 2000-67, and Section 90(e) of S.L. 2000-140, reads as rewritten:

"(a) The funds placed in a reserve account in the Department of Environment, Health, and Natural Resources pursuant to Section 26.3(c) of Chapter 507 of the 1995 Session Laws shall not revert until June 30, ~~2001-2003~~. Those funds are reallocated as follows:

- (1) Five hundred ~~four thousand five hundred sixty-four~~ one thousand six hundred eighty dollars (~~\$504,560~~) (\$541,680) to the Stokes County Water and Sewer Authority, Inc., for the Germanton Water Project.
- (2) ~~Nine hundred thirty thousand six hundred eighty~~ eight hundred ninety-three thousand five hundred sixty dollars (~~\$930,680~~) (\$893,560) to the Stokes County Water and Sewer Authority, Inc., for the Walnut Cove/Industrial Site Connection Project. Any funds under this subdivision not necessary for this project are reallocated to the project listed under subdivision (3) of

this subsection upon the written finding of the Stokes County Water and Sewer Authority, Inc.

- (3) Eighty thousand dollars (\$80,000) to the Stokes County Water and Sewer Authority, Inc., for the Dan River Project.
- (4) Thirty thousand dollars (\$30,000) to the Department of Environment, Health, and Natural Resources for the Limestone Creek small watershed project in Duplin County.
- (5) Three hundred forty thousand six hundred forty dollars (\$340,640) to the Department of Environment, Health, and Natural Resources for the Deep Creek small watershed project in Yadkin County."

SECTION 19.12.(b) This section becomes effective June 30, 2001.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Warwick, Easterling, Oldham, Redwine, Thompson

FAIR GEOGRAPHIC REPRESENTATION IN APPOINTMENTS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 19.13.(a) G.S. 143B-282 is amended by adding a new subsection to read:

"(e) In appointing the members of the Commission, the appointing authorities shall make every effort to ensure fair geographic representation of the Commission."

SECTION 19.13.(b) This section is effective when it becomes law and applies to appointments made on or after that date.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

DENR POSITION FOR SCRAP TIRE PROGRAM

SECTION 19.14. Notwithstanding the provisions of G.S. 130A-309.63, the Department of Environment and Natural Resources may use funds in the Scrap Tire Disposal Account that, pursuant to G.S. 130A-309.63(d), are to be used for the cleanup of scrap tire collection sites, to maintain and support a position for the 2001-2002 fiscal year and for the 2002-2003 fiscal year to provide regulatory assistance to local governments to develop programs to prevent scrap tires from outside the State from being presented for free disposal and to complete the cleanup of nuisance tire collection sites.

PART XX. DEPARTMENT OF COMMERCE

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

TOURISM PROMOTION FUNDS

SECTION 20.1. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated according to per capita income, unemployment, and population growth in an effort to direct funds to counties most in need in terms of lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

- (1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars (\$7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
- (2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
- (3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars (\$3,500) for alternating fiscal years, beginning with the 1991-92 fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

WANCHESE SEAFOOD INDUSTRIAL PARK FUNDS/OREGON INLET FUNDS

SECTION 20.2.(a) Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2001-2002 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars (\$127,870) for the 2002-2003 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

SECTION 20.2.(b) Funds appropriated to the Department of Commerce for the 2000-2001 fiscal year for the Oregon Inlet

Project that are unexpended and unencumbered as of June 30, 2001, shall not revert to the General Fund on June 30, 2001, but shall remain available to the Department for legal costs associated with the Project. This subsection becomes effective June 30, 2001.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

INDUSTRIAL RECRUITMENT COMPETITIVE FUND

SECTION 20.3.(a) Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Moneys allocated from the Fund shall be used for the following purposes:

- (1) Installation or purchase of equipment;
- (2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
- (3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 20.3.(b) The Department of Commerce shall report on or before January 1, 2002, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

ABOLISH CENTER FOR ENTREPRENEURSHIP AND TECHNOLOGY

SECTION 20.4.(a) Effective July 1, 2001, the Center for Entrepreneurship and Technology (hereinafter Center) in the Department of Commerce (hereinafter Department) is abolished.

SECTION 20.4.(b) The Department shall not carryforward any unencumbered State funds for the Center to the 2001-2002 fiscal year. This subsection becomes effective June 30, 2001.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**COMMERCE STUDY/ CONSOLIDATE BUSINESS AND
INDUSTRY DIVISION REGIONAL OFFICES AND
REGIONAL ECONOMIC DEVELOPMENT
COMMISSIONS**

SECTION 20.5. The Department of Commerce (hereinafter Department) shall study the feasibility of consolidating each of the Business and Industry Division regional offices (hereinafter B&I) with a Regional Economic Development Commission (hereinafter Commission) office. In considering whether consolidation is feasible and would better advance the goals of both the B&I and the Commissions, the Department shall do at least the following:

- (1) Evaluate the degree to which existing shared offices in Asheville, Edenton, Greensboro, and Research Triangle Park differ in organization, budget, and performance from the B&I offices in Charlotte, Greenville, and Fayetteville that do not share office space with Commissions.
- (2) Evaluate the extent to which B&I staff responsibilities in each B&I office duplicate those performed by the Commission staff in their region regardless of whether the offices are shared or separate.
- (3) Evaluate the extent to which existing B&I offices in Lenoir and Bryson City add value cost-effectively to the service provided by the Asheville office. In particular, the Department shall consider how the same level of service might be provided if the Lenoir and Bryson City offices were eliminated or merged into the Asheville office.
- (4) Estimate any costs that would result from closing B&I offices in Charlotte, Greenville, and Fayetteville and consolidating them with Commissions in Charlotte, Kinston, and Elizabethtown, respectively. The Department shall also estimate any costs that would result from closing B&I offices in Lenoir and Bryson City and consolidating them with the Asheville office.
- (5) Identify whether the actions described in subdivision (4) of this section would produce any net savings and, if

affirmative, identify the sources of the savings. The Department shall document whether all current B&I regional staff would remain essential to program function if the closings and consolidations described in subdivision (4) of this section were carried out.

The Department shall report its findings and recommendations, including any estimates of efficiencies and cost savings that may be produced by consolidating the Charlotte, Greenville, and Fayetteville B&I regional offices with Commissions and consolidating the Lenoir and Bryson City offices with the existing shared office in Asheville, to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources by January 15, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

WORKER TRAINING TRUST FUND APPROPRIATIONS

SECTION 20.6.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million nine hundred thirty thousand sixteen dollars (\$5,930,016) for the 2001-2002 fiscal year for the operation of local offices.

SECTION 20.6.(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 2001-2002 fiscal year for the following purposes:

- (1) Two million one hundred sixty-six thousand forty-seven dollars (\$2,166,047) for the 2001-2002 fiscal year to the Department of Commerce, Division of Employment and Training, for the Employment and Training Grant Program;
- (2) Nine hundred forty-one thousand seven hundred sixty dollars (\$941,760) for the 2001-2002 fiscal year to the Department of Labor for customized training of the unemployed and the working poor for specific jobs needed by employers through the Department's Bureau for Training Initiatives;
- (3) One million six hundred forty-four thousand three hundred twelve dollars (\$1,644,312) for the 2001-2002 fiscal year to the Community Colleges System Office to continue the Focused Industrial Training Program;
- (4) Two hundred eleven thousand eight hundred ninety-six dollars (\$211,896) for the 2001-2002 fiscal year to the Employment Security Commission for the State

- Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;
- (5) Three hundred seventy-six thousand seven hundred four dollars (\$376,704) for the 2001-2002 fiscal year to the Community Colleges System Office for a training program in entrepreneurial skills to be operated by North Carolina REAL Enterprises;
 - (6) Fifty-six thousand five hundred six dollars (\$56,506) for the 2001-2002 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs; and
 - (7) Nine hundred forty-one thousand seven hundred sixty dollars (\$941,760) for the 2001-2002 fiscal year to the Department of Labor to continue the Apprenticeship Program.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

BIOTECHNOLOGY CENTER

SECTION 20.7.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

SECTION 20.7.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

SECTION 20.7.(c) The North Carolina Biotechnology Center shall:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;

- c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001;
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
- a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 20.7.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Alexander, Insko, Easterling, Oldham, Redwine, Thompson

**BIOTECHNOLOGY CENTER/TECHNOLOGICAL
DEVELOPMENT AUTHORITY, INC., PROFIT SHARING
WITH STATE**

SECTION 20.8.(a) Prior to receiving any General Fund disbursements for the 2001-2003 biennium, the North Carolina Biotechnology Center (hereinafter Center) and the North Carolina Technological Development Authority, Inc., (hereinafter Authority) must each enter into a memorandum of understanding with the Attorney General's Office in which they commit to do all of the following:

- (1) Work with the Attorney General's Office to craft a legal agreement that specifies the manner in which any profits from investments made with State funds shall be shared with the State.
- (2) Negotiate the terms of the legal agreement in good faith.
- (3) Submit the proposed legal agreement to the Joint Legislative Commission on Governmental Operations for review by January 15, 2002.
- (4) Execute the legal agreement no later than 30 days after it is presented to the Joint Legislative Commission on Governmental Operations.

SECTION 20.8.(b) If the Center or Authority fails to execute the legal agreement as provided in subdivision (a)(4) of this section, all disbursements to the Center or Authority shall be suspended until the legal agreement has been executed.

SECTION 20.8.(c) The Attorney General's Office shall consult with the Fiscal Research Division in crafting the memorandum of understanding and the legal agreement described in subsection (a) of this section.

SECTION 20.8.(d) The Center and the Authority shall submit a copy of the memorandum of understanding to the Fiscal Research Division prior to receiving any General Fund disbursements for the 2001-2003 biennium and shall submit a copy of the proposed legal agreement to the Division by January 15, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

NORTH CAROLINA TECHNOLOGICAL DEVELOPMENT AUTHORITY, INC./YADKIN/PEE DEE LAKES PROJECTS, INC./NORTH CAROLINA REAL ENTERPRISES/WORLD TRADE CENTER NORTH CAROLINA REPORTING REQUIREMENTS

SECTION 20.9.(a) The North Carolina Technological Development Authority, Inc., (TDA), Yadkin/Pee Dee Lakes Project, Inc., North Carolina REAL Enterprises, and World Trade Center North Carolina shall do the following:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;

- c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments including actual results through December 31, 2001; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001.
- (2) Provide to the Fiscal Research Division a copy of the organizations' annual audited financial statement within 30 days of issuance of the statement.

SECTION 20.9.(b) Fourth-quarter allotments shall not be released to TDA or North Carolina REAL Enterprises until each entity satisfies its reporting requirement for January 15, 2002.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 20.10.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

SECTION 20.10.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

- (1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3;
- (2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of two hundred four thousand four hundred thirty-three

dollars (\$204,433) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars (\$7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

- (3) Next, the Department shall redistribute the sum of two hundred four thousand four hundred thirty-three dollars (\$204,433) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

REGIONAL COMMISSION REPORTS

SECTION 20.11.(a) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce shall:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Department of Commerce the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 2001;
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001.
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division,

and the Department of Commerce the following information:

- a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments as specified in subdivisions (b)(1) through (b)(6) of this section including actual results through December 31, 2002;
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002.
- (3) Provide to the Fiscal Research Division and the Department of Commerce a copy of its annual audited financial statement within 30 days of issuance of the statement.

SECTION 20.11.(b) Each regional economic development commission receiving a grant-in-aid from the Department of Commerce in each fiscal year of the 2001-2003 biennium shall by January 15 of each fiscal year report to the Department of Commerce the following information for the most recently completed fiscal year:

- (1) The number of and description of marketing outreach events including trade shows, recruitment missions, and related activities;
- (2) The number of jobs saved;
- (3) The amount of investment and number of jobs created by the direct efforts of a commission;
- (4) Initiatives undertaken to establish certified sites and shell buildings;
- (5) The number of referrals or leads handled that were generated by the Department of Commerce;
- (6) The number and listing of available sites and buildings within the region served by a commission;
- (7) A listing of major accomplishments.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

COUNCIL OF GOVERNMENT FUNDS

SECTION 20.12.(a) Of the funds appropriated in this act to the Department of Commerce, nine hundred thirty-five thousand dollars (\$935,000) for the 2001-2002 fiscal year and nine hundred

thirty-five thousand dollars (\$935,000) for the 2002-2003 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to fifty-five thousand dollars (\$55,000) for each fiscal year, with the actual amount calculated as provided in subsection (b) of this section.

SECTION 20.12.(b) The funds shall be allocated as follows: A share of the maximum fifty-five thousand dollars (\$55,000) each fiscal year shall be allocated to each county and smaller city, based on the most recent annual estimate of the Office of State Planning of the population of that county (less the population of any larger city within that county) or smaller city, divided by the sum of the total population of the region (less the population of larger cities within that region) and the total population of the region living in smaller cities. Those funds shall be paid to the regional council of government for the region in which that city or county is located upon receipt by the Department of Commerce of a resolution of the governing board of the county or city requesting release of the funds. If any city or county does not so request payment of funds by June 30 of a State fiscal year, that share of the allocation for that fiscal year shall revert to the General Fund.

SECTION 20.12.(c) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION 20.12.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION 20.12.(e) As used in this section, "Larger City" means an incorporated city with a population of 50,000 or over. "Smaller City" means any other incorporated city.

SECTION 20.12.(f) Each council of government or lead regional organization shall do the following:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;

- c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments, including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2001;
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
- a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments, including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2002; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Weinstein, Plyler, Odom, Lee, Kerr, Warren; Representatives Fox, Owens, Easterling, Oldham, Redwine, Thompson

**GLOBAL TRANSPARK DEVELOPMENT COMMISSION
MEMBERSHIP CHANGES**

SECTION 20.13.(a) G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. – The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

- (1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.
- (2) The ~~Authority~~ Commission shall appoint at least three but no more than seven voting members. By the appointment of these members, the ~~Authority~~ Commission shall ensure that the voting membership of

the Commission includes at least seven women and seven members of a racial minority described in G.S. 143-128(f)(2). The ~~Authority~~ Commission shall appoint the fewest number of members necessary to achieve these minimums.

- (3) Four nonvoting members shall be appointed as follows:
 - a. One appointed by the Chancellor of East Carolina University to represent the University.
 - b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.
 - c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.
 - d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

SECTION 20.13.(b) G.S. 158-35(c) reads as rewritten:

"(c) Removal; Vacancies. – A member of the Commission may be removed with or without cause by the appointing body. In addition, a majority of the Commission members may, by majority vote, remove a member of the Commission if that member does not attend at least three-quarters of the regularly scheduled meetings of the Commission during any consecutive 12-month period of service of that member on the Commission, except that absences excused by the Commission due to serious medical or family circumstances shall not be considered. If the Commission votes to remove a member under this subsection, the vacancy shall be filled in the same manner as the original appointment. Appointments to fill vacancies shall be made for the remainder of the unexpired term by the respective appointing authority. All members shall serve until their successors are appointed and qualified, unless removed from office."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Hunter, Easterling, Oldham, Redwine, Thompson

NONPROFIT REPORTING REQUIREMENTS

SECTION 20.14.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Coalition of Farm and Rural Families, Inc., North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., and Partnership for the Sounds, Inc., shall do the following:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on

Governmental Operations and the Fiscal Research Division the following information:

- a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001;
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
- a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002; and
- (3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 20.14.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2001. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements for January 15, 2002, or January 15, 2003.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Hunter, Easterling, Oldham, Redwine, Thompson

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 20.15.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million seven hundred eighty-eight thousand seven hundred forty-nine dollars

(\$1,788,749) for the 2001-2002 fiscal year and the sum of one million seven hundred eighty-eight thousand seven hundred forty-nine dollars (\$1,788,749) for the 2002-2003 fiscal year shall be allocated as follows:

	2001-2002 FY	2002-2003 FY
Research and Demonstration Grants	\$444,000	\$444,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,471	444,471
Center Administration, Oversight, and Other Programs	437,278	437,278
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000.

SECTION 20.15.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 20.15.(c) Not more than fifty percent (50%) of the interest earned on State funds appropriated to the Rural Economic Development Center, Inc., may be used by the Center for administrative purposes, including salaries and fringe benefits.

SECTION 20.15.(d) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

- (1) Chartered pursuant to Chapter 55A of the General Statutes;
- (2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;
- (3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;
- (4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and
- (5) Whose primary function is to act as deal-maker and packager of projects and activities that will increase their constituencies' opportunities to become owners,

managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

SECTION 20.15.(e) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million nine hundred two thousand dollars (\$2,902,000) for the 2001-2002 fiscal year and the sum of two million nine hundred two thousand dollars (\$2,902,000) for the 2002-2003 fiscal year shall be allocated as follows:

- (1) \$1,124,000 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:
 - a. \$837,720 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;
 - b. \$236,280 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and
 - c. \$50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.
- (2) \$234,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and
- (3) \$1,344,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall allocate these funds as follows:
 - a. \$1,094,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:
 1. Necessary economic development projects and activities in economically distressed areas;

2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or
3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.
 - b. \$250,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.
- (4) \$200,000 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:
 - a. \$75,000 in each fiscal year for operating expenses associated with the Consortium; and
 - b. \$125,000 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

SECTION 20.15.(f) For the 2001-2002 fiscal year only, the Office of State Budget and Management shall reduce the funds appropriated in this act to the Rural Economic Development Center, Inc., by an amount of nine hundred ninety-nine thousand six hundred ninety-four dollars (\$999,694). The Center shall compensate for this reduction by using available cash balances from the Child Care Loan Fund in the amount of four hundred ninety-nine thousand six hundred ninety-four dollars (\$499,694) and the amount of five hundred thousand dollars (\$500,000) from other cash reserves on hand.

SECTION 20.15.(g) The Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2001.
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2002.
- (3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 20.16.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of four hundred thousand dollars (\$400,000) for the 2001-2002 fiscal year and the sum of four hundred thousand dollars (\$400,000) for the 2002-2003 fiscal year shall be allocated as follows:

- (1) \$100,000 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;
- (2) \$100,000 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;
- (3) \$100,000 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and
- (4) \$100,000 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

SECTION 20.16.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

- (1) By January 15, 2002, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2000-2001 program activities, objectives, and accomplishments;
 - b. State fiscal year 2000-2001 itemized expenditures and fund sources;
 - c. State fiscal year 2001-2002 planned activities, objectives, and accomplishments, including actual results through December 31, 2001; and
 - d. State fiscal year 2001-2002 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2001.
- (2) By January 15, 2003, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
 - a. State fiscal year 2001-2002 program activities, objectives, and accomplishments;
 - b. State fiscal year 2001-2002 itemized expenditures and fund sources;
 - c. State fiscal year 2002-2003 planned activities, objectives, and accomplishments, including actual results through December 31, 2002; and
 - d. State fiscal year 2002-2003 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2002.

- (3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.
- (4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

SECTION 20.16.(c) No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section unless the Center can demonstrate that there are no outstanding or proposed assessments or other collection actions against the Center for any State or federal taxes, including related penalties, interest, and fees.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

TRANSFER COMMON FOLLOW-UP EVALUATION FROM OSBPM TO ESC

SECTION 20.17.(a) G.S. 96-32 reads as rewritten:

"§ 96-32. *Common follow-up information management system created.*

(a) The Employment Security Commission of North Carolina shall develop, implement, and maintain a common follow-up information management system for tracking the employment status of current and former participants in State job training, education, and placement programs. The system shall provide for the automated collection, organization, dissemination, and analysis of data obtained from State-funded programs that provide job training and education and job placement services to program participants. In developing the system, the ESC shall ensure that data and information collected from State agencies is confidential, not open for general public inspection, and maintained and disseminated in a manner that protects the identity of individual persons from general public disclosure.

(b) The ESC ~~in consultation with the Office of State Budget, Planning, and Management~~ shall adopt procedures and guidelines for the development and implementation of the CFS authorized under this section.

(c) Based on data collected under the CFS, the ~~Office of State Budget, Planning, and Management~~ ESC shall evaluate the effectiveness of job training, education, and placement programs to determine if specific program goals and objectives are attained, to

determine placement and completion rates for each program, and to make recommendations regarding the continuation of State funding for programs evaluated. ~~The ESC shall provide to the Office of State Budget, Planning, and Management data collected under the CFS in a manner and with the frequency necessary for the Office of State Budget, Planning, and Management to conduct the evaluation required under this subsection. The ESC shall consult with the Office of State Budget, Planning, and Management to determine the most efficient and effective method for providing to the Office of State Budget, Planning, and Management data collected under the CFS. The Office of State Budget, Planning, and Management shall maintain the same levels of confidentiality with respect to CFS data received from the ESC as is required of the ESC under this Article."~~

SECTION 20.17.(b) G.S. 96-35 reads as rewritten:

"§ 96-35. *Reports on common follow-up system activities.*

(a) The Employment Security Commission of North Carolina shall present annually by May 1 to the General Assembly and to the Governor a report of CFS activities for the preceding calendar year. The report shall include information on and evaluation of job training, education, and placement programs for which data was reported by State and local agencies subject to this Article. Evaluation of the programs shall be on the basis of fiscal year data.

(b) ~~The Office of State Budget, Planning, and Management~~ ESC shall report ~~to~~ to the Governor and to the General Assembly upon the convening of each biennial session, its evaluation of and recommendations regarding job training, education, and placement programs for which data was provided to the CFS."

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

ESC TO EXPEND REED ACT FUNDS

SECTION 20.18. Of the funds credited to and held in this State's account in the Unemployment Trust Fund by the Secretary of the Treasury of the United States pursuant to and in accordance with section 903 of the Social Security Act, the Employment Security Commission of North Carolina may expend the sum of two million one hundred thirty-six thousand seven hundred forty-six dollars (\$2,136,746) for the 2001-2002 fiscal year for unemployment insurance administration.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Insko, Easterling, Oldham, Redwine, Thompson

NORTH CAROLINA GLOBAL CENTER FUNDS

SECTION 20.19. Of the funds appropriated to the Office of State Budget and Management in Section 34.1 of Chapter 769 of the 1993 Session Laws for planning of the North Carolina Center for World Languages and Cultures, Inc., now known as the North Carolina Global Center (hereinafter Center), up to three hundred thousand dollars (\$300,000) shall be used for general operating purposes of the Center.

Requested by: Senators Martin of Pitt, Weinstein, Albertson, Hoyle, Plyler, Odom, Lee; Representatives Fox, Owens, Allen, Gulley, Smith, Easterling, Oldham, Redwine, Thompson

RESTORE NAME OF ABC COMPLEX

SECTION 20.20. The sign designating the North Carolina ABC Commission Office & Warehouse Complex, which is located at 3322 Garner Road in Raleigh, shall be restored to its original designation of "The Marvin L. Speight, Jr. North Carolina ABC Commission Office & Warehouse Complex".

PART XXI. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DHHS REGIONAL OFFICES

SECTION 21.1.(a) The Department of Health and Human Services shall consolidate its regional, district, field, and satellite offices located throughout the State. The Department shall implement these consolidations no later than June 30, 2002. The Department shall provide the following information:

- (1) An inventory of all its regional, district, field, and satellite offices located throughout the State before the consolidation required in this section. This inventory shall include the purpose of the office (direct services or central location for field staff), the number of staff assigned to the office, the cost of operating the office, and information on whether the office is co-located or located near another regional, district, field, or satellite office;
- (2) An inventory of all its regional, district, field, and satellite offices located throughout the State after the consolidation required in this section is completed. This inventory shall include the purpose of the office (direct services or central location for field staff), the number of staff assigned to the office, the cost of operating the

- office, and information on whether the office is co-located or located near another regional, district, field, or satellite office;
- (3) A report on the anticipated impact of the consolidation required by this section on the delivery of services;
 - (4) A report on the use of technology to comply with the consolidation required under this section to increase the number of staff working from their homes or other locations; and
 - (5) A report on the anticipated cost savings, efficiencies in the use of State staff and resources, and improved delivery of services resulting from the consolidation required under this section.

SECTION 21.1.(b) The Department of Health and Human Services shall conduct an inventory of all offices located in Wake County. This inventory shall include the purpose of the office, the number of staff assigned to the office, the cost of operating the office, information on whether the office is co-located or located near another related office, and information on whether the office could be moved to another area of the State.

SECTION 21.1.(c) The Department of Health and Human Services shall provide an interim report on the activities required under this section by January 1, 2002, and a final report by July 1, 2002. The interim and final reports shall be provided to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CENTRALIZE CRIMINAL RECORD CHECK FUNCTIONS

SECTION 21.2. The Department of Health and Human Services shall centralize all activities throughout the Department relating to the coordination and processing of criminal record checks required by law. The centralization shall include the transfer of positions, corresponding State appropriations, federal funds, and other funds. The Department shall report on the centralization of criminal record check activities to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**PRESCRIPTION DRUG ASSISTANCE PROGRAM
MANAGEMENT**

SECTION 21.3.(a) The Department of Health and Human Services shall implement the following recommendations of the "North Carolina Medicaid Benefit Study", May 1, 2001, to improve the management of prescription drug assistance programs operated by the Department, including programs in the Divisions of Public Health, Mental Health, Developmental Disabilities, and Substance Abuse Services, Services for the Blind, and Vocational Rehabilitation:

- (1) Dispensing of generic drugs. Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, under all prescription drug assistance programs operated by the Department of Health and Human Services, and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic drug index, prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subdivision, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging, and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).
- (2) Limit the supplies of prescription drugs to 34-day supplies for some or all drugs.

Notwithstanding subdivision (1) of this subsection, an initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that the pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled.

SECTION 21.3.(b) The Department shall consider other drug utilization management activities for all prescription drug assistance programs operated by the Department as follows:

- (1) Prior authorization program to manage high-cost name brand drugs.
- (2) Maximum allowable pricing.
- (3) Contracting with a pharmacy benefits manager to implement more extensive prospective drug utilization review.

SECTION 21.3.(c) The Department shall report on the activities conducted under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than January 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

TOLL-FREE PHONE LINE INVENTORY AND CONSOLIDATION

SECTION 21.5.(a) The Department of Health and Human Services shall determine the feasibility of combining all Department-operated and contracted toll-free (1-8xx) phone lines to create efficiencies. An inventory of all resource telephone lines throughout Divisions of the Department shall be conducted and an evaluation completed of potential savings in combining these phone lines. In conducting the inventory, the Department shall identify the following:

- (1) Title and purpose of the phone line.
- (2) Type of information provided to callers.
- (3) Budget of the operations.
- (4) Number of staff (phone agents, other).
- (5) Number of calls received annually to each phone line.
- (6) Contracts.

The Department shall project costs for the new combined phone line and prepare a comprehensive cost-benefit analysis on the new consolidated plan compared with current services.

SECTION 21.5.(b) The Department shall submit a progress report on the feasibility study to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Information Technology, and the House of Representatives Appropriations

Subcommittee on Information Technology no later than December 1, 2001, and a final report by April 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

COORDINATION OF ACCESS TO PHARMACEUTICAL COMPANY PRESCRIPTION DRUG PROGRAMS

SECTION 21.6.(a) Of the funds appropriated in this act to the Department of Health and Human Services, Division of Public Health, the sum of two hundred thousand dollars (\$200,000) for the 2001-2002 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 2002-2003 fiscal year shall be used to assist eligible individuals in obtaining prescription drugs at no cost or for a nominal fee through pharmaceutical company programs or initiatives. Coordination of access shall be provided through a central location that maintains documentation of an individual's eligibility provided by the individual and prescription orders from the individual's physician to facilitate the provision of no-cost or nominal cost drugs under the pharmaceutical company program. The coordination of access shall be implemented in a way that encourages physician, patient, and pharmacy participation by reducing time-consuming procedural requirements. The Department may contract with a private nonprofit organization to coordinate access as provided under this section.

SECTION 21.6.(b) The coordination of access effort under this section shall be consistent with other prescription drug assistance programs throughout the Department, including the AIDS Drug Assistance Program and the Prescription Drug Assistance Program, in identifying program participants.

SECTION 21.6.(c) The Department shall work with pharmaceutical companies in obtaining access to company applications for assistance and making those applications available to the general public. The Department shall ensure that pharmaceutical company programs are registered with the Department and shall obtain the application forms of each pharmaceutical program.

SECTION 21.6.(d) The Department shall report on the implementation of this section on December 1, 2001, April 1, 2002, and October 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**ADULT CARE HOME REIMBURSEMENT RATES
IMPLEMENTATION PLAN**

SECTION 21.7.(a) The Department of Health and Human Services shall consider the findings and recommendations in the March 1, 2001, performance audit report, "Adult Care Home Reimbursement Rates," conducted by the Office of the State Auditor. The Department shall implement all of the following recommendations:

- (1) Identify alternative payment procedures that could have a more direct affect on quality of care, and continue current efforts to obtain a federal waiver to pay adult care homes directly for client services.
- (2) Designate a division within the Department responsible for detailed review of submitted reports.
- (3) Develop a plan to phase-in electronic filing of cost reports.
- (4) Require related party disclosure in cost reports and modify the audit procedures to assure that related party transactions are identified.

The Department shall report on the implementation of these recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2002. The Department may not implement an alternative payment procedure unless and until the procedure has been approved by the General Assembly.

SECTION 21.7.(b) The Fiscal Research Division, through the Legislative Services Office, in consultation with the Department of Health and Human Services, may issue a Request For Proposal (RFP) for an independent consultant with extensive expertise in rate-setting for public and private entities to develop a new rate methodology for establishing reimbursements for adult care homes. The final report of the independent consultant shall be presented to the General Assembly not later than June 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

LONG-TERM CARE CONTINUUM OF CARE

SECTION 21.9.(a) The Department of Health and Human Services shall, in cooperation with other appropriate State and local agencies and representatives of consumer and provider organizations,

develop a system that provides a continuum of long-term care for elderly and disabled individuals and their families. The Department shall define the system of long-term care services to include:

- (1) A structure and means for screening, assessment, and care management across settings of care;
- (2) A process to determine outcome measures for care;
- (3) An integrated data system to track expenditures, consumer characteristics, and consumer outcomes;
- (4) Relationships between the Department and the State's universities to provide policy analysis and program evaluation support for the development of long-term care system reforms;
- (5) An implementation plan that addresses testing of models, reviewing existing models, evaluation of components, and steps needed to achieve development of a coordinated system; and
- (6) Provision for consumer, provider, and agency input into the system design and implementation development.

SECTION 21.9.(b) Notwithstanding Section 11.7A(a) of S.L. 1999-237, as amended by Section 11.4(b) of S.L. 2000-67, if non-State funds from within the Department can be identified, the Department may, with the approval of the Office of State Budget and Management, proceed to:

- (1) Implement the initial phase of a comprehensive data system that tracks long-term care expenditures, services, consumer profiles, and consumer preferences; and
- (2) Develop a system of statewide long-term care services coordination and case management to minimize administrative costs, improve access to services, and minimize obstacles to the delivery of long-term care services to people in need.

SECTION 21.9.(c) Not later than April 15, 2002, the Department shall submit a progress report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the North Carolina Study Commission on Aging, on the development of the system required under this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

RECODIFICATION OF ADMINISTRATIVE RULES

SECTION 21.10. The Codifier of Rules may continue the process of reorganizing Titles 10 and 15A of the North Carolina Administrative Code to reflect the recent reorganization of the

Department of Health and Human Services and the Department of Environment and Natural Resources. The reorganization of the Code may include replacing Title 10 with a new Title 10A if desirable for clarity. The Codifier of Rules may make changes in the text of the affected rules to reflect changes in organizational structure of the Department of Health and Human Services and the Department of Environment and Natural Resources. So long as the changes in text do not change the substance of the rules, the reorganization by the Codifier is exempt from the requirements of Chapter 150B of the General Statutes and does not require the review or approval of the Rules Review Commission.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

TRANSFER OF CERTAIN FUNDS AUTHORIZED

SECTION 21.11. Article 1 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-23.3. Transfer of certain funds authorized.

In order to assure maximum utilization of funds in county departments of social services, county or district health agencies, and area mental health, developmental disabilities, and substance abuse services authorities, the Director of the Budget may transfer excess funds appropriated to a specific service, program, or fund, whether specified service in a block grant plan or General Fund appropriation, into another service, program, or fund for local services within the budget of the respective State agency."

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PHYSICIAN SERVICES

SECTION 21.12. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with constituent institutions of The University of North Carolina.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ELIMINATE JOINT LEGISLATIVE PUBLIC ASSISTANCE COMMISSION

SECTION 21.13.(a) G.S. 120-225 is repealed.

SECTION 21.13.(b) G.S. 108A-27.2(12) reads as rewritten:

"§ 108A-27.2. *General duties of the Department.*

The Department shall have the following general duties with respect to the Work First Program:

- ...
- (12) Report to the ~~Joint Legislative Public Assistance Commission and the members of the Senate Appropriations Committee on Health and Human Resources-Services and the House of Representatives Appropriations Subcommittee on Health and Human Resources-Services~~ the counties which have requested Electing ~~status,status;~~ provide copies of the proposed Electing County Plans to ~~the Joint Legislative Public Assistance Commission and the members of the Senate Appropriations Committee on Health and Human Resources-Services and the House of Representatives Appropriations Subcommittee on Health and Human Resources-Services~~; and make recommendations to the ~~Joint Legislative Public Assistance Commission, the members of the Senate Appropriations Committee on Health and Human Resources-Services and the House of Representatives Appropriations Subcommittee on Health and Human Resources, and the General Assembly~~ Services on which of the proposed Electing County Plans ensure compliance with federal and State laws, rules, and regulations and are consistent with the overall purposes and goals for the Work First Program; and".

SECTION 21.13.(c) G.S. 108A-27.9(d) reads as rewritten:

"(d) The section of the State Plan proposing the terms of the Work First Program in Electing Counties shall be based upon the aggregate of the Electing County Plans and shall include the following:

- (1) Allocations of federal and State funds for Electing Counties in the Work First Program including block grants to counties and the allocation of funding for administration not to exceed the federally established limitations on the use of federal TANF funds and the limits imposed under this Article;

- (2) Maintenance of effort and levels of State and county funding for Electing Counties in the Work First Program;
- (3) Federal eligibility requirements and a description of the eligibility requirements and benefit calculation in each Electing County; and
- (4) A description of the federal, State, and each Electing County's financial participation in the Work First Program.

The Department may modify the section in the State Plan regarding Electing Counties once a biennium or except as necessary to reflect any modifications made by an Electing County. Any changes to the section of the State Plan regarding Electing Counties shall be reported to the ~~Joint Legislative Public Assistance Commission at the next meeting of the Commission following the changes and to the General Assembly during the next session~~Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division within one month following the changes."

SECTION 21.13.(d) G.S. 108A-29(r) reads as rewritten:

"(r) Each county's Job Service Employer Committee or Workforce Development Board shall continue the study of the working poor, titled "NC WORKS", in their respective counties and shall include the following in the study:

- (1) Determination of the extent to which current labor market participation enables individuals and families to earn the amount of disposable income necessary to meet their basic needs;
- (2) Determination of how many North Carolinians work and earn wages below one hundred fifty percent (150%) of the Federal Poverty Guideline and study trends in the size and demographic profiles of this underemployed group within the respective county;
- (3) Examination of job market factors that contribute to any changes in the composition and numbers of the working poor including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or their contingent employment;
- (4) Consideration and determination of the respective responsibilities of the public and private sectors in ensuring that working families and individuals have disposable income adequate to meet their basic needs;

- (5) Evaluation of the effectiveness of the unemployment insurance system in meeting the needs of low-wage workers when they become unemployed;
- (6) Examination of the efficacy of a State-earned income tax credit that would enable working families to meet the requirements of the basic needs budget;
- (7) Examination of the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers;
- (8) Solicitation, receipt, and acceptance of grants or other funds from any person or entity and enter into agreements with respect to these grants or other funds regarding the undertaking of studies or plans necessary to carry out the purposes of the committee; and
- (9) A request of any necessary data from either public or private entities that relate to the needs of the committee or board.

Each committee or board shall prepare and submit a report on the finding for the county which it represents by May 1 of each year to the ~~Joint Legislative Public Assistance Commission~~, the Senate Appropriations Committee on Health and Human Resources, Services, the House of Representatives Appropriations Subcommittee on Health and Human Resources, Services, the Senate Appropriations Committee on Natural and Economic Resources, and the House of Representatives Appropriations Subcommittee on Natural and Economic Resources."

SECTION 21.13.(e) Unless specifically amended by another subsection of this section, the phrase "Joint Legislative Public Assistance Commission" is deleted and replaced by the phrase "Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services" whenever it occurs in each of the following sections of the General Statutes:

G.S. 108A-27	Authorization and description of Work First Program; Work First Program changes; designation of Electing and Standard Program Counties.
G.S. 108A-27.2	General Duties of the Department.
G.S. 108A-27.9	State Plan.
G.S. 108A-29	First Stop Employment Assistance; priority for employment services.
G.S. 114-40	Inspector General.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ESTABLISH OFFICE OF POLICY AND PLANNING

SECTION 21.14.(a) It is the intent of the General Assembly that the Department of Health and Human Services provide coordinated policy development and strategic planning for the State's health and human services systems. The Department is directed to establish an Office of Policy and Planning within the Office of the Secretary from existing resources across the Department. The Director of the Office of Policy and Planning shall report directly to the Secretary and shall have the following responsibilities:

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

SECTION 21.14.(b) Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

SECTION 21.14.(c) The Department shall report on the establishment of the Office of Policy and Planning to the members of the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by January 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

COUNTY HEALTH AND HUMAN SERVICES BUDGET GUIDANCE

SECTION 21.16. G.S. 108A-88 reads as rewritten:

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

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

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

INFORMATION TECHNOLOGY PROJECT CONTRACTS

SECTION 21.17.(a) Notwithstanding any other provision of law to the contrary, the Department of Health and Human Services may establish special time-limited positions in the Division of Information Research Management for an information technology project to maximize efficiencies in the preparation for and implementation of federal requirements of the medical records privacy standards under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Positions established are not permanent positions, not subject to the State Personnel Act under G.S. 126-1.1, and not subject to the State salary schedule.

SECTION 21.17.(b) Positions established pursuant to this section may commence no earlier than July 1, 2001, and shall expire June 30, 2003.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

USE OF SAVINGS REALIZED FROM ELIMINATION OF POSITIONS

SECTION 21.18. Savings in non-State funds realized from the elimination of positions in the Department of Health and Human Services shall be reallocated by the Department for direct services in the program where the position was eliminated, except in programs where State funds are used to draw down federal funds.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

INTERVENTION SERVICES UNIT

SECTION 21.18A. There is created in the Department of Health and Human Services the Intervention Services Unit in the Office of the Secretary. The Unit shall be responsible for planning, research, monitoring, and data analysis for the purpose of enhancing coordination among programs and activities related to intervention services. Services to be coordinated include mental health, developmental disabilities, and substance abuse services, social services, public health, preschool education services, and Smart Start services. The Unit shall work closely and collaboratively with the divisions through which such programs and activities operate.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CENTRALIZED CONTRACTS SYSTEM

SECTION 21.18B. The Department of Health and Human Services shall implement a centralized contracts system. The Department shall develop and implement consistent policies and procedures for the development and execution of contracts. The system shall include, where feasible and appropriate, the transfer of positions, corresponding State appropriations, federal funds, and other funds. The Department shall not enter into new contracts for database management until the centralized contracts system required under this section has been implemented and the Department has complied with the requirements of Section 21.93 of this act.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

FAMILY SUPPORT SERVICES

SECTION 21.18C. The Department of Health and Human Services shall coordinate all family support contracts and activities across divisions. This coordination shall address duplication, cost efficiency, and effectiveness and shall ensure compliance with federal requirements while maximizing State and federal resources.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson, Wright
HIV/AIDS PREVENTION INITIATIVE

SECTION 21.18D.(a) It is the intention of the General Assembly to focus current resources and activities to strengthen and enhance prevention and intervention programs directed at the reduction of HIV/AIDS. The Department shall coordinate efforts to enhance awareness, education, and outreach with the North Carolina AIDS Advisory Council, North Carolina Minority Health Advisory Council, representatives of faith communities, representatives of nonprofit agencies, and other State agencies.

SECTION 21.18D.(b) The Department of Health and Human Services shall coordinate and ensure the implementation of developmentally appropriate education, awareness, and outreach campaigns to comply with subsection (a) in the following programs and services:

- (1) Division of Social Services programs and services:
 - a. Domestic Violence Prevention and Awareness.
 - b. Domestic Violence Services for Work First Families.
 - c. After School Services for At Risk Children.
 - d. Work First Boys/Girls Clubs.
- (2) Division of Mental Health, Developmental Disabilities, and Substance Abuse Services programs and services:
 - a. Substance Abuse Services for Juveniles.
 - b. Residential Substance Abuse Services for Women and Children.
- (3) Division of Public Health programs and services:
 - a. Teen Pregnancy Prevention Activities.
 - b. Out-of-Wedlock Births.
 - c. School Health Program.
 - d. High-Risk Maternity Clinic Services.
 - e. Perinatal Education and Training.
 - f. Public Information and Education.
 - g. Technical Assistance to Local Health Departments.
- (4) Other divisions, services, and programs:
 - a. Family Support Services.
 - b. Family Resource Centers.

- c. Independent Living Services.
- d. Residential schools and facilities.
- e. Other programs, services, or contracts that provide education and awareness services to children and families.

SECTION 21.18D.(c) Other State agencies, including the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Administration, shall ensure the incorporation of developmentally appropriate HIV/AIDS education, awareness, and outreach information into their programs.

SECTION 21.18D.(d) The Department shall report on the implementation of this section on March 15, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

MEDICAID PROGRAM

SECTION 21.19.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

- (1) Hospital-Inpatient – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.
- (2) Hospital-Outpatient – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
- (3) Nursing Facilities – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program.

- (4) Intermediate Care Facilities for the Mentally Retarded – As prescribed in the State Plan as established by the Department of Health and Human Services.
- (5) Drugs – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents (\$5.60) per prescription for generic drugs and four dollars (\$4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.
- (6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners – Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.
- (7) Community Alternative Program, EPSDT Screens – Payment to be made in accordance with rate schedule developed by the Department of Health and Human Services.
- (8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.
- (9) Medicare Buy-In – Social Security Administration premium.
- (10) Ambulance Services – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.
- (11) Hearing Aids – Actual cost plus a dispensing fee.

- (12) Rural Health Clinic Services – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.
- (13) Family Planning – Negotiated rate for local health departments. For other providers, see specific services, for instance, hospitals, physicians.
- (14) Independent Laboratory and X-Ray Services – Uniform fee schedules as developed by the Department of Health and Human Services.
- (15) Optical Supplies – One hundred percent (100%) of reasonable wholesale cost of materials.
- (16) Ambulatory Surgical Centers – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.
- (17) Medicare Crossover Claims – An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.
- (18) Physical Therapy and Speech Therapy – Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.
- (19) Personal Care Services – Payment in accordance with the State Plan approved by the Department of Health and Human Services.
- (20) Case Management Services – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.
- (21) Hospice – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.
- (22) Other Mental Health Services – Unless otherwise covered by this section, coverage is limited to:
 - a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in

accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and

- b. For children eligible for EPSDT services:
 - 1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and
 - 2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-121.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under paragraphs a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

- (23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.
- (24) Health Insurance Premiums – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.
- (25) Medical Care/Other Remedial Care – Services not covered elsewhere in this section include related services in schools; health professional services provided outside

the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.

- (26) Pregnancy Related Services – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

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

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

SECTION 21.19.(b) Allocation of Nonfederal Cost of Medicaid. – The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

SECTION 21.19.(c) Copayment for Medicaid Services. – The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

SECTION 21.19.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

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

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S.L. 2001-424

4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

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

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

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

SECTION 21.19.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

SECTION 21.19.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

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

SECTION 21.19.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 21.19.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber

has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

SECTION 21.19.(i) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 21.19.(j) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 21.19.(k) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 21.19.(l) For all Medicaid eligibility classifications for which the federal poverty level is used as an

income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

SECTION 21.19.(m) The Department of Health and Human Services shall provide Medicaid to 19-, 20-, and 21-year-olds in accordance with federal rules and regulations.

SECTION 21.19.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

- (1) Pregnant women with incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (2) Infants under the age of 1 with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (3) Children aged 1 through 5 with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (4) Children aged 6 through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.
- (5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

SECTION 21.19.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

SECTION 21.19.(p) The Department shall disregard earned income for recipients who would otherwise lose Medicaid eligibility under section 1931 of Title XIX of the Social Security Act due to earnings. This disregard shall be applied for a maximum of 12 consecutive months.

SECTION 21.19.(q) The Department of Health and Human Services shall submit a quarterly status report on expenditures for acute care and long-term care services to the Fiscal Research Division and to the Office of State Budget and Management. This report shall include an analysis of budgeted versus actual expenditures for eligibles by category and for long-term care beds. In addition, the Department shall revise the program's projected spending for the current fiscal year and the estimated spending for the subsequent fiscal year on a quarterly basis. The quarterly expenditure report and the revised forecast shall be forwarded to the Fiscal Research Division and to the Office of State Budget and Management no later than the third Thursday of the month following the end of each quarter.

SECTION 21.19.(r) The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

SECTION 21.19.(s) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing.

SECTION 21.19.(t) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

SECTION 21.19.(u) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and

Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval.

SECTION 21.19.(v) Upon approval of a demonstration waiver by the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

SECTION 21.19.(w) The Department of Health and Human Services, Division of Medical Assistance, shall use the latest audited cost reporting data available when establishing Medicaid provider rates or when making changes to the reimbursement methodology.

SECTION 21.19.(x) The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

SECTION 21.19.(y) The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, Section 1917(c) of the Social Security Act to real property excluded as "income producing" under Title XIX, Section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, Section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**ADOPTION OF MEDICAL COVERAGE POLICY UNDER
STATE MEDICAID PROGRAM; MEDICAL COVERAGE
POLICY EXEMPT FROM RULE MAKING UNDER THE
APA**

SECTION 21.20.(a) In order to promote consistency among providers and to ensure that medical coverage criteria are uniformly applied to Medicaid recipients throughout the State, the Department of Health and Human Services shall adopt medical coverage policies

for the State Medicaid Program that are consistent with national standards or Department-defined standards. If the Department determines that application of a national standard would likely cause significant deterioration in the quality of or access to appropriate medical care, then the Department shall substitute for that national standard an evidence-based, best-practice standard that will not compromise quality of or access to appropriate medical care. The adoption of new or amended medical coverage policies under the State Medicaid Program are exempt from the rule-making requirements of Chapter 150B of the General Statutes.

SECTION 21.20.(b) The Department shall develop, amend, and adopt medical coverage policy in accordance with the following:

- (1) During the development of new medical coverage policy or amendment to existing medical coverage policy, consult with and seek the advice of the Physician Advisory Group of the North Carolina Medical Society and other organizations the Secretary deems appropriate.
- (2) At least 45 days prior to the adoption of new or amended medical coverage policy, the Department shall:
 - a. Publish the proposed new or amended medical coverage policy on the Department's web site;
 - b. Notify all Medicaid providers of the proposed, new, or amended policy; and
 - c. Upon request, provide persons copies of the proposed medical coverage policy.
- (3) During the 45-day period immediately following publication of the proposed new or amended medical coverage policy, accept oral and written comments on the proposed new or amended policy.
- (4) If, following the comment period, the proposed new or amended medical coverage policy is modified, then the Department shall, at least 15 days prior to its adoption:
 - a. Notify all Medicaid providers of the proposed policy;
 - b. Upon request, provide persons notice of amendments to the proposed policy; and
 - c. Accept additional oral or written comments during this 15-day period.

SECTION 21.20.(c) G.S. 150B-1(d), as amended by S.L. 2001-299, reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.
- (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.

- (3) The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.
- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.
- (7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.
- (8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan.
- (10) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program."

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

COUNTY MEDICAID COST-SHARE

SECTION 21.21.(a) Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

SECTION 21.21.(b) Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye,

Baddour, Esposito, Easterling, Oldham, Redwine, Thompson, Nesbitt, Baddour

NC HEALTH CHOICE

SECTION 21.22.(a) The total amount of State funds expended for the Health Insurance Program for Children (NC Health Choice) in the 2001-2002 fiscal year and the 2002-2003 fiscal year shall not exceed the amount of State funds appropriated to match federal funds for the Program for the 2001-2002 fiscal year and the 2002-2003 fiscal year. The Department shall manage Program enrollment in a way that maximizes the number of children served within existing funds.

SECTION 21.22.(b) G.S. 108A-70.18 reads as rewritten:
 "§ 108A-70.18. *Definitions.*

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

- (1) 'Comprehensive health coverage' means creditable health coverage as defined under Title XXI.
- (2) 'Family income' has the same meaning as used in determining eligibility for the Medical Assistance Program.
- (3) 'FPL' or 'federal poverty level' means the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1.
- (4) 'Medical Assistance Program' means the State Medical Assistance Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes.
- (5) 'Program' means The Health Insurance Program for Children established in this Part.
- (6) 'State Plan' means the State Child Health Plan for the State Children's Health Insurance Program established under Title XXI.
- (7) 'Title XXI' means Title XXI of the Social Security Act, as added by Pub. L. 105-33, 111 Stat. 552, codified in scattered sections of 42 U.S.C. (1997).
- (8) 'Uninsured' means the applicant for Program benefits is not covered under any private or employer-sponsored comprehensive health insurance plan on the date of enrollment. ~~and was not covered under any private or employer sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if:~~
 - a. ~~The child has been enrolled in Medicaid and has lost Medicaid eligibility;~~

- b. ~~The child has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low income children;~~
- e. ~~The child has lost employer sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer sponsored health coverage, or cessation of the employer's business; or~~
- d. ~~Health insurance benefits available to the family of a special needs child have been terminated due to a long term disability or a substantial reduction in or limitation of lifetime medical benefits or benefit category. As used in this paragraph, "special needs child" has the definition applied in G.S. 108A-70.23(a)."~~

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPT CHANGE

SECTION 21.23.(a) Disproportionate share receipts reserved at the end of the 2001-2002 fiscal year shall be deposited with the Department of State Treasurer as nontax revenue for the 2001-2002 fiscal year.

SECTION 21.23.(b) For the 2001-2002 fiscal year, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred seven million dollars (\$107,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of the one hundred seven million dollars (\$107,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

MEDICARE COST-CONTAINMENT AND GROWTH REDUCTION

SECTION 21.24.(a) The Department of Health and Human Services, Division of Medical Assistance, shall contain Medicaid Program costs by reducing the rate of growth of the Medicaid Program, except for the rate of growth in the number of persons

eligible for Medicaid. The Department shall develop and implement a plan to reduce the rate of growth in total expenditures for payments for medical services for the fiscal year 2002-2003 to eight percent (8%) or less of the total expenditures for the 2001-2002 fiscal year, excluding the rate of growth associated with eligibles.

SECTION 21.24.(b) In addition to findings and recommendations in the "North Carolina Medicaid Benefit Study", May 1, 2001, the Department of Health and Human Services may also consider the following actions to reduce the rate of growth in the Medicaid Program:

- (1) Changes in methods of reimbursement;
- (2) Changes in the method of determining or limiting inflation factors, or both;
- (3) Recalibration of existing methods of reimbursement; and
- (4) Contracting for services.

SECTION 21.24.(c) As part of any efforts to contain Medicaid Program costs, the Department of Health and Human Services, Division of Medical Assistance, shall establish reimbursement rates that will allow efficient Medicaid providers to comply with certification requirements, licensure rules, or other mandated quality or safety standards.

SECTION 21.24.(d) The Department shall report on its plans to reduce the rate of growth in the State Medicaid Program not later than December 1, 2001. The Department shall submit the report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 21.24.(e) The Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars (\$3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

MEDICAID COST-CONTAINMENT ACTIVITIES

SECTION 21.25. The Department of Health and Human Services may use not more than three million dollars (\$3,000,000) in

each year of the 2001-2003 fiscal biennium in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

MEDICAID PROGRAM MANAGEMENT

SECTION 21.26.(a) The Department of Health and Human Services shall consider the findings and recommendations in the "North Carolina Medicaid Benefit Study", May 1, 2001, and shall target the following in considering whether and to what extent to implement recommendations:

- (1) Reduction in the fragmentation in the medical benefit policy-making process.
- (2) Improvement in the use of data and medical literature in the decision-making process.
- (3) Improvement in the coordination of care and utilization review process.
- (4) Strengthening of program integrity controls.

SECTION 21.26.(b) The Department shall implement a pharmacy management plan considering the recommendations of the "North Carolina Medicaid Benefit Study" to achieve anticipated cost savings. The pharmacy management plan may include the following activities:

- (1) Establishing a prior authorization program to manage utilization of high-cost, brand name drugs. In determining drugs to be included in the prior authorization program, the Department shall consider whether inclusion of these drugs is likely to:

- a. Increase utilization of more expensive services;
- b. Reduce quality of treatment;
- c. Result in a lower level of compliance with appropriate drug therapy; and
- d. Have a differential impact upon racial and ethnic minorities and the elderly.

The Department shall conduct a review at least annually of the drugs included in the prior authorization program to determine whether any of the factors listed in this subdivision or other factors with similar results have occurred.

- (2) Limiting prescription drugs to a 34-day supply for some or all drugs.
- (3) Developing physician prescribing practice profiles and other educational tools to enable physicians to better manage their prescriptions.
- (4) Establishing therapeutic limits based on appropriate dosage or usage standards.
- (5) Encouraging use of generic drugs.
- (6) Using maximum allowable pricing.
- (7) Contracting with a pharmacy benefits manager to implement more extensive drug utilization review.
- (8) Studying the impact of eliminating the six prescription drug monthly limit combined with a more rigorous prior authorization program to ensure cost decisions are made based on evidence-based clinical guidelines.
- (9) Expanding disease management initiatives.
- (10) Working with ACCESS physicians to develop and implement drug utilization management initiatives.
- (11) If cost-effective, expanding Medicaid drug coverage to include selected over-the-counter medications.

SECTION 21.26.(c) The Department shall report on all of the activities conducted under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than January 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Kerr, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CAROLINA ACCESS PROGRAM IMPROVEMENTS

SECTION 21.27. The Department of Health and Human Services shall improve efficiencies and effectiveness in the Carolina ACCESS program by redesigning program operations to reflect the

program goals of the ACCESS II and ACCESS III programs. Strategies for improving efficiencies and effectiveness may include such activities as:

- (1) Accelerating conversion of ACCESS I to ACCESS II and III.
- (2) Establishing cost-reduction targets for ACCESS II and III partnerships.
- (3) Considering reimbursement mechanisms that will enable providers to share in the savings realized by exceeding cost-reduction targets.
- (4) Enhancing automatic linkages between patients and their primary care providers during Medicaid eligibility determination.
- (5) Improving the referral process to prevent abuse or inappropriate use of primary care provider's authorization number.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

STUDY OPTIONAL SERVICES UNDER MEDICAID PROGRAM

SECTION 21.28.(a) The Department of Health and Human Services shall study all of the optional services provided under the State Medical Assistance Program. In conducting the study, the Department shall consider the analysis and recommendations of the "North Carolina Medicaid Benefit Study", May 1, 2001, and shall conduct an analysis of each optional service. The analysis shall include consideration of cost containment achieved by reduction in or elimination of the service, and the impact the reduction or elimination will have on client needs and other services.

SECTION 21.28.(b) The Department shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

TBI MEDICAID WAIVER

SECTION 21.28A. The Department of Health and Human Services shall develop and seek approval from the Center for Medicare and Medicaid Services (CMS) for a Home and

Community-Based Medicaid Waiver for individuals with traumatic brain injury. If the waiver is granted, the Department shall not implement the waiver unless the implementation is approved and enacted by the General Assembly and funds are appropriated for that purpose. The Department shall report the status of the waiver to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services on December 1, 2001, and March 1, 2002. The report shall include the amount of funds needed to implement the waiver. Nothing in this section obligates the General Assembly to appropriate funds to implement a Medicaid waiver granted by the federal government for the purposes stated in this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

SPECIAL ASSISTANCE DEMONSTRATION PROJECT

SECTION 21.29.(a) Section 11.21 of S.L. 1999-237, as amended by Section 11.13 of S.L. 2000-67, reads as rewritten:

"Section 11.21. (a) The Department of Health and Human Services may use funds from the existing State/County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 400 individuals. These payments may be made for up to a two-year period beginning July 1, 2000, and ending June 30, 2002. An individual enrolled in the Special Assistance demonstration project on June 30, 2002, who remains continuously eligible may receive payments through June 30, 2003. The standard monthly payment to individuals enrolled in the Special Assistance demonstration project shall be fifty percent (50%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that demonstration project participants are those individuals who need and, but for the demonstration project, would seek placement in an adult care home facility. To the maximum extent possible, the Department shall consider geographic balance in the dispersion of payments to individuals across the State. The Department shall make an interim report to the cochairs of the House of Representatives Appropriations Committee, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services and the cochairs of the Senate Appropriations

Committee, the Chair of the Senate Appropriations Committee on Human Resources by June 30, 2001, and a final report by January 1, 2003. This report shall include the following information:

- (1) A description of cost savings that could occur by allowing individuals eligible for State/County Special Assistance the option of remaining in the home.
- (2) Which activities of daily living or other need criteria are reliable indicators for identifying individuals with the greatest need for income supplements for in-home living arrangements.
- (3) How much case management is needed and which types of individuals are most in need of case management.
- (4) The geographic location of individuals receiving payments under this section.
- (5) A description of the services purchased with these payments.
- (6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.
- (7) Findings and recommendations as to the feasibility of continuing or expanding the demonstration program.
- (8) The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.
- (9) A fiscal analysis and programmatic results of increasing the demonstration project participant's monthly assistance payment to fifty percent (50%) of the Special Assistance monthly payment.

Section 11.21.(b). The Department shall incorporate data collection tools designed to compare quality of life among institutionalized vs. noninstitutionalized populations (i.e. an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). To the extent national standards are available, the Department shall utilize those standards.

Section 11.21.(c). The Department shall expand its report of the Demonstration Program in order to fully assess the success of the pilot. The Department shall contract with an independent consultant to develop an evaluation design that ensures that the evaluation includes an assessment of the impact of the Program on the economic security, health, and well-being of the participants."

SECTION 21.29.(b) The Department of Health and Human Services shall apply for a Section 1115 Medicaid Waiver to provide medical assistance to individuals living in their own home who are receiving supplemental State/County special assistance payments on a

pilot basis rather than statewide. Individuals eligible for supplemental payments under the waiver shall be those individuals whose income exceeds one hundred percent (100%) of the federal poverty level and who would otherwise qualify for State/County Special Assistance as a resident of an adult care home. The waiver shall be designed to enable eligible recipients to remain at home, to receive the same payment amount as adult care home residents receiving State/County Special Assistance, and to qualify for Medicaid. If the waiver is granted, the Department shall not implement the waiver unless the implementation is approved and enacted by the General Assembly and funds are appropriated for that purpose. The Department shall report the status of the waiver to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services on December 1, 2001, and March 1, 2002. The report shall include the amount of funds needed to implement the waiver. Nothing in this section obligates the General Assembly to appropriate funds to implement a Medicaid waiver granted by the federal government for the purposes stated in this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

SENIOR CENTER OUTREACH

SECTION 21.30.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 2001-2003 fiscal biennium shall be used by the Division of Aging to enhance senior center programs as follows:

- (1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
- (2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 21.30.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the board of commissioners of the county in which the new center will be located shall:

- (1) Formally endorse the need for a center;
- (2) Formally agree on the sponsoring agency for the center; and
- (3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 21.30.(c) State funding shall not exceed ninety percent (90%) of reimbursable costs.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

FUNDS FOR ALZHEIMER'S ASSOCIATION CHAPTERS IN NORTH CAROLINA

SECTION 21.31. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Aging, the sum of one hundred fifty thousand dollars (\$150,000) for the 2001-2002 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000) for the 2002-2003 fiscal year shall be allocated as follows:

- (1) \$75,000 in each fiscal year for the Western Carolina Alzheimer's Chapter; and
- (2) \$75,000 in each fiscal year for the Eastern NC Alzheimer's Chapter.

Before funds may be allocated to any chapter under this section, the Chapter shall submit to the Division of Aging, for its approval, a plan for the use of the funds.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

AREA AGENCIES ON AGING COST SAVINGS STUDY; REDUCTION IN NUMBER OF AGENCIES; FUNDS

SECTION 21.32.(a) The Department of Health and Human Services shall conduct a study to determine cost savings to be realized and increased efficiencies to be gained by reducing the number of Area Agencies on Aging. In conducting the study, the Department shall collect data to determine the amount of the reduction in administrative costs, direct costs, and indirect costs, and shall calculate the reduction based on maintaining the amount and quality of services provided. The Department shall do a cost-benefit analysis for the reduction in the number of agencies. The Department shall report the results of its study to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than March 1, 2002.

SECTION 21.32.(b) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of seven hundred thousand dollars (\$700,000) for the 2001-2002 fiscal year shall be allocated equally among each of the Area Agencies on Aging. These funds shall be used for planning, coordination, and operational activities that enhance each agency's ability to provide services, information, and education to consumers, and to better meet

the data and technical assistance needs of providers, local planning committees, and local governments.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DIVISION OF AGING CONSOLIDATION OF SECTIONS

SECTION 21.33. The Department of Health and Human Services, Division of Aging, shall reduce layers of management and streamline operations by consolidating the Planning and Information and the Budget and Information sections. The Division shall transfer positions, corresponding State appropriations, federal funds, and any other relevant funds. The Department shall allocate savings in non-State funds realized from the reduction in positions to direct services such as Ombudsman services, home delivered meals, and personal care services. In allocating these funds, the Department shall give priority to those direct services for which there are clients waiting for services.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ADULT CARE HOME RESIDENT ASSESSMENT SERVICES

SECTION 21.35. Funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, for adult care home positions in the Department and in county departments of social services shall be used for personnel trained in the medical and social needs of older adults and disabled persons in adult care homes to evaluate individuals requesting State/County Special Assistance to pay for care in adult care homes. One of the functions of these personnel shall be to develop and collect data on the appropriate level of care and placement in the long-term care system, including identifying individuals who pose a risk to other residents and who may need further mental health assessment and treatment. These personnel shall also provide technical assistance to adult care homes on how to conduct functional assessments and develop care plans and shall assist in monitoring the Special Assistance Demonstration Project.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

QUALITY CRITERIA FOR LONG-TERM CARE

SECTION 21.36. The Department of Health and Human Services, in conjunction with the North Carolina Institute of

Medicine, shall continue a special work group to develop criterion-based indicators for the monitoring of quality of care in North Carolina nursing homes, adult care homes, assisted living facilities, and home health care programs. The Institute of Medicine and the Department of Health and Human Services shall work together to implement these criteria for the monitoring of long-term care in the State and pursue options for the use of these criteria in lieu of current HCFA-mandated standards for surveying North Carolina nursing homes under the federal Medicaid and Medicare programs.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

LIMITATIONS ON STATE ABORTION FUND

SECTION 21.38. The limitations on funding of the performance of abortion established in Section 23.27 of Chapter 324 of the 1995 Session Laws, as amended by Section 23.8A of Chapter 507 of the 1995 Session Laws, apply to the 2001-2002 and 2002-2003 fiscal years.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

SPECIAL CHILDREN ADOPTION FUND

SECTION 21.40.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars (\$1,100,000) shall be used to support the Special Children Adoption Fund for each year of the 2001-2003 fiscal biennium. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose incomes exceed two hundred percent (200%) of the federal poverty level.

SECTION 21.40.(b) Of the total funds appropriated for the Special Children Adoption Fund, each year one million dollars (\$1,000,000) shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for

payments to private adoption agencies have not been spent on or before March 31, 2002, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 21.41.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars (\$15.00) is a special needs allowance for the child.

SECTION 21.41.(b) The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

- (1) \$315.00 per child per month for children aged birth through 5;
- (2) \$365.00 per child per month for children aged 6 through 12; and
- (3) \$415.00 per child per month for children aged 13 through 18.

SECTION 21.41.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 21.41.(d) The maximum rates for State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

- (1) \$800.00 per month per child with indeterminate HIV status;
- (2) \$1,000 per month per child confirmed HIV-infected, asymptomatic;
- (3) \$1,200 per month per child confirmed HIV-infected, symptomatic; and

- (4) \$1,600 per month per child terminally ill with complex care needs.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

SPECIAL NEEDS ADOPTIONS INCENTIVE FUND

SECTION 21.42.(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes, effective January 1, 2001. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs as defined by the Social Services Commission. These funds shall be matched by county funds.

SECTION 21.42.(b) This program shall not constitute an entitlement and is subject to the availability of funds.

SECTION 21.42.(c) The Social Services Commission shall adopt rules to implement the provisions of this section.

SECTION 21.42.(d) The Department of Health and Human Services shall report on the use of these funds no later than April 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 21.44.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars (\$1,231) per month per resident.

SECTION 21.44.(b) The maximum monthly rate for residents in adult care home facilities shall be one thousand sixty-two dollars (\$1,062) per month per resident through September 30, 2001.

SECTION 21.44.(c) Effective October 1, 2001, the maximum monthly rate for residents in adult care home facilities shall be one thousand ninety-one dollars (\$1,091) per month per resident.

SECTION 21.44.(d) Effective October 1, 2002, the maximum monthly rate for residents in adult care home facilities shall

be one thousand one hundred twenty dollars (\$1,120) per month per resident.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

STATE MATERNITY HOME FUND

SECTION 21.45. The Divisions of Social Services and Public Health in the Department of Health and Human Services, in consultation with local departments of social services, health departments, and other health and human services programs such as faith-based organizations and domestic violence programs, shall assess alternative local resources available to women receiving services through the State Maternity Home Fund. The Department shall determine the services that are provided by each of the maternity homes through the State Maternity Home Fund and those services that are otherwise available, and shall provide a cost comparison of the services. Not later than April 1, 2002, the Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the implementation of this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD WELFARE SYSTEM PILOTS

SECTION 21.46.(a) The Department of Health and Human Services, Division of Social Services, shall develop a plan, working with local departments of social services, to implement an alternative response system of child protection in no fewer than two and no more than 10 demonstration areas in this State. The plan should provide for the pilots to implement an alternative response system in which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child neglect.

SECTION 21.46.(b) The Department of Health and Human Services shall develop data collection processes that would enable the General Assembly to assess the impact of these pilots on the following:

- (1) Child safety.
- (2) Timeliness of response.
- (3) Timeliness of service.
- (4) Coordination of local human services.
- (5) Cost-effectiveness.

(6) Any other related issues.

SECTION 21.46.(c) The Department of Health and Human Services may proceed to implement this pilot program if non-State funds are identified for this purpose.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

STATE ADULT DAY CARE FUND

SECTION 21.47. The Department of Health and Human Services, Division of Aging, shall implement changes in its methodology currently used for allocating slots. The new allocation shall be implemented January 1, 2002, and shall ensure the Fund will serve new clients. Not later than January 1, 2002, the Department of Health and Human Services, Division of Aging, shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division the new allocation methodology. The report shall include all of the changes made in the new allocation and an estimate of the number of new clients served. The allocation of all slots paid for with State Adult Day Care Funds shall be distributed equitably among service providers and shall eliminate the funding of unused slots.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

FAMILY RESOURCE CENTERS

SECTION 21.48.(a) The Department of Health and Human Services shall evaluate the use of all State and federal funds allocated to Family Resource Centers that primarily serve families with minor children. The evaluation shall incorporate data collected from these Centers and shall assess the effectiveness of each program in achieving established program goals including the following:

- (1) Enhancing children's development and ability to attain academic and social success.
- (2) Promoting successful transition from early childhood education programs and child care to public schools.
- (3) Assisting families in achieving economic independence and self-sufficiency.
- (4) Mobilizing public and private community resources to help children and families in need.
- (5) Ensuring that plans are designed and implemented to provide families with services in a holistic family centered manner.

SECTION 21.48.(b) The Department shall establish performance measurement protocol, based on national standards or best practice models, to determine the effectiveness of services provided by all family resource centers specified in subsection (a) of this section.

SECTION 21.48.(c) Unless inconsistent with federal law, the Department shall ensure that all programs have similar core services and the same goals while eliminating duplication of effort at the local level. The Department shall redirect the funds for Family Resource Centers to focus on those core services that have a direct impact on strengthening family support.

SECTION 21.48.(d) In determining the allocation of funding, the Department shall ensure that Family Resource Centers have demonstrated that they have collaborative arrangements with other public and private agencies that have similar purposes that delineate specific roles and responsibilities to ensure effectiveness and efficiency in the operation of Family Resource Centers.

SECTION 21.48.(e) The Department shall report on activities under this section. This report is due to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on May 1, 2002.

SECTION 21.48.(f) G.S. 143B-152.15(b) reads as rewritten:

~~"(b) The Department shall report to the General Assembly and the Joint Legislative Commission on Governmental Operations by May 15, 1994, on its progress in developing the evaluation system and in developing and implementing the program. It shall report prior to February 1, 1995, on the evaluation system developed by the Department and on program implementation. The Department shall present an annual report on October 1, 1995, and annually thereafter to the General Assembly and to the Joint Legislative Commission on Governmental Operations on the implementation of the program report no later than December 1 of each year to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the program and the results of the program evaluation."~~

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

REORGANIZATION OF DIVISION OF SOCIAL SERVICES

SECTION 21.49. The Department of Health and Human Services, Division of Social Services shall reduce layers of

management and streamline operations in accordance with the following:

- (1) Consolidate the Resource and Information Management Section and Budget Operations Section including the elimination of one section chief position. The Division of Social Services shall further consolidate to address low staff-to-supervisor ratios. All positions and corresponding State appropriations, federal funds, and other funds in these two sections shall be consolidated.
- (2) Consolidate the Program Integrity, Economic Independence Services, and Local Support Branches into one branch within the Economic Independence Section. The Division of Social Services shall further consolidate to address low staff-to-supervisor ratios. All positions and corresponding State appropriations, federal funds, and other funds shall be consolidated.
- (3) Eliminate the Local Support Section including all positions and corresponding State appropriations, federal funds, and other funds.
- (4) Eliminate the Program Development Branch including the corresponding position and State appropriations, federal funds, and other funds.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 21.50.(a) The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives which focus on increasing the sustainability and effectiveness of the Program.

SECTION 21.50.(b) Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented Statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 21.50.(c) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family

Preservation Services shall provide information and data that allows for:

- (1) An established follow-up system with a minimum of six months of follow-up services.
- (2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
- (3) Cost-benefit data.
- (4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
- (5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
- (6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 21.50.(d) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

SECTION 21.50.(e) The Department of Health and Human Services shall prepare an interim report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the implementation of these changes by April 1, 2002, and an annual report on the Program not later than December 1 of each year of the biennium. The Department shall include the following in the annual reports due on December 1:

- (1) The number of children who remain unified with their families for one, two, and three years after receiving services under the Program.
- (2) A description of the Program, including the progress of the local programs during the preceding year, along with recommendations for improvement.

SECTION 21.50.(f) G.S. 143B-150.5 reads as rewritten:
 "§ 143B-150.5. *Family Preservation Services Program established; purpose.*

(a) There is established the Family Preservation Services Program of the Department of Health and Human Services. ~~The Program shall be phased in over a four year period, commencing with~~

fiscal year 1991-92. By the end of the four year phase in period, and ~~to~~To the extent that funds are made available, locally-based family preservation services shall be available to all 100 counties. The Secretary of the Department of Health and Human Services shall be responsible for the development and implementation of the Family Preservation Services Program as established in this Part. ~~In developing the Program the Secretary shall consider the advice and recommendations of the Advisory Committee on Family Centered Services.~~

(b) The purpose of the Family Preservation Services Program is, where feasible and in the best interests of the child and the family, to keep the family unit intact by providing intensive family-centered services that help create, within the family, positive, long-term changes in the home environment.

(c) Family preservation services shall be financed in part through grants to local agencies for the development and implementation of locally-based family preservation services. Grants to local agencies shall be made in accordance with the provisions of G.S. 143B-150.6.

(d) The Secretary of the Department of Health and Human Services shall ensure the cooperation of the Division of Social Services, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Division of Medical Assistance, in carrying out the provisions of this Part."

SECTION 21.50.(g) G.S. 143B-150.6(d) reads as rewritten:

"(d) Grants for local projects: The Secretary of the Department of Health and Human Services shall award grants to local agencies for the development and implementation of locally-based family preservation services projects. ~~In awarding the grants, the Secretary shall consider the recommendations of the Advisory Committee on Family Centered Services.~~ The number of grants awarded and the level of funding of each grant for each fiscal year shall be contingent upon and determined by funds appropriated for that purpose by the General Assembly and shall be in accordance with the phase in period of the Family Preservation Services Program. ~~During the phase in period, and to the extent funds are appropriated, grants shall be awarded by the Secretary on a competitive basis to local agencies who submit proposals for such funding, which proposals meet grant award criteria established by the Advisory Committee on Family Centered Services.~~Assembly."

SECTION 21.50.(h) G.S. 143B-150.7 is repealed.

SECTION 21.50.(i) G.S. 143B-150.8 is repealed.

SECTION 21.50.(j) G.S. 143B-150.9 is repealed.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

TANF STATE PLAN

SECTION 21.51.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2001-2003", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 2001, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2001, through September 30, 2003. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2001 General Assembly.

SECTION 21.51.(b) The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2001-2003, submitted to the General Assembly for approval on May 15, 2001. The revisions shall be made to the following Plan components:

- (1) Enhanced Employee Assistance Program to reflect changes in funding.
- (2) Services for Families to remove reference to start-up activities.
- (3) Work Responsibility to remove reference to start-up activities.
- (4) Cabarrus County Waiver to reflect changes in the law made by the 2001 General Assembly.
- (5) Goal #8 to provide that caseload reduction goals are subject to economic conditions in the county.

SECTION 21.51.(c) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2001-2003 as approved by this section are: Caldwell, Caswell, Davie, Henderson, Iredell, Lenoir, Lincoln, Macon, McDowell, Randolph, Sampson, Surry, and Wilkes.

SECTION 21.51.(d) Counties designated as electing counties pursuant to Section 12.27A of S.L. 1998-212 and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for FY 2001-2003, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements effective July 1, 2001. Counties that submitted the letter of intent to remain as an electing county or to be redesignated as an electing county and the accompanying county plan for FY 2001-2003, pursuant to G.S. 108A-27(e), shall operate under the electing county budget requirements effective July 1, 2001. For

programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2001.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

REPEAL RECIPIENT IDENTIFICATION SYSTEM

SECTION 21.52. G.S. 108A-24(1a) and G.S. 108A-25.1 are repealed.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD SUPPORT PILOT PROGRAM/ENHANCED STANDARDS

SECTION 21.53.(a) It is the intent of the General Assembly to increase the productivity and enhance the performance of child support enforcement offices statewide.

SECTION 21.53.(b) The Department of Health and Human Services shall develop and implement performance standards for each of the State and county child support enforcement offices across the State. In development of these performance standards, the Department of Health and Human Services shall evaluate other private and public child support models and national standards as well as other successful collections models. These performance standards shall include the following:

- (1) Cost per collections.
- (2) Consumer satisfaction.
- (3) Paternity establishments.
- (4) Administrative costs.
- (5) Orders established.
- (6) Collections on arrearages.
- (7) Location of absent parents.
- (8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting which allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

SECTION 21.53.(c) The Department of Health and Human Services shall develop and implement a program to reward its child support enforcement offices for exemplary performance.

SECTION 21.53.(d) The Department of Health and Human Services shall report on its progress in complying with the provisions of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall make an interim report no later than January 15, 2002, and a final report no later than May 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES

SECTION 21.54.(a) In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop a model project for delivering community-based mental health, developmental disabilities, and substance abuse housing and services through adult care homes that have excess capacity. The model shall be designed for implementation on a pilot basis and shall address the following:

- (1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.
- (2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.
- (3) Physical plant additions or changes necessary to provide for independent living of residents.
- (4) Methods for assuring quality of services, resident safety, and cost-effectiveness.
- (5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

SECTION 21.54.(b) The Department shall submit a progress report on the development of the model to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before January 1, 2002, and a final report on March 1, 2002. The report shall address the following:

- (1) The proposed time and location for implementation of the pilot.
- (2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
- (3) Method for evaluating the pilot, including services provided, on a regular basis.
- (4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.
- (5) Changes to State law necessary to implement the pilot.
- (6) Projected cost to the State for pilot and statewide implementation.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

FUNDS FOR CHILD SUPPORT SERVICES

SECTION 21.54A. Of the funds appropriated in this act to the Department of Health and Human Services, Division of Social Services, the sum of one million five hundred thousand dollars (\$1,500,000) for the 2001-2002 fiscal year, and one million five hundred thousand dollars (\$1,500,000) for the 2002-2003 fiscal year, shall be used to contract for additional child support services in urban counties demonstrating significant caseload backlogs. The additional support to urban counties shall address the backlog of cases and emphasize the establishment of paternities and the location of absent parents.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

LIABILITY INSURANCE

SECTION 21.55. The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University

of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

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

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

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PRIVATE AGENCY UNIFORM COST-FINDING REQUIREMENT

SECTION 21.56. To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with two or more area programs, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S. 122C-143.2(a) and G.S. 122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Gulley, Lucas, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

BUTNER COMMUNITY LAND RESERVATION

SECTION 21.57. The Department of Health and Human Services shall reserve and dedicate the following described land for the construction of a Community Building and related facilities to serve the Butner Reservation:

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

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

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Insko, Easterling, Oldham, Redwine, Thompson
**MENTAL HEALTH, DEVELOPMENTAL DISABILITIES,
 AND SUBSTANCE ABUSE SERVICES TRUST FUND FOR
 SYSTEM REFORM BRIDGE AND CAPITAL FUNDING
 NEEDS AND OLMSTEAD**

SECTION 21.58.(a) Chapter 143 of the General Statutes is amended by adding the following section to read:

"§ 143-15D. Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs.

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

The State Treasurer shall hold the Trust Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Trust Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Trust Fund shall become part of

the Trust Fund. Any balance remaining in the Trust Fund at the end of any fiscal year shall be carried forward in the Trust Fund for the next succeeding fiscal year.

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

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

- (1) Provide start-up funds and operating support for programs and services that provide more appropriate and cost-effective community treatment alternatives for individuals currently residing in the State's mental health, developmental disabilities, and substance abuse services institutions.
- (2) Facilitate the State's compliance with the United States Supreme Court decision in *Olmstead v. L.C. and E.W.*
- (3) Facilitate reform of the mental health, developmental disabilities, and substance abuse services system and expand and enhance treatment and prevention services in these program areas to remove waiting lists and provide appropriate and safe services for clients.
- (4) Provide bridge funding to maintain appropriate client services during transitional periods as a result of facility closings, including departmental restructuring of services.
- (5) Construct, repair, and renovate State mental health, developmental disabilities, and substance abuse services facilities."

SECTION 21.58.(b). The Secretary of the Department of Health and Human Services shall develop a plan, after consultation with advocacy groups and affected State and local agencies and programs concerned with the mental health, developmental disabilities, and substance abuse services needs of the State, for the use of funds from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs established under G.S. 143D-15D to meet the mental health needs of the State. The plan shall be consistent with the plan developed pursuant to G.S. 122C-102, if enacted in House Bill 381 of the 2001 General Assembly. Funds shall not be transferred from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs until the Secretary has consulted with the Joint Legislative Commission on Governmental Operations, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse

Services, and the Chairs of the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services.

SECTION 21.58.(c). Moneys in the Trust Fund established pursuant to G.S. 143-15D shall be used to establish or expand community-based services only if sufficient recurring funds can be identified within the Department from funds currently budgeted for mental health, developmental disabilities, and substance abuse services, area mental health programs or county programs, or local government.

SECTION 21.58.(d) Funds in the Mental Health, Developmental Disabilities, and Substance Abuse Services Reserve for System Reform and Olmstead shall be transferred to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs established under G.S. 143-15D.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

NONMEDICAID REIMBURSEMENT CHANGES

SECTION 21.59. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

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

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its non-Medicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

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

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

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

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

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

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

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

COMPREHENSIVE TREATMENT SERVICES PROGRAM

SECTION 21.60.(a) The Department of Health and Human Services shall establish the Comprehensive Treatment Services Program for children at risk for institutionalization or other out-of-home placement. The Program shall be implemented by the Department in consultation with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected State agencies. The purpose of the Program is to provide appropriate and medically necessary residential and nonresidential treatment alternatives for children at risk of institutionalization or other out-of-home placement. Program funds shall be targeted for non-Medicaid eligible children. Program funds may also be used to expand a system-of-care approach for services to children and their families statewide. The program shall include the following:

- (1) Behavioral health screening for all children at risk of institutionalization or other out-of-home placement.
- (2) Appropriate and medically necessary residential and nonresidential services for deaf children.
- (3) Appropriate and medically necessary residential and nonresidential treatment services including placements for sexually aggressive youth.
- (4) Appropriate and medically necessary residential and nonresidential treatment services including placements for youths needing substance abuse treatment services and children with serious emotional disturbances.
- (5) Multidisciplinary case management services, as needed.
- (6) A system of utilization review specific to the nature and design of the Program.
- (7) Mechanisms to ensure that children are not placed in department of social services custody for the purpose of obtaining mental health residential treatment services.
- (8) Mechanisms to maximize current State and local funds and to expand use of Medicaid funds to accomplish the intent of this Program.
- (9) Other appropriate components to accomplish the Program's purpose.
- (10) The Secretary of the Department of Health and Human Services may enter into contracts with residential service providers.
- (11) A system of identifying and tracking children placed outside of the family unit in group homes, therapeutic

foster care home settings, and other out-of-home placements.

SECTION 21.60.(b) In order to ensure that children at risk for institutionalization or other out-of-home placement are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these children:

- (1) Provide only those treatment services that are medically necessary.
- (2) Implement utilization review of services provided.
- (3) Adopt the following guiding principles for the provision of services:
 - a. Service delivery system must be outcome-oriented and evaluation-based.
 - b. Services should be delivered as close as possible to the child's home.
 - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
 - d. Services should not be provided solely for the convenience of the provider or the client.
 - e. Families and consumers should be involved in decision making throughout treatment planning and delivery.
- (4) Implement all of the following cost-reduction strategies:
 - a. Preauthorization for all services except emergency services.
 - b. Levels of care to assist in the development of treatment plans.
 - c. Clinically appropriate services.
 - d. Not later than May 1, 2002, State review of individualized service plans for former Willie M. class members and for other children whose individual service plan exceeds one hundred thousand dollars (\$100,000) to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans.

SECTION 21.60.(c) The Department shall collaborate with other affected State agencies such as the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, the Administrative Office of the Courts, and with local departments of social services, area mental health programs, and local education agencies to eliminate cost shifting and facilitate

cost-sharing among these governmental agencies with respect to the treatment and placement services.

SECTION 21.60.(d) The Department shall not allocate funds appropriated for Program services until a Memorandum of Agreement has been executed between the Department of Health and Human Services, the Department of Public Instruction, and other affected State agencies. The Memorandum of Agreement shall address specifically the roles and responsibilities of the various departmental divisions and affected State agencies involved in the administration, financing, care, and placement of children at risk of institutionalization or other out-of-home placement. The Department shall not allocate funds appropriated in this act for the Program until Memoranda of Agreement between local departments of social services, area mental health programs, local education agencies, and the Administrative Office of the Courts and the Department of Juvenile Justice and Delinquency Prevention, as appropriate, are executed to effectuate the purpose of the Program. The Memoranda of Agreement shall address issues pertinent to local implementation of the Program, including provision for the immediate availability of student records to a local school administrative unit receiving a child placed in a residential setting outside the child's home county.

SECTION 21.60.(e) Notwithstanding any other provision of law to the contrary, services under the Comprehensive Treatment Services Program are not an entitlement for non-Medicaid eligible children served by the Program.

SECTION 21.60.(f) Of the funds appropriated in this act for the Comprehensive Treatment Services Program, the Department of Health and Human Services shall establish a reserve of three percent (3%) to ensure availability of these funds to address specialized needs for children with unique or highly complex problems.

SECTION 21.60.(g) The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected agencies, shall report on the following Program information:

- (1) The number and other demographic information of children served.
- (2) The amount and source of funds expended to implement the Program.
- (3) Information regarding the number of children screened, specific placement of children including the placement of children in programs or facilities outside of the child's home county, and treatment needs of children served.
- (4) The average length of stay in residential treatment, transition, and return to home.

- (5) The number of children diverted from institutions or other out-of-home placements such as training schools and State psychiatric hospitals and a description of the services provided.
- (6) Recommendations on other areas of the Program that need to be improved.
- (7) Other information relevant to successful implementation of the Program.

SECTION 21.60.(h) The Department shall submit an interim report on December 1, 2001, on the implementation of this section and a final report not later than April 1, 2002, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

WHITAKER SCHOOL

SECTION 21.61.(a) The Department of Health and Human Services shall work with families and guardians, the Department of Public Instruction, the Department of Juvenile Justice and Delinquency Prevention, and appropriate local education agencies, area mental health, developmental disabilities, and substance abuse programs, and local departments of social services to develop a plan for the transition of children from the Whitaker School to their homes or alternative facilities. The Plan shall ensure appropriate and safe placement for those children who, in accordance with the assessment, need an institutional setting. The Plan shall also include transition plans that facilitate and support children living in their natural environments and utilizing existing resources and natural supports. The Department shall report on the status of its compliance with this section on April 1, 2002 and again on October 1, 2002. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

MENTAL RETARDATION CENTER TRANSITION PLAN

SECTION 21.62.(a) In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and State

policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop and implement a plan for the transfer of residents of State mental retardation centers, if appropriate, as follows:

- (1) Transfer those residents of the centers that need institutional services to a private intermediate care facility for the mentally retarded.
- (2) Transition to community programs and services those residents of the center that may be appropriately served in the community.

The Department shall develop a transition plan for moving each resident of the mental retardation center to the community-based services and supports, if appropriate. The transition plan shall be developed in consultation with the resident and the resident's family or guardian.

SECTION 21.62.(b) The Department may use funds from the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to facilitate the transition of residents into alternative community-based services as required under subsection (a) of this section. Nonrecurring savings realized from implementation of the plan required under subsection (a) of this section shall be deposited to the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs to be used to facilitate the transition of clients into appropriate community-based services and supports in accordance with Section 21.58 of this act. Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (i) for implementation of subsection (a)(1) and (2) of this section, and (ii) to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

SECTION 21.62.(c) On or before January 1, 2002, and again on or before May 1, 2002, and May 1, 2003, the Department shall report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on its progress in implementing this section.

SECTION 21.62.(d) Before closing one or more State mental retardation centers the Department shall report the closure to the Joint Legislative Commission on Governmental Operations.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DOROTHEA DIX HOSPITAL

SECTION 21.63.(a) In keeping with the United States Supreme Court decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop and implement a plan for the construction of a replacement facility for Dorothea Dix Hospital in accordance with subsection (d) of this section, and for the transition of patients to the new facility, to the community, or to other long-term care facilities, as appropriate. The goal of the State Hospital Plan is to develop mechanisms and identify resources needed to enable current patients and their families to continue to receive the necessary services and supports based on the following guiding principles:

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

SECTION 21.63.(b) The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan for each patient in the hospital. The State shall ensure that transition plans for placement of and services to individuals who are patients of Dorothea Dix Hospital take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

SECTION 21.63.(c) In accordance with the plan established in subsections (a) and (b) of this section, any nonrecurring savings in State appropriations that result from reductions in beds or services shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs. These funds shall be used to facilitate the transition of clients into appropriate community-based services and supports in accordance with Section 21.58 of this act. Recurring savings realized through implementation of this section shall be retained by the

Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and (b) of this section, and (ii) to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

SECTION 21.63.(d) The Secretary of the Department of Health and Human Services shall, in consultation with the Department of Administration, plan for the construction of a psychiatric hospital to replace Dorothea Dix Hospital and to provide acute psychiatric treatment services for citizens of the State. The Department shall identify alternative locations for the new hospital. The Department shall identify those alternative locations that maximize existing State funds, access by clients, and efficiencies in service and administration. In developing this plan, the Secretary, in consultation with the Department of State Treasurer and the Department of Administration, shall identify and recommend the most cost-effective means to finance construction of the new State hospital. The Department shall also take into consideration the findings and recommendations of the Government Performance Audit Committee (GPAC), December 1992, MGT America Report of 1998, and the Report of the Department of State Auditor, April 1, 2000. The Department of Health and Human Services shall provide a progress report on December 1, 2001, and a final report not later than April 1, 2002, to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 21.63.(e) The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall be submitted on February 1, 2002, and May 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson
**REORGANIZATION OF DIVISION OF MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES, AND SUBSTANCE
ABUSE SERVICES**

SECTION 21.64.(a) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and

Substance Abuse Services shall reduce layers of management and duplication of services in accordance with the following:

- (1) Eliminate the Hospitals Services Section, including positions and corresponding State appropriations, federal funds, and other funds. The administration, planning, and coordination of all adult mental health services and programs shall be consolidated within an existing section in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Eliminate the Mental Retardation/Mental Illness Transition Branch within the Developmental Disabilities Section, including positions, corresponding State appropriations, federal funds, and other funds.
- (3) Consolidate within one section all positions and corresponding State appropriations, federal funds, and other funds for financial, budgetary, information technology, and other administrative support functions in order to create one administrative and budgetary support section within the Division.

SECTION 21.64.(b) The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the feasibility of consolidating its staff, responsibilities, and resources around the functional areas of need of its clients regardless of disability. These functional areas shall include housing services and supports, supported employment, local crisis services, and capacity development.

SECTION 21.64.(c) The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on its progress in complying with this section. The progress reports shall be submitted on or before November 1, 2001, and December 1, 2001. The final report shall be submitted on or before April 15, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

REDUCE ADMINISTRATIVE COSTS OF AREA MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE AUTHORITIES

SECTION 21.65.(a) Area mental health, developmental disabilities, and substance abuse authorities or counties administering mental health, developmental disabilities, and substance abuse services shall develop and implement plans to reduce local

administrative costs. The plans shall be developed in accordance with guidelines adopted by the Secretary, in consultation with the Local Government Commission and the North Carolina Association of County Commissioners, and in accordance with the following:

- (1) For the 2001-2002 fiscal year, administrative costs for:
 - a. Area mental health, developmental disabilities, and substance abuse services programs shall not exceed fifteen percent (15%).
 - b. Counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed fifteen percent (15%).
- (2) For the 2002-2003 fiscal year, administrative costs for:
 - a. Area mental health, developmental disabilities, and substance abuse services programs shall not exceed thirteen percent (13%).
 - b. Counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed thirteen percent (13%).

SECTION 21.65.(b) The Department of Health and Human Services shall report its progress in complying with this section not later than January 1, 2002, and April 15, 2002. The reports shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division and shall include:

- (1) A description of the process used and the participants involved in complying with subsection (a) of this section.
- (2) The guidelines developed under subsection (a) of this section.
- (3) A description of local compliance initiatives and efforts including program or function consolidation.
- (4) A list of area programs at or below the targeted thirteen percent (13%) for the 2000-2001 fiscal year.
- (5) Projected savings in administrative costs as a result of implementation of the targeted limits required under this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson
SERVICES TO MULTIPLY- DIAGNOSED ADULTS

SECTION 21.66.(a) In order to ensure that multiply-diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

- (1) Implement the following guiding principles for the provision of services:
 - a. Service delivery system must be outcome oriented and evaluation based.
 - b. Services should be delivered as close as possible to the consumer's home.
 - c. Services selected should be those that are most efficient in terms of cost and effectiveness.
 - d. Services should not be provided solely for the convenience of the provider or the client.
 - e. Families and consumers should be involved in decision making throughout treatment planning and delivery; and
- (2) Provide those treatment services that are medically necessary.
- (3) Implement utilization review of services provided.

SECTION 21.66.(b) The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

- (1) Preauthorization for all services except emergency services.
- (2) Criteria for determining medical necessity.
- (3) Clinically appropriate services.
- (4) Not later than May 1, 2002, conduct a State review of (i) individualized service plans for former Thomas S. class members and for adults whose service plan exceeds one hundred thousand dollars (\$100,000) to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans, and (ii) staffing patterns of residential services.

SECTION 21.66.(c) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply-diagnosed adults.

SECTION 21.66.(d) The Department shall submit a progress report on implementation of this section not later than February 1, 2001, and a final report not later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the

House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DOWNSIZING OF MENTAL RETARDATION CENTERS

SECTION 21.67.(a) In accordance with the Department of Health and Human Services' plan for downsizing the State's regional mental retardation facilities by four percent (4%) each year, the Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the mental retardation centers in order to ensure that placements for ICF/MR level of care shall be made in non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the State mental retardation centers shall be reduced, and positions shall be eliminated as the census of each facility decreases. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

SECTION 21.67.(a1) Any savings in State appropriations in excess of two million nine hundred thousand dollars (\$2,900,000) in each year of the 2001-2003 fiscal biennium that result from reductions in beds or services shall be applied as follows:

- (1) Nonrecurring savings shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and shall be used to facilitate the transition of clients into appropriate community-based services and support in accordance with Section 21.58 of this act, and
- (2) Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the State mental retardation centers including both the savings in direct State appropriations in the budgets of the State mental retardation centers as well as the

savings in the State matching portion of reduced Medicaid payments associated with downsizing.

SECTION 21.67.(b) The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The progress report shall be submitted not later than January 15, 2002, and a final report submitted not later than May 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

STATE PSYCHIATRIC HOSPITALS BED ALLOCATION PLAN

SECTION 21.68A. The Department of Health and Human Services shall develop and implement a plan that provides for the allocation of State psychiatric hospital beds among counties served by the State's regional psychiatric hospitals. The Plan shall incorporate policies that take into consideration State and county fiscal responsibilities and capacity, cost efficiency, and the principles and guidance embodied in the Olmstead vs. L.C. & E.W. decision. The Department shall report on the implementation of this section to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division, on March 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD CARE ALLOCATION FORMULA

SECTION 21.69.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall apply the following formula to all noncategorical federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

- (1) One-third of budgeted funds shall be distributed according to the county's population in relation to the total population of the State.

- (2) One-third of budgeted funds shall be distributed according to the number of children under six years of age in a county who are living in families whose income is below the State poverty level in relation to the total number of children under six years of age in the State in families whose income is below the poverty level.
- (3) One-third of budgeted funds shall be distributed according to the number of working mothers with children under six years of age in a county in relation to the total number of working mothers with children under six years of age in the State.

SECTION 21.69.(b) A county's initial allocation shall not be less than that county's total expenditures for both FSA and non-FSA child care in fiscal year 1995-96.

SECTION 21.69.(c) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

SECTION 21.69.(d) The Department of Health and Human Services, in consultation with the North Carolina Partnership for Children, Inc., the North Carolina Association of County Commissioners, directors of county departments of social services, and representatives of private for-profit and private not-for-profit child care providers, shall study the current methodology and process used to allocate all child care subsidy voucher funds to assess the effectiveness of the methodology and process in meeting the needs of North Carolina's low-income working families. The Department shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division no later than April 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 21.70. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires such a match. This shall not prohibit any locality from spending local funds for child care services.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD CARE REVOLVING LOAN

SECTION 21.71. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or to pay the Department's cost of administering the program.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES

SECTION 21.72.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than eight percent (8%) of the total statewide allocation to all local partnerships. What counts as administrative costs shall be as defined in the Smart Start Performance Audit.

SECTION 21.72.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

- (1) For amounts of five thousand dollars (\$5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.;
- (2) For amounts greater than five thousand dollars (\$5,000) but less than fifteen thousand dollars (\$15,000), three written quotes;
- (3) For amounts of fifteen thousand dollars (\$15,000) or more but less than forty thousand dollars (\$40,000), a request for proposal process; and
- (4) For amounts of forty thousand dollars (\$40,000) or more, request for proposal process and advertising in a major newspaper.

SECTION 21.72.(c) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the Program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent

(5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carryforward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

- (1) Be verifiable from the contractor's records;
- (2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations;
- (3) Not include expenses funded by State funds;
- (4) Be supplemental to and not supplant preexisting resources for related program activities;
- (5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives;
- (6) Be otherwise allowable under federal or State law;
- (7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership; and
- (8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

The North Carolina Partnership for Children, Inc., shall establish uniform guidelines and reporting format for local partnerships to document the qualifying expenses occurring at the contractor level. Local partnerships shall monitor qualifying expenses to ensure they have occurred and meet the requirements prescribed in this subsection.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the

appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 21.72.(d) Counties participating in the Program may use the county's allocation of State and federal child care funds to subsidize child care according to the county's Early Childhood Education and Development Initiatives Plan as approved by the North Carolina Partnership for Children, Inc. The use of federal funds shall be consistent with the appropriate federal regulations. Child care providers shall, at a minimum, comply with the applicable requirements for State licensure pursuant to Article 7 of Chapter 110 of the General Statutes, with other applicable requirements of State law or rule, including rules adopted for nonlicensed child care by the Social Services Commission, and with applicable federal regulations.

SECTION 21.72.(e) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CHILD CARE SUBSIDY RATES

SECTION 21.73.(a) G.S. 110-109 is repealed.

SECTION 21.73.(b) Subsection (d) of Section 11.27 of S.L. 2000-67 is repealed.

SECTION 21.73.(c) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be seventy-five percent (75%) of the State median income, adjusted for family size.

SECTION 21.73.(d) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Effective October 1, 2001, fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

SECTION 21.73.(e) On or before September 30, 2001, payments for the purchase of child care services for low-income children shall be the same as would have resulted under Section 11.27

of S.L. 2000-67. Effective October 1, 2001, payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

- (1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.
- (2) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that are receiving a higher rate than the market rates that will be implemented with this provision shall continue to receive that higher rate until September 30, 2002.
- (3) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.
- (4) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.
- (5) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 21.73.(f) Provision of payment rates for child care providers in counties that do not have at least 75 children in each age group for center-based and home-based care are as follows:

- (1) Payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.
- (2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 75 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 21.73.(g) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying

parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 21.73.(h) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 21.73.(i) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 21.73.(j) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

- (1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
- (2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
- (3) The child for whom a child care subsidy is sought is a citizen of the United States.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DIVISION OF CHILD DEVELOPMENT REORGANIZATION

SECTION 21.74. The Department of Health and Human Services, Division of Child Development shall reduce layers of

management and streamline operations in accordance with the following:

- (1) Eliminate the Workforce Support and Consumer Outreach Section, including positions and corresponding State appropriations, federal funds, and other funds. Except that the Workforce Support, Criminal Records Checks, and the Work Force Unit-Quality Improvement Units shall be transferred to the Administration Section, including positions and corresponding State appropriations, federal funds, and other funds.
- (2) Eliminate the Program Integrity and Quality Assurance Section including positions and corresponding State appropriations, federal funds, and other funds.
- (3) Eliminate the Research and Policy Unit including positions and corresponding State appropriations, federal funds, and other funds.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 21.75.(a) The North Carolina Partnership for Children, Inc., and the Department of Health and Human Services shall immediately develop and implement the following:

- (1) Policies to ensure Early Childhood Education and Development Initiatives funds are allocated to child care programs, providers, and services that serve low-income children.
- (2) Policies to ensure the allocation of all State funds and federal funds where appropriate to the neediest child care providers with priority given from the lowest licensure rating to the highest. The North Carolina Partnership for Children, Inc., and the Department of Health and Human Services shall develop the definition of "neediest" as used in this subdivision.
- (3) Policies to ensure the allocation of State funds and federal funds where appropriate to child care programs and providers that serve an adequate number of children and families eligible to participate in the State child care subsidy voucher program. The North Carolina Partnership for Children, Inc., and the Department of Health and Human Services shall develop policies and a definition of "adequate" as used in this subdivision that takes into consideration the following:

- a. County economic conditions.
 - b. Numbers of eligible families in a county.
 - c. The diversity of child care needs in a county.
 - d. Other factors that may impact on the number of child care facilities and the availability of child care in a county.
- (4) Policies to ensure the elimination of local duplication and increased efficiency in the administration of child care subsidy voucher funds, unless local partnerships in collaboration with county departments of social services can demonstrate to the Department a more efficient and effective plan for administration of child care subsidy voucher funds. These policies shall be developed and implemented no later than January 1, 2002.
 - (5) Policies and procedures to ensure the unduplicated compilation of children served through State and federal child care subsidy voucher funds.
 - (6) Policies and procedures to ensure the timely, accurate, and consistent reporting of information on local child care subsidy waiting lists statewide.

SECTION 21.75.(b) In consultation with the Department of Public Instruction and the North Carolina Partnership for Children, Inc., the Department of Health and Human Services shall develop and implement policies and procedures to ensure that local partnerships that allocate funds to child care providers receiving State and federal child care funds plan and coordinate with their local education agencies the following:

- (1) Selection of preschool curriculum with measurable outcomes.
- (2) Kindergarten transition activities.
- (3) Other activities needed to ensure that children transitioning from child care settings to kindergarten enter school ready to succeed.

SECTION 21.75.(c) The Department of Health and Human Services, in consultation with the North Carolina Partnership for Children, Inc., and the Office of State Budget and Management, shall develop a separate NCPC, Early Childhood Education and Development Initiative Program budget, within the Division of Child Development fund code for the purpose of segregating all expenditures related to the administration and operation of the statewide Smart Start program.

SECTION 21.75.(d) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and

Development Initiatives for State fiscal year 2001-2002 shall be administered and distributed in the following manner:

- (1) The North Carolina Partnership for Children, Inc., shall develop a policy to allocate the reduction of funds for Early Childhood Education and Development Initiatives for the 2001-2002 fiscal year.
- (2) The North Carolina Partnership for Children, Inc., administration shall be reduced by ten percent (10%) from the 2000-2001 fiscal year level.
- (3) The Department of Health and Human Services Smart Start administration shall be reduced by ten percent (10%) from the 2000-2001 fiscal year level.
- (4) Capital expenditures and playground equipment expenditures are prohibited for fiscal year 2001-2002. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.

SECTION 21.75.(e) The allocation of fiscal year 2000-2001 State carryforward funds is prohibited, and all fiscal year 2000-2001 unspent funds shall revert to the General Fund.

SECTION 21.75.(f) For the 2001-2002 fiscal year, the North Carolina Partnership for Children, Inc., shall not approve local partnership plans that allocate State funds to child care providers for one-time quality improvement initiatives in the following circumstances:

- (1) Child care facilities with licensure of four or five stars, unless the expenditure of funds is to expand capacity for low-income children.
- (2) Child care facilities that do not accept child care subsidy funds.
- (3) Child care facilities that previously received quality improvement grants whose quality initiatives failed to increase licensure.

SECTION 21.75.(g) G.S. 143B-168.15(f) is repealed.

SECTION 21.75.(h) G.S. 143B-168.12(a)(9) is repealed.

SECTION 21.75.(i). G.S. 143B-168.12 is amended by adding a new subsection to read:

"(d) The North Carolina Partnership for Children, Inc., shall make a report no later than December 1 of each year to the General Assembly that shall include the following:

- (1) A description of the program and significant services and initiatives.
- (2) A history of Smart Start funding and the previous fiscal year's expenditures.
- (3) The number of children served by type of service.

- (4) The type and quantity of services provided.
- (5) The results of the previous year's evaluations of the Initiatives or related programs and services.
- (6) A description of significant policy and program changes.
- (7) Any recommendations for legislative action."

SECTION 21.75.(j) Notwithstanding the funding formula in G.S. 143B-168.13(a)(6), the State, in consultation with the North Carolina Partnership for Children, Inc., shall evaluate the feasibility of developing a revised funding formula which takes into consideration all relevant funding used by the State, local human services agencies and programs, and local partnerships to provide services and assistance to children under age five and their families. These funds shall include the Early Intervention Preschool Program, Health Choice, and Family Resource Centers, as well as other State and local services and programs funded with State funds, federal funds, local funds, and other resources.

SECTION 21.75.(k) Effective January 1, 2002, the North Carolina Partnership for Children, Inc., in consultation with Department of Health and Human Services, shall report the following information to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on a quarterly basis:

- (1) Total Smart Start budget and expenditures by month for the current fiscal year.
- (2) The number of children served by type of service.
- (3) A description of and expenditures for statewide initiatives.
- (4) A description of and quantity of non-child care services provided.
- (5) An accounting of expenditures for the child care voucher subsidy programs.
- (6) The progress of the North Carolina Partnership for Children, Inc., in complying with the provisions of this section.
- (7) Any other related information.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EVALUATION

SECTION 21.76. Of the funds appropriated to the Department of Health and Human Services, Division of Child Development, for the 2001-2002 fiscal year for the evaluation of the

Early Childhood Education and Development Initiatives, no more than five hundred thousand dollars (\$500,000) may be used for evaluation of the Initiatives. The funds shall be used as follows:

- (1) Evaluation of the Early Childhood Education and Development Initiatives, including the ongoing review of quality child care efforts and child care providers' progress in preparing children to be ready to enter school and succeed.
- (2) Continuation of technical assistance to local partnerships in data collection and evaluation.
- (3) No more than five percent (5%) shall be used for the contractor's administrative overhead.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson, Baddour

DEVELOPMENT OF MORE AT FOUR PILOT PROGRAM

SECTION 21.76B.(a) Of the funds appropriated to the Department of Health and Human Services the sum of six million four hundred fifty-six thousand five hundred dollars (\$6,456,500) in each year of the 2001-2003 fiscal biennium shall be used to develop and implement "More At Four", a voluntary prekindergarten pilot program for at-risk four-year-olds. The Department of Health and Human Services, in consultation with the Department of Public Instruction, shall develop "More At Four" for four-year-old children in North Carolina to ensure that all children have an opportunity to succeed in kindergarten.

SECTION 21.76B.(b) The Department of Health and Human Services and the Department of Public Instruction shall establish the "More At Four" Pre-K Task Force to oversee development and implementation of the pilot program. The membership shall include:

- (1) Parents of at-risk children.
- (2) Representatives with expertise in early childhood development.
- (3) Classroom teachers who are certified in early childhood education.
- (4) Representatives of the private not-for-profit and for-profit child care providers in North Carolina.
- (5) Employees of the Department of Health and Human Services who are knowledgeable in the areas of early childhood development, current State and federally funded efforts in child development, and providing child care.

- (6) Representatives of local Smart Start partnerships.
- (7) Representatives of local school administrative units.
- (8) Representatives of Head Start prekindergarten programs in North Carolina.
- (9) Employees of the Department of Public Instruction.

SECTION 21.76B.(c) The Department of Health and Human Services and the Department of Public Instruction, under the guidance of the Task Force, shall develop and implement the "More At Four" pilot prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The pilot shall be distributed geographically to ensure adequate representation of the diverse areas of the State, including underserved areas. The goal of the program shall be to provide quality prekindergarten services in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force and may consider the "More At Four" Pre-K Task Force recommendations. The program shall include:

- (1) A process and system for identifying children at risk of academic failure.
- (2) A process and system for identifying children who have never been served in a formal early education program such as child care, public or private preschool, Head Start, Early Head Start, early intervention programs or other such programs, who demonstrate educational needs on the basis of a prekindergarten assessment, and who are eligible to enter kindergarten the next school year.
- (3) A curriculum or several curricula that are recommended by the Task Force. The Task Force may consider curricula used by established prekindergarten programs such as WINGS, Bright Beginnings, and others. These curricula shall (i) focus primarily on oral language and emergent literacy, (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years, (iii) involve active learning, (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills, and (v) develop skills that will prepare children emotionally and socially for kindergarten.
- (4) An emphasis on ongoing family involvement with the prekindergarten program.

- (5) Evaluation of child progress through pre- and post-assessment of children as well as ongoing assessment of the children by teachers.
- (6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children. A process and system for reimbursing providers that builds upon the existing child care subsidy reimbursement system.
- (7) A system built upon existing local school boards and systems, private child care providers, and other entities who demonstrate the ability to establish or expand prekindergarten capacity.
- (8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force. The Department may use the child care rating system to assist in determining program participation.
- (9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth to kindergarten education.
- (10) A local contribution. Programs must demonstrate that they are accessing resources other than "More At Four".
- (11) A system of accountability.
- (12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the pilot.
- (13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.
- (14) Recommendations for long-term organizational placement and administration of the program.

SECTION 21.76B.(d) In development of the "More At Four" pilot, the Department of Health and Human Services, in

consultation with the Department of Public Instruction and the Task Force, shall:

- (1) Contract with an independent research organization, outside the Department of Health and Human Services and the Department of Public Instruction, with proven expertise in evaluation of prekindergarten programs, for the design of an evaluation component. The evaluation component shall facilitate longitudinal review of the program and child-specific outcomes to include, at a minimum, participants' readiness for kindergarten, percentage of participants scoring at or above grade level on the third grade end-of-grade test, and high school graduation rates.
- (2) Collaborate in the development of a system to collect and maintain child-specific information to provide for the long-term evaluation of the pilot. The system shall be developed in a manner which builds upon existing State and local systems and which facilitates the interface with the N.C. Student Information Management System.

SECTION 21.76B.(e) State funds appropriated under this act for the "More At Four" pilot program shall not supplant current expenditures by counties, local partnerships, or other recipients of State and federal funds, allocated and expended on behalf of young children.

SECTION 21.76B.(f) In order to maximize and coordinate funding for prekindergarten programs for four-year-olds with demonstrated educational needs, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall identify and make recommendations on the reallocation of funds from existing State and local programs providing prekindergarten related care and services, including child care subsidies. All potential funding sources, including federal as well as State-funded efforts, shall be identified.

SECTION 21.76B.(g) The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall report by January 1, 2002, and May 1, 2002, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, and the House of Representatives Appropriations Subcommittee on Health and Human Services on the progress in complying with this section. A final report along with recommendations for changes or expansion of the program shall be presented to the 2003 General Assembly.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**CONSOLIDATION AND TRANSFER OF PROGRAM FUNDS
IN THE DIVISION OF SERVICES FOR THE BLIND**

SECTION 21.77. The Division of Services for the Blind may consolidate the operating budgets for the Medical Eye Care Program and the Independent Living Services Program. The Division shall continue to provide all services currently provided by the Medical Eye Care Program and the Independent Living Services Program.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**ELIGIBILITY FOR VOCATIONAL REHABILITATION AND
INDEPENDENT LIVING SERVICES**

SECTION 21.78.(a) The Department of Health and Human Services shall compare the income eligibility standards for Vocational Rehabilitation and Independent Living Services to the income eligibility standards for Vocational Rehabilitation and Independent Living Services in other states.

SECTION 21.78.(b) The Department of Health and Human Services shall develop a plan for maximizing resources for Independent Living Services to ensure that services are targeted to the most financially needy persons.

SECTION 21.78.(c) The Department of Health and Human Services shall develop a plan for maximizing resources for Vocational Rehabilitation Services to ensure services are provided for low-income persons, the developmentally disabled, and Work First recipients who otherwise qualify for Vocational Rehabilitation Services.

SECTION 21.78.(d) The Department of Health and Human Services shall report on the activities required by this section no later than March 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

**MAXIMIZATION OF RECEIPTS FOR EARLY
INTERVENTION PROGRAMS**

SECTION 21.79. The Department of Health and Human Services, Division of Public Health, area mental health, developmental disabilities, and substance abuse services programs, and local health departments shall maximize receipts for the evaluation and services provided by the Developmental Evaluation Centers and through Early Intervention programs. The Division shall maximize receipts from Health Choice, Medicaid, and other third-party payers. All receipts collected shall remain within the Division and shall be used to offset appropriations for operations of the Developmental Evaluation Centers and Early Intervention services.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CREATE OFFICE OF EDUCATION SERVICES

SECTION 21.80.(a) G.S. 143B-146.22 is repealed.

SECTION 21.80.(b) The Division of Early Intervention and Education is dissolved and an Office of Education Services is created within the Department of Health and Human Services. The purpose of this office is to manage the Schools for the Deaf, the Governor Morehead School for the Blind, and their preschool components. The Office shall have a Superintendent and appropriate staff to manage these schools. The purpose of the Office is to improve student academic and postsecondary outcomes and to strengthen collaborative relationships with local education agencies and with the State Board of Education.

SECTION 21.80.(c) The Early Intervention program, including all positions and the corresponding State appropriations, federal funds, and other funds that were in the Early Intervention program as of January 1, 2001, are transferred from the Division of Early Intervention and Education to the Division of Public Health, Women's and Children's Health Section.

SECTION 21.80.(d) The Developmental Evaluation Centers, including all positions and the corresponding State appropriations, federal funds, and other funds, are transferred from the Division of Early Intervention and Education to the Division of Public Health, Women's and Children's Health Section.

SECTION 21.80.(e) The Governor Morehead School preschool program, including all positions and the corresponding State appropriations, federal funds, and other funds, is transferred from the Division of Early Intervention and Education to the Governor Morehead School.

SECTION 21.80.(f) The Department of Health and Human Services shall make the necessary organization changes effective immediately and the budget adjustments by October 1, 2001.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CLOSURE OF CENTRAL NORTH CAROLINA SCHOOL FOR THE DEAF AT GREENSBORO

SECTION 21.81.(a) G.S. 143B-146.21(b) and (c) reads as rewritten:

"(b) The Secretary of Health and Human Services shall adopt policies and offer training opportunities to ensure that personnel who provide direct services to children in the ~~three~~-State schools for the deaf become proficient in sign language within two years of their initial date of employment or within two years of the effective date of this act, whichever occurs later. This subsection shall not apply to preschool personnel in any oral, auditory, or cued speech preschool.

(c) The Department of Public Instruction, the Board of Governors of The University of North Carolina, and the State Board of Community Colleges shall offer and communicate the availability of professional development opportunities, including those to improve sign language skills, to the personnel assigned to the State's residential schools, particularly the Governor Morehead School and the ~~three~~-schools for the deaf."

SECTION 21.81.(b) G.S. 143B-216.40 reads as rewritten:
 "§ 143B-216.40. *Establishment; operations.*

There are established, and there shall be maintained, the following schools for the deaf: the Eastern North Carolina School for the Deaf at Wilson (~~K-12~~); the ~~Central North Carolina School for the Deaf at Greensboro (K-8),(K-12)~~ and the North Carolina School for the Deaf at Morganton (K-12). The Department of Health and Human Services shall be responsible for the operation and maintenance of the schools.

The Board of Directors of the North Carolina Schools for the Deaf shall advise the Department and shall adopt rules and regulations concerning the schools as provided in G.S. 115C-124 and 143B-173."

SECTION 21.81.(c) G.S. 143B-146.2(a) reads as rewritten:

"(a) The Governor Morehead School and the ~~three~~-schools for the deaf shall participate in the ABC's Program. The Secretary, in consultation with the General Assembly and the State Board, may designate other residential schools that must participate in the ABC's Program. The primary goal of the ABC's Program is to improve student performance. The Program is based upon an accountability, recognition, assistance, and intervention process in order to hold each participating school, its superintendent, and the instructional

personnel accountable for improved student performance in that school."

SECTION 21.81.(d) G.S. 143B-216.32(a) reads as rewritten:

"(a) The Council for the Deaf and the Hard of Hearing shall consist of 23 members. Fifteen members shall be members appointed by the Governor. Three members appointed by the Governor shall be persons who are deaf and three members shall be persons who are hard of hearing. One appointment shall be an educator who trains deaf education teachers and one appointment shall be an audiologist licensed under Article 22 of Chapter 90 of the General Statutes. Three appointments shall be parents of deaf or hard of hearing children including one parent of a student in a residential school; one parent of a student in a preschool program; and one parent of a student in a mainstream education program, with ~~each~~ at least one parent coming from ~~a different~~ each region of the ~~three~~ North Carolina schools for the deaf regions. One member appointed by the Governor shall be recommended by the President of the North Carolina Association of the Deaf; one member shall be recommended by the President of the North Carolina Pediatric Society; one member shall be recommended by the President of the North Carolina Registry of Interpreters for the Deaf; and one member shall be nominated by the Superintendent of Public Instruction. One member shall be appointed from the House of Representatives by the Speaker of the House of Representatives and one member shall be appointed from the Senate by the President Pro Tempore of the Senate. The Secretary of Health and Human Services shall appoint six members as follows: one from the Division of Vocational Rehabilitation, one from the Division of Aging, one from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, one from the Division of Social Services, one from a North Carolina Chapter of SHHH (Self Help for the Hard of Hearing), and one from SPEAK (Statewide Parents' Education and Advocacy for Kids)."

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

RESIDENTIAL SCHOOLS FOR THE DEAF

SECTION 21.82.(a) The Department of Health and Human Services shall assess the educational needs of the current students at the North Carolina School for the Deaf in Morganton and the Eastern North Carolina School for the Deaf in Wilson. In doing so, the Department shall identify resources needed to educate these children within the public school system or the North Carolina Schools for the Deaf and prepare an educational plan for each student. The Division of Mental Health, Developmental Disabilities, and Substance Abuse

Services, the Office of Education Services, and the Department of Public Instruction shall work together in the development of these plans for students.

SECTION 21.82.(b) The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the Office of Education Services, and the Department of Public Instruction shall develop a plan for those children who are seriously emotionally disturbed and prepare plans to place them in appropriate settings.

SECTION 21.82.(c) The Department of Health and Human Services shall report on or before March 15, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities under this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PRESCHOOL PROGRAMS FOR THE DEAF

SECTION 21.83. Effective October 1, 2001, the Department of Health and Human Services shall transition the children at the State-operated preschool programs for the deaf to other preschool services. The State-operated preschool sites shall cease to operate after that date. The Department of Health and Human Services, the Division of Public Health, the Office of Education Services, the Division of Child Development, and the Department of Public Instruction shall develop a transition plan for the appropriate placement of the children located at these preschool sites. The transition plan shall include an assessment of the available resources to meet the needs of the children.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

EARLY INTERVENTION PILOTS

SECTION 21.84.(a) The Department of Health and Human Services, Division of Public Health shall not expand the Student Information Management System pilot program statewide during the 2001-2002 fiscal year. The Department shall maintain, evaluate, and improve the three pilot projects implemented in the 2000-2001 fiscal year, and provide a report on the status of the system to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by October 1, 2001. The report shall include the status of the operations of the

database, a plan for statewide expansion, and the costs associated with the expansion.

SECTION 21.84.(b) The Department of Health and Human Services shall not expand the regional interdisciplinary pilots during the 2001-2002 fiscal year.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

EVALUATION OF EARLY INTERVENTION SYSTEM

SECTION 21.85.(a) The Department of Health and Human Services, Division of Public Health, shall determine the reasons why children are waiting for evaluation services provided by the Developmental Evaluation Centers. The Division shall develop an action plan to reduce the waiting period for evaluation services.

SECTION 21.85.(b) The Department of Health and Human Services, Division of Public Health, shall determine the reasons why children and their families are waiting for services that follow the evaluation process. The Division shall identify the specific services that children are waiting for and develop a plan to address the waiting period.

SECTION 21.85.(c) The Department of Health and Human Services, Division of Public Health, shall assess ways in which to create efficiencies among the therapies that are provided within the Early Intervention Program, Children With Special Health Services program, and other programs. The Division shall also evaluate ways to combine early intervention services provided by the Developmental Evaluation Centers, regional therapists, local health departments, and area mental health, developmental disabilities, and substance abuse authorities to gain efficiencies.

SECTION 21.85.(d) Not later than December 1, 2001, the Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the assessment and plans of action for all of the above. The Department shall present a final report on the implementation of this section not later than April 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

IMMUNIZATION PROGRAM RESTITUTION POLICY

SECTION 21.86.(a) Part 2 of Article 6 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"§ 130A-158. Restitution required when vaccine spoiled due to provider negligence.

Immunization program providers shall be liable for restitution to the State for the cost of replacement vaccine when vaccine in the provider's inventory has become spoiled or unstable due to the provider's negligence and unreasonable failure to properly handle or store the vaccine."

SECTION 21.86.(b) This section is effective when it becomes law.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

IMMUNIZATION PROGRAM FUNDING

SECTION 21.87.(a) Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of up to one million dollars (\$1,000,000) for the 2001-2002 fiscal year and the sum of one million dollars (\$1,000,000) for the 2002-2003 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

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

SECTION 21.87.(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services or contracts, except for contracts to develop an automated immunization registry or with local health departments for outreach.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Rand, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PRESCRIPTION DRUG ASSISTANCE PROGRAM

SECTION 21.88. Of the funds appropriated in this act to the Department of Health and Human Services, the sum of five hundred thousand dollars (\$500,000) for the 2001-2002 fiscal year and the sum of five hundred thousand dollars (\$500,000) for the 2002-2003 fiscal year shall be used to pay the cost of outpatient prescription drugs for persons:

- (1) Over the age of 65 years and not eligible for full Medicaid benefits;
- (2) Whose income is not more than one hundred fifty percent (150%) of the federal poverty level; and
- (3) Who have been diagnosed with cardiovascular disease or diabetes.

These funds shall be used to pay the cost of outpatient prescription drugs for the treatment of cardiovascular disease or diabetes. Payment shall be not more than the Medicaid cost including rebates. The Department shall develop criteria to maximize the efficient and effective distribution of these drugs.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ADOLESCENT PREGNANCY PREVENTION INITIATIVES

SECTION 21.89.(a) The title of Part 6 of Article 5 of Chapter 130A of the General Statutes reads as rewritten:

"Part 6. ~~Adolescent Teen Pregnancy Prevention Projects.~~ Prevention."

SECTION 21.89.(b) G.S. 130A-131.15 is repealed.

SECTION 21.89.(c) Part 6 of Article 5 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-131.15A. Department to establish program.

(a) The Department shall establish and administer Teen Pregnancy Prevention Initiatives. The Department shall establish initiatives for primary prevention, secondary prevention, and special projects.

(b) The Commission shall adopt rules necessary to implement this section. The rules shall include a maximum annual funding level for initiatives and a requirement for local match.

(c) Initiatives shall be funded in accordance with selection criteria established by the Commission. In funding initiatives, the Department shall target counties with the highest teen pregnancy rates, increasingly higher rates, high rates within demographic subgroups, or greatest need for parenting programs. Grants shall be awarded on an annual basis.

(d) Initiatives shall be funded on a four-year funding cycle. The Department may end funding prior to the end of the four-year period if programmatic requirements and performance standards are not met.

At the end of four years of funding, a local initiative shall be eligible to reapply for funding.

(e) Administrative costs in implementing this section shall not exceed ten percent (10%) of the total funds administered pursuant to this section.

(f) Programs are not required to provide a cash match for these funds; however, the Department may require an in-kind match.

(g) The Department shall periodically evaluate the effectiveness of teen pregnancy prevention programs."

SECTION 21.89.(d) The Department of Health and Human Services shall administer the Adolescent Pregnancy Prevention Program, the Adolescent Parenting Program, and the TANF-funded pregnancy prevention projects pursuant to the provisions of G.S. 130A-131.15A.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson, Wright
AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 21.90.(a) The Department shall develop a comprehensive information management system on AIDS/HIV clients receiving services from the State. The Department may use up to fifty thousand dollars (\$50,000) of the funds appropriated in this act to implement this information management system. This information management system shall be patterned after the information management system used by the Prescription Drug Assistance Program, shall provide instantaneous internal access to information, and shall include information on the following:

- (1) Program usage patterns of ADAP participants, including, but not limited to, frequency of prescription purchases, types of medications prescribed, and the cost of prescribed medications on a monthly basis.
- (2) Demographics of participants in the program, including the age, gender, race, ethnicity, and county of residence of participants.

The Department shall also develop a plan for promoting patient adherence to physician treatment recommendations. In developing the plan, the Department shall identify ways of obtaining information without interfering with physician-patient confidentiality. The Department shall report on this plan to the members of the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than May 1, 2002.

SECTION 21.90.(b) For the 2001-2002 fiscal year and for the 2002-2003 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP may be extended to individuals with incomes up to one hundred fifty percent (150%) of the federal poverty level only after the Office of State Budget and Management certifies in writing that the Department has developed an information management system pursuant to subsection (a) of this section. Until the Office of State Budget and Management makes this certification, eligibility for participation in ADAP during the 2001-2003 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level. Following six months of increased eligibility at one hundred fifty percent (150%) of the federal poverty level, eligibility for participation in ADAP shall be extended to individuals with incomes up to one hundred seventy-five percent (175%) of the federal poverty level for the remainder of the 2001-2002 fiscal year. Beginning July 1, 2002, eligibility for participation in the ADAP shall be extended to individuals with incomes up to two hundred percent (200%) of the federal poverty level.

SECTION 21.90.(c) The Department of Health and Human Services shall make an interim report on ADAP program utilization by January 1, 2002, and a final report on ADAP program utilization and a report on the findings from a study on ways to improve HIV/AIDS prevention and care programs by April 30, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

- (1) ADAP program utilization:
 - a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.
 - b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.
 - c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.
 - d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.

- e. An update on the status of the information management system.
 - f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.
 - g. Fiscal year-to-date budget information.
- (2) HIV/AIDS prevention and care:
- a. Ways to improve the efficiency of current HIV/AIDS prevention and care programs to ensure that current available funds are put to the optimal use. This study shall include an analysis of the changing demographics of the HIV/AIDS epidemic to ensure that prevention funds are targeted at population subgroups most at risk.
 - b. A review of prevention programs operated by other states or localities that are not currently offered by this State. This review shall include a study of the effectiveness of the programs, any barriers to offering the programs in this State, an estimate of the costs involved with offering these programs, and ways in which a specific program might be adapted to meet the needs of this State.
 - c. Any other matter the Department finds relevant to the issue.

SECTION 21.90.(d) The Department of Health and Human Services shall revise its policy regarding determination of eligibility to require all applications for participation in ADAP to be reviewed for eligibility determination by the Purchase of Medical Care Unit of the Program Benefits and Payment Section of the Office of the Controller of the Department of Health and Human Services. The Department shall track all applications for participation in ADAP in order to make the reports required under subsection (c) of this section. This policy applies to all applications made in physician offices or other settings.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

DIVISION OF PUBLIC HEALTH REORGANIZATION

SECTION 21.91.(a) The Department of Health and Human Services shall reduce layers of management and streamline operations by creating a Section of Financial Management and Support. The Department shall consolidate all budgeting, purchasing, contract oversight, and computer networking personnel into this section. The Department shall transfer all positions, corresponding State appropriations, federal funds, and other related funds into this section.

At no time shall the Department allow the Division of Public Health to maintain nonprogram positions within the other sections of the Division.

SECTION 21.91.(b) The Department shall establish a new permanent full-time position in the Division of Public Health for Local Health Services section chief. The Department shall not contract for this position.

SECTION 21.91.(c) Not later than December 1, 2001, the Department shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the reorganization activities required under this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson, Insko
DIVISION OF PUBLIC HEALTH NURSE CONSULTANT AND PUBLIC HEALTH EDUCATOR CONSOLIDATION

SECTION 21.91A.(a) The Department of Health and Human Services shall, in partnership with local health department personnel, evaluate all nurse consultant positions in the Division of Public Health to determine the feasibility of consolidating duties and responsibilities of nurse consultants in order to maximize services for local health departments.

SECTION 21.91A.(b) The Department shall evaluate health educator positions to determine the feasibility of combining the duties and responsibilities of health educators in order to create efficiencies and maximize services.

SECTION 21.91A.(c) The Department shall report its findings and recommendations to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The Department shall submit the report not later than March 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson
STATE LABORATORY

SECTION 21.92.(a) The Department of Health and Human Services, Office of the Controller, shall develop a five-year equipment replacement schedule for the State Laboratory. The purpose of the schedule is to have an objective plan for medical

laboratory equipment replacement to plan for current and future years' budget requirements.

SECTION 21.92.(b) The Department shall assess the various services that the State Laboratory provides and address the feasibility of contracting for additional services. The Department shall prepare a cost-benefit analysis of providing services in-house versus contracting out for services.

SECTION 21.92.(c) The Department shall assess the current fees and fee methodology for laboratory services to determine if fees are set at the appropriate levels. The Department shall identify new ways to set fees that incorporate the fully allocated cost of laboratory equipment and the full costs of operations. The Department may implement a revised fee schedule to reflect the full cost of operations including equipment replacement.

SECTION 21.92.(d) Not later than March 1, 2002, the Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the implementation of this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CENTRALIZATION OF STATISTICAL MANAGEMENT AND ANALYSIS FUNCTIONS

SECTION 21.93. The Secretary shall transfer components of the State Center for Health Statistics and related functions across divisions including information management, database management, and other related positions in order to centralize the statistical management and analysis functions across the Department of Health and Human Services. The purpose of the transfer is to facilitate enhanced statistical analyses and information for members of the public and support of all of the Divisions of the Department. The Secretary shall transfer corresponding State appropriations, federal funds, and other funds. The Department shall do the following:

- (1) Determine the feasibility of centralizing existing database contracts within the Office of the Secretary and determine the feasibility of creating a unit to more efficiently and effectively manage database and information contracts for the entire Department.
- (2) Evaluate the feasibility of operating the centralized unit as an internal service fund budget.

The Department shall submit a progress report to the Senate Appropriations Committee on Health and Human Services, the House

of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the implementation of this section no later than December 1, 2001, an interim report no later than June 1, 2002, and a final report on December 1, 2002. The report shall include an assessment of the current statistical analysis functions for each Division and determine the resources (staff and appropriations) that would be suitable for transfer into the Office of the Secretary. The inventory shall include an assessment of all current contracts for database management, data collection, and analyses and shall determine the total amount of funds currently involved with these efforts. The final report shall include an implementation plan for carrying out the provisions of this section.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PUBLIC HEALTH PREVENTION ACTIVITIES REPORT

SECTION 21.94. The Department of Health and Human Services, Division of Public Health, shall conduct an inventory of its activities in the prevention of infant mortality and birth defects. The Department shall conduct a comprehensive assessment of these activities to identify all in-house activities and contracted activities and shall include the following:

- (1) Program or service title and description;
- (2) Number of clients served, if applicable;
- (3) State appropriations, federal funds, and other funds involved with the program or service; and
- (4) To the extent possible include Smart Start health programs and services, and identify other nonprofit organizations' activities.

The Department shall report on the information required under this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by March 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Warren, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

HEART DISEASE AND STROKE PREVENTION TASK FORCE

SECTION 21.95. The Heart Disease and Stroke Prevention Task Force, created in subsection (l) of Section 26.9 of Chapter 507 of the 1995 Session Laws, as amended, shall submit to the Governor and the General Assembly a sixth interim report within the first week

of the convening of the 2001 General Assembly, 2002 Regular Session, and a seventh interim report within the first week of the convening of the 2003 General Assembly. Notwithstanding Section 11.57 of S.L. 1999-237, the Task Force shall submit a final report by June 30, 2003, and, upon submission of its final report to the Governor and the General Assembly, the Task Force shall expire.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

NEWBORN HEARING SCREENING PROGRAM REPORT

SECTION 21.96. The Department of Health and Human Services shall report the following information on the newborn hearing screening program:

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

The Department shall submit the report not later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

INTENSIVE HOME VISITING

SECTION 21.97.(a) The Department of Health and Human Services, Division of Public Health, shall not use any State funds for the 2001-2002 fiscal year to contract for evaluation or technical assistance for the Intensive Home Visiting Program. If the Department contracts for evaluation or technical assistance using funds other than State funds, then the contract shall provide that the contractor will have the management information system fully implemented and operational at all IHV project sites within one month of the contract start date and will have all data, submitted by local IHV projects, entered into the database with a complete report provided to the Division of Public Health by January 1, 2002.

SECTION 21.97.(b) The Division shall require in-home visitors to collect data on program participants as a condition of participation. This requirement shall include six-month periodic assessments and completion of the questionnaires. The Department

shall ensure that the collection, maintenance, use, and disclosure of data complies with applicable State and federal law protecting privacy of health and other individual information. By April 1, 2002, the Division shall report to the Senate Appropriations Committee on Health and Human Services and the House of Representatives Appropriations Subcommittee on Health and Human Services on the following items:

- (1) Number of clients/families enrolled per county.
- (2) Attrition and reasons why families leave the program.
- (3) Average number of home visits per month.
- (4) Average time involved per home visit.
- (5) Baseline family characteristics.
- (6) Health behaviors.
- (7) Perinatal and birth outcomes.
- (8) Other relevant outcome information.

All program information shall include the identification of the model used in order to compare these models in the future.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

ACCESS TO ORAL HEALTH CARE

SECTION 21.98.(a) Of the funds appropriated in this act to the Department of Health and Human Services, the sum of one million dollars (\$1,000,000) for the 2001-2002 fiscal year and the sum of two million dollars (\$2,000,000) for the 2002-2003 fiscal year shall be used to develop and implement a plan to improve access to dental services for Medicaid-eligible children and Medicaid-eligible adults. In developing and implementing a plan to improve access to dental services, the Department may consider various options including increasing rates, developing incentives to encourage dentists to serve Medicaid clients, and encouraging use of mobile dental units.

SECTION 21.98.(b) Funds allocated under this section shall not be used for payment of attorneys' fees in the settlement of the case of Andrican et al. v. Buell et al.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

CONTRACTUAL SERVICES LIMITATION

SECTION 21.99.(a) The Department of Health and Human Services shall maintain the adolescent pregnancy prevention and adolescent parenting program database created for the program via contract and shall not continue to contract for database management,

development, or analysis. Of the funds appropriated to the Department in this act, the Department shall not spend more than twenty-five thousand dollars (\$25,000) to transition the database from the contractor to the Department. The Department shall continue to collect and manage program data in order to conduct longitudinal studies in the future. The adolescent pregnancy prevention and adolescent parenting programs shall continue to collect the data in the survey manner in which information is currently collected.

SECTION 21.99.(b) Of funds appropriated to the Department of Health and Human Services, the Department shall not spend more than twenty-five thousand dollars (\$25,000) to complete the longitudinal adolescent parenting program evaluation.

SECTION 21.99.(c) The Department of Health and Human Services shall collect data on programs and participants and prepare an annual report on basic program information. The Department shall plan for a periodic program effectiveness evaluation that assesses outcomes and compares program models and shall include this plan in the report required under subsection (d) of this section.

SECTION 21.99.(d) The Department shall report on activities conducted pursuant to this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by March 1, 2002.

Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson

PRESCRIPTION DRUG INITIATIVES GRANT FUNDS

SECTION 21.100. The Health and Wellness Trust Fund Commission shall, as it develops criteria for awarding grants under Article 6C of Chapter 147 of the General Statutes, include criteria that will enable programs and initiatives addressing the need to expand access to prescription drugs to North Carolina senior and disabled citizens to receive grants from the Fund. In making the grants, the Commission shall consider, and coordinate with, the availability of any federal funds allocated to North Carolina pursuant to any federal initiative to provide financial assistance to senior and disabled citizens for the cost of prescription drugs.

In making its annual report to the Joint Legislative Commission on Governmental Operations and to the chairs of the Joint Legislative Health Care Oversight Committee regarding the implementation of that Article, the chair of the Health and Wellness Trust Fund Commission shall report on the programs and initiatives to expand access to prescription drugs to senior and disabled citizens that were funded by the Trust Fund. The report shall include the

amount of funds disbursed for programs and initiatives to expand access to prescription drugs to senior and disabled citizens and the success of those programs and initiatives towards helping senior and disabled citizens obtain prescription drugs.

PART XXII. JUDICIAL DEPARTMENT

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 22.1. Funds appropriated to the Judicial Department in the 2001-2003 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORT ON COMMUNITY MEDIATION CENTERS

SECTION 22.2. Article 5 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"§ 7A-38.6. Report on community mediation centers.

(a) All community mediation centers currently receiving State funds shall report annually to the Mediation Network of North Carolina on the program's funding and activities, including:

- (1) Types of dispute settlement services provided;
- (2) Clients receiving each type of dispute settlement service;
- (3) Number and type of referrals received, cases actually mediated, cases resolved in mediation, and total clients served in the cases mediated;
- (4) Total program funding and funding sources;
- (5) Itemization of the use of funds, including operating expenses and personnel;
- (6) Itemization of the use of State funds appropriated to the center;
- (7) Level of volunteer activity; and
- (8) Identification of future service demands and budget requirements.

The Mediation Network of North Carolina shall compile and summarize the information provided pursuant to this subsection and shall provide the information to the Chairs of the House of

Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 1 of each year.

(b) A community mediation center requesting State funds for the first time shall provide the General Assembly with the information enumerated in subsection (a) of this section, or projections where historical data are not available, as well as a detailed statement justifying the need for State funding.

(c) Each community mediation center receiving State funds for the first time shall document in the information provided pursuant to this section that, after the second year of receiving State funds, at least ten percent (10%) of total funding comes from non-State sources.

(d) Each community mediation center receiving State funds for the third, fourth, or fifth year shall document that at least twenty percent (20%) of total funding comes from non-State sources.

(e) Each community mediation center receiving State funds for six or more years shall document that at least fifty percent (50%) of total funding comes from non-State sources.

(f) Each community mediation center currently receiving State funds that has achieved a funding level from non-State sources greater than that provided for that center by subsection (c), (d), or (e) of this section shall make a good faith effort to maintain that level of funding.

(g) The percentage that State funds comprise of the total funding of each community mediation center shall be determined at the conclusion of each fiscal year with the information provided pursuant to this section and is intended as a funding ratio and not a matching funds requirement. Community mediation centers may include the market value of donated office space, utilities, and professional legal and accounting services in determining total funding.

(h) A community mediation center having difficulty meeting the funding ratio provided for that center by subsection (c), (d), or (e) of this section may request a waiver or special consideration through the Mediation Network of North Carolina for consideration by the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

(i) The provisions of G.S. 143-31.4 do not apply to community mediation centers receiving State funds.

(j) Each community mediation center receiving State funds shall function as, or as part of, a nonprofit organization or local government entity. A community mediation center functioning as a nonprofit organization shall have a governing board of directors that consists of a significant number of citizens from the surrounding

community. State funds may not be used for indirect costs associated with contracts between the community mediation center and another entity for the provision of management-related services."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

SENTENCING SERVICES REPORT

SECTION 22.3. The Judicial Department shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety by April 1, 2002, on the effectiveness of the Sentencing Services Program under structured sentencing and the criminal case docketing system. The report shall include:

- (1) Data on the number of plans prepared, the recommendations included in those plans, the actual sentences imposed in those cases, and an analysis of the extent to which judges impose sentences using recommendations from plans;
- (2) Data on the number of plans initiated but not presented to the court, including the reason the plan was not completed or presented; and
- (3) The results of a survey on the impact of sentencing plans on judicial decisions, to be conducted by the Research, Planning, and Budget Development Section of the Judicial Department or another entity separate from the Sentencing Services Program. The survey shall include superior court judges, district attorneys, public defenders, and defense attorneys.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ADD SPECIAL SUPERIOR COURT JUDGE/ELIMINATE VACANT SUPERIOR COURT JUDGESHIP IN DISTRICT 4B/ADD SUPERIOR COURT JUDGESHIP IN DISTRICT 24

SECTION 22.4.(a) G.S. 7A-45.1 is amended by adding a new subsection to read:

"(a5) Effective October 1, 2001, the Governor may appoint a special superior court judge to serve a term expiring five years from the date that judge takes office. Successors to the special superior court judge appointed pursuant to this subsection shall be appointed to five-year terms. A special judge takes the same oath of office and

is subject to the same requirements and disabilities as are or may be prescribed by law for regular judges of the superior court, save the requirement of residence in a particular district."

SECTION 22.4.(b) G.S. 7A-41(a) reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
First	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
First	3A	Pitt	2
Second	3B	Carteret, Craven, Pamlico	2
Second	4A	Duplin, Jones, Sampson	1
Second	4B	Onslow	$\frac{2}{3}$
Second	5	New Hanover, Pender	3
First	6A	Halifax	1
First	6B	Bertie, Hertford, Northampton	1
First	7A	Nash	1
First	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
First	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
Second	8A	Lenoir and Greene	1
Second	8B	Wayne	1
Third	9	Franklin, Granville, Vance, Warren	2
Third	9A	Person, Caswell	1
Third	10A	(part of Wake,	2

		see subsection (b))	
Third	10B	(part of Wake,	2
		see subsection (b))	
Third	10C	(part of Wake,	1
		see subsection (b))	
Third	10D	(part of Wake,	1
		see subsection (b))	
Fourth	11A	Harnett,	1
		Lee	
Fourth	11B	Johnston	1
Fourth	12A	(part of Cumberland,	1
		see subsection (b))	
Fourth	12B	(part of Cumberland,	1
		see subsection (b))	
Fourth	12C	(part of Cumberland,	2
		see subsection (b))	
Fourth	13	Bladen, Brunswick,	2
		Columbus	
Third	14A	(part of Durham,	1
		see subsection (b))	
Third	14B	(part of Durham,	3
		see subsection (b))	
Third	15A	Alamance	2
Third	15B	Orange, Chatham	1
Fourth	16A	Scotland, Hoke	1
Fourth	16B	Robeson	2
Fifth	17A	Rockingham	2
Fifth	17B	Stokes, Surry	2
Fifth	18A	(part of Guilford,	1
		see subsection (b))	
Fifth	18B	(part of Guilford,	1
		see subsection (b))	
Fifth	18C	(part of Guilford,	1
		see subsection (b))	
Fifth	18D	(part of Guilford,	1
		see subsection (b))	
Fifth	18E	(part of Guilford,	1
		see subsection (b))	
Sixth	19A	Cabarrus	1
Fifth	19B1	(part of Montgomery,	1
		part of Moore,	
		part of Randolph	
		see subsection (b))	
Fifth	19B2	(part of Montgomery,	1
		part of Moore,	

		part of Randolph see subsection (b))	
Sixth	19C	Rowan	1
Sixth	20A	Anson, Richmond	1
Sixth	20B	Stanly, Union	2
Fifth	21A	(part of Forsyth, see subsection (b))	1
Fifth	21B	(part of Forsyth, see subsection (b))	1
Fifth	21C	(part of Forsyth, see subsection (b))	1
Fifth	21D	(part of Forsyth, see subsection (b))	1
Sixth	22	Alexander, Davidson, Davie, Iredell	3
Fifth	23	Alleghany, Ashe, Wilkes, Yadkin	1
Eighth	24	Avery, Madison, Mitchell, Watauga, Yancey	4 <u>2</u>
Seventh	25A	Burke, Caldwell	2
Seventh	25B	Catawba	2
Seventh	26A	(part of Mecklenburg, see subsection (b))	2
Seventh	26B	(part of Mecklenburg, see subsection (b))	2
Seventh	26C	(part of Mecklenburg, see subsection (b))	2
Seventh	27A	Gaston	2
Seventh	27B	Cleveland, Lincoln	2
Eighth	28	Buncombe	2
Eighth	29	Henderson, McDowell, Polk, Rutherford, Transylvania	2
Eighth	30A	Cherokee, Clay, Graham, Macon, Swain	1
Eighth	30B	Haywood, Jackson	1."

SECTION 22.4.(c) The Governor shall appoint a superior court judge for the additional judgeship in Superior Court District 24 as authorized by subsection (b) of this section to serve a term expiring December 31, 2002. The successor to that judge shall be elected in

the 2002 general election to serve a term expiring December 31, 2010.

SECTION 22.4.(d) This section becomes effective October 1, 2001, except that the elimination of the vacant judgeship in Superior Court District 4B becomes effective the later of October 1, 2001, or the date upon which it is approved under section 5 of the Voting Rights Act of 1965.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

BUSINESS COURT

SECTION 22.5. The Administrative Office of the Courts shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the activities of the North Carolina Business Court, including the number of cases heard by the court and the number of court sessions held outside of Superior Court District 18.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ELIMINATE UNNECESSARY OR OBSOLETE REPORTS

SECTION 22.6.(a) G.S. 7A-348 reads as rewritten:

"§ 7A-348. *Training and supervision of assistants for administrative and victim and witness services.*

Pursuant to the provisions of G.S. 7A-413, the Conference of District Attorneys shall:

- (1) Assist in establishing uniform statewide training for assistants for administrative and victim and witness services; and
- (2) Assist in the implementation and supervision of this program; and program.
- (3) ~~With the Director of the Administrative Office of the Courts, report annually to the Joint Legislative Commission on Governmental Operations on the implementation and effectiveness of this act, beginning on or before February 1, 1987."~~

SECTION 22.6.(b) G.S. 143-170.4 reads as rewritten:

"§ 143-170.4. *Administrative Office of the Courts; publications procedures manual; reports.*

Not later than June 1, 1990, the Administrative Office of the Courts, after review of the Department of Administration's state

publications procedures guidelines and after consultation with the State Librarian and State Auditor, shall adopt (i) a publications procedures manual for public documents, other than the official reports of the North Carolina Supreme Court and the North Carolina Court of Appeals and official forms published by the Administrative Office of the Courts pursuant to G.S. 7A-343, that addresses the elements of publication production described in G.S. 143-170.2 and (ii) an administrative review and approval process to ensure appropriate review and approval of its public documents. The initial guidelines and the administrative review and approval process shall be reported to the Joint Legislative Commission on Governmental Operations by January 1, 1991, and revisions thereto shall be reported to the Joint Legislative Commission on Governmental Operations within six months of adoption. January 1, 1991."

SECTION 22.6.(c) G.S. 143-589 reads as rewritten:

"§ 143-589. *Legislative and judicial branch safety and health programs.*

The Legislative Services Commission and the Administrative Office of the Courts are authorized to separately establish safety and health programs for their employees. ~~The Administrative Office of the Courts shall report annually to the Joint Legislative Commission on Governmental Operations on its safety and health activities with respect to its program.~~"

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

COLLECTION OF WORTHLESS CHECKS FUND

SECTION 22.7. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2001, for the purchase or repair of office or information technology equipment during the 2001-2002 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Information Technology on the equipment to be purchased or repaired and the reasons for the purchases.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Dannelly, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

AUTHORIZE FAMILY DRUG TREATMENT COURTS TO SERVE ADDICTED PARENTS OF ABUSED AND NEGLECTED CHILDREN AND TO SERVE

**SUBSTANCE-ABUSING JUVENILE OFFENDERS WHO
COME UNDER THE COURTS' JURISDICTION/DRUG
TREATMENT COURT PROGRAM FOR JUDICIAL
DISTRICT 28**

SECTION 22.8.(a) G.S. 7A-791 reads as rewritten:

"§ 7A-791. *Purpose.*

The General Assembly recognizes that a critical need exists in this State for ~~criminal justice system~~ judicial programs that will reduce the incidence of ~~drug use and alcohol and other drug abuse or dependence~~ drug addiction and crimes, delinquent acts, and child abuse and neglect committed as a result of ~~drug use~~ alcohol and other drug abuse or dependence, and drug addiction, and child abuse and neglect where alcohol and other drug abuse or dependence are significant factors in the child abuse and neglect. It is the intent of the General Assembly by this Article to create a program to facilitate the creation of local drug treatment court programs."

SECTION 22.8.(b) G.S. 7A-792 reads as rewritten:

"§ 7A-792. *Goals.*

The goals of the drug treatment court programs funded under this Article include the following:

- (1) To reduce alcoholism and other drug dependencies among ~~offenders;~~ adult and juvenile offenders and defendants and among respondents in juvenile petitions for abuse, neglect, or both;
- (2) To reduce criminal and delinquent recidivism; recidivism and the incidence of child abuse and neglect;
- (3) To reduce the alcohol-related and other drug-related court workload;
- (4) To increase the personal, familial, and societal accountability of ~~offenders;~~ adult and juvenile offenders and defendants and respondents in juvenile petitions for abuse, neglect, or both; and
- (5) To promote effective interaction and use of resources among criminal and juvenile justice personnel ~~personnel,~~ child protective services personnel, and community agencies."

SECTION 22.8.(c) G.S. 7A-793 reads as rewritten:

"§ 7A-793. *Establishment of Program.*

The North Carolina Drug Treatment Court Program is established in the Administrative Office of the Courts to facilitate the creation and funding of local drug treatment court programs. The Director of the Administrative Office of the Courts shall provide any necessary staff for planning, organizing, and administering the program. Local drug treatment court programs funded pursuant to this Article shall be operated consistently with the guidelines adopted pursuant to G.S.

7A-795. Local drug treatment court programs established and funded pursuant to this Article may consist of adult drug treatment court programs, juvenile drug treatment court programs, family drug treatment court programs, or any combination of these programs."

SECTION 22.8.(d) G.S. 7A-795 reads as rewritten:

"§ 7A-795. *State Drug Treatment Court Advisory Committee.*

The State Drug Treatment Court Advisory Committee is established to develop and recommend to the Director of the Administrative Office of the Courts guidelines for the drug treatment court program and to monitor local programs wherever they are implemented. The Committee shall be chaired by the Director or the Director's designee and shall consist of not less than seven members appointed by the Director and broadly representative of the courts, law enforcement, corrections, juvenile justice, child protective services, and substance abuse treatment communities. In developing guidelines, the Advisory Committee shall consider the Substance Abuse and the Courts Action Plan and other recommendations of the Substance Abuse and the Courts State Task Force."

SECTION 22.8.(e) G.S. 7A-796 reads as rewritten:

"§ 7A-796. *Local drug treatment court management committee.*

Each judicial district choosing to establish a drug treatment court shall form a local drug treatment court management committee, which shall be comprised to assure representation appropriate to the type or types of drug treatment court operations to be conducted in the district and shall consist of persons consisting of the following persons, appointed by the senior resident superior court judge with the concurrence of the chief district court judge and the district attorney for that district; district, chosen from the following list:

- (1) A judge of the superior court;
- (2) A judge of the district court;
- (3) A district attorney or assistant district attorney;
- (4) A public defender or assistant public defender in judicial districts served by a public defender;
- (5) An attorney representing a county department of social services within the district;
- (6) A representative of the guardian ad litem program;
- (5) (7) A member of the private criminal defense bar;
- (8) A member of the private bar who represents respondents in department of social services juvenile matters;
- (6) (9) A clerk of superior court;
- (7) (10) The trial court administrator in judicial districts served by a trial court administrator;
- (11) The director or member of the child welfare services division of a county department of social services within the district;

- (12) The chief juvenile court counselor for the district;
- ~~(8)~~ (13) A probation officer;
- ~~(9)~~ (14) A local law enforcement officer;
- (15) A representative of the local school administrative unit;
- ~~(10)~~(16) A representative of the local community college;
- ~~(11)~~(17) A representative of the treatment providers;
- (18) A representative of the area mental health program;
- ~~(12)~~(19) The local program director provided for in G.S. 7A-798; and
- ~~(13)~~(20) Any other persons selected by the local management committee.

The local drug treatment court management committee shall develop local guidelines and procedures, not inconsistent with the State guidelines, that are necessary for the operation and evaluation of the local drug treatment court."

SECTION 22.8.(f) G.S. 7A-799 reads as rewritten:
 "§ 7A-799. *Treatment not guaranteed.*

Nothing contained in this Article shall confer a right or an expectation of a right to treatment for a defendant or offender within the criminal or juvenile justice ~~system~~. system or a respondent in a juvenile petition for abuse, neglect, or both."

SECTION 22.8.(g) G.S. 7A-800 reads as rewritten:
 "§ 7A-800. *Payment of costs of treatment program.*

Each ~~defendant or~~ defendant, offender, or respondent in a juvenile petition for abuse, neglect, or both, who receives treatment under a local drug treatment court program shall contribute to the cost of the ~~substance alcohol and other drug abuse or dependency~~ treatment received in the drug treatment court program, based upon guidelines developed by the local drug treatment court management committee."

SECTION 22.8.(h) The Judicial Department may seek non-State funds and provide technical assistance to the local drug treatment court planning committee for the purpose of implementing a drug treatment court program in the 28th Judicial District.

SECTION 22.8.(i) This section shall not be construed to obligate the General Assembly to appropriate funds to implement the provisions of this section.

SECTION 22.8.(j) Subsection (h) of this section is effective when it becomes law. The remainder of this section becomes effective October 1, 2001.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

TRANSFER OF FUNDS TO OFFICE OF INDIGENT DEFENSE SERVICES

SECTION 22.9. In the event that requirements for payments to assigned counsel exceed available funds in the Office of Indigent Defense Services during the 2001-2002 fiscal year, the Judicial Department shall transfer to the Office of Indigent Defense Services up to the sum of two million four hundred thousand dollars (\$2,400,000) in funds available to cover the cost of fees held over from the 2000-2001 fiscal year. The Office of Indigent Defense Services and the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations prior to any transfer of funds authorized by this section.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

NORTH CAROLINA STATE BAR FUNDS

SECTION 22.10. Of the funds appropriated in the continuation budget as a grant-in-aid to the North Carolina State Bar for the 2001-2003 biennium, the North Carolina State Bar may in its discretion use up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2001-2002 fiscal year and up to the sum of five hundred ninety thousand dollars (\$590,000) for the 2002-2003 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ASSISTANT PUBLIC DEFENDER LONGEVITY/OFFICE OF INDIGENT DEFENSE SERVICES AMENDMENT AND CORRECTIONS

SECTION 22.11.(a) Section 49 of S.L. 2000-144 reads as rewritten:

"Section 49. Except as otherwise provided in this Part, this act becomes effective July 1, 2001. G.S. 7A-498, 7A-498.1, 7A-498.2, 7A-498.4, 7A-498.5, ~~and~~ 7A-498.6, and 7A-498.7(g), as enacted in Section 1 of this act, and Section 13 of this act are effective when they become law; however, except as otherwise provided in this Part, no rules, standards, or other regulations issued by the Commission on Indigent Defense Services, and no decisions regarding the actual delivery of services shall take effect prior to July 1, 2001, and all authority over the expenditure of funds shall remain with the Director of the Administrative Office of the Courts prior to that date. The

Commission shall be responsible for the expenditure of funds for all cases pending on or after July 1, 2001."

SECTION 22.11.(b) G.S. 7A-498.4(b) reads as rewritten:

"(b) The members of the Commission shall be appointed as follows:

- (1) The Chief Justice of the North Carolina Supreme Court shall appoint one member, who shall be an active or former member of the North Carolina judiciary.
- (2) The Governor shall appoint one member, who shall be a nonattorney.
- (3) The General Assembly shall appoint one ~~member~~ member, who shall be an attorney, upon the recommendation of the President Pro Tempore of the Senate.
- (4) The General Assembly shall appoint one ~~member~~ member, who shall be an attorney, upon the recommendation of the Speaker of the House of Representatives.
- (5) The North Carolina Public Defenders Association shall appoint one ~~member~~ member, who shall be an attorney.
- (6) The North Carolina State Bar shall appoint one ~~member~~ member, who shall be an attorney.
- (7) The North Carolina Bar Association shall appoint one ~~member~~ member, who shall be an attorney.
- (8) The North Carolina Academy of Trial Lawyers shall appoint one ~~member~~ member, who shall be an attorney.
- (9) The North Carolina Association of Black Lawyers shall appoint one ~~member~~ member, who shall be an attorney.
- (10) The North Carolina Association of Women Lawyers shall appoint one ~~member~~ member, who shall be an attorney.
- (11) The Commission shall appoint three members, who shall reside in different judicial districts from one another. One appointee shall be a nonattorney, and one appointee may be an active member of the North Carolina judiciary. One appointee shall be Native American. The initial three members satisfying this subdivision shall be appointed as provided in subsection (k) of this section."

SECTION 22.11.(c) Section 13 of S.L. 2000-144 reads as rewritten:

"Section 13. Effective when this act becomes law, G.S. 7A-467(d) is repealed. Effective July 1, 2001, G.S. 7A-459, 7A-465, 7A-466, 7A-467, 7A-467(a), 7A-467(b), 7A-467(c), 7A-467(e), 7A-467(f), 7A-467(g), 7A-469, 7A-470, 7A-471, 7A-486, 7A-486.1, 7A-486.2,

7A-486.3, 7A-486.4, 7A-486.5, 7A-486.6, and 7A-486.7 are repealed."

SECTION 22.11.(d) G.S. 7A-498.7 is amended by adding three new subsections to read:

"(i) A public defender may apply to the Director of the Office of Indigent Defense Services to enter into contracts with local governments for the provision by the State of services of temporary assistant public defenders pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(j) The Director of the Office of Indigent Defense Services may provide assistance requested pursuant to subsection (i) of this section only upon a showing by the requesting public defender, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(k) The terms of any contract entered into with local governments pursuant to subsection (i) of this section shall be fixed by the Director of the Office of Indigent Defense Services in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Office of Indigent Defense Services to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

SECTION 22.11.(e) G.S. 153A-212.1 reads as rewritten:
 "§ 153A-212.1. *Resources to protect the public.*

Subject to the requirements of G.S. 7A-41, 7A-44.1, 7A-64, 7A-102, 7A-133, and ~~7A-467~~, 7A-498.7, a county may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts or the Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

SECTION 22.11.(f) G.S. 160A-289.1 reads as rewritten:
 "§ 160A-289.1. *Resources to protect the public.*

Subject to the requirements of G.S. 7A-41, 7A-44.1, 7A-64, 7A-102, 7A-133, and ~~7A-467~~, 7A-498.7, a city may appropriate funds under contract with the State for the provision of services for the

speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts or the Office of Indigent Defense Services to maintain positions or services initially provided for under this section."

SECTION 22.11.(g) Subsection (h) of Section 15.4 of S.L. 2000-67 reads as rewritten:

"Section 15.4.(h) The Administrative Office of the Courts and the Office of Indigent Defense Services shall report by March 1 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees, to the Chairs of the House of Representatives Subcommittee on Justice and Public Safety, and to the Chairs of the Senate Appropriations Committee on Justice and Public Safety on contracts entered into with local governments for the provision of the services of assistant district attorneys, assistant public defenders, judicial secretaries, and employees in the office of the Clerk of Superior Court. The report shall include the number of applications made to the Administrative Office of the Courts or the Office of Indigent Defense Services for these contracts, the number of contracts entered for provision of these positions, and the dollar amounts of each contract."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 22.12. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

- (1) The volume and cost of cases handled in each district by assigned counsel or public defenders;
- (2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
- (3) Plans for changes in rules, standards, or regulations in the upcoming year; and
- (4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ASSISTANT PUBLIC DEFENDERS/PUBLIC DEFENDER OFFICE PERSONNEL

SECTION 22.13.(a) From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 2001-2003 biennium, the Office of Indigent Defense Services may use up to the sum of four hundred seventy-seven thousand seven hundred sixty-eight dollars (\$477,768) for the 2001-2002 fiscal year and up to the sum of four hundred forty-six thousand eight hundred twenty dollars (\$446,820) for the 2002-2003 fiscal year for salaries, benefits, equipment, and related expenses to establish up to six new assistant public defender positions in statewide programs or districts with existing public defender programs.

SECTION 22.13.(b) From funds appropriated to the Indigent Persons' Attorney Fee Fund for the 2001-2003 biennium, the Office of Indigent Defense Services may use up to the sum of two hundred eighty-three thousand five hundred seventy-five dollars (\$283,575) for the 2001-2002 fiscal year and up to the sum of two hundred fifty-six thousand three hundred ten dollars (\$256,310) for the 2002-2003 fiscal year for salaries, benefits, equipment, and related expenses to establish up to five new legal assistant, paralegal, investigator, or administrative assistant positions in statewide programs or districts with existing public defender programs.

SECTION 22.13.(c) Prior to establishing any new positions under this section, the Office of Indigent Defense Services shall report to the Joint Legislative Commission on Governmental Operations on the positions to be established and the locations of those positions.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

DEDICATE A PORTION OF COURT COSTS TO PROVIDE ACCESS TO CIVIL JUSTICE

SECTION 22.14.(a) G.S. 7A-304(a)(4) reads as rewritten:

"(4) For support of the General Court of Justice, the sum of sixty-five dollars (\$65.00) in the district court, including cases before a magistrate, and the sum of seventy-two dollars (\$72.00) in the superior court, to be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina

State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 22.14.(b) G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of fifty-nine dollars (\$59.00) in the superior court, and the sum of forty-four dollars (\$44.00) in the district court except that if the case is assigned to a magistrate the sum shall be thirty-three dollars (\$33.00). Sums collected under this ~~subsection~~ subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 22.14.(c) G.S. 7A-306(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice the sum of thirty dollars (\$30.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars (\$200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this ~~subsection~~ subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 22.14.(d) G.S. 7A-307(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of thirty dollars (\$30.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars (\$3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be

computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of the fiduciary after the filing of the inventory, the fee for such additional value shall be assessed and paid upon the filing of any account or report disclosing such additional value. For each filing the minimum fee shall be fifteen dollars (\$15.00). Sums collected under this ~~subsection~~ subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit the sum of one dollar and five cents (\$1.05) of each fee collected under this subdivision to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4."

SECTION 22.14.(e) G.S. 7A-474.1 reads as rewritten:

"§ 7A-474.1. *Legislative findings and purpose.*

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for indigent persons in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through ~~Legal Services of North Carolina, Inc., and the five~~ geographically based field programs in this State ~~receiving funds under the Legal Services Corporation Act (42 U.S.C. § 2996 et seq.) State."~~

SECTION 22.14.(f) G.S. 7A-474.2 reads as rewritten:

"§ 7A-474.2. *Definitions.*

The following definitions shall apply throughout this Article, unless the context otherwise requires:

- (1) "Eligible client" means a resident of North Carolina financially eligible for representation under the Legal Services Corporation Act, regulations, and interpretations adopted thereunder (45 CFR § 1611, and subsequent revisions).
- (2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.
- (3) ~~"Legal Services of North Carolina, Inc.," means the not-for-profit corporation established by the North Carolina Bar Association to administer the system of local legal services programs primarily funded under the Legal~~

~~Services Corporation Act (42 U.S.C. § 2996 et seq.) and the interest on Lawyer's Trust Accounts program of the North Carolina State Bar.~~

- (4) ~~"Geographically based field programs" means the 15 local following not-for-profit corporations supported by funds from Legal Services of North Carolina, Inc., and the Legal Services Corporation and which provide civil legal services to low income residents of geographic service areas comprising all 100 counties in North Carolina: using State funds to serve the counties listed: Legal Services of the Southern Piedmont, serving Cabarrus, Gaston, Mecklenburg, Stanly, and Union Counties; Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; North Central Legal Assistance Program, serving Durham, Franklin, Granville, Person, Vance, and Warren Counties; Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Services of North Carolina, serving 83 counties in North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area."~~

SECTION 22.14.(g) G.S. 7A-474.4 reads as rewritten:

"§ 7A-474.4. *Funds.*

Funds to provide representation pursuant to this Article shall be provided to ~~Legal Services of North Carolina, Inc., the North Carolina State Bar~~ for provision of direct services by and support of the geographically based programs based upon the eligible client population in each program's geographic coverage area. Funds authorized by law shall be provided by the North Carolina State Bar to ~~Legal Services of North Carolina, Inc., by a contract between those entities.~~ field programs. The North Carolina State Bar shall allocate these funds directly to each of the five geographically based field programs based upon the eligible client population in each area program, with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, based upon the eligible client population in each area program. The North Carolina State Bar shall not use any of these funds for its administrative costs."

SECTION 22.14.(h) G.S. 7A-474.5 reads as rewritten:

"§ 7A-474.5. *Records and reports.*

~~Legal Services of North Carolina, Inc., The geographically based field programs~~ shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar."

SECTION 22.14.(i) The Administrative Office of the Courts shall report by April 15 of each year to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the amount remitted to the State Bar pursuant to the provisions of G.S. 7A-304(a)(4), G.S. 7A-305(a)(2), G.S. 7A-306(a)(2), and 7A-307(a)(2). Each report shall include the amount remitted year-to-date and the projected amount for the entire fiscal year.

SECTION 22.14.(j) This section becomes effective January 1, 2002, and applies to fees assessed or paid on or after that date.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

AUTHORIZE ADDITIONAL MAGISTRATE

SECTION 22.16. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min.-Max.	Additional Seats of Court
Camden	1 3	
Chowan	2 3	
Currituck	1 4	
Dare	3 8	
Gates	2 3	
Pasquotank	3 5	
Perquimans	2 4	
Martin	5 8	
Beaufort	4 8	
Tyrrell	1 3	
Hyde	2 4	
Washington	3 4	
Pitt	10 12	Farmville Ayden
Craven	7 10	Havelock
Pamlico	2 4	
Carteret	5 8	
Sampson	6 8	

S.L. 2001-424

[SESSION LAWS

Duplin	9	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	21	Apex, Wendell, Fuquay- Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	9 <u>10</u>	Tabor City
Durham	8	13	
Alamance	7	11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton,

2001]

S.L. 2001-424

Rockingham	4	9	Pembroke, Red Springs, Rowland, St. Pauls Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	

Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	4	
Swain	2	3."	

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Hensley, Easterling, Oldham, Redwine, Thompson

ELIMINATE VACANT DISTRICT COURT JUDGESHIP IN DISTRICT 17A/ADD DISTRICT COURT JUDGESHIP IN DISTRICT COURT DISTRICT 10

SECTION 22.17.(a) G.S. 7A-133(a) reads as rewritten:

"(a) Each district court district shall have the numbers of judges as set forth in the following table:

District	Judges	County
1	5	Camden Chowan Currituck Dare Gates Pasquotank Perquimans
2	4	Martin Beaufort Tyrrell Hyde Washington
3A	5	Pitt
3B	5	Craven Pamlico Carteret
4	8	Sampson Duplin Jones Onslow
5	7	New Hanover Pender
6A	2	Halifax

2001]

S.L. 2001-424

6B	3	Northampton Bertie Hertford
7	7	Nash Edgecombe Wilson
8	6	Wayne Greene Lenoir
9	4	Granville (part of Vance see subsection (b)) Franklin
9A	2	Person Caswell
9B	2	Warren (part of Vance see subsection (b))
10	14 <u>15</u>	Wake
11	8	Harnett Johnston Lee
12	9	Cumberland
13	6	Bladen Brunswick Columbus
14	6	Durham
15A	4	Alamance
15B	4	Orange Chatham
16A	3	Scotland Hoke
16B	5	Robeson
17A	3 <u>2</u>	Rockingham
17B	3	Stokes Surry
18	12	Guilford
19A	4	Cabarrus
19B	6	Montgomery Moore Randolph
19C	4	Rowan
20	7	Stanly Union Anson

21	8	Richmond
22	9	Forsyth
		Alexander
		Davidson
		Davie
		Iredell
23	4	Alleghany
		Ashe
		Wilkes
		Yadkin
24	4	Avery
		Madison
		Mitchell
		Watauga
		Yancey
25	8	Burke
		Caldwell
		Catawba
26	17	Mecklenburg
27A	6	Gaston
27B	4	Cleveland
		Lincoln
28	6	Buncombe
29	6	Henderson
		McDowell
		Polk
		Rutherford
		Transylvania
30	5	Cherokee
		Clay
		Graham
		Haywood
		Jackson
		Macon
		Swain."

SECTION 22.17.(b) The Governor shall appoint the additional district court judge for District Court District 10 authorized by subsection (a) of this section. The judge's successor shall be elected in the 2004 election for a four-year term commencing on the first Monday in December 2004.

SECTION 22.17.(c) This section becomes effective January 1, 2002, except that the elimination of the vacant judgeship in District Court District 17A is effective the later of January 1, 2002, or the date upon which it is approved under Section 5 of the Voting Rights Act of 1965.

PART XXIII. DEPARTMENT OF JUSTICE

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 23.1.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2001-2003 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 23.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, the acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 23.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

SECTION 23.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those boards by the State.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 23.3. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

SECTION 23.4. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

SECTION 23.5.(a) The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House Appropriations Committees, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal records checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

SECTION 23.5.(b) The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed

since the 1998-99 fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on or before March 1, 2002.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

**CRIMINAL JUSTICE INFORMATION NETWORK
REPORT/ADD REPRESENTATIVE FROM THE
DEPARTMENT OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION TO THE BOARD**

SECTION 23.6.(a) The Criminal Justice Information Network Governing Board established pursuant to G.S. 143-661 shall report by April 1, 2002, to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly on:

- (1) The operating budget of the Board, the expenditures of the Board as of the date of the report, and the amount of funds in reserve for the operation of the Board; and
- (2) A long-term strategic plan and cost analysis for statewide implementation of the Criminal Justice Information Network. For each component of the Network, the initial cost estimate of the component, the amount of funds spent to date on the component, the source of funds for expenditures to date, and a timetable for completion of that component, including additional resources needed at each point.

SECTION 23.6.(b) G.S. 143-661(b) reads as rewritten:

"(b) The Board shall consist of 4920 members, appointed as follows:

- (1) ~~Three~~Four members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an employee of the North Carolina Department of Crime Control and Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, ~~and~~ one member selected from the North Carolina Association of Chiefs of Police for a term to begin

September 1, 1996 and to expire on ~~June 30, 1999~~. June 30, 1999, and one member who is an employee of the Department of Juvenile Justice and Delinquency Prevention.

- (2) Six members appointed by the General Assembly in accordance with G.S. 120-121, as follows:
 - a. Three members recommended by the President Pro Tempore of the Senate, including two members of the general public for terms to begin on September 1, 1996, and to expire on June 30, 1997, and one member selected from the North Carolina League of Municipalities who is a member of, or an employee working directly for, the governing board of a North Carolina municipality for a term to begin on September 1, 1996 and to expire on June 30, 1999; and
 - b. Three members recommended by the Speaker of the House of Representatives, including two members of the general public for terms to begin on September 1, 1996, and to expire on June 30, 1999, and one member selected from the North Carolina Association of County Commissioners who is a member of, or an employee working directly for, the governing board of a North Carolina county for a term to begin on September 1, 1996, and to expire on June 30, 1997.
- (3) Two members appointed by the Attorney General, including one member who is an employee of the Attorney General for a term to begin on September 1, 1996, and to expire on June 30, 1997, and one member from the North Carolina Sheriffs' Association for a term to begin on September 1, 1996, and to expire on June 30, 1999.
- (4) Six members appointed by the Chief Justice of the North Carolina Supreme Court, as follows:
 - a. The Director of the Administrative Office of the Courts, or an employee of the Administrative Office of the Courts, for a term beginning July 1, 1997, and expiring June 30, 2001.
 - b. One member who is a district attorney or an assistant district attorney upon the recommendation of the Conference of District Attorneys of North Carolina, for a term beginning July 1, 1998, and expiring June 30, 1999.

- c. Two members who are superior court or district court judges for terms beginning July 1, 1998, and expiring June 30, 2001.
 - d. One member who is a magistrate upon the recommendation of the North Carolina Magistrates' Association, for a term beginning July 1, 1998, and expiring June 30, 1999.
 - e. One member who is a clerk of superior court upon the recommendation of the North Carolina Association of Clerks of Superior Court, for a term beginning July 1, 1998, and expiring June 30, 1999.
- (5) One member appointed by the Chair of the Information Resource Management Commission, who is the Chair or a member of that Commission, for a term to begin on September 1, 1996, and to expire on June 30, 1999.
 - (6) One member appointed by the President of the North Carolina Chapter of the Association of Public Communications Officials International, who is an active member of the Association, for a term to begin on September 1, 1996, and to expire on June 30, 1999.

The respective appointing authorities are encouraged to appoint persons having a background in and familiarity with criminal information systems and networks generally and with the criminal information needs and capacities of the constituency from which the member is appointed.

As the initial terms expire, subsequent members of the Board shall be appointed to serve four-year terms. At the end of a term, a member shall continue to serve on the Board until a successor is appointed. A member who is appointed after a term is begun serves only for the remainder of the term and until a successor is appointed. Any vacancy in the membership of the Board shall be filled by the same appointing authority that made the appointment, except that vacancies among members appointed by the General Assembly shall be filled in accordance with G.S. 120-122."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

PROVIDE FOR COLLECTION OF TRAFFIC LAW ENFORCEMENT STATISTICS ON STOPS MADE BY CERTAIN LOCAL LAW ENFORCEMENT AGENCIES

SECTION 23.7.(a) G.S. 114-10(2a) reads as rewritten:

"(2a) To collect, correlate, and maintain the following information regarding traffic law enforcement by State law enforcement officers:

- a. The number of drivers stopped for routine traffic enforcement by ~~State~~ law enforcement officers, the officer making each stop, the date each stop was made, the agency of the officer making each stop, and whether or not a citation or warning was issued;
- b. Identifying characteristics of the drivers stopped, including the race or ethnicity, approximate age, and gender;
- c. The alleged traffic violation that led to the stop;
- d. Whether a search was instituted as a result of the stop;
- e. Whether the vehicle, personal effects, driver, or passenger or passengers were searched, and the race or ethnicity, approximate age, and gender of each person searched;
- f. Whether the search was conducted pursuant to consent, probable cause, or reasonable suspicion to suspect a crime, including the basis for the request for consent, or the circumstances establishing probable cause or reasonable suspicion;
- g. Whether any contraband was found and the type and amount of any such contraband;
- h. Whether any written citation or any oral or written warning was issued as a result of the stop;
- i. Whether an arrest was made as a result of either the stop or the search;
- j. Whether any property was seized, with a description of that property;
- k. Whether the officers making the stop encountered any physical resistance from the driver or passenger or passengers;
- l. Whether the officers making the stop engaged in the use of force against the driver, passenger, or passengers for any reason;
- m. Whether any injuries resulted from the stop;
- n. Whether the circumstances surrounding the stop were the subject of any investigation, and the results of that investigation; and
- o. The geographic location of the stop; if the officer making the stop is a member of the State Highway Patrol, the location shall be the Highway Patrol District in which the stop was made; for all other law enforcement officers, the location shall be the city or county in which the stop was made.

For purposes of this subdivision, "law enforcement officer" means:

1. All State law enforcement officers;
2. Law enforcement officers employed by county sheriffs or county police departments;
3. Law enforcement officers employed by police departments in municipalities with a population of 10,000 or more persons; and
4. Law enforcement officers employed by police departments in municipalities employing five or more full-time sworn officers for every 1,000 in population, as calculated by the Division for the calendar year in which the stop was made.

The information required by this subdivision need not be collected in connection with impaired driving checks under G.S. 20-16.3A or other types of roadblocks, vehicle checks, or checkpoints that are consistent with the laws of this State and with the State and federal constitutions, except when those stops result in a warning, search, seizure, arrest, or any of the other activity described in sub-subdivisions d. through n. of this subdivision.

The identity of the law enforcement officer making the stop required by sub-subdivision a. of this subdivision may be accomplished by assigning anonymous identification numbers to each officer in an agency. The correlation between the identification numbers and the names of the officers shall not be a public record, and shall not be disclosed by the agency except when required by order of a court of competent jurisdiction to resolve a claim or defense properly before the court.

The Division shall publish and distribute by December 1 of each year a list indicating the law enforcement officers that will be subject to the provisions of this subdivision during the calendar year commencing on the following January 1."

SECTION 23.7.(b) The Division of Criminal Statistics shall establish a procedure and a schedule for the reporting of the information required by this act to the Division. The Division shall print and supply all forms necessary for the collection of this information.

SECTION 23.7.(c) This section is effective when it becomes law, but applies to law enforcement actions occurring on or after January 1, 2002.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

DRUG EDUCATION PROGRAM TRAINING/REVIEW

SECTION 23.9.(a) The State Bureau of Investigation shall collaborate with the Criminal Justice Standards Division of the Department of Justice in administering of the Drug Abuse Resistance Education (DARE) program.

SECTION 23.9.(b) The Juvenile Justice Institute at North Carolina Central University shall review DARE and other drug education efforts in North Carolina to identify an effective model for drug education. The Juvenile Justice Institute shall report the results of its review to the Joint Legislative Education Oversight Committee, the Justice and Public Safety Subcommittee of the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by April 1, 2002.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ABOLISH OFFICE OF INSPECTOR GENERAL

SECTION 23.10. Effective January 1, 2002, Article 6 of Chapter 114 of the General Statutes, G.S. 114-40 through G.S. 114-42, is repealed.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ATTORNEY GENERAL REPORTING OF PENDING LAWSUITS

SECTION 23.11.(a) Article 1 of Chapter 114 is amended by adding a new section to read:

"§ 114-2.6. Attorney General to report on pending lawsuits in which State is a party.

By April 1 and October 1 of each year, the Attorney General shall submit a report to the Chairs of the Joint Legislative Commission on Governmental Operations, the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Finance Committees of the Senate and House of Representatives, and the Fiscal Research Division of the Legislative Services Office on any lawsuit in which the constitutionality of a North Carolina law has

been challenged and on any case in which plaintiffs seek in excess of one million dollars (\$1,000,000) in damages. In addition, the Attorney General shall submit a written report to the Joint Legislative Commission on Governmental Operations, the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Finance Committees of the Senate and House of Representatives, and the Fiscal Research Division of the Legislative Services Office within 30 days of a final judgment that orders the State to pay the sum of one million dollars (\$1,000,000) or more."

SECTION 23.11.(b) This section becomes effective April 1, 2002.

PART XXIV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

S.O.S. ADMINISTRATIVE COST LIMITS AND REPEAL CONFERENCE REQUIREMENT

SECTION 24.1.(a) Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than five hundred fifty thousand dollars (\$550,000) for the 2001-2002 fiscal year and not more than five hundred fifty thousand dollars (\$550,000) for the 2002-2003 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

SECTION 24.1.(b) G.S. 143B-152.3(1) is repealed.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING, CERTIFICATION, AND FUNDING OF RESEARCH-BASED PROGRAMS

SECTION 24.2.(a) On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the

Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 24.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

SECTION 24.2.(c) The General Assembly recognizes the importance of evaluation and outcome measurements of the programs serving adjudicated juvenile offenders in order to ensure the cost-effective use of Juvenile Crime Prevention Council grant funds. The Department of Juvenile Justice and Delinquency Prevention shall establish and implement a system to collect and report on information and data regarding the expenditures and impact of the Juvenile Crime Prevention Council formula grant funds used by the individual counties to serve juveniles who have been adjudicated delinquent or who have been diverted for delinquent offenses.

The Department of Juvenile Justice and Delinquency Prevention, in consultation with the North Carolina Sentencing Commission, the Governor's Crime Commission, and the Juvenile Justice Institute, shall develop standards for measuring the effectiveness of programs that receive Juvenile Crime Prevention Council grant funds and that serve juveniles who have been adjudicated delinquent or who have been diverted for delinquent offenses. The standards shall include methods for measuring success factors following intervention, including those factors that:

- (1) Reduce the use of alcohol or controlled substances.
- (2) Reduce subsequent complaints.
- (3) Reduce violations of terms of community supervision.
- (4) Reduce convictions for subsequent offenses.
- (5) Fulfill restitution to victims.
- (6) Increase parental accountability.

The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives, the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice

Oversight Committee, and the Fiscal Research Division no later than April 1, 2002, on the progress of the establishment of the system mandated by this section. The system shall be implemented no later than June 30, 2003.

After June 30, 2003, on or before April 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Appropriations Committees of the Senate and House of Representatives and the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the following:

- (1) The number of diverted and adjudicated juveniles served.
- (2) The specific methods used by the Juvenile Crime Prevention Councils to determine services, programs, and intervention strategies most likely to change behaviors of juvenile offenders.
- (3) The total cost for each funded program, including the cost per juvenile and the essential elements of the program.
- (4) An assessment of the extent to which programs funded by Juvenile Crime Prevention Council grants:
 - a. Are compatible with research that shows prevention and early intervention strategies that are effective with juvenile offenders.
 - b. Are outcome-based in that the grantee describes what outcomes will be achieved or what outcomes have already been achieved.
 - c. Include an evaluation component.
 - d. Have a demonstrable impact on success factors.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORTS ON CERTAIN PROGRAMS

SECTION 24.3.(a) Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of

juveniles who commit additional offenses after completing the program.

SECTION 24.3.(b) The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans.

SECTION 24.3.(c) Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and the effectiveness of its program. The report shall include information on the number of children served, the number of volunteers used, the impact on the children who have received services from Communities in Schools, and the operating budget of Communities in Schools.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 24.4. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2001-2002 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2001-2002 fiscal year, the amount of funds anticipated for the 2002-2003 fiscal year, and the allocation of funds by program and purpose.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 24.5. The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

- (1) The expenditure of State appropriations on the program;
- (2) The operations and the effectiveness of the program; and
- (3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees of Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

CONTINUE CUMBERLAND JUVENILE ASSESSMENT CENTER

SECTION 24.7.(a) Section 18.21(b) of S.L. 1997-443, as amended by Section 16.6 of S.L. 1998-212, reads as rewritten:

"(b) The Administrative Office of the Courts, in collaboration with the Chief Court Counselor of District Court District 12, the Cumberland County Department of Social Services, and the appropriate local school administrative units, shall develop and implement a Juvenile Assessment Center Project in District Court District 12 to operate from the effective date of this ~~act to June 30, 1999, act.~~ The purpose of the Project is to facilitate efficient

prevention and intervention service delivery to juveniles who are (i) alleged to be delinquent or undisciplined and have been taken into custody or (ii) at risk of becoming delinquent or undisciplined because they have behavioral problems and have committed delinquent acts even though they have not been taken into custody. The Project shall assist these juveniles by providing a centralized point of intake and assessment for the juveniles, by addressing the educational, emotional, and physical needs of the juveniles, and by providing juveniles with an atmosphere for learning personal responsibility, self-respect, and respect for others. The Administrative Office of the Courts shall consider the recommendations of the Juvenile Assessment Advisory Board in developing and implementing the Project."

SECTION 24.7.(b) Section 18.21(d) of S.L. 1997-443, as amended by Section 16.6 of S.L. 1998-212, reads as rewritten:

"(d) There is established the Juvenile Assessment Advisory Board to make recommendations to the ~~Administrative Office of the Courts~~ Department of Juvenile Justice and Delinquency Prevention regarding the development and operations of the Project. The Board shall consist of 13 members, including:

- (1) The director of the Department of Social Services of Cumberland County, or the director's designee.
- (2) A representative from the local mental health area authority of Cumberland County.
- (3) A member of the Cumberland County Board of ~~Education~~ Education, or that person's designee.
- (4) The sheriff of Cumberland County, or the sheriff's designee.
- (5) The chief of police of the Fayetteville Police Department, or the designee of the chief of police.
- (6) A judge of District Court District 12.
- (7) A juvenile court counselor from District Court District 12.
- (8) The director of the Guardian Ad Litem program in Cumberland County, or the director's designee.
- (9) The director of the Health Department of Cumberland County, or the director's designee.
- (10) Two public members appointed by the Fayetteville City Council.
- (11) Two public members appointed by the Board of County Commissioners of Cumberland County.

The members of the Board shall, within 30 days after the initial appointment is made, meet and elect one member as chair. The Board shall meet at least ~~once a month~~ eight times a year at the call of the chair, and a quorum of the Board shall consist of a majority of its

~~members. chair.~~ The Board of County Commissioners of Cumberland County shall provide necessary clerical and professional assistance to the Board.

~~Initial appointments shall be made by October 1, 1997, and all terms shall expire June 30, 1999."~~

SECTION 24.7.(c) The Juvenile Assessment Center Project shall continue to do all of the following:

- (1) Identify those juveniles who are alleged to be delinquent or undisciplined or who are at risk of becoming delinquent or undisciplined.
- (2) Evaluate the educational, emotional, and physical needs of the juveniles identified and determine whether the juveniles have problems related to substance abuse, depression, or other emotional conditions.
- (3) Develop a collaborative interagency information network that will speed appropriate law enforcement, juvenile court, and relevant intervention responses for referred youth and their families.
- (4) Develop in-depth and comprehensive assessment plans for the juveniles identified that recommend appropriate treatment, counseling, and disposition of the juveniles.
- (5) Provide services to juveniles identified and their families through collaboration with public and private resources, including local law enforcement, parents' organizations, the faith community, and county and community programs and organizations that provide substance abuse treatment and child and family counseling.
- (6) Maintain individual case files and keep statistical information used to document services delivered and evaluate the progress of the program.

SECTION 24.7.(d) Subsections (a), (b), and (d) of this section become effective June 29, 1999. The remainder of this section becomes effective July 1, 2001.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

TEEN COURT GUIDELINES CODIFIED

SECTION 24.8. Article 12 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-520. Teen court programs.

(a) All teen court programs administered by the Department of Juvenile Justice and Delinquency Prevention shall operate as community resources for the diversion of juveniles pursuant to G.S. 7B-1706(c). A juvenile diverted to a teen court program shall be tried

by a jury of other juveniles, and, if the jury finds the juvenile has committed the delinquent act, the jury may assign the juvenile to a rehabilitative measure or sanction, including counseling, restitution, curfews, and community service.

Teen court programs may also operate as resources to the local school administrative units to handle problems that develop at school but that have not been turned over to the juvenile authorities.

(b) Every teen court program that receives State funds, including funds from Juvenile Crime Prevention Councils, shall comply with rules and reporting requirements of the Department of Juvenile Justice and Delinquency Prevention. In particular, teen court programs receiving State funds shall report to the Department on the expenditure of State funds and the number of cases served each year."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

YOUTH DEVELOPMENT CENTER PLANS

SECTION 24.9. Prior to closing any Youth Development Center or permanently closing individual housing units at any Center, the Department of Juvenile Justice and Delinquency Prevention shall develop a long-range plan for the operation of Youth Development Centers. The plan shall be presented to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives and the Chairs of the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee no later than March 1, 2002. The plan shall include:

- (1) Information and data on the current operations of the Centers.
- (2) Proposed or anticipated changes systemwide and at each Center in:
 - a. Characteristics of the juvenile offender population.
 - b. Education and other treatment programs.
 - c. Custody and security.
 - d. Staffing and management.
- (3) Any long-range capital plans for the construction of new or replacement Centers, including the estimated cost and information on the type of housing proposed, whether dormitory, group rooms, or individual rooms.
- (4) Any plans for the closing, renovation, expansion, or demolition of housing units at the current Centers as well as any proposed new housing units at these Centers.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

TRANSFER FUNDS AND POSITIONS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SECTION 24.10.(a) Of the funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2001-2003 biennium, the sum of two hundred forty-eight thousand four hundred thirty-five dollars (\$248,435) is transferred to the Department of Health and Human Services. Six police officer positions are transferred from the Department of Juvenile Justice and Delinquency Prevention to the Department of Health and Human Services. The funds and positions transferred pursuant to this section shall be used to provide security at the Black Mountain Center and at the Julian F. Keith Alcohol and Drug Abuse Treatment Center.

SECTION 24.10.(b) Section 37 of Chapter 24 of the Session Laws, 1994 Extra Session, is repealed.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

EXPAND NUMBER OF JUVENILES SERVED BY ECKERD CAMP

SECTION 24.11. Of the funds appropriated in this act for the 2001-2003 biennium, the Department of Juvenile Justice and Delinquency Prevention may use up to three hundred fifty-one thousand two hundred thirty-three dollars (\$351,233) in available funds to increase the number of juveniles who can be served under the contract with Eckerd Wilderness Camp.

PART XXV. DEPARTMENT OF CORRECTION

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

EARNED TIME CREDIT FOR MEDICALLY AND PHYSICALLY UNFIT INMATES

SECTION 25.1.(a) G.S. 15A-1355 is amended by adding a new subsection to read:

"(d) Earned Time Credit for Medically and Physically Unfit Inmates. – Inmates in the custody of the Department of Correction who suffer from medical conditions or physical disabilities that prevent their assignment to work release or other rehabilitative activities may, consistent with rules of the Department of Correction, earn credit based upon good behavior or other criteria determined by

the Department that may be used to reduce their maximum term of imprisonment as provided in G.S. 15A-1340.13(d) for felony sentences and in G.S. 15A-1340.20(d) for misdemeanor sentences."

SECTION 25.1.(b) This section is effective when it becomes law and applies to inmates serving sentences on or after that date.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

FEDERAL GRANT REPORTING

SECTION 25.2. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

LIMIT USE OF OPERATIONAL FUNDS

SECTION 25.3. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 25.4. The Department of Correction may use funds appropriated to the Department for the 2001-2002 fiscal year to pay the sum of forty dollars (\$40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report by December 1 and May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

USE OF CLOSED PRISON FACILITIES

SECTION 25.5. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from medium security to minimum security, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the

provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS

SECTION 25.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety.

SECTION 25.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2001-2002 fiscal year for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

The Department of Administration, Purchase and Contract Division, and the Department of Correction shall review the current statewide contract for purchase of prescription drugs as it applies to the Department of Correction's purchases for inmates to determine if the Department is receiving the lowest rate available and to determine

whether the Department should be authorized to issue a request for proposals for a separate vendor or purchasing consortium for the provision of prescription drugs for inmates. The Departments shall report on their findings to the Joint Legislative Commission on Governmental Operations by February 1, 2002.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

FEDERAL GRANT MATCHING FUNDS

SECTION 25.7. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars (\$900,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Kerr, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

STRUCTURED SENTENCING STUDY

SECTION 25.8.(a) In exercising its statutory responsibility under Article 4 of Chapter 164 of the General Statutes to monitor and review the criminal justice and corrections system, the North Carolina Sentencing and Policy Advisory Commission shall study and review the State's sentencing laws in view of the projected growth in the prison population by 2010. Areas of review may include the classification of offenses and offenders, the relationship of the sentence and the sentence length to the offense, and the sentence dispositions available to judges. The Commission shall also analyze the parole-eligible population in terms of offense committed, sentence, and time served in comparison to inmates sentenced under structured sentencing. The Commission shall develop alternatives for consideration by the General Assembly. The alternatives presented by the Commission should ensure that sentencing laws appropriately penalize offenders for the nature and degree of harm caused by the offense while identifying inconsistencies in the structured sentencing law or in its application. The Commission's alternatives shall be consistent with the purposes of sentencing as stated in G.S. 15A-1340.12.

SECTION 25.8.(b) The North Carolina Sentencing and Policy Advisory Commission shall report its findings to the 2001

General Assembly no later than the convening of the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine

EXTEND LIMITS OF CONFINEMENT FOR TERMINALLY ILL AND PERMANENTLY AND TOTALLY DISABLED INMATES

SECTION 25.9.(a) G.S. 148-4 reads as rewritten:

"§ 148-4. Control and custody of prisoners; authorizing prisoner to leave place of confinement.

The Secretary of Correction shall have control and custody of all prisoners serving sentence in the State prison system, and such prisoners shall be subject to all the rules and regulations legally adopted for the government thereof. Any sentence to imprisonment in any unit of the State prison system, or to jail to be assigned to work under the State Department of Correction, shall be construed as a commitment, for such terms of imprisonment as the court may direct, to the custody of the Secretary of Correction or his authorized representative, who shall designate the places of confinement within the State prison system where the sentences of all such persons shall be served. The authorized agents of the Secretary shall have all the authority of peace officers for the purpose of transferring prisoners from place to place in the State as their duties might require and for apprehending, arresting, and returning to prison escaped prisoners, and may be commissioned by the Governor, either generally or specially, as special officers for returning escaped prisoners or other fugitives from justice from outside the State, when such persons have been extradited or voluntarily surrendered. Employees of departments, institutions, agencies, and political subdivisions of the State hiring prisoners to perform work outside prison confines may be designated as the authorized agents of the Secretary of Correction for the purpose of maintaining control and custody of prisoners who may be placed under the supervision and control of such employees, including guarding and transferring such prisoners from place to place in the State as their duties might require, and apprehending and arresting escaped prisoners and returning them to prison. The governing authorities of the State prison system are authorized to determine by rules and regulations the manner of designating these agents and placing prisoners under their supervision and control, which rules and regulations shall be established in the same manner as other rules and regulations for the government of the State prison system.

The Secretary of Correction may extend the limits of the place of confinement of a prisoner, as to whom there is reasonable cause to believe he will honor his trust, by authorizing him, under prescribed conditions, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to

- (1) Contact prospective employers; or
- (2) Secure a suitable residence for use when released on parole or upon discharge; or
- (3) Obtain medical services not otherwise available; or
- (4) Participate in a training program in the community; or
- (5) Visit or attend the funeral of a spouse, child (including stepchild, adopted child or child as to whom the prisoner, though not a natural parent, has acted in the place of a parent), parent (including a person though not a natural parent, has acted in the place of a parent), brother, or sister; or
- (6) Participate in community-based programs of rehabilitation, including, but not limited to the existing community volunteer and home-leave programs, pre-release and after-care programs as may be provided for and administered by the Secretary of Correction and other programs determined by the Secretary of Correction to be consistent with the prisoner's rehabilitation and return to society; or
- (7) Be on maternity leave, for a period of time not to exceed 60 days. The county departments of social services are expected to cooperate with officials at the North Carolina Correctional Center for Women to coordinate prenatal care, financial services, and placement of the ~~child.~~ child; or
- (8) Receive palliative care, only in the case of a terminally ill inmate or a permanently and totally disabled inmate that the Secretary finds no longer poses a threat to society, and only after consultation with any victims of the inmate or the victims' families. For purposes of this subdivision, the term "terminally ill" describes an inmate who, as determined by a licensed physician, has an incurable condition caused by illness or disease that will likely produce death within 12 months. For purposes of this subdivision, the term "permanently and totally disabled" describes an inmate who, as determined by a licensed physician, suffers from permanent and irreversible physical incapacitation as a result of an existing physical or medical condition.

The willful failure of a prisoner to remain within the extended limits of his confinement, or to return within the time prescribed to the place of confinement designated by the Secretary of Correction, shall be deemed an escape from the custody of the Secretary of Correction punishable as provided in G.S. 148-45."

SECTION 25.9.(b) This section is effective when it becomes law and applies to inmates serving sentences on or after that date.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ENERGY FOR COMMITTED OFFENDERS/CONTRACT AND REPORT

SECTION 25.10. The Department of Correction may continue to contract with Energy for Committed Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2001-2003 biennium. Energy for Committed Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. Energy for Committed Offenders, Inc., shall also provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

MEDIUM CUSTODY ROAD CREW COMPENSATION

SECTION 25.11.(a) Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars (\$10,000,000) per year shall be transferred by the Department to the Department of Correction during the 2001-2003 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars (\$2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars (\$10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

SECTION 25.11.(b) The sum of two million eight hundred forty-two thousand two hundred thirty-three dollars (\$2,842,233) appropriated in this act from the Highway Fund to the Department of Correction for the 2001-2002 fiscal year is a one-time appropriation made to ensure that the Department is fully reimbursed in compliance with subsection (a) of Section 27.21 of S.L. 1999-237, which directed the Department of Transportation to reimburse the Department of Correction seven million dollars (\$7,000,000) in each year of the 1999-2001 biennium for highway-related labor performed by medium-custody prisoners.

SECTION 25.11.(c) Subsection (b) of Section 27.21 of S.L. 1999-237 is repealed.

SECTION 25.11.(d) The Department of Transportation and the Department of Correction shall report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Joint Legislative Transportation Oversight Committee by March 1, 2002, and by December 1, 2002, on the actual number of hours worked and the actual number of inmates participating in the medium-custody highway-related labor program and the implementation of the provisions of this section.

SECTION 25.11.(e) The Department of Transportation and the Department of Correction shall report quarterly to the Chairs of the House of Representatives and Senate Appropriations Committees on the status of the transfers directed in subsection (a) of this section.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

CLARIFY THE LAW PROVIDING FOR COMPENSATION TO PERSONS ERRONEOUSLY CONVICTED AND INCREASE THE AMOUNT OF COMPENSATION ALLOWED

SECTION 25.12.(a) G.S. 148-84 reads as rewritten:

"§ 148-84. *Evidence; action by Industrial Commission; payment and amount of compensation.*

At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, or was not committed by the claimant, and that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall ~~determine the amount the claimant is entitled to be paid for the claimant's pecuniary loss and shall enter an award for that~~

amount. ~~The Director of the Budget shall pay the amount of the award to the claimant out of the Contingency and Emergency Fund, or out of any other available State funds. The Industrial Commission shall award to the claimant an amount equal to ten thousand dollars (\$10,000) twenty thousand dollars (\$20,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting trial, but in no event shall the compensation exceed a total amount of one hundred fifty thousand dollars (\$150,000). five hundred thousand dollars (\$500,000). The Director of the Budget shall pay the amount of the award to the claimant out of the Contingency and Emergency Fund, or out of any other available State funds.~~ The Industrial Commission shall give written notice of its decision to all parties concerned. The determination of the Industrial Commission shall be subject to judicial review upon appeal of the claimant or the State according to the provisions and procedures set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 25.12.(b) This section is effective when it becomes law and applies to persons granted a pardon of innocence on or after January 1, 2001.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REDUCE SUMMIT HOUSE APPROPRIATION

SECTION 25.14.(a) The General Fund appropriation to the Department of Correction for Summit House, Inc., is reduced by the sum of one hundred thirty-nine thousand six hundred fifty dollars (\$139,650) for each year of the 2001-2003 biennium. This ten percent (10%) reduction in funding shall be accomplished by reducing expenditures at the State office and not through reductions in funding to individual sites.

SECTION 25.14.(b) The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and the Fiscal Research Division shall review the organizational structure and expenditures of Summit House, Inc., prior to the convening of the 2002 Regular Session of the 2001 General Assembly to identify potential modifications that would provide for more efficient operation of the program in future fiscal years.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

MODIFICATION OF FUNDING FORMULA FOR THE NORTH CAROLINA STATE-COUNTY CRIMINAL

**JUSTICE PARTNERSHIP FORMULA/UNEXPENDED
BALANCE REVERSION**

SECTION 25.16.(a) G.S. 143B-273.15 reads as rewritten:

"§ 143B-273.15. *Funding formula.*

To determine the grant amount for which a county or counties may apply, the granting authority shall apply the following formula:

- (1) ~~Twenty percent (20%) of the total fiscal year appropriation plus any unspent or unclaimed funds in the Account shall be distributed in the discretion of the Secretary to encourage innovative efforts to develop multicounty projects; to encourage cooperation and collaboration among existing services and avoid duplication of efforts; to provide for technical assistance to the counties in the development of county plans and in the evaluation of programs funded under this Article; to encourage the renovation of existing facilities; and to encourage innovative substance abuse programs.~~
- (2) ~~Of the remaining eighty percent (80%) of the fiscal year appropriation, a total funding amount will be set for each county based upon the following variables:~~
 - a. (1) Twenty percent (20%) based on a fixed equal dollar amount for each county;
 - b. (2) Sixty percent (60%) based on the county share of the State population; and
 - e. (3) Twenty percent (20%) based on the supervised probation admissions rate for the county.

The sum of the amounts in ~~sub-subdivisions a., b., and c.~~ subdivisions (1), (2), and (3) is the total amount of the funding that a county may apply for under this subsection.

Grants to participating counties are for a period of one fiscal year with unobligated funds being returned to the Account at the end of the grant period. Funds are provided to participating counties on a reimbursement basis unless a county documents a need for an advance of grant funds."

SECTION 25.16.(b) Notwithstanding the provisions of G.S. 143B-273.5, the sum of one million dollars (\$1,000,000) of the unexpended cash balance of the State-County Criminal Justice Partnership Account shall revert to the General Fund on June 30, 2002, and the sum of one million dollars (\$1,000,000) of the unexpended cash balance of the State-County Criminal Justice Partnership Account shall revert to the General Fund on June 30, 2003.

SECTION 25.16.(c) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that

the county has a demonstrated need and a fully developed plan for each type of sanction.

SECTION 25.16.(d) The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the Criminal Justice Partnership Program. The report shall include the following information:

- (1) The amount of funds carried over from the prior fiscal year;
- (2) The dollar amount and purpose of grants awarded to counties as discretionary grants for current fiscal year;
- (3) Any counties the Department anticipates will submit requests for new implementation grants;
- (4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
- (5) An analysis of offender participation data received, including data on each program's utilization and capacity; and
- (6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

**POST-RELEASE SUPERVISION AND PAROLE
COMMISSION /REPORT ON STAFFING
REORGANIZATION AND REDUCTION**

SECTION 25.17. The Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on an updated transition plan for implementing staff reductions through the 2002-2003 fiscal year, including a minimum ten percent (10%) reduction in staff positions in the 2002-2003 fiscal year over the 2001-2002 fiscal year.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORTS ON NONPROFIT PROGRAMS

SECTION 25.18.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

SECTION 25.18.(b) Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have their probation revoked, and the number of clients who successfully complete the program while housed at Summit House, Inc.

SECTION 25.18.(c) Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

SECTION 25.18.(d) The John Hyman Foundation shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

EXEMPTION FROM LICENSURE AND CERTIFICATE OF NEED

SECTION 25.19.(a) Article 1 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"§ 148-19.1. Exemption from licensure and certificate of need.

(a) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction shall be exempt from licensure by the Department of Health and Human Services under Chapter 122C of the General Statutes. If an inpatient chemical dependency or substance abuse

facility provides services both to inmates of the Department of Correction and to members of the general public, the portion of the facility that serves inmates shall be exempt from licensure.

(b) Any person who contracts to provide inpatient chemical dependency or substance abuse services to inmates of the Department of Correction may construct and operate a new chemical dependency or substance abuse facility for that purpose without first obtaining a certificate of need from the Department of Health and Human Services pursuant to Article 9 of Chapter 131E of the General Statutes. However, a new facility or addition developed for that purpose without a certificate of need shall not be licensed pursuant to Chapter 122C of the General Statutes and shall not admit anyone other than inmates unless the owner or operator first obtains a certificate of need."

SECTION 25.19.(b) G.S. 122C-22(a) reads as rewritten:

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

- (1) Physicians and psychologists engaged in private office practice;
- (2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;
- (3) State and federally operated facilities;
- (4) Adult care homes licensed under Chapter 131D of the General Statutes;
- (5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;
- (6) Persons subject to licensure under rules of the Social Services Commission;
- (7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services; ~~and~~
- (8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in ~~G.S. 122C-3(14)~~; G.S. 122C-3(14);
- (9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance ~~approach~~; approach; and
- (10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction, as described in G.S. 148-19.1."

SECTION 25.19.(c) G.S. 131E-184 is amended by adding a new section to read:

"(d) The Department shall exempt from certificate of need persons contracting to provide inpatient chemical dependency or substance abuse services to inmates of the Department of Correction, as described in G.S. 148-19.1."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 25.20. The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

- (1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;
- (2) An analysis of the optimal caseloads for these officer classifications; and
- (3) An assessment of the role of surveillance officers.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 25.21. The Post-Release Supervision and Parole Commission shall provide quarterly reports to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

- (1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the previous quarter and the total number of those inmates that were paroled. The report should group these inmates by offense type and custody classification;
- (2) A list of all those inmates paroled or released by category of parole or release, including each inmate's offense and custody classification at the time of the parole or release;

- (3) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing;
- (4) The projected number of parole-eligible inmates to be paroled or released by the end of the 2001-2002 fiscal year and by the end of the 2002-2003 fiscal year.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

IMPACT PROGRAM

SECTION 25.22.(a) Of the funds appropriated to the Department of Correction for the 2001-2003 biennium, the sum of five million twenty-eight thousand two hundred sixty-one dollars (\$5,028,261) for the 2001-2002 fiscal year and the sum of four million five hundred twenty-five thousand four hundred thirty-five dollars (\$4,525,435) for the 2002-2003 fiscal year shall be used for residential programs for probationers, including the IMPACT boot camp program. The Department of Correction shall maintain a residential program with a community work component for male offenders in both Hoffman and Morganton.

SECTION 25.22.(b) The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by November 1, 2001, on plans to implement the reduction in funding for the IMPACT program and any proposed modifications in the program capacity or content. The report shall include revised capacity, positions to be eliminated, revised staffing allocation, intended level of community service work, uses of any vacated space, and proposed changes in the program for the 2001-2003 biennium.

SECTION 25.22.(c) It is the intent of the General Assembly that the IMPACT boot camp program be eliminated by June 30, 2003, and that alternative residential programs for offenders be established in the current IMPACT locations. These alternative programs may include using those facilities as youth development centers or detention centers for juvenile offenders, as residential facilities for juveniles on Level 1 (community) or Level 2 (intermediate) sanctions, or for residential programs for adult offenders under the supervision of the Division of Community Corrections or the Division of Alcohol and Chemical Dependency of the Department of Correction.

The Secretary of Correction and the Secretary of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and

the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the proposed programs by May 1, 2002. The report shall include details of the proposed treatment and supervision, type of offender to be served, timeline for establishment of revised program, capacity, budget, staffing, use of and need for modification of facilities, and the level of community work to be done by offenders.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

CONTRACTING FOR INMATE HEALTH CARE

SECTION 25.23.(a) The Department of Correction shall expand its efforts to determine the benefits of contracting for inmate health care services. The new efforts shall include expansion of the number of prison units that use Prison Health Services, Inc., to provide inmate health care services, as authorized in the current contract. The Department should expand to a sufficient number of prison units to allow for analysis of the quality of services and the potential for cost savings if inmate health care services were contracted for on a statewide basis.

The Department of Correction shall also issue a Request for Information from private vendors to determine the availability of services and the level of interest in providing the State with inmate health care services in three major areas:

- (1) Inmate health care services at each State prison;
- (2) An inmate drug prescription program that includes a statewide central pharmacy; and
- (3) A medical utilization management program for the control of the cost and quality of inmate medical treatment by outside providers.

SECTION 25.23.(b) The Department of Correction shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by February 15, 2002, on:

- (1) The responses to the Request for Information, including, at a minimum, information on the number of vendors responding; the background and experience of each vendor in providing similar services to other state prison systems; the potential cost savings and benefits of using a private vendor for each of the three major areas; and the time line for issuing a Request for Proposal and awarding a contract if it were determined that a Request for Proposal should be issued, and

- (2) The status of the current contract for operation of inmate health care services at individual prisons including any documented savings, benefits, or operational problems with the contract services.

The Department of Correction shall also provide a progress report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety on the current contract and the Request for Information by December 1, 2001.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

AUTHORIZE PRISON CONSTRUCTION

SECTION 25.24. The Department of Administration and the Department of Correction may contract for the construction of three new close-custody correctional facilities. The contract price for the three prisons shall not exceed the total bid price submitted by the selected vendor on April 17, 2001. The sites for the three prisons shall be Anson, Alexander, and Scotland Counties. The final contract proposal for the three prisons shall be subject to review and approval of the Council of State.

PART XXVI. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM

SECTION 26.2. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

- (1) The source of referrals for individuals participating in the Program;

- (2) The summary of types of actions or offenses committed by the participants of the Program;
- (3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
- (4) The number of individuals who successfully complete the Program; and
- (5) The number of participants who commit offenses after completing the Program.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

SECTION 26.3.(a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

SECTION 26.3.(b) Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

VICTIMS ASSISTANCE NETWORK REPORT

SECTION 26.4. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated

pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

REVISE REPORT ON CRIME VICTIMS COMPENSATION FUND

SECTION 26.5. G.S. 15B-21 reads as rewritten:

"§ 15B-21. *Annual report.*

The Commission shall, by March 15 each year, prepare and transmit to the Governor and the General Assembly a report of its activities in the prior fiscal year and the current fiscal year to date. The report shall include:

- (1) The number of claims filed;
- (2) The number of awards made;
- (2a) The number of pending cases by year received;
- (3) The amount of each award;
- (4) A statistical summary of claims denied and awards made;
- (5) The administrative costs of the Commission, including the compensation of commissioners;
- (6) The current unencumbered balance of the North Carolina Crime Victims Compensation Fund;
- (7) The amount of funds carried over from the prior fiscal year;
- (8) The amount of funds received in the prior fiscal year from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.; and
- (9) The amount of funds expected to be received in the current fiscal year, as well as the amount actually received in the current fiscal year on the date of the report, from the Department of Correction and from the compensation fund established pursuant to the Victims Crime Act of 1984, 42 U.S.C. § 10601, et seq.

The Attorney General and State Auditor shall assist the Commission in the preparation of the report required by this section."

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

TERMINATION OF CERTAIN ALE POSITIONS

SECTION 26.10. Of the 10 remaining supervisor positions and the 12 assistant supervisor positions in the district offices of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, three positions shall terminate no later than June 30, 2002. The Department of Crime Control and Public Safety shall identify the positions that will terminate pursuant to this section and shall report to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division of the General Assembly by May 1, 2002, on the positions identified by the Department pursuant to this section.

Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

TRANSFER COMMUNITY SERVICE WORK PROGRAM AND TERMINATE VACANT POSITIONS.

SECTION 26.11. Effective January 1, 2002, the Community Service Work Program of the Division of Victims and Justice Services of the Department of Crime Control and Public Safety shall be merged with the Division of Community Corrections of the Department of Correction. The merger shall have all the elements of a Type I transfer, as defined in G.S. 143A-6. All (i) statutory authority, powers, duties, and functions, including rule making, budgeting, and purchasing, (ii) records, (iii) personnel, personnel positions, and salaries, (iv) property, and (v) unexpended balances of appropriations, allocations, reserves, support costs, and other funds of the Community Service Work Program of the Division of Victims and Justice Services of the Department of Crime Control and Public Safety shall be transferred to and vested in the Department of Correction.

The following positions shall be terminated no later than January 1, 2002:

- (1) The four regional managers;
- (2) The 21 district managers in the area of community service work;

- (3) The Director of the Division of Victim and Justice Services;
- (4) The administrative assistant of the Division of Victim and Justice Services.

The Department of Correction and the Department of Crime Control and Public Safety shall make every effort to place the employees whose positions have been terminated in existing vacancies with those departments.

PART XXVII. DEPARTMENT OF TRANSPORTATION

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
REPEAL BOND RETIREMENT TRANSFER FROM HIGHWAY FUND TO HIGHWAY TRUST FUND

SECTION 27.1. G.S. 136-176(a)(4) and G.S. 136-183 are repealed.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
DESIGN-BUILD TRANSPORTATION CONSTRUCTION CONTRACTS AUTHORIZED

SECTION 27.2.(a) Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-28.11. Design-build construction of transportation projects.

Notwithstanding any other provision of law, the Board of Transportation may award up to three contracts annually for construction of transportation projects on a design-build basis. These contracts may be awarded after a determination by the Department of Transportation that delivery of the projects must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. Prior to the award of a design-build contract, the Secretary of Transportation shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Commission on Governmental Operations on the nature and scope of the project and the reasons an award on a design-build basis will best serve the public interest."

SECTION 27.2.(b) The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on September 1, December 1, and March 1 of each year on the status of all design-build projects.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

SMALL URBAN AND CONTINGENCY FUNDS

SECTION 27.3. Of the funds appropriated in this act to the Department of Transportation:

- (1) Fourteen million dollars (\$14,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.
- (2) Fifteen million dollars (\$15,000,000) in fiscal year 2001-2002 and ten million dollars (\$10,000,000) in fiscal year 2002-2003 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
**CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST
 FUND APPROPRIATIONS**

SECTION 27.4.(a) The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

FY 2003-2004	\$1,334.6 million
FY 2004-2005	\$1,369.8 million
FY 2005-2006	\$1,406.1 million
FY 2006-2007	\$1,445.5 million

The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

FY 2003-2004	\$1,127.6 million
FY 2004-2005	\$1,176.5 million
FY 2005-2006	\$1,226.8 million

FY 2006-2007 \$1,278.4 million

SECTION 27.4.(b) Section 25 of S.L. 2000-67 is repealed.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Metcalf, Carter; Representatives Buchanan, Cole, J. Crawford, Bowie, Nesbitt, Easterling, Oldham, Redwine, Thompson

WESTERN NORTH CAROLINA RAIL OPERATIONS AND STATION RIGHT-OF-WAY ACQUISITION FUNDS

SECTION 27.5.(a) Of the funds appropriated in this act for passenger rail service in Western North Carolina, the Department of Transportation may use these funds for the following purposes:

- (1) Up to two hundred fifty thousand dollars (\$250,000) during the 2001-2002 fiscal year may be used by the Department of Transportation to contract for an engineering study to determine the necessary infrastructure improvements and costs of those improvements to provide passenger rail service to Western North Carolina.
- (2) Up to three hundred thousand dollars (\$300,000) during the 2001-2002 fiscal year may be used to acquire right-of-way for a station in the City of Asheville.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by February 1, 2002, on the engineering study, the status of negotiations with the Norfolk Southern Corporation on needed track improvements, and on the status of negotiations with local governments on local financial participation to provide passenger rail service to Western North Carolina.

Five hundred fifty thousand dollars (\$550,000) of the remaining unencumbered funds appropriated for the 1998-99 fiscal year for Western North Carolina rail service shall be transferred to the Highway Fund for the 2001-2002 fiscal year.

SECTION 27.5.(b) At least 30 days prior to expending funds appropriated in prior fiscal years for passenger rail service in Western North Carolina, the Department of Transportation shall report on the proposed use of those funds to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Transportation Oversight Committee.

SECTION 27.5.(c) The Department of Transportation shall negotiate with the Norfolk Southern Corporation on use of the tracks to provide Western North Carolina rail service. The Department shall report every six months, beginning on or before January 15, 2002, to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Transportation Oversight Committee on the progress of the negotiations with the

Norfolk Southern Corporation and the track improvements in Western North Carolina and shall report annually to the General Assembly on these matters.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

HIGHWAY TRUST FUND STUDY COMMITTEE

SECTION 27.6.(a) Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

SECTION 27.6.(b) Membership. – The Study Committee shall be composed of 16 members as follows:

- (1) The Chairs of the Joint Legislative Transportation Oversight Committee.
- (2) Four Representatives and three public members appointed by the Speaker of the House of Representatives.
- (3) Four Senators and three public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

SECTION 27.6.(c) Duties of the Study Committee. – The Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

- (1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.
- (2) Unanticipated problems with the structure of the Highway Trust Fund.
- (3) The gap between transportation funding structures and the actual transportation needs of the State.
- (4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.
- (5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund.
- (6) The feasibility of altering the funding allocation structure of the Highway Trust Fund.
- (7) Any other issue related to the Highway Trust Fund or transportation funding.

SECTION 27.6.(d) Vacancies. – The appointing authority shall fill any vacancy on the Study Committee.

SECTION 27.6.(e) Cochairs. – Cochairs of the Study Committee shall be the cochairs of the Joint Legislative

Transportation Oversight Committee. The Study Committee shall meet upon the call of the Chairs. A quorum of the Study Committee shall be eight members.

SECTION 27.6.(f) Expenses of Members. – Members of the Study Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 27.6.(g) Staff. – The Legislative Services Office shall assign professional and clerical staff to assist the Study Committee in its work.

SECTION 27.6.(h) Consultants. – The Study Committee may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S. 120-32.02.

SECTION 27.6.(i) Meetings During Legislative Session. – The Study Committee may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 27.6.(j) Meeting Location. – The Study Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Study Committee in the State Legislative Building or the Legislative Office Building.

SECTION 27.6.(k) Report. – The report of the study shall be made to the Joint Legislative Transportation Oversight Committee no later than April 1, 2002. Upon the filing of its final report, the Study Committee shall terminate.

SECTION 27.6.(l) Funding. – The Study Committee shall be funded from funds available to the Joint Legislative Transportation Oversight Committee, in accordance with G.S. 120-70.52.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

CHARLOTTE DOWNTOWN INTERMODAL STATION

SECTION 27.7. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee by February 15, 2002, on the status of the development of the downtown intermodal station in Charlotte. The report shall include:

- (1) The total cost, projected schedule, and scope of the project.
- (2) How the costs of the project will be met, including the shares of the costs borne by the State of North Carolina, participating local governments, federal funds, the

Norfolk Southern Corporation, private funding, and any other sources of funds.

- (3) Identification of at least three parcels of land that could be purchased for the station or its expansion.
- (4) A description of other significant aspects of the project, such as location, capacity, and modes of transportation to be incorporated.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

DIVISION 3 HEADQUARTERS COMPLEX FUNDS

SECTION 27.8. The requirement in Section 27.14 of S.L. 1999-237 that the Highway Fund reimburse the Highway Trust Fund by June 30, 2004, for the capital costs required to relocate the Division 3 headquarters complex in Wilmington, North Carolina, is rescinded.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

DEPARTMENT OF TRANSPORTATION AUTHORIZED TO ACCEPT ELECTRONIC BIDS

SECTION 27.9.(a) G.S. 136-28.1 is amended by adding a new subsection to read:

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

SECTION 27.9.(b) G.S. 136-28.1(a) reads as rewritten:

"(a) All contracts over eight hundred thousand dollars (\$800,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation.

Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the ~~engineer-engineer~~, or significant changes in the character of the work. For those federal aid projects, the ~~The~~ Department of Transportation shall use ~~only~~ the contract provisions provided in the North Carolina Department of Transportation, Standard

Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act."

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

DEPARTMENT OF TRANSPORTATION AUTHORIZED TO ESTABLISH AN ESCORT DRIVER CERTIFICATION PROGRAM

SECTION 27.10. G.S. 20-119 is amended by adding a new subsection to read:

"(f) The Department of Transportation shall issue rules to establish an escort driver training and certification program for escort vehicles accompanying oversize/overweight loads. Any driver operating a vehicle escorting an oversize/overweight load shall meet any training requirements and obtain certification under the rules issued pursuant to this subsection. These rules may provide for reciprocity with other states having similar escort certification programs. Certification credentials for the driver of an escort vehicle shall be carried in the vehicle and be readily available for inspection by law enforcement personnel."

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Justus, Kiser Easterling, Oldham, Redwine, Thompson

DMV/PROOF OF RESIDENCY/SOCIAL SECURITY #/ITIN

SECTION 27.10A.(a) G.S. 20-7(b1) reads as rewritten:

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

The application form ~~must~~ shall request all of the following information, and it ~~must~~ shall contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

- (1) The applicant's full name.
- (2) The applicant's mailing address and residence address.
- (3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
- (4) The applicant's date of birth.
- (5) The applicant's valid social security number. ~~The Division shall not issue a license to an applicant who fails to provide the applicant's social security number.~~
- (6) The applicant's signature.

If an applicant does not have a valid social security number and is ineligible to obtain one, the applicant shall swear to or affirm that fact under penalty of perjury. In such case, the applicant may provide a valid Individual Taxpayer Identification Number issued by the Internal Revenue Service to that person.

The Division shall not issue an identification card, learners permit, or drivers license to an applicant who fails to provide either the applicant's valid social security number or the applicant's valid Individual Taxpayer Identification Number."

SECTION 27.10A.(b) G.S. 20-7 is amended by adding a new subsection to read:

"(b2) The Division shall adopt rules implementing the provisions of subsection (b1) of this section with respect to proof of residency in this State. Those rules shall ensure that applicants submit verified or verifiable residency and address information that can be reasonably considered to be valid and that is provided on any of the following:

- (1) A document issued by an agency of the United States or by the government of another nation.
- (2) A document issued by another state.
- (3) A document issued by the State of North Carolina, or a political subdivision of this State. This includes an agency or instrumentality of this State.
- (4) A preprinted bank or other corporate statement.
- (5) A preprinted business letterhead.
- (6) Any other document deemed reliable by the Division."

SECTION 27.10A.(c) G.S. 20-7 is amended by adding a new subsection to read:

"(b3) Examples of documents that are reasonably reliable indicators of residency include, but are not limited to, any of the following:

- (1) A pay stub with the payee's address.
- (2) A utility bill showing the address of the applicant-payor.
- (3) A contract for an apartment, house, modular unit, or manufactured home with a North Carolina address signed by the applicant.
- (4) A receipt for personal property taxes paid.

- (5) A receipt for real property taxes paid to a North Carolina locality.
- (6) A current automobile insurance policy issued to the applicant and showing the applicant's address.
- (7) A monthly or quarterly financial statement from a North Carolina regulated financial institution.
- (8) A matricula consular or substantially similar document issued by the Mexican Consulate for North Carolina.
- (9) A document similar to that described in subsection (8) of this section, issued by the consulate or embassy of another country. This subdivision only applies if the Division has consulted with the United State Department of State and is satisfied with the reliability of such document."

SECTION 27.10A.(d) G.S. 20-7 is amended by adding a new subsection to read:

"(b4) The Division rules adopted pursuant to subsection (b2) of this section shall also provide that if an applicant cannot produce any documentation specified in subsection (b2) or (b3) of this section, the applicant, or in the case of a minor applicant a parent or legal guardian of the applicant, may complete an affidavit, on a form provided by the Division and sworn to before an official of the Division, indicating the applicant's current residence address. The affidavit shall contain the provisions of G.S. 20-15(a) and G.S. 20-17(a)(5) and shall indicate the civil and criminal penalties for completing a false affidavit."

SECTION 27.10A.(e) If any person has prior to January 1, 2002, been issued an identification card, learners permit, or drivers license by the Division of Motor Vehicles without providing that person's valid social security number, the Commissioner may not renew or accept an address change to that identification card, learners permit, or drivers license without the proof of that person's valid social security number or valid Individual Taxpayer Identification Number required for original issuance.

SECTION 27.10A.(f) This section becomes effective January 1, 2002.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
**TRANSFER RESPONSIBILITIES OF GOVERNOR'S
HIGHWAY SAFETY PROGRAM TO THE OFFICE OF
THE SECRETARY OF TRANSPORTATION**

SECTION 27.11.(a) G.S. 143B-360 reads as rewritten:
"*§ 143B-360. Powers and duties of Department and Secretary.*

The Department of Transportation is hereby empowered to contract ~~in~~on behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of 1966. To that end, the Secretary of Transportation shall coordinate, with the Governor's approval, the activities of any and all departments and agencies of the State and its subdivisions relating thereto.

All of the duties and responsibilities of the Governor's Highway Safety Program, established pursuant to this section, are transferred to the Office of the Secretary of Transportation."

SECTION 27.11.(b) This section becomes effective July 1, 2001.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
**DRIVERS LICENSE/MOTOR VEHICLE REGISTRATION
 SECTION CONSOLIDATION STUDY**

SECTION 27.14. The Department of Transportation shall study the consolidation and integration of the functions of the Driver License Section and the Vehicle Registration Section of the Division of Motor Vehicles to provide more accessible, efficient, and cost-effective service to the public. The Department of Transportation shall report the results of this study to the Joint Legislative Transportation Oversight Committee by March 1, 2002.

Requested by: Senators Gulley, Plyler, Odom, Lee; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
**APPROPRIATION TO THE DEPARTMENT OF
 TRANSPORTATION TO FUND AVIATION GRANTS**

SECTION 27.15. Notwithstanding the provisions of G.S. 136-16.4 for determining the amount of continuing aviation appropriations, there is appropriated from the General Fund to the Department of Transportation the sum of seven million two hundred fifty thousand dollars (\$7,250,000) for the 2001-2002 fiscal year to fund aviation grants.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson
**DOT REGULATION OF THE TRANSIT OF MODULAR
 HOMES**

SECTION 27.17.(a) G.S. 20-356 reads as rewritten:
 "§ 20-356. *Definitions.*

"Person" as used in this Article shall mean an individual, corporation, partnership, association or any other business entity. The word "house" as used in this Article shall mean a dwelling, building, or other structure in excess of 14 feet in ~~width.~~ width; provided that neither mobile homes, nor modular homes or portions thereof, are within this definition when being transported from the manufacturer to the first set-up site. The word "Department" as used in this Article shall mean the North Carolina Department of Transportation."

SECTION 27.17.(b) G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a8) Notwithstanding the provisions of subsection (a) of this section, the Secretary of Transportation may adopt temporary rules concerning the permitted height of mobile and modular homes. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.
- (2) Accept oral and written comments on the proposed temporary rule.
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary must submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection."

SECTION 27.17.(c) Subsection (b) of this section expires on June 30, 2003.

Requested by: Senators Gulley, Robinson, Albertson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

ASPHALT PAVEMENT RECYCLING

SECTION 27.18. The Department of Transportation as part of its resurfacing programs, shall recycle pavement surfaces, where feasible, based on engineering and economic analyses. On projects where hot in-place recycling is determined to be a viable option, the Department shall use an alternate bid process.

Requested by: Senators Gulley, Lee, Odom, Plyler; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

AVIATION DIVISION STUDY THE TRANSFER OF THE GLOBAL TRANSPARK AIRPORT

SECTION 27.19. The Department of Transportation's Aviation Division shall study the transfer of the Global TransPark airport fixed assets and operations from the Global TransPark Authority to another appropriate entity. The Aviation Division shall report the results of this study to the Joint Legislative Transportation Oversight Committee and to the Chairs of the Senate and House of Representatives Appropriations Committees by February 15, 2002.

Requested by: Senators Gulley, Lee, Odom, Plyler; Representatives Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

STATE BOARD OF COMMUNITY COLLEGES TO STUDY TRANSFER OF GLOBAL TRANSPARK EDUCATION AND TRAINING CENTER

SECTION 27.20. The State Board of Community Colleges shall study the transfer of the Education and Training Center from the Global TransPark Authority to an appropriate public educational entity. The State Board of Community Colleges shall report the results of the study to the Joint Legislative Transportation Oversight Committee and to the Chairs of the Senate and House of Representatives Appropriations Committees by February 15, 2002.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Sutton, Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

CONTRACT AGENT RATE INCREASE

SECTION 27.21. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates.

– All registration plates, registration ~~certificates~~ certificates, and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the ~~said~~ Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of ~~such~~ the plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North ~~Carolina and the Carolina.~~ The Division shall make a reasonable effort in every locality, except as ~~hereinbefore noted,~~ noted above, to enter into a commission contract for the issuance of ~~such~~ the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission ~~contracts as hereinbefore set out~~ contracts, it shall ~~then~~ issue ~~said~~ the plates and certificates through the regular employees of the Division. Whenever registration plates, registration ~~certificates~~

certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of such the distribution. ~~Commission contracts entered under this subsection shall provide for the payment of compensation for all transactions as set forth below.~~ Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax shall be considered a separate transaction for which one dollar and twenty-seven cents (\$1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents (\$1.43) compensation shall be paid.

A transaction is any of the following activities:

- (1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.
- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
- (8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
- (9) Collection of the highway use tax.
- (10) Acceptance of a temporary lien filing.

~~Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8b) of this section is a single transaction for which a dollar~~

~~and thirty five cent (\$1.35) compensation shall be paid. Performance of the item listed in subdivision (9) of this subsection in combination with any other items listed in this subsection is a separate transaction for which a one dollar and twenty cent (\$1.20) compensation shall be paid."~~

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

**ISSUANCE OF TEMPORARY RULES GOVERNING
MINIMUM CRITERIA TRANSPORTATION PROJECTS**

SECTION 27.22.(a) G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a9) Notwithstanding the provisions of subsection (a) of this section, the Secretary of Transportation may adopt temporary rules pursuant to G.S. 113A-11(b) to establish a class of minimum criteria projects.

After having the proposed temporary rule published in the North Carolina Register, and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Secretary shall do all of the following:

- (1) Notify persons on its mailing list, maintained pursuant to G.S. 150B-21.2(d), and any other interested parties, of his intent to adopt a temporary rule.
- (2) Accept oral and written comments on the proposed temporary rule.
- (3) Hold at least one public hearing on the proposed temporary rule.

When the Secretary adopts a temporary rule pursuant to this subsection, the Secretary shall submit a reference to this subsection as the Secretary's statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Secretary in accordance with this subsection."

SECTION 27.22.(b) Subsection (a) of this section expires on June 30, 2003.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Saunders, Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

**DEPARTMENT OF TRANSPORTATION PRODUCTIVITY
PILOT PROGRAMS**

SECTION 27.22A. The Department of Transportation may establish two pilot programs to test incentive pay for employees as a means for increasing efficiency and productivity.

One of the pilot programs shall involve the highway resurfacing program using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this program may be used to provide employee incentive payments.

The other pilot project may be selected by the Department of Transportation, and up to twenty-five thousand dollars (\$25,000) may be used from existing budgets for incentives.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs that shall last no more than two years.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs at least 30 days prior to their implementation.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

DEPARTMENT OF TRANSPORTATION CASH FLOW MANAGEMENT

SECTION 27.23.(a) The Department of Transportation is directed to reorganize its cash management procedures consistent with the March 2001 Joint Legislative Transportation Oversight Committee Cash Management Study final report.

The Department is directed to:

- (1) Utilize cash flow financing to the maximum extent possible to fund highway construction projects with the goal of reducing the combined average daily cash balance of the Highway Trust Fund and the Highway Fund to an amount equal to twelve percent (12%) of combined estimate of the yearly receipts of the Funds, exclusive of municipal aid funds.
- (2) Establish necessary management controls to facilitate use of cash flow financing, such as establishment of a financial planning committee, development of a monthly financial report, establishment of appropriate fund cash level targets, review of revenue forecasting procedures, and reduction of accrued unbilled costs.
- (3) Strengthen the project delivery process by reorganization of preconstruction functions in order to expedite project delivery and maximize use of cash flow financing of projects. The Department shall designate one person responsible for project delivery, developing project

delivery reports, and continually assessing which projects can be accelerated using cash flow financing.

- (4) Report quarterly for a period of two years, beginning in September 2001, to the Joint Legislative Transportation Oversight Committee on its efforts to reorganize the cash management and project delivery process and the results of those efforts.

SECTION 27.23.(b) Article 6A of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-86.15. Cash management of the Highway Fund and the Highway Trust Fund.

The State Treasurer may combine the balances of the Highway Fund and the Highway Trust Fund for cash management purposes. The State Treasurer may make short-term loans between the Funds to accomplish the purposes of this section."

SECTION 27.23.(c) The Department of Transportation and the State Treasurer are directed to jointly:

- (1) Evaluate the recommendations of the March 2001 Joint Legislative Transportation Oversight Committee Cash Management Study final report concerning authorization for the State Treasurer to borrow funds on a short-term basis in order to allow the Department of Transportation to maintain lower target cash balances and expedite highway construction projects;
- (2) Develop recommendations concerning short-term borrowing for cash management purposes, including any needed legislation; and
- (3) Submit findings and recommendations to the Joint Legislative Transportation Oversight Committee by February 1, 2002.

SECTION 27.23.(d) G.S. 136-176 is amended by adding a new subsection to read:

"(a1) The Department may use two hundred twenty million dollars (\$220,000,000) in fiscal year 2001-2002, two hundred five million dollars (\$205,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars (\$255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

- (1) For primary route pavement preservation. – One hundred seventy million dollars (\$170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars (\$150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the

discretion of the Secretary of Transportation, for highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation.

- (2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars (\$15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.
- (4) For public transportation twenty million dollars (\$20,000,000) in fiscal year 2001-2002, twenty-five million dollars (\$25,000,000) in fiscal year 2002-2003, and seventy-five million dollars (\$75,000,000) in fiscal year 2003-2004."

SECTION 27.23.(e) G.S. 136-176 is amended by adding a new subsection to read:

"(a2) The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for these purposes will not adversely affect the delivery schedule of Highway Trust Fund projects in the 2002-2008 Transportation Improvement Program."

SECTION 27.23.(f) G.S. 136-176 is amended by adding a new subsection to read:

"(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division."

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

STATE TIRE RETREADING CONTRACT

SECTION 27.24. The Purchase and Contract Division of the Department of Administration shall take steps to insure that the bid process for the State contract for tire retreading is fair and open and that it complies with State purchasing laws.

Before soliciting bids, the Purchase and Contract Division shall:

- (1) Research technologies for tire retreading and tire retread testing to determine which technologies are most consistent with State needs and safety requirements.
- (2) Circulate proposed specifications for the retread tire contract to tire retread vendors, tire retreading industry associations, and State users of retread tires.
- (3) Solicit comments and feedback from the entities listed in subdivision (2) of this section.
- (4) Provide a copy of the final specifications for the retread tire contract to the Joint Legislative Transportation Oversight Committee at least six weeks prior to soliciting bids.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

STATE HIGHWAY PATROL TO REPORT TO LEGISLATIVE OVERSIGHT COMMITTEES ON BUDGETARY MATTERS

SECTION 27.25. The State Highway Patrol shall report to the Joint Legislative Transportation Oversight Committee and to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on its revenues, expenditures, and other budget related matters. These financial reports shall be made in writing to the cochairs of the oversight committees and to the Fiscal Research Division by November 15, February 15, May 15, and August 15 of each year to be taken up, if necessary, at the next meetings of the oversight committees following those dates.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Nesbitt, Easterling, Oldham, Redwine, Thompson

LEGISLATIVE RESEARCH COMMISSION TO STUDY NONBETTERMENT UTILITY RELOCATION COSTS IN HIGHWAY CONSTRUCTION

SECTION 27.26. The Legislative Research Commission may study the issue of nonbetterment utility relocation costs. As a part of its study, the LRC shall consider all of the following:

- (1) The current statutory procedure for allocation of relocation costs, found in G.S. 136-27.1.
- (2) The current population ceiling of 5,500 for municipalities to receive utility relocation assistance from the Department of Transportation, and the appropriateness of this ceiling.
- (3) The history of exceptions to the general policy on the nonpayment by the Department of Transportation for nonbetterment utility relocation costs and the rationales for these exceptions.
- (4) The development of a rational and equitable policy for the payment for nonbetterment utility relocation costs.
- (5) Any other issue related to nonbetterment utility relocation costs.

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

DEPARTMENT OF TRANSPORTATION TO EVALUATE THE LOCATIONS OF PROPOSED PUBLIC AND PRIVATE SCHOOLS TO ENHANCE TRAFFIC OPERATIONS AND SAFETY

SECTION 27.27. G.S. 136-18 reads as rewritten:

"§ 136-18. *Powers of Department of Transportation.*

The said Department of Transportation shall be vested with the following powers:

...

- (29a) To coordinate with all public and private entities planning schools to provide written recommendations and evaluations of driveway access and traffic operational and safety impacts on the State highway system resulting from the development of the proposed sites. All public and private entities shall, upon acquiring land for a new school or prior to beginning construction of a new school, relocating a school, or expanding an existing school, request from the Department a written evaluation and written recommendations to ensure that all proposed access points comply with the criteria in the current North Carolina Department of Transportation 'Policy on Street and Driveway Access'. The Department shall provide the written evaluation and recommendations within a reasonable time, which shall

not exceed 60 days. This subdivision shall not be construed to require the public or private entities planning schools to meet the recommendations made by the Department."

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

**REGIONAL PUBLIC TRANSPORTATION AUTHORITY
CAPITAL RESERVE FUND ACCUMULATION**

SECTION 27.28. G.S. 160A-613 is amended by adding a new subsection to read:

"(c) Notwithstanding any provision of G.S. 159-18, the Board of Trustees may accumulate moneys from any source authorized by this Article or by Article 50 of Chapter 105 of the General Statutes in a capital reserve fund for any authorized purpose of the Authority. Notwithstanding any provision of G.S. 159-19 or G.S. 159-22, the Board of Trustees may, by amendment to the resolution establishing a capital reserve fund, withdraw moneys accumulated in a fund for noncapital purposes if the capital outlay purpose for which the fund was created is no longer viable, as determined by a majority of the Board of Trustees. Except as otherwise provided in this subsection, the provisions of Part 2 of Article 3 of Chapter 159 of the General Statutes shall control the establishment of capital reserve funds by the Authority."

Requested by: Senators Gulley, Robinson, Plyler, Odom, Lee; Representatives Buchanan, Cole, J. Crawford, Bowie, Easterling, Oldham, Redwine, Thompson

**RAIL DIVISION FUNDS FOR RAILROAD BRIDGE
REPLACEMENT PROJECT PLANNING AND
PRELIMINARY ENGINEERING**

SECTION 27.29. Of funds appropriated to the Department of Transportation Rail Division, up to eight hundred thousand dollars (\$800,000) shall be used for planning and preliminary engineering of the Neuse Railroad Bridge east of Kinston replacement project and the Highway 54 Railroad bridge in Research Triangle Park replacement project.

PART XXVIII. PUBLIC SCHOOLS

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

LITIGATION RESERVE FUNDS DO NOT REVERT

SECTION 28.1.(a) Funds in the State Board of Education's Litigation Reserve that are not expended or encumbered on June 30, 2001, shall not revert on July 1, 2001, but shall remain available for expenditure until June 30, 2002.

SECTION 28.1.(b) Subsection (a) of this section becomes effective June 30, 2001.

SECTION 28.1.(c) The State Board of Education may expend up to five hundred thousand dollars (\$500,000) for the 2001-2002 fiscal year from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

CHILDREN WITH DISABILITIES

SECTION 28.2. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand six hundred fifty dollars and twenty-eight cents (\$2,650.28) per child for a maximum of 158,825 children for the 2001-2002 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2001-2002 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also increase in accordance with legislative salary increments for personnel who serve children with disabilities.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

FUNDS FOR ACADEMICALLY GIFTED STUDENTS

SECTION 28.3. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of eight hundred seventy-nine dollars and ten cents (\$879.10) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2001-2002 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 52,042 children for the 2001-2002 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also increase in accordance with legislative salary increments for personnel who serve academically or intellectually gifted children.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

SECTION 28.4. The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 2001-2002 fiscal year and for the 2002-2003 fiscal year to implement G.S. 115C-12(24).

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

UNIFORM EDUCATION REPORTING SYSTEM (UERS)

SECTION 28.5.(a) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2001-2002 and 2002-2003 fiscal years, but shall remain available until expended.

SECTION 28.5.(b) This section becomes effective June 30, 2001.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 28.6.(a) Funds for Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement; therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2001-2002 fiscal year and the 2002-2003 fiscal year to be used for supplemental funds for schools.

SECTION 28.6.(b) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks, (ii) for salary supplements for instructional personnel and instructional support personnel, and (iii) to pay an amount not to exceed ten thousand dollars (\$10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are

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

SECTION 28.6.(c) Definitions. – As used in this section:

- (1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.
- (2) "Anticipated total county revenue availability" means the sum of the:
 - a. Anticipated county property tax revenue availability,
 - b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
 - c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
 - d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
 - e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277.001,
 - f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-275.2, and
 - g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.
- (3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.
- (4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.
- (5) "Average daily membership" means average daily membership as defined in the North Carolina Public

Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

- (6) "County-adjusted property tax base" shall be computed as follows:
 - a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
 - b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
 - c. Add to the resulting amount the:
 1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
 2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
 3. Personal property value for the county.
- (7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.
- (8) "County wealth as a percentage of State average wealth" shall be computed as follows:
 - a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
 - b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
 - c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
 - d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

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

assessment ratio for the year of revaluation shall be used.

SECTION 28.6.(d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 28.6.(e) Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

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

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

SECTION 28.6.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 28.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-97 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-98 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten

percent (10%). This method of calculating reduced funding shall apply one time only.

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

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

SECTION 28.6.(h) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2001-2003 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

SECTION 28.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2002, if it determines that counties have supplanted funds.

SECTION 28.6.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio

and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 28.7.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership of from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

- (1) Round all fractions of positions to the next whole position.
- (2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.
- (3) Provide additional program enhancement teachers adequate to offer the standard course of study.
- (4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.
- (5) Provide a base for the consolidated funds allotment of at least five hundred forty thousand seventy-four dollars (\$540,074) excluding textbooks.
- (6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding

for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

SECTION 28.7.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2001-2003 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

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

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

SECTION 28.7.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive one-half of that amount.

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

SECTION 28.7.(d) Definitions. – As used in this section:

- (1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the

North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

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

SECTION 28.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2002, if it determines that counties have supplanted funds.

SECTION 28.7.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4

and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION PROGRAM

SECTION 28.8.(a) The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 2001-2002 fiscal year to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2000-2001 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

- (1) Incentive awards in schools that achieve higher than expected improvements may be up to:
 - a. One thousand five hundred dollars (\$1,500) for each teacher and for certified personnel; and
 - b. Five hundred dollars (\$500.00) for each teacher assistant.
- (2) Incentive awards in schools that meet the expected improvements may be up to:
 - a. Seven hundred fifty dollars (\$750.00) for each teacher and for certified personnel; and
 - b. Three hundred seventy-five dollars (\$375.00) for each teacher assistant.

SECTION 28.8.(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 28.9.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2 1/2%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed ten and six-tenths percent (10.6%) of its average daily membership.

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

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

SECTION 28.9.(b) The Department of Public Instruction shall prepare a current headcount of the number of students classified with limited English proficiency by December 1 of each year.

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

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

EXPENDITURES FOR DRIVING EDUCATION CERTIFICATES

SECTION 28.10. The State Board of Education may use funds appropriated for drivers education for the 2001-2002 fiscal year and for the 2002-2003 fiscal year for driving eligibility certificates.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

TEACHER SALARY SCHEDULES

SECTION 28.11.(a) Effective for the 2001-2002 school year, the Director of the Budget may transfer from the Reserve for Compensation Increases for the 2001-2002 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 2001, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education. The longevity payment shall be paid in a lump sum once a year.

SECTION 28.11.(b) For the 2001-2002 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

**2001-2002 MONTHLY SALARY SCHEDULE
"A" TEACHERS**

Years of Experience	"A" Teachers	NBPTS Certification
0	\$2,525	N/A
1	\$2,567	N/A
2	\$2,611	N/A
3	\$2,764	\$3,096
4	\$2,904	\$3,252
5	\$3,036	\$3,400
6	\$3,164	\$3,544
7	\$3,266	\$3,658
8	\$3,314	\$3,712
9	\$3,362	\$3,765
10	\$3,412	\$3,821
11	\$3,461	\$3,876
12	\$3,511	\$3,932
13	\$3,561	\$3,988
14	\$3,614	\$4,048
15	\$3,667	\$4,107

2001]

S.L. 2001-424

16	\$3,722	\$4,169
17	\$3,777	\$4,230
18	\$3,834	\$4,294
19	\$3,892	\$4,359
20	\$3,950	\$4,424
21	\$4,011	\$4,492
22	\$4,072	\$4,561
23	\$4,136	\$4,632
24	\$4,200	\$4,704
25	\$4,264	\$4,776
26	\$4,330	\$4,850
27	\$4,398	\$4,926
28	\$4,467	\$5,003
29	\$4,538	\$5,083
30+	\$4,538	\$5,083

**2001-2002 MONTHLY SALARY SCHEDULE
"M" TEACHERS**

Years of Experience	"M" Teachers	NBPTS Certification
0	\$2,778	N/A
1	\$2,824	N/A
2	\$2,872	N/A
3	\$3,040	\$3,405
4	\$3,194	\$3,577
5	\$3,340	\$3,741
6	\$3,480	\$3,898
7	\$3,593	\$4,024
8	\$3,645	\$4,082
9	\$3,698	\$4,142
10	\$3,753	\$4,203
11	\$3,807	\$4,264
12	\$3,862	\$4,325
13	\$3,917	\$4,387
14	\$3,975	\$4,452
15	\$4,034	\$4,518
16	\$4,094	\$4,585
17	\$4,155	\$4,654
18	\$4,217	\$4,723
19	\$4,281	\$4,795
20	\$4,345	\$4,866
21	\$4,412	\$4,941
22	\$4,479	\$5,016

23	\$4,550	\$5,096
24	\$4,620	\$5,174
25	\$4,690	\$5,253
26	\$4,763	\$5,335
27	\$4,838	\$5,419
28	\$4,914	\$5,504
29	\$4,992	\$5,591
30+	\$4,992	\$5,591

SECTION 28.11.(c) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "M" teachers.

SECTION 28.11.(d) Effective for the 2001-2002 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

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

SECTION 28.11.(e) Effective for the 2001-2002 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per

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

SECTION 28.11.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 28.11.(g) G.S. 115C-325(a)(6) reads as rewritten:

"(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

- (6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the Department of Public Instruction; whose major responsibility is to teach or directly supervises teaching or who is classified by the State Board of Education or is paid either as a classroom teacher; teacher or instructional support personnel; and who is employed to fill a full-time, permanent position."

SECTION 28.11.(h) As used in this section, the term "teacher" shall also include instructional support personnel.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

SCHOOL ADMINISTRATOR SALARY SCHEDULES

SECTION 28.13.(a) Funds appropriated to the Reserve for Compensation Increases shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 28.13.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2001-2002 fiscal year, commencing July 1, 2001, is as follows:

**2001-2002
PRINCIPAL AND ASSISTANT PRINCIPAL SALARY
SCHEDULES**

CLASSIFICATION

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	\$3,226	—	—	—	—
5	\$3,373	—	—	—	—
6	\$3,515	—	—	—	—
7	\$3,629	—	—	—	—
8	\$3,681	\$3,681	—	—	—
9	\$3,735	\$3,735	—	—	—
10	\$3,791	\$3,791	\$3,845	—	—
11	\$3,845	\$3,845	\$3,901	—	—
12	\$3,901	\$3,901	\$3,956	\$4,015	—
13	\$3,956	\$3,956	\$4,015	\$4,074	\$4,135
14	\$4,015	\$4,015	\$4,074	\$4,135	\$4,197
15	\$4,074	\$4,074	\$4,135	\$4,197	\$4,259
16	\$4,135	\$4,135	\$4,197	\$4,259	\$4,324
17	\$4,197	\$4,197	\$4,259	\$4,324	\$4,388
18	\$4,259	\$4,259	\$4,324	\$4,388	\$4,456
19	\$4,324	\$4,324	\$4,388	\$4,456	\$4,524
20	\$4,388	\$4,388	\$4,456	\$4,524	\$4,596
21	\$4,456	\$4,456	\$4,524	\$4,596	\$4,666
22	\$4,524	\$4,524	\$4,596	\$4,666	\$4,737
23	\$4,596	\$4,596	\$4,666	\$4,737	\$4,811
24	\$4,666	\$4,666	\$4,737	\$4,811	\$4,886
25	\$4,737	\$4,737	\$4,811	\$4,886	\$4,963
26	\$4,811	\$4,811	\$4,886	\$4,963	\$5,042
27	\$4,886	\$4,886	\$4,963	\$5,042	\$5,143
28	\$4,963	\$4,963	\$5,042	\$5,143	\$5,246
29	\$5,042	\$5,042	\$5,143	\$5,246	\$5,351
30	\$5,143	\$5,143	\$5,246	\$5,351	\$5,458
31	\$5,246	\$5,246	\$5,351	\$5,458	\$5,567
32	—	\$5,351	\$5,458	\$5,567	\$5,678
33	—	—	\$5,567	\$5,678	\$5,792
34	—	—	\$5,678	\$5,792	\$5,908
35	—	—	—	\$5,908	\$6,026
36	—	—	—	\$6,026	\$6,147
37	—	—	—	—	\$6,270

**2001-2002
PRINCIPAL AND ASSISTANT PRINCIPAL SALARY
SCHEDULES**

CLASSIFICATION

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

SECTION 28.13.(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

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

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

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

SECTION 28.13.(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and the 1999-2000 school year for improvement in student performance or maintaining a safe and orderly school.

SECTION 28.13.(e) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars (\$126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars (\$253.00) per month.

SECTION 28.13.(f) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of

additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

SECTION 28.13.(g) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 28.13.(h)

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

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

SECTION 28.13.(i) Participants in an approved full-time Masters in School Administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal Fellows Program or a school of education where the intern participates in a full-time Masters in School Administration.

SECTION 28.13.(j) During the 2001-2002 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

CENTRAL OFFICE SALARIES

SECTION 28.14.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2001-2002 fiscal year, beginning July 1, 2001. The top of these ranges shall be increased by six hundred twenty-five dollars (\$625.00) annually for full-time employees.

School Administrator I	\$2,932	\$5,214
School Administrator II	\$3,112	\$5,534
School Administrator III	\$3,303	\$5,873
School Administrator IV	\$3,436	\$6,110
School Administrator V	\$3,574	\$6,358
School Administrator VI	\$3,792	\$6,747
School Administrator VII	\$3,945	\$7,020

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 2001.

SECTION 28.14.(b) The monthly salary ranges that follow apply to public school superintendents for the 2001-2002 fiscal year, beginning July 1, 2001. The top of these ranges shall be increased by six hundred twenty-five dollars (\$625.00) annually for full-time employees.

Superintendent I	\$4,187	\$7,451
Superintendent II	\$4,445	\$7,904
Superintendent III	\$4,716	\$8,389
Superintendent IV	\$5,005	\$8,901
Superintendent V	\$5,312	\$9,447

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

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 28.13(f) of this act.

SECTION 28.14.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 28.14.(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators,

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

SECTION 28.14.(e) The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 28.14.(f) The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2001-2002, beginning July 1, 2001, funds necessary to provide an average annual salary increase of six hundred twenty-five dollars (\$625.00), including funds for the employer's retirement and social security contributions, commencing July 1, 2001, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

SECTION 28.14.(g) The State Board of Education shall develop a new formula for allocating to local school administrative units funds appropriated for salaries for public school central office administrators for the 2002-2003 fiscal year. This formula shall not include a permanent hold-harmless provision for local school administrative units.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

NONCERTIFIED PERSONNEL SALARIES

SECTION 28.15.(a) The Director of the Budget may transfer from the Reserve for Compensation Increases created in this act for fiscal year 2001-2002, commencing July 1, 2001, funds necessary to provide a salary increase of six hundred twenty-five dollars (\$625.00), including funds for the employer's retirement and social security contributions, commencing July 1, 2001, for all noncertified public school employees whose salaries are supported from the State's General Fund.

SECTION 28.15.(b) Local boards of education shall increase the rates of pay for all such employees who were employed for all or part of fiscal year 2000-2001 and who continue their employment for fiscal year 2001-2002 by at least six hundred twenty-five dollars (\$625.00), commencing July 1, 2001. For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 28.15.(c) These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

SECTION 28.15.(d) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of six hundred twenty-five dollars (\$625.00) for the 2001-2002 fiscal year.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

HIGH SCHOOL EXIT EXAMS

SECTION 28.16. Of the funds appropriated to State Aid to Local School Administrative Units, the State Board of Education may use up to three million dollars (\$3,000,000) for the 2001-2002 fiscal year to:

- (1) Continue to develop a high school exit examination;
- (2) Purchase equipment for scoring tests, including the new computer adaptive exam for eligible students with disabilities; and
- (3) Revise the reading and writing assessments.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

FAIRNESS IN TESTING PROGRAM

SECTION 28.17.(a) The State Board of Education shall provide the Joint Legislative Education Oversight Committee with a detailed analysis of the current resources allocated to meet the needs of all students subject to the Statewide Student Accountability Standards, and in addition, shall submit recommendations regarding other resources that would best assist students in meeting these new standards.

SECTION 28.17.(b) G.S. 115C-288(a) reads as rewritten:

"(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify pupils ~~except a pupils~~. In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and

grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available."

SECTION 28.17.(c) G.S. 115C-47 is amended by adding a new subdivision to read:

"§ 115C-47. *Powers and duties generally.*

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(39) To Adopt Policies Related to Student Retention Decisions. -- Local boards shall adopt policies related to G.S. 115C-45(c) that include opportunities for parents and guardians to discuss decisions to retain students."

SECTION 28.17.(d) The State Board of Education shall study the benefits of providing students' parents or guardians with copies of tests administered to their children under the Statewide Testing Program. The Board shall also consider the costs of maintaining the integrity and reliability of the tests if such a policy is implemented. The Board shall report the results of this study to the Joint Legislative Education Oversight Committee by March 31, 2002.

SECTION 28.17.(e) Part 3 of Article 8B of Chapter 115C of the General Statutes is amended by adding the following new section to read:

"§ 115C-105.41. *Students who have been placed at risk of academic failure; personal education plans.*

Local school administrative units shall identify students who have been placed at risk for academic failure. Identification shall occur as early as can reasonably be done and can be based on grades, observations, State assessments, and other factors that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests. At the beginning of the school year, a personal education plan for academic improvement with focused intervention and performance benchmarks shall be developed for any student not performing at least at grade level, as identified by the State end-of-grade test. Focused intervention and accelerated activities should include research-based best practices that meet the needs of students

and may include coaching, mentoring, tutoring, summer school, Saturday school, and extended days. Local school administrative units shall provide these activities free of charge to students. Local school administrative units shall also provide transportation free of charge to all students for whom transportation is necessary for participation in these activities.

Parents should be included in the implementation and ongoing review of personal education plans."

SECTION 28.17.(f) G.S. 115C-174.12(a) reads as rewritten:

"(a) ~~The State Board of Education shall review the tests being administered through State and local testing programs and shall select the tests that it believes are necessary to provide the best measures of the levels of academic achievement attained by students in various subject areas.~~ The State Board of Education shall also establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs and for otherwise carrying out the provisions of this Article. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a child's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a child's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for students with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption."

SECTION 28.17.(g) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning.

SECTION 28.17.(h) Students in a local school shall not be subject to field tests or national tests during the two-week period preceding the administration of the end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams. No school shall participate in more than two field tests at any one grade level during a school year unless that school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.

SECTION 28.17.(i) The Joint Legislative Education Oversight Committee shall study the State's testing program. As part of this study, the Committee shall consider:

- (1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.

- (2) Whether the State should consider the use of nationally developed tests as a substitute to State-developed testing. In particular, the Committee shall determine whether this use would (i) affect the ABCs Program, (ii) adequately measure student achievement and performance, (iii) provide more than minimum levels of achievement, (iv) provide a better comparison to student achievement and performance in other states, (v) be practical for high school courses or higher level courses, (vi) reduce the need for field testing, and (vii) offer any cost savings to the State.
- (3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.
- (4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.
- (5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.
- (6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.
- (7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than

improve the performance of the school in which the student originally was assigned.

(8) Any other issue the Committee considers relevant.

The Committee shall report its findings and any recommendations, including recommended legislation, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 28.17.(j) The State Board of Education shall develop and report to the Joint Legislative Education Oversight Committee on its objectives for the Statewide Testing Program and on the implementation of that Program. The report shall include:

- (1) A statement of the relationship between these objectives and the tests currently administered under the Program;
- (2) An analysis of whether the current tests appropriately achieve these objectives;
- (3) A statement of any actions that may be needed to coordinate the objectives and the tests more effectively; and
- (4) Strategies for communicating the objectives of the Program, the tests administered under the Program, and the relationship between these objectives and tests to principals, teachers, parents, and students throughout the State.

SECTION 28.17.(k) Subsections (b) and (e) of this section become effective December 1, 2001.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

PILOT PROGRAM AUTHORIZING THE USE OF MENTOR FUNDS FOR FULL-TIME MENTORS

SECTION 28.18.(a) The State Board of Education shall establish a pilot program to permit the Charlotte-Mecklenburg School Administrative Unit, the Forsyth County School Administrative Unit, and the Wake County School Administrative Unit to use funds allocated for mentors for full-time mentors.

Funds allocated for mentors in these units shall be used only for teachers and instructional support personnel assigned to newly certified teachers, second-year teachers who were assigned mentors during the prior school year, or as authorized by Section 28.31 of this act, and entry-level instructional support personnel who have not previously been teachers. These funds shall be used only for:

- (1) Salary supplements to teachers and instructional support personnel who are serving as mentors. The amount of the salary supplement shall not be based on the number

of teachers or instructional support personnel to whom the mentor is assigned; or

- (2) Payments to teachers or instructional support personnel who are employed solely to serve as mentors. An individual employed solely to serve as a mentor shall receive a payment for each individual, up to 15 individuals, to whom the mentor is assigned. The amount of each such payment shall be the same as the amount of the salary supplement for a mentor.

SECTION 28.18.(b) The Charlotte-Mecklenburg Board of Education, the Forsyth County Board of Education, and the Wake County Board of Education shall report to the State Board of Education on an annual basis on the impact that the mentor program has had on retention of teachers. The State Board shall report on this information to the Joint Legislative Education Oversight Committee.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson
SUPPORT FOR INITIALLY CERTIFIED TEACHERS

SECTION 28.19.(a) The State Board of Education shall study the mentor program and the performance-based licensure program to determine whether these programs provide adequate support for initially certified teachers and enhance their professional development. In the course of the study, the State Board shall consider:

- (1) The effectiveness of the current programs;
- (2) The need for modifications to or enhancements of the current programs;
- (3) Alternative ways to deliver services to initially certified teachers and to provide them with the resources they need to develop as professionals;
- (4) Strategies or alternatives for improving teacher retention rates through the administration of these programs; and
- (5) The adequacy of funding for programs for initially certified teachers.

The State Board shall report the results of this study to the Joint Legislative Education Oversight Committee by March 1, 2002.

SECTION 28.19.(b) The State Board of Education shall modify the Performance-Based Licensure Program to provide additional support for initially certified teachers. Initially certified teachers shall receive up to three days of approved paid leave during their second year of employment to work on their performance-based products or to consult with their mentors. If teachers have not successfully completed the performance-based requirements by their

third year of employment, the teachers shall receive up to three days of approved paid leave to complete all requirements. Teachers participating in the program shall take paid leave only with the approval of their supervisors.

Requested by: Senators Thomas, Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

PHASE IN ADM REDUCTIONS DUE TO CHARTER SCHOOLS

SECTION 28.20.(a) If a local school administrative unit experiences a loss in projected average daily membership of greater than five percent (5%) due to the opening of a new charter school within the unit, the State Board of Education may use funds from the Reserve for Average Daily Membership Adjustments to assure that the funding loss to the local school administrative unit does not exceed five percent (5%) in the first fiscal year of the charter school's operation.

The State Board of Education shall phase out this special allotment in subsequent fiscal years by decreasing the amount of the special allotment each year by the amount of the prior year's funding loss.

SECTION 28.20.(b) A local school administrative unit that received funds for the 2000-2001 fiscal year pursuant to Section 8.5 of S.L. 2000-67 to reduce the loss of funds due to shifts of enrollment to charter schools shall continue to receive funds for the 2001-2002 fiscal year in the amount of one hundred percent (100%) of the 2000-2001 allotment and for the 2002-2003 fiscal year in the amount of fifty percent (50%) of the 2000-2001 allotment.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

MEDICAID OUTREACH

SECTION 28.21. If a claim for Medicaid outreach reimbursement that was submitted by a local school administrative unit and paid by a federal agency is later found by that agency to be inappropriate, the Department of Public Instruction shall request that the federal agency offset the overpaid amount against the next quarterly reimbursement due to the local school administrative unit. If the federal agency does not allow the offset, the Department of Public Instruction shall request repayment from the local school administrative unit, as provided for in agreements between the Department of Public Instruction and the local school administrative unit or, in the case of a local interagency agreement, agreements

among local school administrative units. If the local school administrative unit that received the overpayment fails to repay the overpaid moneys within the time permitted under such agreements, the Department of Public Instruction may withhold the overpaid amount from State funds allocated for the central office of the local school administrative unit.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

**FUNDS FOR NONINSTRUCTIONAL SUPPORT PERSONNEL
MAY BE USED FOR STAFF DEVELOPMENT**

SECTION 28.22. G.S. 115C-105.25(b) reads as rewritten:

"(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

- (1) In accordance with a school improvement plan accepted under G.S. 115C-105.27, State funds allocated for teacher assistants may be transferred only for personnel (i) to serve students only in kindergarten through third grade, or (ii) to serve students primarily in kindergarten through third grade when the personnel are assigned to an elementary school to serve the whole school. Funds allocated for teacher assistants may be transferred to reduce class size or to reduce the student-teacher ratio in kindergarten through third grade so long as the affected teacher assistant positions are not filled when the plan is amended or approved by the building-level staff entitled to vote on the plan or the affected teacher assistant positions are not expected to be filled on the date the plan is to be implemented. Any State funds appropriated for teacher assistants that were converted to certificated teachers before July 1, 1995, in accordance with Section 1 of Chapter 986 of the 1991 Session Laws, as rewritten by Chapter 103 of the 1993 Session Laws, may continue to be used for certificated teachers.
- (2) In accordance with a school improvement plan accepted under G.S. 115C-105.27, (i) State funds allocated for classroom materials/instructional supplies/equipment may be transferred only for the purchase of textbooks; (ii) State funds allocated for textbooks may be transferred only for the purchase of instructional supplies, instructional equipment, or other classroom materials; and (iii) State funds allocated for

noninstructional support personnel may be transferred only for teacher positions.

- (2a) Up to three percent (3%) of State funds allocated for noninstructional support personnel may be transferred for staff development.
- (3) No funds shall be transferred into the central office allotment category.
 - (4) Funds allocated for children with special needs, for students with limited English proficiency, and for driver's education shall not be transferred.
 - (5) Funds allocated for classroom teachers may be transferred only for teachers of exceptional children, for teachers of at-risk students, and for authorized purposes under the textbooks allotment category and the classroom materials/instructional supplies/equipment allotment category.
 - (6) Funds allocated for vocational education may be transferred only in accordance with any rules that the State Board of Education considers appropriate to ensure compliance with federal regulations.
 - (7) Funds allocated for career development shall be used in accordance with Section 17.3 of Chapter 324 of the 1995 Session Laws.
 - (8) Funds allocated for academically or intellectually gifted students may be used only (i) for academically or intellectually gifted students; (ii) to implement the plan developed under G.S. 115C-150.7; or (iii) in accordance with an accepted school improvement plan, for any purpose so long as that school demonstrates it is providing appropriate services to academically or intellectually gifted students assigned to that school in accordance with the local plan developed under G.S. 115C-150.7.
 - (9) Funds allocated in the Alternative Schools/At-Risk Student allotment shall be spent only for alternative learning programs, at-risk students, and school safety programs."

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

STUDY TEXTBOOK DISTRIBUTION SYSTEM

SECTION 28.24. The State Board of Education shall contract for an analysis of the best and most efficient method to manage textbook distribution to the local schools. The Board shall

prepare a Request for Proposals (RFP) outlining the scope of the analysis required and select a private consultant to perform the analysis. The analysis shall include such issues as timely delivery, total costs to the local school systems in providing textbooks to school buildings, use of currently available technology in the process, pricing practices among the textbook publishing industry, and other issues the Board considers relevant to a comprehensive review of the system.

Prior to award of a contract, the State Board shall present the Request for Proposals to the Joint Legislative Education Oversight Committee for comment. The State Board shall report to the Joint Legislative Education Oversight Committee on the results of the consultant's analysis, including the Board's recommendations for changes in the current system. The Board shall make its final report to the Committee by April 1, 2002.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

ABOLISH THE NORTH CAROLINA STANDARDS BOARD FOR PUBLIC SCHOOL ADMINISTRATION

SECTION 28.25.(a) G.S. 115C-290.2 reads as rewritten:

"§ 115C-290.2. *Definitions.*

The following definitions apply in this Article:

- (1) Repealed by Session Laws 1995, c. 116, s. 1.
- (2) Exam. – The North Carolina Public School Administrator Exam.
- (3) School administrator. – Public school superintendents, deputy superintendents, associate superintendents, assistant superintendents, principals, and assistant principals.
- (4) ~~Standards Board. – The North Carolina Standards Board for Public School Administration."~~

SECTION 28.25.(b) G.S. 115C-290.3 is repealed.

SECTION 28.25.(c) G.S. 115C-290.4 is repealed.

SECTION 28.25.(d) G.S. 115C-290.5 reads as rewritten:

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

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

- (1) In accordance with subsection (c) of this section, develop and implement a North Carolina Public School Administrator Exam, ~~based on the professional standards established by the Standards Board Exam.~~

- (2) Establish and collect an application fee not to exceed fifty dollars (\$50.00). Fees collected under this Article shall be credited to the General Fund as nontax revenue.
 - (3) Review the educational achievements of an applicant to take the exam to determine whether the achievements meet the requirements set by G.S. 115C-290.7.
 - (4) ~~Notify the State Board of Education of the names and addresses of the persons who passed the exam and are thereby recommended to be certified as public school administrators by the State Board of Education.~~
 - (5) Maintain accounts and records in accordance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.
 - (6) Adopt rules in accordance with Chapter 150B of the General Statutes to implement this Article.
 - (7) ~~Submit an annual report by December 1 of each year to the Joint Legislative Education Oversight Committee of its activities during the preceding year, together with any recommendations and findings regarding improvement of the profession of public school administration.~~
- (b) ~~The Board may adopt a seal and affix it to any documents issued by the Board.~~
- (c) ~~The Standards Board shall submit its proposed exam to the State Board. The State Board shall adopt or reject the proposal. The State Board shall not make any substantive changes to any exam that it adopts. If the State Board rejects the proposal, it shall state with specificity its reasons for rejection; the Standards Board then may prepare another proposed exam and submit it to the State Board. If the State Board rejects the proposed exam on its second submission, the State Board may develop and adopt an exam by December 1, 1997. The General Assembly urges the State Board to utilize the Standards Board's proposed exam to the maximum extent that it is consistent with the State Board's policies if the State Board develops and adopts an exam. After an exam has been adopted, the Standards Board may submit suggested changes to the State Board for its approval."~~

SECTION 28.25.(e) G.S. 115C-290.6 reads as rewritten:

"§ 115C-290.6. Application to the Standards Board.~~State Board of Education.~~

An individual who seeks to be recommended by the Standards Board for certification by the State Board of Education, shall file a written application with the Standards Board. The application must be on a form provided by the Standards Board, must State Board of Education. The application shall be accompanied by the required application and exam fees established by the Standards Board, and

~~must and shall~~ include any information required by the Standards Board."

SECTION 28.25.(f) G.S. 115C-290.7 reads as rewritten:

"§ 115C-290.7. ~~Recommendation by the Standards Board.~~ Qualifications for certification.

(a) ~~The Standards Board shall for certification by the State Board an individual who submits a complete application to the Standards Board and satisfies all of the following requirements:~~

- (1) ~~Pays the application fee established by the Standards Board.~~
- (2) ~~Repealed by Session Laws 1998-16, s. 1.~~
- (3) ~~Has~~

(b) To qualify for certification as a school administrator, an individual must:

- (1) Submit a complete application to the State Board.
- (2) Pay the applicable fee.
- (3) Have a bachelors bachelors degree from an accredited college or accredited university and (i) has university.
- (4) Either (i) have a graduate degree from a public school administration program that meets the public school administrator program approval standards set by the State Board of Education, or (ii) has have a masters degree from an accredited college or accredited university and has have completed by December 31, 1999, a public school administration program that meets the public school administration approval standards set by the State Board of Education. Education, and
- (4) ~~Passes~~
- (5) Pass the exam adopted by the State Board.

(b) ~~The State Board of Education may not certify an individual as a public school administrator unless it has received notice from the Standards Board that the person is recommended by the Standards Board under this Article. The State Board may designate initial certification as a license; advanced license. Advanced training may be designated as a certified area of practice.~~

SECTION 28.25.(g) G.S. 115C-290.8 reads as rewritten:

"§ 115C-290.8. Exemptions from requirements.

(a) The requirements of this Article do not apply to a person who, at any time during the five years preceding January 1, 1998, obtained or renewed a State administrator/supervisor certificate.

(b) The State Board may adopt policies governing the requirements for the certification of individuals who hold a certificate issued in any other state that authorizes them to be employed as school administrators in that state. These policies may exempt some or all of these individuals from the requirements of this Article.

(c) A person who is exempt from the requirements of this Article but ~~applies to the Standards Board~~ for certification under this Article shall be subject to the Article."

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

GUIDELINES FOR CHARTER SCHOOL ENROLLMENT

SECTION 28.26. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed five years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed five years each. A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education. ~~Beginning with the charter school's second year of operation and annually thereafter, the State Board shall allow a charter school to increase its enrollment by ten percent (10%) of the school's previous year's enrollment or as is otherwise provided in the charter. This enrollment growth shall not be considered a material revision of the charter application and shall not require the prior approval of the State Board.~~

~~An enrollment growth of greater than ten percent (10%) shall be considered a material revision of the charter application. The State Board may approve an enrollment growth of greater than ten percent (10%) only if the State Board finds that:~~

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:

- (1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;
- (2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;
- (3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have

on the unit's ability to provide a sound basic education to its students;

- (4) The charter school is not currently identified as low-performing;
- (5) The charter school meets generally accepted standards of fiscal management; and
- (6) It is otherwise appropriate to approve the enrollment growth."

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL EVALUATION

SECTION 28.27. The State Board of Education may spend up to fifty thousand dollars (\$50,000) a year from State Aid to Local School Administrative Units for the 2001-2002 and 2002-2003 fiscal years to continue support of a charter school advisory committee and to continue to evaluate charter schools.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

TEACHER ACADEMY

SECTION 28.28.(a) G.S. 116-30.01(a) reads as rewritten:

"(a) The North Carolina Teacher Academy Board of Trustees shall establish a statewide network of high quality, integrated, comprehensive, collaborative, and substantial professional development for teachers, which shall be provided through summer programs. This network shall include professional development programs that focus on teaching strategies for teachers assigned to at-risk schools."

SECTION 28.28.(b) The State Board of Education shall specify professional development programs for teachers assigned to smaller classes in kindergarten through fifth grade. The Teacher Academy shall use at least ten percent (10%) of its budget for the 2001-2002 fiscal year to deliver these programs to teachers.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine

MODIFY LAW REGARDING CHILDREN WITH DISABILITIES

SECTION 28.29.(a) Part 5 of Article 9 of Chapter 115C of the General Statutes reads as rewritten:

"Part 5. Council on Educational Services for Exceptional Children.
 "§ 115C-121. *Establishment; organization; powers and duties.*

(a) There is hereby established an Advisory Council to the State Board of Education to be called the Council on Educational Services for Exceptional Children.

(b) The Council shall consist of 23 members to be appointed as follows: ~~five~~ four ex officio members; ~~two members one individual with a disability and one representative of a private school~~ appointed by the Governor; ~~two members one member~~ of the Senate and one parent of a child with a disability appointed by the President Pro Tempore; ~~two members one member~~ of the House of Representatives and one parent of a child with a disability appointed by the Speaker of the House; and ~~12~~ 13 members appointed by the State Board of Education. ~~Of those members of the Council appointed by the State Board one member shall be selected from each congressional district within the State, and the members so selected shall be composed of at least one person representing each of the following: handicapped individuals, parents or guardians of children with special needs, teachers of children with special needs, and State and local education officials and administrators of programs for children with special needs.~~ The State Board shall appoint members who represent individuals with disabilities, teachers, local school administrative units, institutions of higher education that prepare special education and related services personnel, administrators of programs for children with disabilities, charter schools, parents of children with disabilities, and vocational, community, or business organizations concerned with the provision of transition services. The majority of members on the Council shall be individuals with disabilities or parents of children with disabilities. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. ~~The board shall promulgate rules or regulations. The Board shall adopt rules to carry out this subsection.~~

Ex officio members of the Council shall be the following:

- (1) The Secretary of ~~the Department of Health and Human Services~~ or the Secretary's ~~designee;~~ designee.
- ~~(1a)~~(2) ~~A representative of the Department~~ The Secretary of Juvenile Justice and Delinquency Prevention; ~~appointed by the Governor;~~ Prevention or the Secretary's designee.
- ~~(2)~~(3) The Secretary of ~~the Department of Correction~~ or the Secretary's ~~designee;~~ designee.

- (3) ~~A representative from The University of North Carolina Planning Consortium for Children with Special Needs; and~~
- (4) The Superintendent of Public Instruction or the Superintendent's designee.

The term of appointment for all members except those appointed by the State Board of Education ~~shall be for~~ is two years. The term for members appointed by the State Board of Education ~~shall be for~~ is four years. No person shall serve more than two consecutive four-year terms. ~~The initial term of office of the person appointed from the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996.~~

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly.

(c) The Council shall meet in offices provided by the Department of Public Instruction on a date to be agreed upon by the members of the Council from meeting to ~~meeting~~: Provided, however, that the meeting. The Council shall meet no less than once every three months. The Department of Public Instruction shall provide the necessary secretarial and clerical staff and supplies to accomplish the objectives of the Council.

(d) ~~The duties of the Council shall be to:~~ Council shall:

- (1) Advise the Board with respect to unmet needs within the State in the education of children with ~~special needs, as defined in this Chapter:~~ disabilities.
- (2) Comment publicly on ~~rules and regulations~~ rules, policies, and procedures proposed for issuance by the Board regarding special education and related services and the procedures for issuing State and federal funds for special education and related services: the education of children with disabilities.
- (3) Assist the Board in developing and ~~reporting such data and evaluations as may assist the Commissioner of Education in the performance of his duties under Part B, Education of the Handicapped Act, as amended by Public Law 94-142:~~ evaluations and reporting on data to the Secretary of Education under the federal Individuals with Disabilities Education Act (IDEA), as amended.
- (4) ~~Comment publicly on State special education plans developed pursuant to Public Law 94-142 and State law:~~ Advise the State Board in developing corrective action plans to address findings identified in federal monitoring reports required under the federal

Individuals with Disabilities Education Act (IDEA), as amended.

- (5) Advise the State Board in developing and implementing policies relating to the coordination of services for children with disabilities.
- (6) Carry out any other responsibility as designated by federal law or the State Board."

SECTION 28.29.(b) The Joint Legislative Education Oversight Committee, in consultation with the Department of Public Instruction, shall examine the State laws governing special education and related services for children with disabilities to identify and recommend statutory changes needed to bring State law in conformity with recent changes in the federal Individuals with Disabilities Education Act (IDEA). The Committee shall report to the 2002 Regular Session of the 2001 General Assembly on its recommended changes.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

CLOSING THE ACHIEVEMENT GAP

SECTION 28.30.(a) G.S. 115C-105.35 reads as rewritten:
 "§ 115C-105.35. *Annual performance goals.*

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

SECTION 28.30.(b) The State Board of Education shall report its plan to include measurement of "closing the achievement gap" in educational growth in student performance for each school to the Joint Legislative Education Oversight Committee by January 15, 2002.

SECTION 28.30.(c) G.S. 115C-105.27 is amended by adding a new subdivision to read:

"(1a) Shall, if the school serves students in kindergarten or first grade, include a plan for preparing students to read at grade level by the time they enter second grade. The plan shall require kindergarten and first grade teachers to notify parents or guardians when their child is not reading at grade level and is at risk of not reading at grade level by the time the child enters second grade. The plan may include the use of assessments to monitor students' progress in learning to read, strategies for teachers and parents to implement that will help students improve and expand their reading, and provide for the recognition of teachers and strategies that appear to be effective at preparing students to read at grade level."

SECTION 28.30.(d) The State Board is encouraged to consider whether there are any standards or other criteria from kindergarten, first grade, and second grade that could be included in the State's assessment of a school's performance and growth for the purpose of the School-Based Management and Accountability Program. If the Board identifies any appropriate standards or criteria that could be included, it is encouraged to do so.

SECTION 28.30.(e) G.S. 115C-12 is amended by adding a new subdivision to read:

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

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

- ...
- (30) Duty to Adopt Model Guidelines and Policies for the Establishment of Local Task Forces on Closing the Academic Achievement Gap. – The State Board shall adopt a Model for local school administrative units to use as a guideline to establish local task forces on closing the academic achievement gap at the discretion of the local board. The purpose of each task force is to advise and work with its local board of education and administration on closing the gap in academic achievement and on developing a collaborative plan for achieving that goal. The State Board shall consider the recommendations of the Commission on Improving the

Academic Achievement of Minority and At-Risk Students to the 2001 Session of the General Assembly in establishing its guidelines."

SECTION 28.30.(f) G.S. 115C-12(27) reads as rewritten:

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

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

- ...
- (27) Reporting Dropout Rates and Expelled Students. Rates, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report annually to the Joint Legislative Education Oversight Committee and the Commission on Improving the Academic Achievement of Minority and At-Risk Students on the numbers of students who have dropped out of school, been suspended, been expelled, or been placed in an alternative program. The data shall be reported in a disaggregated manner and be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school."

SECTION 28.30.(g) Section 15.1(b) of S.L. 1999-395 reads as rewritten:

"(b) Initial appointments to the Commission shall be made before September 15, 1999. The first meeting of the Commission shall be held no later than October 15, 1999. Terms on the Commission are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Commission."

SECTION 28.30.(h) Section 15.5 of S.L. 1999-395 reads as rewritten:

"Section 15.5. ~~The Commission shall make an interim report of its findings and recommendations to the General Assembly not later than the convening of the 2000 Regular Session of the 1999 General Assembly. The Commission shall submit to the General Assembly a final report of its findings and recommendations of this study not later~~

~~than the convening of the 2001 General Assembly. The Commission shall make an interim report to the Joint Legislative Education Oversight Committee and to the General Assembly by April 1, 2002. The Commission shall submit a final report of its findings and recommendations to the Joint Legislative Education Oversight Committee and to the General Assembly by January 10, 2003. Upon filing its final report, the Commission shall terminate."~~

SECTION 28.30.(i) The Commission, as reauthorized under this section, shall, in addition to its other responsibilities, determine the extent to which additional fiscal resources are needed to close the academic achievement gap and keep it closed. The Commission shall report its findings under this section to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

CLARIFY LAW REGARDING MENTORS FOR SECOND-YEAR TEACHERS

SECTION 28.31. State funds appropriated to provide mentors for teachers during their second year of teaching may be used to provide mentors for teachers whose first year of teaching was in a public school in North Carolina, a public school in another state, a private school, or a charter school.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

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

SECTION 28.32. The State Board of Education may transfer up to one million dollars (\$1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2001-2002 fiscal year to the Department of Public Instruction to lease or purchase equipment necessary for the testing and implementation of NC WISE, the new student information system in the public schools.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

SECTION 28.33.(a) Funds appropriated for the 2001-2002 fiscal year and the 2002-2003 fiscal year for Student Accountability Standards shall be used to assist students in performing at or above

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

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

Continuation budget funds previously appropriated for NC Helps and for the middle school pilot project shall be transferred to this allocation category.

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

These funds shall be allocated to local school administrative units for the 2001-2002 fiscal year within 30 days of the date this act becomes law.

SECTION 28.33.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

STUDY THE SALARIES OF SCHOOL FOOD SERVICE WORKERS AND CUSTODIANS

SECTION 28.34. The Joint Legislative Education Oversight Committee shall study the salaries of food service workers and custodians employed by the public schools. The Committee shall report its findings to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

CHARACTER EDUCATION

SECTION 28.36. The State Board of Education shall use funds appropriated in this act for character education to develop a model character education curriculum for the public schools. The Board may contract with an outside consultant to implement the provisions of this act.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

STUDY OF SALARY DIFFERENTIALS FOR INSTRUCTIONAL PERSONNEL AND FOR INSTRUCTIONAL SUPPORT PERSONNEL

SECTION 28.37.(a) The Joint Legislative Education Oversight Committee shall study salary differentials for instructional personnel. In the course of the study, the Committee shall consider the correlation between student performance and salary differentials in the current teacher compensation system, including differentials based on degrees, national certification, and years of service. The Committee shall report its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly.

SECTION 28.37.(b) The Joint Legislative Education Oversight Committee shall study salary differentials for instructional support personnel. In the course of the study, the Committee shall consider salary differentials based on degrees and other educational credentials, licensure or certification by State agencies, licensure or certification by private entities, and other factors. The Committee shall report its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

FLEXIBILITY TO IMPLEMENT BASE BUDGET REDUCTION

SECTION 28.38. Notwithstanding any other provision of law, the Department of Public Instruction may use salary reserve funds and other funds in the Department's continuation budget to transfer and reclassify positions as necessary to implement the base budget reductions for the 2001-2003 fiscal biennium. The Department of Public Instruction may convert a State-paid contracted position to a State-paid employee position only if (i) the conversion will save State

resources and (ii) the resulting number of State-funded positions does not exceed the total authorized in appropriations to the Department of Public Instruction. By June 30, 2002, the Department of Public Instruction shall convert sufficient State-paid contracted positions to State-paid employee positions to accomplish an annualized savings of at least three hundred ninety thousand dollars (\$390,000).

The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2002, on implementation of this section, including the number of contracted positions converted, the State-paid positions eliminated, and the resulting savings in State resources.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

FUNDS FOR INSTRUCTIONAL SUPPLIES

SECTION 28.39.(a) The funds appropriated in this act for classroom materials/instructional supplies/equipment shall be used to enable classroom teachers to purchase up to one hundred dollars (\$100.00) of supplies for their classrooms.

SECTION 28.39.(b) Local school administrative units shall report to the Department of Public Instruction by February 15, 2002, on the implementation of this section by the unit. The Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee and the Joint Legislative Commission on Governmental Operations by April 1, 2002, on the effectiveness of this initiative, the benefits to classroom instruction, and the costs of implementation.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

NC WISEOWL WEB SITE

SECTION 28.40.(a) The Department of Public Instruction shall use funds appropriated to continue the subscriptions currently available on the Department's NC WISEOWL web site for the 2001-2002 fiscal year. The Department of Public Instruction shall work collaboratively with the Department of Cultural Resources' NC LIVE Program to most efficiently use the funds appropriated and to facilitate the process of accessing the subscriptions through the NC LIVE web site effective in fiscal year 2002-2003.

SECTION 28.40.(b) The Department of Public Instruction and the Department of Cultural Resources shall report the results of their collaboration and recommendations to the Joint Information Technology Appropriations Subcommittee by March 15, 2002. The

Joint Information Technology Appropriations Subcommittee shall review all North Carolina State Government Internet sites that are designed for children and consider if the consolidation of resources or access is appropriate.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

OVERTIME FOR SCHOOL EMPLOYEES

SECTION 28.42. If a person employed as both a teacher assistant and a school bus driver works for a combined total of more than 40 hours per week, the employee shall receive overtime compensation at a rate of one and a half times the normal rate of pay. The appropriate number of hours shall be paid for teacher assistant duties from the teacher assistant allotment, and the appropriate number of hours shall be paid for bus driver duties from the transportation allotment. If agreed upon by both the employer and the employee, up to 240 hours may be granted as compensatory time off instead of overtime pay. Hours of compensatory time shall accrue at a rate of time and a half. Overtime compensation, in the form of overtime pay or compensatory time, shall be provided after 40 hours of work and shall not be waived by agreement between the employer and employee.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

FUNDS FOR TEACHER RECRUITMENT INITIATIVES

SECTION 28.43. The State Board of Education may use up to two hundred thousand dollars (\$200,000) of the funds appropriated for State Aid to Local School Administrative Units for the 2001-2002 fiscal year and for the 2002-2003 fiscal year to enable teachers who have received NBPTS certification or who have otherwise received special recognition to advise the State Board of Education on teacher recruitment and other strategic priorities of the State Board.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

LIMITATION ON USE OF KINDERGARTEN FUNDS

SECTION 28.44. The maximum class size limits for kindergarten established by the State Board of Education for the 2001-2002 school year shall be reduced by one from the 2000-2001 limits, based on an allotment ratio of one teacher for every 19 students. The maximum class size limits for kindergarten established

by the State Board of Education for the 2002-2003 school year shall be reduced by two from the 2000-2001 limits, based on an allotment ratio of one teacher for every 18 students. Local school administrative units shall use teacher positions allocated to reduce class in kindergarten only to hire classroom teachers for kindergarten.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

EXPLORNET AUDIT

SECTION 28.45. The State Auditor shall audit ExplorNet, Incorporated, for fiscal year 1999-2000 and fiscal year 2000-2001, under G.S. 143-6.1(f). No State funds appropriated for distribution to ExplorNet, Incorporated, shall be disbursed until the State Auditor and the Office of State Budget and Management certify that ExplorNet, Incorporated, is capable of managing the funds in accordance with law and has established adequate financial procedures and controls. A copy of the State Auditor's report shall be sent to the Joint Legislative Education Oversight Committee and to the Joint Legislative Commission on Governmental Operations.

Eighty percent (80%) of any funds disbursed pursuant to this section shall be distributed in the form of grants to local school administrative units.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Rand, Plyler, Odom, Lee; Representatives Smith, Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Warner, Easterling, Oldham, Redwine, Thompson

LOW-WEALTH TRANSITION FUNDS

SECTION 28.46.(a) To the extent that funds remain in the Average Daily Membership Contingency Reserve after the State Board of Education allocates funds after the first month of school for unanticipated enrollment growth, the State Board of Education may allocate funds from the Average Daily Membership Contingency Reserve to local school administrative units in which low-wealth supplemental funding decreased by more than one million dollars (\$1,000,000) from the 2000-2001 allotment. These allocations shall not exceed sixty percent (60%) of the decrease in funding for each such local school administrative unit. If the balance of funds in the Average Daily Membership Contingency Reserve is insufficient to cover these supplemental allocations, the State Board may allocate funds from State Aid to Local School Administrative Units for this purpose.

SECTION 28.46.(b) This section applies to the 2001-2002 fiscal year only.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

SUBSTITUTE SCHOOL PERSONNEL/UNEMPLOYMENT DEFINITION

SECTION 28.47. G.S. 96-8(10) is amended by adding a new sub-subdivision to read:

"e. No substitute teacher or other substitute school personnel shall be considered unemployed for days or weeks when not called to work unless the individual is or was a permanent school employee regularly employed as a full-time substitute during the period of time for which the individual is requesting benefits."

Requested by: Senator

SCHOOL BUS REPLACEMENT

SECTION 28.48. If the State replaces a school bus during the 2001-2002 fiscal year in one of the two county school administrative units with the lowest average daily membership, that local school administrative unit may retain at no cost one bus that would be declared surplus for use as a student activity bus for that local school administrative unit.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY SCHOOLS

SECTION 29.1. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of ten million eight hundred seventy-six thousand four hundred thirty-eight dollars (\$10,876,438) for the 2001-2002 fiscal year and the sum of twelve million two hundred thirty-seven thousand nine hundred thirteen dollars (\$12,237,913) for the 2002-2003 fiscal year shall be used to provide the State's lowest-performing elementary schools with the tools needed to dramatically improve student achievement. These funds shall be used for the 37 elementary schools at which, for the 1999-2000 school year, over eighty percent (80%) of the students qualified for free or reduced-price lunches and no more than fifty-five percent (55%) of the students performed at or above grade level. Of these funds:

- (1) The sum of \$8,062,603 for the 2001-2002 fiscal year and the sum of \$8,062,603 for the 2002-2003 fiscal year shall be used to reduce class size at each of these schools

- to ensure that no class in kindergarten through third grade has more than 15 students;
- (2) The sum of \$973,455 for the 2001-2002 fiscal year shall be used to pay those teachers at these schools who elect to extend their contracts by five days for staff development, including staff development on methods to individualize instruction in smaller classes, and preparation for the 2001-2002 school year and the sum of \$2,334,930 for the 2002-2003 fiscal year shall be used to extend all teachers' contracts at these schools for a total of 10 days, including five additional days of instruction with related costs for other than teachers' salaries, for the 2002-2003 school year; and
 - (3) The sum of \$1,840,380 for the 2001-2002 fiscal year and the sum of \$1,840,380 for the 2002-2003 fiscal year shall be used to provide one additional instructional support position at each priority school.

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

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

IMMEDIATE ACTIONS TO ADDRESS TEACHER SHORTAGE

SECTION 29.2.(a) Of the funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of two million five hundred thousand dollars (\$2,500,000) for the 2001-2002 fiscal year and the sum of two million five hundred thousand dollars (\$2,500,000) for the 2002-2003 fiscal year shall be used to expand the pool of qualified teachers and to provide recruitment and retention incentives to attract and retain high-quality teachers to low-performing schools and schools with shortages of teachers in certain areas of certification. Of these funds:

- (1) The sum of \$1,000,000 for the 2001-2002 fiscal year and the sum of \$1,000,000 for the 2002-2003 fiscal year shall be used to provide additional scholarship funds for teacher assistants taking courses that are prerequisites for teacher certification programs. Notwithstanding G.S.

115C-468(c) and G.S. 115C-471(1), scholarships shall be awarded in amounts to be determined by the State Board of Education; and

- (2) The sum of \$1,500,000 for the 2001-2002 fiscal year and the sum of \$1,500,000 for the 2002-2003 fiscal year shall be used to provide annual bonuses of one thousand eight hundred dollars (\$1,800) to teachers certified in and teaching in the fields of mathematics, science, or special education at middle and high schools with eighty percent (80%) or more of the students eligible for free or reduced lunch or with fifty percent (50%) or more of students performing below grade level in Algebra I and Biology. The bonus shall be paid monthly with matching benefits. Teachers shall remain eligible for the bonuses so long as they continue to teach in one of these disciplines at a school that was eligible for the bonus program when the teacher first received the bonus.

SECTION 29.2.(b) In accordance with G.S. 115C-325 and by way of clarification, it shall not constitute a demotion as that term is defined in G.S. 115C-325(a)(4), if:

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

SECTION 29.2.(c) The Joint Legislative Education Oversight Committee shall study the effectiveness of providing benefits to part-time teachers as a means to recruit certified teachers back into the classroom. The Committee shall examine the effectiveness of different methods of providing these benefits. The Committee shall also examine the cost of the recruitment effort, including the cost of incorporating existing part-time teachers into the plan. The Committee shall make a report to the General Assembly by April 1, 2002.

SECTION 29.2.(d) The Joint Legislative Education Oversight Committee shall study the potential effectiveness of increasing the size of the Teaching Fellows Program to improve the supply of qualified teachers for the public schools. In its analysis the Committee shall consider the retention of Teaching Fellows in the teaching profession.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

COMPREHENSIVE ASSISTANCE TO CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 29.3. Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-105.37A. Continually low-performing schools; definition; assistance and intervention; reassignment of students.

(a) Definition of Continually Low-Performing Schools. – A continually low-performing school is a school that has received State-mandated assistance and has been designated by the State Board as low performing for at least two of three consecutive years. If the State Board identifies a school as continually low performing, the school improvement team at that school shall review its school improvement plan to ensure consistency with the plan adopted pursuant to G.S. 115C- 105.38(3).

(b) Assistance to Schools That Are Low Performing for Two Years. – If a school that has received State-mandated assistance is designated by the State Board as low performing for two consecutive years or for two of three consecutive years, the State Board shall provide a series of progressive assistance and intervention strategies to that school. These strategies shall be designed to improve student achievement and to maintain student achievement at appropriate levels and may include, to the extent that funds are available for this purpose, assistance such as reductions in class size, extension of teacher and assistant principal contracts, extension of the instructional year, and grant-based assistance.

(c) Intervention in Schools That Are Low Performing for Three or More Years. – The State Board of Education shall develop and implement a series of actions for providing assistance and intervention to schools that have previously received State-mandated assistance and have been designated by the State Board as low performing for three or more consecutive years or for at least three out of four years. These actions shall be the least intrusive actions that are consistent with the need to improve student achievement at each such school and shall be adapted to the unique characteristics of each such school and the effectiveness of other actions developed or implemented to improve student achievement at each such school."

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

ADDITIONS TO THE LOCAL SUPERINTENDENT'S PLAN TO IMPROVE A LOW-PERFORMING SCHOOL

SECTION 29.4.(a) G.S. 115C-105.37(a1) reads as rewritten:

"(a1) By July 10 of each year, each local school administrative unit shall do a preliminary analysis of test results to determine which of its schools the State Board may identify as low-performing under this section. The superintendent then shall proceed under G.S. 115C-105.39. In addition, within 30 days of the initial identification of a school as low-performing by the local school administrative unit or the State Board, whichever occurs first, the superintendent shall submit to the local board a preliminary plan for addressing the needs of that ~~school~~ school, including how the superintendent and other central office administrators will work with the school and monitor the school's progress. Within 30 days of its receipt of this plan, the local board shall vote to approve, modify, or reject this plan. Before the board makes this vote, it shall make the plan available to the public, including the personnel assigned to that school and the parents and guardians of the students who are assigned to the school, and shall allow for written comments. The board shall submit the plan to the State Board within five days of the board's vote. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The local board shall consider any recommendations made by the State Board."

SECTION 29.4.(b) This section becomes effective when this act becomes law.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 29.5. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of one million eight hundred seven thousand two hundred fifty-six dollars (\$1,807,256) for the 2001-2002 fiscal year and the sum of one million nine hundred eighty-six thousand six hundred ninety-one dollars (\$1,986,691) for the 2002-2003 fiscal year shall be used to provide the State's chronically low-performing schools with tools needed to dramatically improve student achievement. These funds shall be used to implement any of the following strategies at the schools that have not previously been implemented with State or other funds:

- (1) The sum of \$471,366 for the 2001-2002 fiscal year and the sum of \$471,366 for the 2002-2003 fiscal year shall be used to reduce class size at a continually low-performing school to ensure that the number of

- teachers allotted for students in grades four and five is one for every 17 students; and
- (2) The sum of \$1,207,595 for the 2001-2002 fiscal year and the sum of \$1,207,595 for the 2002-2003 fiscal year shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and
 - (3a) The sum of \$128,295 for fiscal year 2001-2002 shall be used to extend teachers' contracts at these schools by five days for staff development, including methods to individualize instruction in smaller classes and preparation for the 2001-2002 school year. Of these funds, the sum of \$10,175 shall be used for the extension of contracts of the additional teachers in grades four and five provided in subdivision (1) of this section and the sum of \$118,120 shall be used for the extension of all teachers' contracts at continually low-performing middle and high schools for the 2001-2002 school year; and
 - (3b) The sum of \$307,730 for fiscal year 2002-2003 shall be used to extend teachers' contracts for a total of 10 days, including five days of additional instruction with related costs for other than teachers' salaries for the 2002-2003 school year. Of these funds, the sum of \$24,405 shall be used for the extension of contracts of the additional teachers in grades four and five provided in subdivision (1) of this section and the sum of \$283,325 shall be used for the extension of all teachers' contracts at continually low-performing middle and high schools for the 2002-2003 school year.

Notwithstanding any other provision of law, the State Board of Education may implement intervention strategies for the 2001-2002 school year that it deems appropriate.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

EVALUATION OF INITIATIVES TO ASSIST HIGH-PRIORITY SCHOOLS

SECTION 29.6.(a) In order for the high-priority schools identified in Section 29.1 of this act to remain eligible for the additional resources provided in this section, the schools must meet the expected growth for each year and must achieve high growth for

at least two out of three years based on the State Board of Education's annual performance standards set for each school. No adjustment in the allotment of resources based on performance shall be made until the 2004-2005 school year.

SECTION 29.6.(b) All teaching positions allotted for students in high-priority schools and continually low-performing schools in those grades targeted for smaller class sizes shall be assigned to and teach in those grades and in those schools. In grades K-3 in high-priority schools, the maximum class size for the portion of the 2001-2002 school year beginning with January 1, 2002, shall be no more than two students above the allotment ratio in that grade. The maximum class size for subsequent school years in grades K-3 in high priority schools and in grades K-5 in continually low-performing schools shall be no more than one student above the allotment ratio in that grade. The Department of Public Instruction shall monitor class sizes at these schools at the end of the first month of school and report to the State Board of Education on the actual class sizes in these schools. If the local school administrative unit notifies the State Board of Education that they do not have sufficient resources to adhere to the class size maximum requirements, the State Board shall verify the accuracy of the request. If additional resources are determined necessary, the State Board of Education may allocate additional teaching positions to the unit from the Reserve for Average Daily Membership Adjustments.

SECTION 29.6.(c) If a local board of education determines that the local school administrative unit is unable to implement the class-size limitation in accordance with this section for any high-priority school located in the unit, the local board may request a waiver for the school for the 2001-2002 school year. The request shall include the documentation required in G.S. 115C-105.26(a). If the State Board grants the waiver, the State Board shall withdraw the additional teacher positions allotted to the local school administrative unit for the school and reinstate the regular allotment for teacher assistants for the school.

SECTION 29.6.(d) Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars (\$500,000) for fiscal year 2001-2002 and the sum of five hundred thousand dollars (\$500,000) for fiscal year 2002-2003 shall be used by the State Board of Education to contract with an outside organization to evaluate the initiatives set forth in this act.

The evaluation shall include:

- (1) An assessment of the overall impact these initiatives have had on student achievement;

- (2) An assessment of the effectiveness of each individual initiative set forth in this act in improving student achievement;
- (3) An identification of changes in staffing patterns, instructional methods, staff development, and parental involvement as a result of these initiatives;
- (4) An accounting of how funds and personnel resources made available for these schools were utilized and the impact of varying patterns of utilization on changes in student achievement;
- (5) An assessment of the impact of bonuses for mathematics, science, and special education teachers on (i) the retention of these teachers in the targeted schools, (ii) the recruitment of teachers in these specialties into targeted schools, (iii) the recruitment of teachers certified in these disciplines into teaching, (iv) student achievement in schools at which these teachers receive these bonuses; and
- (6) Recommendations for the continuance and improvement of these initiatives.

The State Board of Education shall make an initial report to the Joint Legislative Education Oversight Committee regarding the results of this evaluation by December 1, 2002, and annually thereafter. The State Board of Education shall submit its recommendations for changes to these initiatives to the Committee at any time.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

ALLOCATION OF FEDERAL FUNDS FOR PRIORITY SCHOOLS

SECTION 29.7. The State Board of Education shall make every effort to coordinate the use of State and federal funds to avoid duplication or overlap of services, and to ensure that the benefits of smaller class sizes accrue to as many at-risk students as possible.

PART XXX. COMMUNITY COLLEGES

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

COMMUNITY COLLEGE FUNDING FLEXIBILITY

SECTION 30.1. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for

New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

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

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

PERMIT TRANSFERS OF FUNDS TO THE NEW AND EXPANDING INDUSTRY TRAINING PROGRAM

SECTION 30.2. Notwithstanding G.S. 143-16.3, G.S. 143-23, or any other provision of law, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from any agency or program funded from the General Fund to the New and Expanding Industry Training Program to supplement the needs of this Program during the 2001-2003 biennium.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

REORGANIZATION OF THE HUMAN RESOURCES DEVELOPMENT PROGRAM

SECTION 30.3.(a) The State Board of Community Colleges shall establish a committee to develop and recommend to the Board a core series of employability skills training classes that should be coded in the Continuing Education Master Course List as Human Resources Development.

SECTION 30.3.(b) The State Board of Community Colleges may waive tuition and fees for enrollment in classes coded in the Continuing Education Master Course List as Human Resources Development if the individual enrolling:

- (1) Is unemployed;
- (2) Has received notification of a pending layoff;
- (3) Is working and is eligible for the Federal Earned Income Tax Credit (FEITC); or

- (4) Is working and earning wages at or below two hundred percent (200%) of the federal poverty guidelines.

Individuals for whom tuition and fees are waived must sign a form adopted by the State Board of Community Colleges verifying that they meet one of these criteria.

SECTION 30.3.(c) The State Board of Community Colleges shall study the feasibility of integrating the delivery of human resources development services into the framework of the JobLink Career Centers. The Board shall report its recommendations to the Joint Legislative Education Oversight Committee by May 1, 2002.

SECTION 30.3.(d) The State Board of Community Colleges shall report to the Joint Legislative Education Oversight Committee on its reorganization of the Human Resources Development Program by January 1, 2003.

SECTION 30.3.(e) The State Board of Community Colleges may adopt temporary rules to implement reorganization of the Human Resources Development Program.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

MANAGEMENT INFORMATION SYSTEM FUNDS

SECTION 30.4. Funds appropriated for the Community Colleges System Office Management Information System shall not revert at the end of the 2001-2002 and 2002-2003 fiscal years but shall remain available until expended.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

EMPLOYMENT SECURITY COMMISSION FUNDS/EXTEND TRAINING AND REEMPLOYMENT CONTRIBUTION-x

SECTION 30.5.(a) There is appropriated from the Employment Security Commission Training and Employment Account created in G.S. 96-6.1 to the North Carolina Community Colleges System Office the sum of twenty-eight million fifty-four thousand two hundred ninety-eight dollars (\$28,054,298) for the 2001-2002 fiscal year. These funds shall be used as follows:

	<u>2001-2002</u>
1. Equipment Funds	\$19,154,298
2. Regional and Cooperative Initiatives	400,000
3. New and Expanding Industry Training Programs	7,000,000

4. Focused Industrial Training

Programs	<u>1,500,000</u>
TOTAL	\$28,054,298

Funds allocated for Equipment, New and Expanding Industry Training Programs, and Focused Industrial Training Programs shall be nonreverting.

Funds allocated for equipment shall be placed in the Equipment Reserve Fund and shall be allocated in accordance with the State Board's equipment allocation formula.

Funds allocated for Regional and Cooperative Initiatives shall be used for community college projects that foster regional cooperation among community colleges, public schools, universities, and private business and industry.

SECTION 30.5.(b) Of the funds appropriated by this act from the Employment Security Commission Training and Employment Account for Focused Industrial Training, the sum of two hundred fifty thousand dollars (\$250,000) is allocated for the 2001-2002 fiscal year to Catawba Valley Community College for the operation of the Hosiery Technology Center and the sum of two hundred fifty thousand dollars (\$250,000) for the 2001-2002 fiscal year is allocated to Guilford Technical Community College for the operation of the Piedmont Triad Center for Advanced Manufacturing.

SECTION 30.5.(c) There is appropriated from the Employment Security Commission Training and Employment Account created in G.S. 96-6.1 to the North Carolina Employment Security Commission the sum of seven million thirteen thousand five hundred seventy-four dollars (\$7,013,574) for the 2001-2002 fiscal year for the cost of collecting and administrating the training and reemployment contribution and for enhanced reemployment services.

SECTION 30.5.(d) To the extent that the State receives more in the Employment Security Commission Training and Employment Account than the funds appropriated in subsections (a) and (c) of this section:

- (1) Eighty percent (80%) of these funds are hereby appropriated for the 2001-2002 fiscal year to the Community Colleges System Office for the purposes set out in subsection (a) of this section, and the State Board of Community Colleges may allocate the additional funds for those purposes; and
- (2) Twenty percent (20%) of these funds are hereby appropriated to the Employment Security Commission for the 2001-2002 fiscal year, and it may allocate the additional funds for those purposes.

SECTION 30.5.(e) G.S. 96-6.1(a) reads as rewritten:

"(a) Contribution. – A mandatory training and reemployment contribution is levied upon employers at a percentage rate of the amount of the employer's unemployment insurance contributions due under G.S. 96-9. The rate is the lesser of (i) twenty percent (20%) or (ii) a percentage of the unemployment insurance contributions that yields an amount that, when added to the amount of the employer's unemployment insurance contributions due for the taxable period, is no greater than five and seven-tenths percent (5.7%) of wages for employment for the taxable period. The purpose of the training and reemployment contribution is to provide funds for Department of Community College training programs, Employment Security Commission reemployment services, administration and collection of the new contribution, and other needs of the State. The training and reemployment contribution is due and payable at the time and in the same manner as the unemployment insurance contributions under G.S. 96-9. The training and reemployment contribution does not apply in a calendar year if, as of August 1 of the preceding year, the amount in the Unemployment Insurance Fund equals or is less than eight hundred million dollars (\$800,000,000), nine hundred million dollars (\$900,000,000) or if at any time during the 12 months preceding August 1, the State unemployment rate rises above four and three-tenths percent (4.3%). The collection of the training and reemployment contribution, the assessment of interest and penalties on unpaid contributions under this section, the filing of judgment liens, and the enforcement of the liens for unpaid contributions under this section are governed by the provisions of G.S. 96-10 where applicable.

Training and reemployment contributions collected under this section shall be credited to the Employment Security Commission Training and Employment Account created in this section, and refunds of these contributions shall be paid from the same account. Any interest or penalties collected on unpaid contributions under this section shall be credited to the Special Employment Security Administration Fund, and any interest or penalties refunded on contributions imposed by this section shall be paid from the same Fund."

SECTION 30.5.(f) Section 8 of S.L. 1999-321 reads as rewritten:

"Section 8. Section 1 of this act is effective with respect to calendar quarters beginning on or after April 1, 1999. Section 7 of this act becomes effective July 1, 1999. The remainder of this act is effective with respect to calendar quarters beginning on or after January 1, 2000, ~~and is 2000.~~ G.S. 96-6.1, as enacted by Section 2 of this act, is repealed effective with respect to calendar quarters beginning on or after ~~January 1, 2002.~~ January 1, 2006."

SECTION 30.5.(g) G.S. 96-9(b)(1) reads as rewritten:

"(b) Rate of Contributions. –

(1) Beginning Rate. – The standard beginning rate of contributions for an employer is a percentage of wages paid by the employer during a calendar year for employment occurring during that year. ~~The~~ For any calendar year that the training and reemployment contribution in G.S. 96-6.1 applies, the rate is determined in accordance with the following table:

<u>Percentage</u>	<u>Date After Which Employment Occurs</u>
2.25%	December 31, 1986
1.8	December 31, 1993
1.2	December 31, 1995
1.0	December 31, 1999

For any calendar year that the training and reemployment contribution in G.S. 96-6.1 does not apply, the rate is determined in accordance with the following table:

<u>Percentage</u>	<u>Date After Which Employment Occurs</u>
<u>2.25%</u>	<u>December 31, 1986</u>
<u>1.8</u>	<u>December 31, 1993</u>
<u>1.2</u>	<u>December 31, 1995</u> ".

SECTION 30.5.(h) G.S. 96-9(b)(3)d3. reads as rewritten:

"d3. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, 1999, for any calendar year that the training and reemployment contribution in G.S. 96-6.1 does not apply, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date and the fund ratio determined on that date is less than five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date, and the

fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is:

As But
 Much Less
 As Than

		Rate Schedules (%)								
		A	B	C	D	E	F	G	H	I
0.0%	0.2%	2.70%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%
0.2%	0.4%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%
0.4%	0.6%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%
0.6%	0.8%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%
0.8%	1.0%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%
1.0%	1.2%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%
1.2%	1.4%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%
1.4%	1.6%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%
1.6%	1.8%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%
1.8%	2.0%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%
2.0%	2.2%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%
2.2%	2.4%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%
2.4%	2.6%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%
2.6%	2.8%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%
2.8%	3.0%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%
3.0%	3.2%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%
3.2%	3.4%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%
3.4%	3.6%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%
3.6%	3.8%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%
3.8%	4.0%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%
4.0%										
&										
OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%"

SECTION 30.5.(i) G.S. 96-9(b)(3)d5. reads as rewritten:

d5. The standard contribution rate set by subdivision (b)(1) of this section applies to an employer unless the employer's account has a credit balance. Beginning January 1, 1999, for any calendar year that the training and reemployment contribution in G.S. 96-6.1 applies, the contribution rate of an employer whose account has a credit balance is determined in accordance with the rate set in the following Experience Rating Formula table for the applicable rate schedule. The contribution rate of an employer whose contribution rate is determined by

this Experience Rating Formula table shall be reduced by fifty percent (50%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date and the fund ratio determined on that date is less than five percent (5%) and shall be reduced by sixty percent (60%) for any year in which the balance in the Unemployment Insurance Fund equals or exceeds eight hundred million dollars (\$800,000,000) on the computation date, and the fund ratio determined on that date is five percent (5%) or more.

EXPERIENCE RATING FORMULA

When The Credit Ratio Is:

As But

Much Less

As Than

Rate Schedules (%)

		A	B	C	D	E	F	G	H	I
0.0%	0.2%	2.16%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%
0.2%	0.4%	2.16%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%
0.4%	0.6%	2.16%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%
0.6%	0.8%	2.16%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%
0.8%	1.0%	2.00%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%
1.0%	1.2%	1.84%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%
1.2%	1.4%	1.68%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%
1.4%	1.6%	1.52%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%
1.6%	1.8%	1.36%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%
1.8%	2.0%	1.20%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%
2.0%	2.2%	1.04%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%
2.2%	2.4%	0.88%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%
2.4%	2.6%	0.72%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%
2.6%	2.8%	0.64%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%
2.8%	3.0%	0.56%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%
3.0%	3.2%	0.48%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%
3.2%	3.4%	0.40%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%
3.4%	3.6%	0.32%	0.24%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%
3.6%	3.8%	0.24%	0.15%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%
3.8%	4.0%	0.16%	0.12%	0.08%	0.07%	0.06%	0.06%	0.05%	0.04%	0.03%
4.0%	&									
OVER		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%".

SECTION 30.5.(j) G.S. 96-9(b)(3)e. reads as rewritten:

"e. For any calendar year that the training and reemployment contribution in G.S. 96-6.1 applies, each ~~Each~~ employer whose account as of any computation date occurring after August 1, 1964, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite ~~his~~-its debit ratio as set forth in the following Rate Schedule for Overdrawn Accounts:

**RATE SCHEDULE FOR OVERDRAWN ACCOUNTS
BEGINNING WITH
THE CALENDAR YEAR 1978**

When the Debit Ratio Is:		
<u>As Much As</u>	<u>But Less Than</u>	<u>Assigned Rate</u>
0.0%	0.3%	2.3%
0.3	0.6	2.5
0.6	0.9	2.6
0.9	1.2	2.8
1.2	1.5	3.0
1.5	1.8	3.1
1.8	2.1	3.3
2.1	2.4	3.4
2.4	2.7	3.6
2.7	3.0	3.8
3.0	3.3	3.9
3.3	3.6	4.1
3.6	3.9	4.2
3.9	4.2	4.4
4.2	4.5	4.6
4.5	4.8	4.8
4.8	5.1	5.0
5.1	5.4	5.2
5.4 and over	5.4	

For any calendar year that the training and reemployment contribution in G.S. 96-6.1 does not apply, each employer whose account as of any computation date occurring after August 1, 1964, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite its debit ratio as set forth in the following Rate Schedule for Overdrawn Accounts:

RATE SCHEDULE FOR OVERDRAWN ACCOUNTS
BEGINNING WITH
THE CALENDAR YEAR 1978

When the Debit Ratio Is:

<u>As Much As</u>	<u>But Less Than</u>	<u>Assigned Rate</u>
<u>0.0%</u>	<u>0.3%</u>	<u>2.9%</u>
<u>0.3</u>	<u>0.6</u>	<u>3.1</u>
<u>0.6</u>	<u>0.9</u>	<u>3.3</u>
<u>0.9</u>	<u>1.2</u>	<u>3.5</u>
<u>1.2</u>	<u>1.5</u>	<u>3.7</u>
<u>1.5</u>	<u>1.8</u>	<u>3.9</u>
<u>1.8</u>	<u>2.1</u>	<u>4.1</u>
<u>2.1</u>	<u>2.4</u>	<u>4.3</u>
<u>2.4</u>	<u>2.7</u>	<u>4.5</u>
<u>2.7</u>	<u>3.0</u>	<u>4.7</u>
<u>3.0</u>	<u>3.3</u>	<u>4.9</u>
<u>3.3</u>	<u>3.6</u>	<u>5.1</u>
<u>3.6</u>	<u>3.9</u>	<u>5.3</u>
<u>3.9</u>	<u>4.2</u>	<u>5.5</u>
<u>4.2 and over</u>	<u>5.7</u>	

The Rate Schedule for Overdrawn Accounts Beginning with the Calendar Year 1966 in force in any particular calendar year shall apply to all accounts for that calendar year subsequent replacement enactments notwithstanding."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

MODIFY TERM OF COMMUNITY COLLEGE FACULTY CONTRACTS

SECTION 30.6. The General Assembly finds that standardization of the term of contracts with community college faculty members will provide the General Assembly with the data necessary to make informed decisions regarding faculty salaries and funding for the summer term. Therefore, the State Board of Community Colleges shall require community colleges to convert all faculty contracts to nine-month contracts covering the fall and spring semesters. Faculty members currently employed for more than nine months shall be placed on supplemental contracts for the summer term. These modifications in faculty contracts shall not change the salary of any faculty member.

All faculty members employed after the date this act becomes law shall be placed on nine-month contracts with supplemental contracts for the summer term.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

REALIGNMENT OF ACCOUNTS FOR INSTITUTIONAL AND ADMINISTRATIVE SUPPORT

SECTION 30.7. In prior fiscal years, funds for Institutional and Administrative Support in the following have been appropriated in four separate accounts. Since these funds are allotted to community colleges on a formula basis, this level of detail is unnecessary. Therefore, beginning with the 2001-2002 fiscal year, State aid accounts 536938 through 536941 shall be consolidated into a single State aid account for Institutional and Academic Support to match actual practice.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

STUDY OF DISCREPANCIES IN FACULTY SALARIES

SECTION 30.8. The Joint Legislative Education Oversight Committee shall study discrepancies in community college faculty salaries. In the course of the study, the Committee shall examine faculty salaries at various colleges to determine why salaries at some colleges are above the State average while others are well below it.

The Committee shall report its findings to the 2002 Regular Session of the 2001 General Assembly.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

STATE BOARD RESERVE ALLOCATIONS

SECTION 30.9. The State Board of Community Colleges shall use funds from the State Board Reserve in the amount of one hundred thousand dollars (\$100,000) for each fiscal year to assist small rural low-wealth community colleges with operation and maintenance of plant costs if they need to assist new or expanding industries in their service delivery areas.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Oldham, Redwine

CONSOLIDATE AND COORDINATE WORKFORCE DEVELOPMENT PROGRAMS

SECTION 30.10.(a) The Bureau of Training Initiatives funded by the Worker Training Trust Fund is transferred from the North Carolina Department of Labor to the North Carolina Community Colleges System, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a transfer. The Bureau of Training Initiatives is designed to provide training services and develop new training innovations similar to the North Carolina Community Colleges System's Workforce Development programs. Consolidating these efforts at the North Carolina Community Colleges System will result in greater efficiencies and coordination.

No changes in the organizational structure of the programs transferred under this subsection, other than those provided by this subsection, shall take place prior to January 1, 2002. The State Board of Community Colleges shall present a plan for such changes to the Joint Legislative Education Oversight Committee no less than 30 days before they are proposed to become effective.

SECTION 30.10.(b) The Apprenticeship program currently housed within the North Carolina Department of Labor is transferred to the North Carolina Community Colleges System, as if by a Type I transfer as defined in G.S. 143A-6, with all the elements of such a transfer. Joint delivery of Apprenticeship and Community College workforce training programs will ensure coordination of program delivery and appropriate classroom training supporting the needs of the client and the employer. The community colleges already provide the majority of classroom training for Apprenticeship.

If the transfer made by this subsection is subject to approval by the United States Department of Labor, the effective date of this subsection is the date of such approval.

No changes in the organizational structure of the programs transferred under this subsection, other than those provided by this subsection, shall take place prior to January 1, 2002. The State Board of Community Colleges shall present a plan for such changes to the Joint Legislative Education Oversight Committee no less than 30 days before they are proposed to become effective.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

TRANSFER OF CASH BALANCES

SECTION 30.11. The remaining cash balance on June 30, 2001, and any interest credited to the account in the 2001-2002 fiscal year in the North Carolina Community Colleges System Budget Code 66800, Fund Code 6101 DCC Scholarships, shall be transferred to

Budget Code 66800, Fund Code 6102 CCS Financial Assistance to support Need Based Financial Aid programs.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee, Metcalf, Carter; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE FUNDS DO NOT REVERT

SECTION 30.12.(a) Funds appropriated to Asheville-Buncombe Technical Community College in S.L. 1999-237 for its Small Business Center shall not revert at the end of the 2000-2001 fiscal year, but shall remain available for expenditure in the 2001-2002 fiscal year. These funds may be used for the capital facilities and operating expenses of the Small Business Center.

SECTION 30.12.(b) This section becomes effective June 30, 2001.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

MAINTENANCE OF PLANT OPERATIONS

SECTION 30.13. G.S. 115D-31.2 reads as rewritten:
 "§ 115D-31.2. *Maintenance of plant.*

Notwithstanding any provisions of law to the contrary, any community college that has an out-of-county student head count served on the main campus of the college in excess of fifty percent (50%) of the total student head count as defined by the State Board of Community Colleges, shall be provided funds for the purpose of "operations of plant". ~~These funds shall not exceed eighty five percent (85%) of the funds allocated to these colleges during the 1990-91 fiscal year for this purpose. Each college that qualifies for these funds shall receive a pro rata amount of the funds that are appropriated for this purpose.~~

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

FOCUSED INDUSTRIAL TRAINING PROGRAM

SECTION 30.15. Of the funds appropriated to the North Carolina Community Colleges System for the 2001-2003 fiscal biennium, the State Board of Community Colleges may use up to one hundred thousand dollars (\$100,000) each year to pay registration fees and material costs for Occupational Continuing Education or Focused Industrial Training safety courses provided to companies that (i) are eligible to participate in the Focused Industrial Training

Program, (ii) have less than 150 employees, and (iii) are found by community college representatives and regional customized training directors to face challenges in paying these fees and costs.

These funds shall not be expended without the prior approval of the North Carolina Community Colleges System Office, Division of Economic and Workforce Development.

Requested by: Senators Dalton, Lucas, Garrou, Carter, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Hackney, Morgan, Easterling, Oldham, Redwine, Thompson

COMMUNITY COLLEGE TRUSTEES/TRAVEL REIMBURSEMENT

SECTION 30.15A. G.S. 115D-17 reads as rewritten:

"§ 115D-17. Compensation of trustees.

Trustees shall receive no compensation for their services but shall receive reimbursement, according to regulations adopted by the State Board of Community Colleges, for cost of in-State travel, meals, and lodging while performing their official duties. Trustees may also, at the discretion of their local boards, receive reimbursement from local funds, for cost of out-of-state travel, meals, and lodging.

The reimbursement of the trustees from State funds shall not exceed the amounts permitted in G.S. 138-5. Trustees shall not be reimbursed from State funds for out-of-state travel."

PART XXXI. UNIVERSITITES

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

AID TO PRIVATE COLLEGES

SECTION 31.1.(a) Part 2 of Article 1 of Chapter 116 of the General Statutes is amended by adding the following new sections to read:

"§ 116-21.1. Financial aid for North Carolina students attending private institutions of higher education in North Carolina.

(a) Funds shall be appropriated each fiscal year in the Current Operations Appropriations Act to the Board of Governors of The University of North Carolina for aid to institutions and shall be disbursed in accordance with the provisions of G.S. 116-19, 116-21, and 116-22.

(b) The funds appropriated in compliance with this section shall be placed in a separate, identifiable account in each eligible institution's budget or chart of accounts. All funds in the account shall be provided as scholarship funds for needy North Carolina students during the fiscal year. Each student awarded a scholarship from this

account shall be notified of the source of the funds and of the amount of the award. Funds not utilized under G.S. 116-19 shall be available for the tuition grant program as defined in G.S. 116-21.2.

"§ 116-21.2. Legislative tuition grants to aid students attending private institutions of higher education.

(a) In addition to any funds appropriated pursuant to G.S. 116-19 and in addition to all other financial assistance made available to institutions, or to students attending these institutions, there is granted to each full-time North Carolina undergraduate student attending an approved institution as defined in G.S. 116-22, a sum, to be determined by the General Assembly for each academic year which shall be distributed to the student as provided by this subsection.

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

(c) In the event a student on whose behalf a grant has been paid is not enrolled and carrying a minimum academic load as of the tenth classroom day following the beginning of the school term for which the grant was paid, the institution shall refund the full amount of the grant to the State Education Assistance Authority. Each approved institution shall be subject to examination by the State Auditor for the purpose of determining whether the institution has properly certified eligibility and enrollment of students and credited grants paid on behalf of the students.

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

- (1) The Board of Governors of The University of North Carolina, with the approval of the Office of State Budget and Management, may transfer available funds to meet the needs of the programs provided by subsections (a) and (b) of this section; and
- (2) Each eligible student shall receive a pro rata share of funds then available for the remainder of the academic year within the fiscal period covered by the current appropriation.

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

"§ 116-21.3. Legislative tuition grant limitations.

(a) For purposes of this section, an 'off-campus program' is any program offered for degree credit away from the institution's main permanent campus.

(b) No legislative tuition grant funds shall be expended for a program at an off-campus site of a private institution, as defined in G.S. 116-22(1), established after May 15, 1987, unless (i) the private institution offering the program has previously notified and secured agreement from other private institutions operating degree programs in the county in which the off-campus program is located or operating in the counties adjacent to that county or (ii) the degree program is neither available nor planned in the county with the off-campus site or in the counties adjacent to that county.

(c) Any member of the armed services, as defined in G.S. 116-143.3(a), abiding in this State incident to active military duty, who does not qualify as a resident for tuition purposes, as defined under G.S. 116-143.1, is eligible for a legislative tuition grant pursuant to this section if the member is enrolled as a full-time student. The member's legislative tuition grant shall not exceed the cost of tuition less any tuition assistance paid by the member's employer.

(d) A legislative tuition grant authorized under G.S. 116-21.2 shall be reduced by twenty-five percent (25%) for any individual student who has completed 140 semester credit hours or the equivalent of 140 semester credit hours.

"§ 116-21.4. Limitations on expenditures.

(a) Expenditures made pursuant to G.S. 116-19, 116-20, 116-21.1, or 116-21.2 may be used only for secular educational purposes at an institution as defined by G.S. 116-22.

(b) Expenditures made pursuant to G.S. 116-19, 116-20, 116-21.1, or 116-21.2 shall not be used for any student who:

- (1) Is incarcerated in a State or federal correctional facility for committing a Class A, B, B1, or B2 felony; or
- (2) Is incarcerated in a State or federal correctional facility for committing a Class C through I felony and is not eligible for parole or release within 10 years."

SECTION 31.1.(b) G.S. 116-19 reads as rewritten:

"§ 116-19. Contracts with private institutions to aid North Carolina ~~students~~ students; reporting requirement.

(a) In order to encourage and assist private institutions to continue to educate North Carolina students, the State Education Assistance Authority may enter into contracts with the institutions under the terms of which an institution receiving any funds that may be appropriated pursuant to this section would agree that, during any fiscal year in which such funds were received, the institution would provide and administer scholarship funds for needy North Carolina students in an amount at least equal to the amount paid to the

institution, pursuant to this section, during the fiscal year. Under the terms of the contracts the State Education Assistance Authority would agree to pay to the institutions, subject to the availability of funds, a fixed sum of money for each North Carolina student enrolled at the institutions for the regular academic year, said sum to be determined by appropriations that might be made from time to time by the General Assembly pursuant to this section. Funds appropriated pursuant to this section shall be paid by the State Education Assistance Authority to an institution on certification of the institution showing the number of North Carolina students enrolled at the institution as of October 1 of any year for which funds may be appropriated.

(b) The State Education Assistance Authority shall document the number of full-time equivalent North Carolina undergraduate students that are enrolled in off-campus programs and the State funds collected by each institution pursuant to G.S. 116-19 for those students. The State Education Assistance Authority shall also document the number of scholarships and the amount of the scholarships that are awarded under G.S. 116-19 to students enrolled in off-campus programs. An 'off-campus program' is any program offered for degree credit away from the institution's main permanent campus.

The State Education Assistance Authority shall include in its annual report to the Joint Legislative Education Oversight Committee the information it has compiled and its findings regarding this program."

SECTION 31.1.(c) Funds are appropriated in this act to the Board of Governors of The University of North Carolina to be allocated and disbursed as provided by G.S. 116-19, 116-21, 116-21.1, and 116-22. These funds shall provide up to one thousand one hundred dollars (\$1,100) per full-time equivalent North Carolina undergraduate student enrolled at an institution as of October 1, 2001, for the 2001-2002 fiscal year and up to one thousand one hundred dollars (\$1,100) per full-time equivalent North Carolina undergraduate student enrolled at an institution as of October 1, 2002, for the 2002-2003 fiscal year.

SECTION 31.1.(d) Funds appropriated in this act to the Board of Governors of The University of North Carolina shall be allocated and disbursed for legislative tuition grants in compliance with G.S. 116-21.2. The funds shall be allocated as follows: to each full-time North Carolina undergraduate student a sum not to exceed one thousand eight hundred dollars (\$1,800) for the 2001-2002 academic year and one thousand eight hundred dollars (\$1,800) for the 2002-2003 academic year.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

ACADEMIC COMMON MARKET PILOT PROGRAM

SECTION 31.2.(a) The Southern Regional Education Board currently operates an Academic Common Market program. Under this program, qualified students from participating states may apply to attend programs at public universities in participating states that are not available in their home state's university system. North Carolina's participation for graduate programs would provide a cost-effective means of offering educational access for North Carolina residents. North Carolinians would be able to attend graduate programs that are not available at The University of North Carolina at reduced rates, and the State would avoid the cost associated with the development of new academic programs.

SECTION 31.2.(b) The Board of Governors of The University of North Carolina may establish a pilot program for participation in the Southern Regional Education Board's Academic Common Market at the graduate program level. The Board of Governors shall examine the graduate programs offered in The University of North Carolina system and select for participation only those graduate programs that are likely to be unique or are not commonly available in other Southern Regional Education Board states. Out-of-state tuition shall be waived for students who are residents of other Southern Regional Education Board states and who are participating in the Academic Common Market program. If accepted into The University of North Carolina graduate programs that are part of the Academic Common Market, these students shall pay in-State tuition and shall be treated for all purposes of The University of North Carolina as residents of North Carolina. Prior to the beginning of this pilot, the Board of Governors shall submit its list of graduate programs selected to be a part of the pilot program to the Joint Legislative Education Oversight Committee.

SECTION 31.2.(c) The pilot programs established under this section shall terminate July 1, 2005. However, once a student is enrolled in The University of North Carolina system under the Academic Common Market program, the student shall be entitled to pay in-State tuition as long as the student is enrolled in that graduate program. The Board of Governors shall report the success of the Academic Common Market program to the Joint Legislative Education Oversight Committee by December 31, 2003, and by January 31, 2005, and the Committee may recommend changes, if any are appropriate, to the pilot program at either of those times.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

AID TO PRIVATE MEDICAL SCHOOLS/FUNDING FORMULA

SECTION 31.3. Part 2 of Article 1 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-21.5. Private medical schools—assistance funding formula.

(a) Funds shall be appropriated each year in the Current Operations Appropriations Act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University. The funds shall be disbursed on certifications of the respective schools of medicine that show the number of North Carolina residents as first-year, second-year, third-year, and fourth-year students in the medical school as of the appropriate fiscal year.

(b) Disbursement to Wake Forest University shall be made in the amount of eight thousand dollars (\$8,000) for each medical student who is a North Carolina resident, one thousand dollars (\$1,000) of which shall be placed by the school in a fund to be used to provide financial aid to needy North Carolina students who are enrolled in the medical school. The maximum aid given to any student from this fund in a given year shall not exceed the amount of the difference in tuition and academic fees charged by the school and those charged at the School of Medicine at the University of North Carolina at Chapel Hill.

(c) Disbursement to Duke University shall be made in the amount of five thousand dollars (\$5,000) for each medical student who is a North Carolina resident, five hundred dollars (\$500.00) of which shall be placed by the school in a fund to be used to provide student financial aid to financially needy North Carolina students who are enrolled in the medical school. No individual student may be awarded assistance from this fund in excess of two thousand dollars (\$2,000) each year. In addition to this basic disbursement for each year of the biennium, a disbursement of one thousand dollars (\$1,000) shall be made for each medical student who is a North Carolina resident in the first-year, second-year, third-year, and fourth-year classes to the extent that enrollment of each of those classes exceeds 30 North Carolina students.

(d) The Board of Governors shall establish the criteria for determining the eligibility for financial aid of needy North Carolina students who are enrolled in the medical schools and shall review the grants or awards to eligible students. The Board of Governors shall adopt rules for determining which students are residents of North Carolina for the purposes of these programs. The Board of Governors

shall also make any regulations as necessary to ensure that these funds are used directly for instruction in the medical programs of the schools and not for religious or other nonpublic purposes. The Board of Governors shall encourage the two schools to orient students toward primary care, consistent with the directives of G.S. 143-613(a). The two schools shall supply information necessary for the Board to comply with G.S. 143-613(d).

(e) If the funds appropriated in the Current Operations Appropriations Act to the Board of Governors of The University of North Carolina for continuation of financial assistance to the medical schools of Duke University and Wake Forest University are insufficient to cover the enrolled students in accordance with this section, then the Board of Governors may transfer unused funds from other programs in the Related Educational Programs budget code to cover the extra students."

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

STUDY PROFESSIONAL DEVELOPMENT PROGRAMS FOR PUBLIC SCHOOL PROFESSIONALS

SECTION 31.4.(a) G.S. 115C-12(26) reads as rewritten:

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

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

...

- (26) ~~Duty to Monitor and Make Recommendations Regarding Professional Development Programs. – The State Board of Education, in collaboration with the Board of Governors of The University of North Carolina, shall identify and make recommendations regarding meaningful professional development programs for professional public school employees. The programs shall be aligned with State education goals and directed toward improving student academic achievement.~~ Education shall identify State and local needs for professional development for professional public school employees based upon the State's educational priorities for improving student achievement. The State Board also shall recommend strategies for addressing these needs. The strategies must be research-based, proven in

practice, and designed for data-driven evaluation. The State Board shall report its findings and recommendations to the Joint Legislative Education Oversight Committee, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Board of Governors of The University of North Carolina prior to January 15, 2002, and shall review, revise, and resubmit those findings and recommendations annually thereafter. The State Board shall annually evaluate and, after consultation with the Board of Governors, make recommendations regarding professional development programs based upon the reports submitted by the Board of Governors under G.S. 116-11(12a). G.S. 116-11(12a) to determine whether the programs for professional development provided by the Center for School Leadership Development address the State and local needs identified by the State Board and whether the programs are using the strategies recommended by the State Board. Prior to January 15th of each year, the State Board shall report the results of its analysis to the Board of Governors and to the Joint Legislative Education Oversight Committee.

...."

SECTION 31.4.(b) G.S. 116-11(12a) reads as rewritten:

"§ 116-11. Powers and duties generally.

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

...

- (12a) The Notwithstanding any other law, the Board of Governors of The University of North Carolina shall implement, administer, and revise programs for meaningful professional development for professional public school employees based upon in accordance with the evaluations and recommendations made by the State Board of Education under G.S. 115C-12(26). The programs shall be aligned with State education goals and directed toward improving student academic achievement. The Board of Governors shall submit to the State Board of Education an annual report evaluating the professional development programs administered by the Board of Governors. The Board of Governors shall submit to the State Board of Education an annual written report that uses data to assess and evaluate the effectiveness of the programs for professional development offered by the Center for

School Leadership Development. The report shall clearly document how the programs address the State needs identified by the State Board of Education and whether the programs are utilizing the strategies recommended by the State Board. The Board of Governors also shall submit this report to the Joint Legislative Education Oversight Committee, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives prior to September 15th of each year."

SECTION 31.4.(c) The Joint Legislative Education Oversight Committee shall hire an independent consultant to study and make recommendations regarding professional development for public school professionals in North Carolina. The consultant shall study:

- (1) The professional development programs administered under the UNC Center for School Leadership Development with regard to their mission, governance structure, efficiency, and objectively measurable effectiveness in increasing student achievement.
- (2) The feasibility and merits of consolidating and reducing the number of professional development programs.
- (3) The possibility of regionalizing professional development programs and using a cooperative arrangement between higher educational institutions and community colleges in a region to achieve the goal.
- (4) The professional development support offered by the Department of Public Instruction.
- (5) The use of professional development funds allocated to local school administrative units and individual schools.
- (6) National research regarding effective methods for delivering professional development that is shown to improve student achievement.

The consultant shall report these findings to the Joint Legislative Education Oversight Committee and also shall make recommendations regarding how existing State funds should be utilized to provide effective and efficient professional development for public school professionals.

SECTION 31.4.(d) The Joint Legislative Education Oversight Committee shall review the consultant's findings and recommendations and shall submit to the 2002 Regular Session of the 2001 General Assembly recommendations to streamline, reorganize, and improve the delivery of professional development for public school professionals. The recommendations may address revisions to program governance and mission, reallocation of funds, methods of

program delivery, and methods to institute ongoing program evaluation.

SECTION 31.4.(e) The Joint Legislative Education Oversight Committee shall review the reports that are required to be made to the Committee. The purpose of the review is to determine which reports must include information that is research-based, proven in practice, and designed for data-driven research. The Committee may make recommendations for changes in these reports based upon the Committee's findings.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

TEACHER ASSISTANT SCHOLARSHIP FUND

SECTION 31.5.(a) Article 23 of Chapter 116 of the General Statutes is amended by adding a new section to read:

"§ 116-209.35. Teacher Assistant Scholarship Fund.

(a) There is established the Teacher Assistant Scholarship Fund. The purpose of the Fund is to provide scholarships to teacher assistants who are pursuing college degrees to become teachers. The State Education Assistance Authority shall administer the Fund.

(b) Criteria for awarding the scholarships shall be developed by the Board of Governors of The University of North Carolina in consultation with the State Board of Education and the State Board of Community Colleges and shall include all of the following:

- (1) An applicant shall be employed full time as a teacher assistant in North Carolina.
- (2) An applicant shall be enrolled in an accredited bachelors degree program in an institution of higher education in North Carolina.
- (3) An applicant shall be a resident of North Carolina. For purposes of this section, residency shall be determined by the same standard as residency for tuition purposes pursuant to G.S. 116-143.1.
- (4) Any additional criteria that the Board of Governors considers necessary to administer the Fund effectively, including all of the following:
 - a. Consideration of the appropriate numbers of minority applicants and applicants from diverse socioeconomic backgrounds to receive scholarships pursuant to this section.
 - b. Consideration of the academic qualifications of the individuals applying to receive funds.
 - c. Consideration of the commitment an individual applying to receive funds demonstrates to the profession of teaching.

(c) The scholarships shall be available for part-time or full-time course work through all off-campus or distance education teacher education programs.

(d) The Board of Governors of The University of North Carolina, the State Board of Education, and the State Board of Community Colleges shall: (i) prepare a clear written explanation of the Teacher Assistant Scholarship Fund and the information regarding the availability and criteria for awarding the scholarships, and (ii) shall provide that information to the appropriate counselors in each local school system and shall charge those counselors to inform teacher assistants about the scholarships and to encourage teacher assistants to apply for the scholarships.

(e) The Board of Governors of The University of North Carolina shall adopt rules to implement this section.

(f) The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee by March 1 each year regarding the Fund and scholarships awarded from the Fund."

SECTION 31.5.(b) Of the funds appropriated by this Act to the Board of Governors of The University of North Carolina the sum of one million dollars (\$1,000,000) shall be allocated to the State Education Assistance Authority to implement this section.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

UNC BUDGET FLEXIBILITY/MUST HONOR BUDGET REDUCTIONS

SECTION 31.6.(a) Notwithstanding G.S. 116-30.2 or G.S. 116-30.3, neither the Office of General Administration of The University of North Carolina or any special responsibility constituent institution shall expend or use any of the following funds to modify the budget reductions imposed by this act:

- (1) General Fund moneys appropriated by this act.
- (2) General Fund current operations appropriations credit balances remaining at the end of any fiscal year that are carried forward to the next fiscal year.

SECTION 31.6.(b) Except as provided in subsection (a) of this section, G.S. 116-30.2 and G.S. 116-30.3 remain in full force and effect.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

OFFER TEACHER EDUCATION PROGRAMS THROUGH DISTANCE EDUCATION

SECTION 31.7.(a) It is the intent of the General Assembly to make teacher education programs easily accessible statewide through distance education. The General Assembly finds that the "2 + 2" program is an excellent model for teacher credential programs and encourages its use as a model.

SECTION 31.7.(b) To achieve the goal of encouraging the "2 + 2" program as a model for teacher education programs and to make those model teacher education programs available and easily accessible statewide, any teacher education program that is offered by a constituent institution through distance education that does not require campus residency is eligible for funds appropriated by this act for that purpose. The Board of Governors shall determine the eligibility of a constituent institution pursuant to this section. The Board of Governors shall also determine the amount of funds to be allocated to each eligible constituent institution based on the number of student credit hours taught in teacher preparation courses through distance education at that institution and shall distribute those funds to the institution. The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee annually regarding the implementation of this section and the amount and use of the funds allocated pursuant to this section.

equested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

UNC SURPLUS PROPERTY GUIDELINES

SECTION 31.8. No later than March 1, 2002, the Board of Governors of The University of North Carolina and the Department of Administration shall develop guidelines and methods to expedite the disposition of State surplus property of The University of North Carolina and its constituent institutions. The Board of Governors and the Secretary of Administration shall report to the Appropriations Committees of the Senate and House of Representatives and to the Fiscal Research Division by March 15, 2002, regarding the proposed guidelines and methods for the disposition of the State university system's surplus property. In its report the Board of Governors and the Department of Administration shall define the State surplus properties that are covered by the proposed guidelines and methods of disposition, and shall also make recommendations regarding the actual costs of disposing of the surplus property, the use of any receipts generated from the disposition of the surplus property, and any changes needed to existing law to implement the proposal.

Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

SUBSTITUTION OF UNC-CH BOND PROJECTS

SECTION 31.9. Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to substitute an Information Technology Office Facility for the Comprehensive Renovation and Conversion for Information Technology and Data Processing, both at the University of North Carolina at Chapel Hill, as contained in Section 2(a) of S.L. 2000-3. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Chapel Hill, by adding "Information Technology Office Facility....\$9,170,000" and deleting "Comprehensive Renovation and Conversion for Information Technology and Data Processing....\$9,170,000".

Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement project.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

MASTERS ED. ADMINISTRATION AT A&T STATE, NCCU, UNC-PEMBROKE/STUDY POSSIBLE PHARMACY SCHOOL AT ECSU/STUDY POSSIBLE DENTISTRY SCHOOL AT ECU AND POSSIBLE ENGINEERING SCHOOL AT ECU, WESTERN CAROLINA, AND UNC AT ASHEVILLE

SECTION 31.10.(a) G.S. 116-74.21(b) reads as rewritten:

"(b) No more than ~~nine~~ 12 school administrator programs shall be established under the competitive proposal program. In selecting campus sites, the Board of Governors shall be sensitive to the racial, cultural, and geographic diversity of the State. Special priority shall be given to the following factors: (i) the historical background of the institutions in training educators; (ii) the ability of the sites to serve the geographic regions of the State, such as, the far west, the west, the triad, the piedmont, and the east; and, (iii) whether the type of roads and terrain in a region make commuting difficult. A school administrator program may provide for instruction at one or more campus sites."

SECTION 31.10.(b) The Board of Governors of The University of North Carolina shall include the Master of School Administration program at North Carolina Agricultural and Technical State University in Greensboro, North Carolina Central University in Durham, and the University of North Carolina at Pembroke as three of the 12 school administrator programs established pursuant to G.S.

116-74.21. These three programs shall be comparable in quality to the nine existing Master of School Administration programs and shall be operated within existing funds.

SECTION 31.10.(c) The Board of Governors of The University of North Carolina shall study the feasibility of establishing a School of Pharmacy at Elizabeth City State University. The Board of Governors shall report its findings and recommendations to the Joint Legislative Education Oversight Committee by April 1, 2002.

SECTION 31.10.(d) The Board of Governors of The University of North Carolina shall study the feasibility of establishing a School of Dentistry and a School of Engineering at East Carolina University. The Board shall also study the feasibility of establishing a School of Engineering at the University of North Carolina at Asheville and Western Carolina University.

Requested by: **Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson**
UNC BOARD OF GOVERNORS MAY AUTHORIZE CERTAIN MANAGEMENT FLEXIBILITY FOR SPECIAL RESPONSIBILITY CONSTITUENT INSTITUTIONS

SECTION 31.11.(a) Article 1 of Chapter 116 of the General Statutes is amended by adding a new Part to read:

"Part 3A. Management Flexibility for Special Responsibility Constituent Institutions.

"§ 116-40.20. Legislative findings.

(a) The General Assembly finds that The University of North Carolina and its constituent institutions is one of the State's most valuable assets. The General Assembly further finds that to provide the best benefit to North Carolina, the constituent institutions of The University of North Carolina need special budgeting flexibility in order to maximize resources, to enhance competitiveness with other peer institutions regionally, nationally, and internationally, and to provide the strongest educational and economic opportunity for the citizens of North Carolina.

(b) To ensure the continued preeminence of The University of North Carolina and its constituent institutions, it is the intent of the General Assembly to strengthen and improve these assets. The General Assembly commits to responsible stewardship and improvement of The University of North Carolina and its constituent institutions as provided by this Part.

"§ 116-40.21. Board of governors may authorize management flexibility.

The Board of Governors of The University of North Carolina may authorize management flexibility for any special responsibility constituent institution as provided by this Part. The procedure for that

authorization is the same as that to designate a constituent institution a special responsibility constituent institution under G.S. 116-30.1.

"§ 116-40.22. Management flexibility.

(a) Definition. – For purposes of this section, the term 'institution' means a special responsibility constituent institution that is granted management flexibility by the Board of Governors in compliance with this Part.

(b) Appoint and Fix Compensation of Senior Personnel. – Notwithstanding any provision in Chapter 116 of the General Statutes to the contrary, the Board of Trustees of an institution shall, on recommendation of the Chancellor, appoint and fix the compensation of all vice-chancellors, senior academic and administrative officers, and any person having permanent tenure at that institution. No later than January 1, 2002, the Board of Governors shall adopt policies, compensation structures, and pay ranges concerning the appointment and compensation of senior personnel appointed by the Board of Trustees pursuant to this section. Compensation for senior personnel fixed by the Board of Trustees pursuant to this section shall be consistent with the compensation structure, policies, and pay ranges set by the Board of Governors.

(c) Tuition and Fees. – Notwithstanding any provision in Chapter 116 of the General Statutes to the contrary, in addition to any tuition and fees set by the Board of Governors pursuant to G.S. 116-11(7), the Board of Trustees of the institution may recommend to the Board of Governors tuition and fees for program-specific and institution-specific needs at that institution without regard to whether an emergency situation exists and not inconsistent with the actions of the General Assembly. The institution shall retain any tuition and fees set pursuant to this subsection for use by the institution.

(d) Information Technology. – Notwithstanding any other provision of law, the Board of Trustees of an institution shall establish policies and rules governing the planning, acquisition, implementation, and delivery of information technology and telecommunications at the institution. These policies and rules shall provide for security and encryption standards; software standards; hardware standards; acquisition of information technology consulting and contract services; disaster recovery standards; and standards for desktop and server computing, telecommunications, networking, video services, personal digital assistants, and other wireless technologies; and other information technology matters that are necessary and appropriate to fulfill the teaching, educational, research, extension, and service missions of the institution. The Board of Trustees shall submit all initial policies and rules adopted pursuant to this subsection to the Office of Information Technology Services for review upon adoption by the Board of Trustees. Any subsequent

changes to these policies and rules adopted by the Board of Trustees shall be submitted to the Office of Information Technology Services for review. Any comments by the Office of Information Technology Services shall be submitted to the Chancellor of that institution.

"§ 116-40.23. Reporting requirement; effective date of reported policies, procedures, and rules.

The Board of Trustees of a special responsibility constituent institution authorized to have management flexibility under this Part shall report to the Board of Governors and to the Joint Legislative Education Oversight Committee any policies, procedures, and rules adopted pursuant to G.S. 116-40.22 prior to implementation. The report shall be submitted to both at least 30 days before the next regularly scheduled meeting of the Board of Governors and shall become effective immediately following that same meeting unless otherwise provided for by the Board of Trustees. Any subsequent changes to the policies, procedures, or rules adopted by the Board of Trustees pursuant to G.S. 116-40.22 shall be reported to the Board of Governors and to the Joint Legislative Education Oversight Committee in the same manner. Failure of the Board of Governors to accept, review, or otherwise consider the report submitted by the Board of Trustees shall not affect in any manner the effective date of the policies, procedures, and rules contained in the report."

SECTION 31.11.(b) In the event that G.S. 116-40.22 as enacted by this section and Section 15.6 of this act conflict, then the provisions of Section 15.6 control.

SECTION 31.11.(c) The Joint Legislative Education Oversight Committee shall study the issue of whether management flexibility for special responsibility constituent institutions should be expanded to include personnel, property, and purchasing responsibilities. In its study the Committee shall consider the impact and effect that extending management flexibility in those areas may have on the University system as a whole, on each individual special responsibility constituent institution, and on the State's budget, budgeting process, and fiscal accountability. The Committee shall also identify any statutory and budgetary changes that would be needed to implement the expanded flexibility and determine whether any additional State appropriations would be needed. The Committee may also consider any other issues relevant to its study. The Committee shall report its findings and recommendations to the 2003 General Assembly.

Requested by: Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson

PROGRESS BOARD

SECTION 31.12.(a) G.S. 143B-372.1 reads as rewritten:

"§ 143B-372.1. North Carolina Progress Board.

(a) The North Carolina Progress Board is established. The Board shall be located administratively in the Board of Governors of The University of North Carolina and ~~is may be~~ located at ~~North Carolina State University~~, any constituent institution within The University of North Carolina, or at any institution to which it is invited formally, but shall exercise all its prescribed statutory powers independently of the Board of ~~Governors~~. Governors or the institution at which it resides.

(b) The North Carolina Progress Board shall consist of ~~24~~ 24 members of statewide prominence as follows:

- (1) The Governor, ex officio;
- (2) Eight persons appointed by the Governor, none of whom shall be State employees or officers;
- (3) ~~Four~~ Five persons appointed by the Speaker of the House of Representatives, ~~one~~ two of whom shall be a ~~member~~ members of the House of Representatives;
- (4) ~~Four~~ Five persons appointed by the President Pro Tempore of the Senate, ~~one~~ two of whom shall be a ~~member~~ members of the Senate; and
- (5) ~~Four~~ Five persons appointed by the North Carolina Progress Board.

(c) The Governor shall be chair of the North Carolina Progress Board. The Governor shall appoint a vice-chair from among the membership of the North Carolina Progress Board to serve at the pleasure of the Governor. The North Carolina Progress Board may elect such other officers as it sees fit.

(d) The North Carolina Progress Board shall meet at least twice annually on the call of the chair or as additionally provided by the North Carolina Progress Board. A quorum is ~~44~~ 12 members of the Board. Members may not send designees to board meetings, nor may they vote by proxy.

(e) Board appointments shall be for terms to begin July 1, 1999, with subsequent appointments to be made as terms expire or resignations occur. Of the Governor's appointments, two shall be for one-year terms, two shall be for two-year terms, two shall be for three-year terms, and two shall be for four-year terms. Of the appointments made by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the North Carolina Progress Board, one member appointed by each shall be appointed for a one-year term, one member appointed by each shall be appointed for a two-year term, one member appointed by each shall be appointed for a three-year term, and ~~one~~ two ~~member~~ members appointed by each shall be appointed for a four-year term. As terms expire, successors shall be appointed for four-year terms.

(f) No member may be appointed to more than two consecutive terms. A member of the House of Representatives appointed by the Speaker of the House vacates membership on the North Carolina Progress Board when that person is no longer a member of the House of Representatives, except that if that person is in office at the expiration of the term of office in the House of Representatives but has not been elected to the next term, that person shall continue to serve until the convening of the regular session. A member of the Senate appointed by the President Pro Tempore of the Senate vacates membership on the North Carolina Progress Board when that person is no longer a member of the Senate, except that if that person is in office at the expiration of the term of office in the Senate but has not been elected to the next term, that person shall continue to serve until the convening of the regular session."

SECTION 31.12.(b) G.S. 143B-372.2 reads as rewritten:
 "§ 143B-372.2. *Responsibilities.*

(a) The General Assembly notes that the Commission for a Competitive North Carolina developed goals in the following categories:

- (1) Healthy Children and Families;
- (2) Quality Education for All;
- (3) A High Performance Workforce;
- (4) A Prosperous Economy;
- (5) A Sustainable Environment;
- (6) Technology and Infrastructure Development;
- (7) Safe and Vibrant Communities; and
- (8) Active Citizenship/Accountable Government.

The Commission for a Competitive North Carolina adopted a report which established major goals and ways to measure progress toward these goals.

(a1) The General Assembly finds that the North Carolina Progress Board developed a report that focused on four of the Commission's recommended topics and issued 16 major targets for 2010. The objectives of the targets are to drive the State toward (i) a more expansive vision of education and environmental protection, (ii) strengthening families, and (iii) bringing more people into the economic mainstream.

(b) The General Assembly finds ~~that~~ the following:

- (1) The North Carolina economy of the future can provide unparalleled opportunity while maintaining North Carolina's traditional values, if the State pursues the future with clarity of purpose and ~~perseverance~~; perseverance.
- (2) The North Carolina economy is in the midst of a massive transition created by technological changes, global

- competition, and new production ~~practices; and~~ practices.
- (3) In order to maintain employment opportunities, increase income levels, reduce poverty, and generate the public revenues necessary to provide public services, North Carolina must increasingly rely on an economy which adds value to its natural and human resources and provides a diverse mix of products.
 - (4) Regional Progress Boards, modeled after the North Carolina Progress Board, should be encouraged, and to the extent practicable, funded from local sources, public and private, to ensure that the several regions of North Carolina describe a clear regional vision, with measures, targets, and methods for keeping track of progress toward that regional vision, and each forming a strategic alliance with the North Carolina Progress Board.
- (c) The North Carolina Progress Board shall:
- (1) Encourage ~~the a~~ a discussion ~~and toward~~ toward understanding of ~~the critical global global, national, statewide, regional, and local demographic, social, economic, and environmental and trends and conditions that exist or are emerging in North Carolina today, and how those issues will impact living in North Carolina in 10 to 20 years. national social and economic trends that will affect North Carolina in the coming decades;~~ the critical global, national, statewide, regional, and local demographic, social, economic, and environmental trends and conditions that exist or are emerging in North Carolina today, and how those issues will impact living in North Carolina in 10 to 20 years.
 - (2) Examine the report of the Commission for a Competitive North Carolina and the 1997 and February 2000 reports of the North Carolina Progress Board to the General Assembly. the 1997 report of the North Carolina Progress Board to the General Assembly;
 - (3) Track the eight issue areas set out in subsection (a) of this section and the objectives set out in subsection (a1) of this section and other issues identified by the Progress Board. The Progress Board may, upon vote of the Board, add to those issues identified by its predecessor Commission and ~~Board;~~ Board.
 - (4) Hold public hearings and other methods of public participation, including educational and outreach programs, to secure the views of citizens on priority goals for North Carolina and to disseminate findings and recommendations to ~~policy-makers;~~ polycymakers.
 - (5) Formulate and submit to North Carolinians a report every five years, beginning 2001, that updates the ~~20 10-~~ 20- to ~~30~~ 20- year vision for North Carolina and that

describes and explains a vision for North Carolina's progress over the next ~~20~~ 10 to ~~30~~ 20 years; years.

- (6) Submit a report to the General Assembly prior to its convening the regular session every odd-numbered year, which reports on ~~demographic, social and social, economic~~ economic, or environmental trends and ~~issues~~ recommends specific targets and milestones to accomplish its ~~mission;~~ mission.
- (7) ~~Recommend~~ Recommend, by reporting special legislative provisions, in draft form only, how ~~the~~ targets and milestones can be applied to increase ~~the~~ accountability of government to the people of this ~~State;~~ State.
- (8) Report periodically to the people of North Carolina on progress toward meeting goals, targets, and ~~milestones;~~ milestones, together with an assessment of the failure to meet the same and, where possible, an estimate of the potential costs associated with failure to act.
- (9) Undertake new and ongoing policy research and benchmarking ~~studies;~~ studies.
- (10) Publish and distribute periodic reports on policies, performance improvement, and best practices for ~~meeting~~ achieving the ~~long-term~~ long-term, strategic goals for the ~~State; and~~ State.
- (11) May apply for and accept gifts or ~~grants;~~ grants or engage in consulting activities, or other contractual assignments, consistent with its mission, for which applicable staff or Board members may expect to receive reasonable fees and expenses in exchange for specific work products.

(d) ~~The~~ Any Regular Session of the General Assembly shall further define the mission of the North Carolina Progress Board in continuing its ~~work;~~ work and may from time to time, and to the extent practicable, request staff assistance from the Board to standing, select, or independent legislative study committees or commissions.

(e) The General Assembly, after adopting the initial set of goals and measures as proposed or amended, may alter the goals and measures."

SECTION 31.12.(c) G.S. 143B-372.3 reads as rewritten:

"§ 143B-372.3. *Staff.*

(a) ~~The Chancellor of North Carolina State University~~ Upon the recommendation of the Board, the Governor shall appoint an Executive Director who shall serve at the pleasure of the ~~Chancellor, Board and the Governor but, for administrative purposes, shall report to the Board of Governors of The University of North Carolina.~~ The

Executive Director shall report to the North Carolina Progress Board and the ~~Chancellor~~ Governor. The Executive Director shall hire or contract with support staff, who shall work at the pleasure of the Executive Director.

(b) The Office of State ~~Budget, Planning, Budget~~ and Management shall also provide support, information, reports, and other assistance to the North Carolina Progress Board as requested.

(c) Repealed by Session Laws 1999-237, s. 10.12(a), effective June 30, 1999."

SECTION 31.12.(d) Of the funds appropriated in this act to the Board of Governors of The University of North Carolina for the Strategic Initiative Reserve for each year of the 2001-2003 fiscal biennium, the sum of two hundred fifty thousand dollars (\$250,000) shall be allocated for the operation of the North Carolina Progress Board."

Requested by: Representative Cole

TRANSFER CHINQUA-PENN PLANTATION FUNDS

SECTION 31.13. All "Friends of Chinqua-Penn" funds and gift shop funds on deposit with The University of North Carolina shall be transferred to the Chinqua-Penn Foundation, Inc.

Requested by: Representative Creech

UNC BOARD OF GOVERNORS REPORT ON OVERHEAD RECEIPTS

SECTION 31.14. The Board of Governors of The University of North Carolina shall report to the Joint Legislative Education Oversight Committee by March 1, 2002, and annually thereafter, on the amount of overhead receipts for The University System and the use of those receipts.

PART XXXII. SALARIES AND EMPLOYEE BENEFITS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

GOVERNOR AND COUNCIL OF STATE/NO SALARY INCREASES

SECTION 32.1.(a) For the 2001-2002 and 2002-2003 fiscal years, the salary of the Governor shall remain the amount set by G.S. 147-11(a).

SECTION 32.1.(b) Effective July 1, 2001, the annual salaries for the members of the Council of State, payable monthly, for the 2001-2002 and 2002-2003 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	\$104,523
Attorney General	104,523
Secretary of State	104,523
State Treasurer	104,523
State Auditor	104,523
Superintendent of Public Instruction	104,523
Agriculture Commissioner	104,523
Insurance Commissioner	104,523
Labor Commissioner	104,523

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

NONELECTED DEPARTMENT HEAD/NO SALARY INCREASES

SECTION 32.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2001-2002 and 2002-2003 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	\$102,119
Secretary of Correction	102,119
Secretary of Crime Control and Public Safety	102,119
Secretary of Cultural Resources	102,119
Secretary of Commerce	102,119
Secretary of Environment and Natural Resources	102,119
Secretary of Health and Human Services	102,119
Secretary of Juvenile Justice and Delinquency Prevention	102,119
Secretary of Revenue	102,119
Secretary of Transportation	102,119

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CERTAIN EXECUTIVE BRANCH OFFICIALS/NO SALARY INCREASES

SECTION 32.3. The annual salaries, payable monthly, for the 2001-2002 and 2002-2003 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	\$92,946
State Controller	130,078
Commissioner of Motor Vehicles	92,946
Commissioner of Banks	104,523

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S.L. 2001-424

Chairman, Employment Security Commission	129,913
State Personnel Director	102,119
Chairman, Parole Commission	84,871
Members of the Parole Commission	78,356
Chairman, Utilities Commission	116,405
Members of the Utilities Commission	104,523
Executive Director, Agency for Public Telecommunications	78,356
General Manager, Ports Railway Commission	70,755
Director, Museum of Art	95,240
Executive Director, North Carolina Housing Finance Agency	115,031
Executive Director, North Carolina Agricultural Finance Authority	90,470
State Chief Information Officer	130,000

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson
judicial branch officials/no salary increases

SECTION 32.4.(a) The annual salaries, payable monthly, for specified judicial branch officials for the 2001-2002 and 2002-2003 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	\$118,430
Associate Justice, Supreme Court	115,336
Chief Judge, Court of Appeals	112,452
Judge, Court of Appeals	110,530
Judge, Senior Regular Resident Superior Court	107,527
Judge, Superior Court	104,523
Chief Judge, District Court	94,912
Judge, District Court	91,909
Administrative Officer of the Courts	107,527
Assistant Administrative Officer of the Courts	98,216

SECTION 32.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed sixty thousand one hundred ninety-one dollars (\$60,191), and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand thirty-five dollars (\$31,035), effective July 1, 2001.

SECTION 32.4.(c) The salaries in effect for the 2001-2002 and 2002-2003 fiscal years for permanent, full-time employees of the

Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by six hundred twenty-five dollars (\$625.00), effective July 1, 2001.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CLERK OF SUPERIOR COURT SALARY INCREASES

SECTION 32.5. Effective July 1, 2001, G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	\$69,286 \$69,911
100,000 to 149,999	77,827 78,452
150,000 to 249,999	86,369 86,994
250,000 and above	94,912 95,537

The salary schedule in this subsection is intended to represent the following approximate percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASE

SECTION 32.6. Effective July 1, 2001, G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	\$25,890 <u>\$26,515</u>
Maximum	45,839 <u>46,464</u>
Deputy Clerks	Annual Salary
Minimum	\$21,940 <u>\$22,565</u>
Maximum	35,309 <u>35,934</u> ."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

MAGISTRATES' SALARY INCREASES

SECTION 32.7. Effective July 1, 2001, G.S. 7A-171.1 reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

- (1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	\$26,264 <u>\$26,889</u>
Step 1	28,900 <u>29,525</u>
Step 2	31,764 <u>32,393</u>
Step 3	34,898 <u>35,523</u>
Step 4	38,327 <u>38,952</u>
Step 5	42,096 <u>42,721</u>
Step 6	46,239 <u>46,864</u>

- (2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a

week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

- (3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

- (1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	\$20,700 <u>\$21,325</u>
1 or more but less than 3 years of service	21,764 <u>22,389</u>
3 or more but less than 5 years of service	23,905 <u>24,530.</u>

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

- (2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

- (3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).
- (4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 32.8. Effective July 1, 2001, G.S. 120-37(c) reads as rewritten:

"(c) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary of ~~eighty-seven thousand six hundred eighty-one dollars (\$87,681)~~ eighty-eight thousand three hundred six dollars (\$88,306) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

SERGEANT-AT-ARMS AND READING CLERKS

SECTION 32.9. Effective July 1, 2001, G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred eighty six dollars (\$286.00)~~ two hundred ninety-two dollars (\$292.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

LEGISLATIVE EMPLOYEES

SECTION 32.10. The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2000-2001 by six hundred

twenty-five dollars (\$625.00). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 32.11. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2001-2002 and 2002-2003, funds to the North Carolina Community Colleges System Office necessary to provide an annual salary increase of six hundred twenty-five dollars (\$625.00) including funds for the employer's retirement and social security contributions, commencing July 1, 2001, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel and shall have the flexibility to use any excess funds for merit increases. Salary funds shall be used to provide an annual salary increase of six hundred twenty-five dollars (\$625.00) to all full-time employees and part-time employees on a pro rata basis.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 32.12.(a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2001-2002 and 2002-2003, to provide an annual salary increase of six hundred twenty-five dollars (\$625.00), including funds for the employer's retirement and social security contributions, commencing July 1, 2001, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). Excess funds shall be allocated to individuals according to the rules adopted by the Board of Governors or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and may be used for merit increases. Funds provided under this subsection may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SECTION 32.12.(b) The Director of the Budget shall transfer to the Board of Governors of The University of North

Carolina sufficient funds from the Reserve for Compensation Increases, created in this act for fiscal years 2001-2002 and 2002-2003, to provide an annual average salary increase of two and eighty-six hundredths percent (2.86%), including funds for the employer's retirement and social security contributions, commencing July 1, 2001, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

MOST STATE EMPLOYEES

SECTION 32.13.(a) The salaries in effect June 30, 2001, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 2001, unless otherwise provided by this act, by six hundred twenty-five dollars (\$625.00) per year.

SECTION 32.13.(b) Except as otherwise provided in this act, the fiscal year 2001-2002 salaries for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by six hundred twenty-five dollars (\$625.00) per year, commencing July 1, 2001.

SECTION 32.13.(c) The salaries in effect for fiscal year 2001-2002 for all permanent part-time State employees shall be increased on and after July 1, 2001, by pro rata amounts of the six hundred twenty-five dollars (\$625.00) per year salary increase provided for permanent full-time employees covered under subsection (a) of this section.

SECTION 32.13.(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase, on and after July 1, 2001, in accordance with subsection (a), (b), or (c) of this section including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 32.13.(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments

may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts of the six hundred twenty-five dollars (\$625.00) per year salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2001.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

ALL STATE-SUPPORTED PERSONNEL

SECTION 32.14.(a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

SECTION 32.14.(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

SECTION 32.14.(c) The salary increases provided in this act are to be effective July 1, 2001, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, or whose last workday is prior to July 1, 2001.

Payroll checks issued to employees after July 1, 2001, which represent payment of services provided prior to July 1, 2001, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

SECTION 32.14.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2001-2002 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 32.14.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

TEMPORARY SALES TAX TRANSFER FOR WILDLIFE RESOURCES COMMISSION SALARIES

SECTION 32.15. For the 2001-2002 and 2002-2003 fiscal years, the Secretary of Revenue shall transfer at the end of each

quarter from the State sales and use tax net collections received by the Department of Revenue under Article 5 of Chapter 105 of the General Statutes to the State Treasurer for the Wildlife Resources Fund to fund the cost of any legislative salary increase for employees of the Wildlife Resources Commission.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

**CLEAN WATER MANAGEMENT TRUST FUND
PERSONNEL**

SECTION 32.16.(a) G.S. 126-5(c1) is amended by adding a new subdivision to read:

"(21) Employees of the Clean Water Management Trust Fund."

SECTION 32.16.(b) G.S. 113-145.7 reads as rewritten:

"§ 113-145.7. *Clean Water Management Trust Fund: Executive Director and staff.*

The Clean Water Management Trust Fund Board of Trustees, as soon as practicable after its organization, shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of the Trustees. Subject to the approval of the Trustees and the Director of the Budget, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Trustees, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Trustees.

These employees shall be exempt from the State Personnel Act, as provided in G.S. 126-5(c1)."

SECTION 32.16.(c) This section is effective when it becomes law.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

**LIMIT CLEAN WATER MANAGEMENT TRUST FUND
ADMINISTRATIVE EXPENSES**

SECTION 32.17. G.S. 113-145.3(d) reads as rewritten:

"(d) Limit on Operating and Administrative Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of ~~eight hundred fifty thousand dollars (\$850,000), whichever is less~~, one million two hundred fifty thousand dollars (\$1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff."

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

SEVERANCE PAY/SALARY ADJUSTMENT FUND

SECTION 32.19.(a) Funds from the Salary Adjustment Fund shall first be used for severance wages for eligible separated employees.

SECTION 32.19.(b) The sum of up to five million dollars (\$5,000,000) of any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds may be used for reclassifications of positions already approved by the Office of State Personnel. Any funds in excess of five million dollars (\$5,000,000) shall revert. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of salary adjustment funds for any State agency.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

NEW RECEIPT-SUPPORTED POSITIONS/CONSULTATION REQUIREMENT

SECTION 32.19A.(a) G.S. 143-34.1 is amended by adding a new subsection to read:

"(a1) A department, institution, or other agency of State government may establish new receipt-supported positions only after prior consultation with the Joint Legislative Commission on Governmental Operations. This subsection shall not apply to work-order funded positions in the Department of Transportation that are created for the purpose of highway construction or to positions at The University of North Carolina or its constituent institutions."

SECTION 32.19.(b) This section is effective when it becomes law.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

SALARY-RELATED CONTRIBUTIONS/EMPLOYERS

SECTION 32.21.(a) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salaries. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income benefits.

SECTION 32.21.(b) The State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2001-2002 fiscal year and the 2002-2003 fiscal year are (i) five percent (5.00%) - Teachers and State Employees; (ii) ten percent (10.00%) - State Law Enforcement Officers; (iii) nine and seventy-one hundredths percent (9.71%) - University Employees' Optional Retirement System; (iv) nine and seventy-one hundredths percent (9.71%) - Community College Optional Retirement Program; (v) sixteen and forty hundredths percent (16.40%) - Consolidated Judicial Retirement System; and (vi) twenty-five and fifty-five hundredths percent (25.55%) - Legislative Retirement System. Each of the foregoing contribution rates includes two and thirty-five hundredths percent (2.35%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, Community College Optional Retirement Program, and for the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen-hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 32.21.(c) Notwithstanding any other provision of law, the Board of Trustees of the Teachers' and State Employees' Retirement System shall adopt such assumptions as necessary to remove the asset cap of seventy-seven percent (77%) of market value and to allow for a five-year smooth market method of asset value.

SECTION 32.21.(d) The General Assembly directs the State Treasurer to adopt a fixed amortization period of nine years for

the purposes of the unfunded accrued liability for the North Carolina National Guard Pension Fund.

SECTION 32.21.(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2001-2002 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand one hundred four dollars (\$2,104), and (ii) non-Medicare-eligible employees and retirees - two thousand seven hundred sixty-four dollars (\$2,764).

SECTION 32.21.(f) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2002-2003 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand two hundred thirty-three dollars (\$2,233), and (ii) non-Medicare-eligible employees and retirees - two thousand nine hundred thirty-three dollars (\$2,933).

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

TEMPORARY EMPLOYEES OF THE GENERAL ASSEMBLY

SECTION 32.21A.(a) G.S. 120-32(1) reads as rewritten:

"(1) Determine the number, titles, classification, functions, compensation, and other conditions of employment of the joint legislative service employees of the General Assembly, including but not limited to the following departments:

- a. Legislative Services Officer and personnel,
- b. Electronic document writing system,
- c. Proofreaders,
- d. Legislative printing,
- e. Enrolling clerk and personnel,
- f. Library,
- g. Research and bill drafting,
- h. Printed bills,
- i. Disbursing and supply;

Temporary employees of the General Assembly are exempt from the provisions of G.S. 135-3(8)c., as to compensation earned in that status."

SECTION 32.21A.(b) This section becomes effective January 1, 2001.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

PROVIDE COST-OF-LIVING INCREASES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM

SECTION 32.22.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(iii) From and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2000, shall be increased by two percent (2%) of the allowance payable on June 1, 2001, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2000, but before June 30, 2001, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2000, and June 30, 2001."

SECTION 32.22.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(v) From and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2000, shall be increased by two percent (2%) of the allowance payable on June 1, 2001. Furthermore, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2000, but before June 30, 2001, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2000, and June 30, 2001."

SECTION 32.22.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(p) In accordance with subsection (a) of this section, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2001, shall be increased by two percent (2%) of the allowance payable on June 1, 2001. Furthermore, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2001, but before June 30, 2001, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 2001, and June 30, 2001."

SECTION 32.22.(d) G.S. 128-27 is amended by adding a new subsection to read:

"(zz) From and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2000, shall be increased by two percent (2%) of the allowance payable on June 1, 2001, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 2001, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2000, but before June 30, 2001, shall be increased by a prorated amount of two percent (2%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 2000, and June 30, 2001."

SECTION 32.22.(e) This section becomes effective July 1, 2001.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson, Tucker

INCREASE LOCAL RETIREMENT BENEFITS

SECTION 32.23.(a) G.S. 128-27(b18) reads as rewritten:

"(b18) Service Retirement Allowance of Member Retiring on or After July 1, ~~2000~~, 2000, but Before July 1, 2001. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2000, but before July 1, 2001, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-eight hundredths percent (1.78%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 1. The service retirement allowance payable under G.S. 128-27(b18)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident

- with or next following the month the member would have attained his 55th birthday;
2. The service retirement allowance as computed under G.S. 128-27(b18)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-eight hundredths percent (1.78%) of average final compensation, multiplied by the number of years of creditable service.
 - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b18)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
 - c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 128-27(b18)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the

month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b18)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b18)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

SECTION 32.23.(b) G.S. 128-27 is amended by adding a new subsection to read:

"(b19) Service Retirement Allowance of Member Retiring on or After July 1, 2001. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2001, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b19)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident

with or next following the month the member would have attained his 55th birthday;

2. The service retirement allowance as computed under G.S. 128-27(b19)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-one hundredths percent (1.81%) of average final compensation, multiplied by the number of years of creditable service.
 - b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b19)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.
 - c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:
 1. The service retirement allowance as computed under G.S. 128-27(b19)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the

month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b19)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
 3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b19)(2)b.
- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

SECTION 32.23.(c) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
 - b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b18)(1)b.~~ or ~~G.S. 128-27(b18)(2)c.,~~ G.S. 128-27(b19)(1)b. or G.S. 128-27(b19)(2)c., notwithstanding the requirement of obtaining age 50.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon

the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

SECTION 32.23.(d) G.S. 128-27 is amended by adding a new subsection to read:

"(zz) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 2001. – From and after July 1, 2001, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 2001, shall be increased by one and seven-tenths percent (1.7%) of the allowance payable on June 1, 2001. This allowance shall be calculated on the allowance payable and in effect on June 30, 2001, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 2001 General Assembly."

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

OPTIONAL RETIREMENT PROGRAM FOR THE NORTH CAROLINA COMMUNITY COLLEGES SYSTEM

SECTION 32.24.(a) Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-5.4. *Optional retirement program for State-funded community colleges.*

(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the North Carolina Community Colleges System, ("System"). The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of the presidents of the community colleges all of whom are appointed after the implementation of the Program and who elect membership as required by subsection (b) of this section. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf.

(b) Participation in the Optional Retirement Program shall be governed as follows:

- (1) Employees initially appointed on or after the implementation of the Optional Retirement Program shall at the same time of entering upon eligible employment elect (i) to join the Retirement System in accordance with the provisions of law applicable thereto

or (ii) to participate in the Optional Retirement Program. This election shall be in writing and filed with the Retirement System and with the employing institution and shall be effective as of the date of entry into eligible service.

- (2) An election to participate in the Optional Retirement Program shall be irrevocable. An eligible employee failing to elect to participate in the Optional Retirement Program at the time of entry into eligible service shall automatically be enrolled as a member of the Retirement System.
- (3) No election by an eligible employee of the Optional Retirement Program shall be effective unless it is accompanied by an appropriate application for the issuance of a contract or contracts or trust participation under the Program.
- (4) If any participant having less than five years coverage under the Optional Retirement Program leaves the employ of the System and either retires or commences employment with an employer not having a retirement program with the same company underwriting the participant's annuity contract, regardless of whether the annuity contract is held by the participant, a trust, or the Retirement System, the participant's interest in the Optional Retirement Program attributable to contributions of the employing institution shall be forfeited and shall either (i) be refunded to the employing institution and forthwith paid by it to the Retirement System and credited to the pension accumulation fund or (ii) be paid directly to the Retirement System and credited to the pension accumulation fund.

(c) Each employing institution shall contribute on behalf of each participant in the Optional Retirement Program an amount equal to a percentage of the participant's compensation as established from time to time by the General Assembly. Each participant shall contribute the amount that he or she would be required to contribute if a member of the Retirement System. Contributions authorized or required by the provisions of this subsection on behalf of each participant shall be made, consistent with section 414(h) of the Internal Revenue Code, by salary reduction according to rules and regulations established by the employing institution. Additional personal contributions may also be made by a participant by payroll deduction or salary reduction to an annuity or retirement income plan established pursuant to G.S. 115D-25. Payment of contributions shall be made by the employing

institution to the designated company or companies underwriting the annuities or the trustees for the benefit of each participant, and this employer contribution shall not be subject to any State tax if made under the Optional Retirement Program or, otherwise, by salary reduction.

(d) The System shall designate the company or companies from which contracts are to be purchased or the trustee responsible for the investment of contributions under the Optional Retirement Program and shall approve the form and contents of such contracts or trust agreement. In making this designation and giving such approval, the Board shall give due consideration to the following:

- (1) The nature and extent of the rights and benefits to be provided by these contracts or trust agreement for participants and their beneficiaries;
- (2) The relation of these rights and benefits to the amount of contributions to be made;
- (3) The suitability of these rights and benefits to the needs of the participants and the interest of the institutions of the System in recruiting and retaining faculty in a national market; and
- (4) The ability of the designated company or companies underwriting the annuity contracts or trust agreement to provide these suitable rights and benefits under such contracts or trust agreement for these purposes.

In lieu of such designation and in order to provide a more efficient, cost-effective, and flexible Program, the System may designate the company or companies designated for the Optional Retirement Program for State institutions of higher education as prescribed in G.S. 135-5.1(d).

Notwithstanding the provisions of this subsection, no contractual relationship established under the Optional Retirement Program pursuant to the authority granted by Chapter 338, Session Laws of 1971, is deemed terminated by the provisions of this section.

(e) The System or employing institution may provide for the administration of the Optional Retirement Program and may perform or authorize the performance of all functions necessary for its administration.

(f) Any eligible employee electing to participate in the Optional Retirement Program is ineligible for membership in the Retirement System so long as he or she remains employed in any eligible position within the System, and, in this event, he or she shall continue to participate in the Optional Retirement Program.

(g) No retirement benefit, death benefit, or other benefit under the Optional Retirement Program shall be paid by the State of North Carolina, or the System, or the Board of Trustees of the Teachers' and

State Employees' Retirement System with respect to any employee selecting and participating in the Optional Retirement Program or with respect to any beneficiary of that employee. Benefits shall be payable to participants or their beneficiaries only by the designated company in accordance with the terms of the contracts or trust agreement."

SECTION 32.24.(b) G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee, and shall not include those participating in an optional retirement program provided for in ~~G.S. 135-5.1~~ G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, ~~hereinafter~~ hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter."

SECTION 32.24.(c) This section becomes effective January 1, 2002.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

OPTIONAL RETIREMENT PROGRAM STUDY COMMISSION

SECTION 32.24A.(a) The Optional Retirement Program Study Commission is created. The Commission shall consist of 17 voting members as follows:

- (1) Four members of the House of Representatives to be appointed by the Speaker of the House of Representatives;
- (2) Four members of the Senate to be appointed by the President Pro Tempore of the Senate;
- (3) The State Treasurer or the State Treasurer's designee;
- (4) A member of the faculty of a constituent institution of The University of North Carolina, to be appointed by the Speaker of the House of Representatives;
- (5) An administrator at a constituent institution of The University of North Carolina, to be appointed by the President Pro Tempore of the Senate;

- (6) A member of the faculty of a constituent institution of the North Carolina Community Colleges System, to be appointed by the President Pro Tempore of the Senate;
- (7) An administrator at a constituent institution of the North Carolina Community Colleges System, to be appointed by the Speaker of the House of Representatives; and
- (8) Four members, two of whom are practicing actuaries and two of whom are administrators of a private retirement system, to be appointed by the Governor.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each designate a cochair from the General Assembly membership serving on the Commission. The Commission shall meet upon the call of the cochairs. A majority of the Commission shall constitute a quorum for the transaction of business.

SECTION 32.24A.(b) The Commission shall:

- (1) Examine the feasibility and desirability of expanding eligibility under the Optional Retirement System of The University of North Carolina to include all university employees that are exempt from the State Personnel Act; and
- (2) Examine the feasibility and desirability of establishing an optional retirement program for employees of the North Carolina Community Colleges System.

In conducting these studies, the Commission shall work cooperatively with the Retirement System Division of the Department of State Treasurer to obtain information addressing issues such as the attraction and retention of faculty and staff at the affected institutions and the actuarial impact of the potential changes in retirement options.

SECTION 32.24A.(c) The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to

them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6; and
- (3) All other Commission members at the rate established in G.S. 138-5.

SECTION 32.24A.(d) The Commission shall report the results of its study and its recommendations to the 2002 Regular Session of the 2001 General Assembly. The Commission shall terminate upon filing its report.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson, Arnold

**TO SHORTEN THE AMOUNT OF TIME RETIRED
TEACHERS MUST BE RETIRED BEFORE THEY
RETURN TO WORK**

SECTION 32.25.(a) G.S. 135-3(8)c., as enacted by Section 28.24(a) of S.L. 1998-212, and rewritten by Section 67 of S.L. 1998-217 and by Section 8.24(a) of S.L. 2000-67, reads as rewritten:

"c. **(Effective until June 30, 2003)** Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased

on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S. 135-3(8)c., who has been retired at least ~~42~~ six months and has not been employed in any capacity, except as a substitute ~~teacher, teacher or a part-time tutor,~~ with a public school for at least ~~42~~ six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a). Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

SECTION 32.25.(b) G.S. 115C-325(a)(5a), as enacted by Section 28.24(b) of S.L. 1998-212 and rewritten by Section 67.1(a) of S.L. 1998-217, reads as rewritten:

"(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

(5a) **(Effective until June 30, 2003)** "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least ~~42~~ six months, has not been employed in any capacity, other than as a substitute teacher, with a local board of education for at least ~~42~~ six months, immediately preceding the effective date of reemployment, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status."

SECTION 32.25.(c) This section becomes effective July 1, 2001, and expires June 30, 2003.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

RETIREMENT SYSTEM ACTUARY

SECTION 32.26. The State Treasurer shall report to the General Assembly no later than January 31, 2002, as to the effectiveness and efficiency of actuarial services for the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, the Death Benefit Plans, the Disability Income Plan, the Firemen's and Rescue Squad Workers' Pension Fund, and the National Guard Pension Fund, and whether future selection should be made after a competitive bid process.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

UNIVERSITY SYSTEM OPTIONAL RETIREMENT PLAN FOR SENIOR ADMINISTRATORS/AG EXTENSION

SECTION 32.27. G.S. 135-5.1(a) reads as rewritten:

"(a) An Optional Retirement Program provided for in this section is authorized and established and shall be implemented by the Board of Governors of The University of North Carolina. The Optional Retirement Program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, or financed through the establishment of a trust, for the benefit of administrators and faculty of the University of North Carolina with the rank of instructor or ~~above~~ above, and for the benefit of:

- (1) Employees of the University of North Carolina who are appointed by the Board of Governors on recommendation of the President pursuant to G.S. 116-14 or who are appointed by the Board of Trustees of a constituent institution of The University of North Carolina upon the recommendation of the Chancellor pursuant to G.S. 116-40.22(b); and
- (2) Field faculty of the Cooperative Agriculture Extension Service, and tenure track faculty in North Carolina State University agriculture research programs who are exempt from the State Personnel Act and who are eligible for membership in the Teachers' and State Employees' Retirement System pursuant to GS 135-3(1),

who in any of the cases described in this subsection (i) had been members of the Optional Retirement Program under the provisions of

Chapter 338, Session Laws of 1971, immediately prior to July 1, 1985, or (ii) have sought membership as required in subsection (b), below. Under the Optional Retirement Program, the State and the participant shall contribute, to the extent authorized or required, toward the purchase of such contracts or deposited in such trust on the participant's behalf."

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson, Gibson, Pope, Russell
REMOVE THE CAP ON SICK LEAVE CREDITABLE TO RETIREMENT FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION 32.28.(a) G.S. 135-4(e) reads as rewritten:

"(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of service certified on his prior service certificate; and if he has sick leave standing to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof ~~thereof not to exceed 12 days of credit for each year of membership service or fraction thereof~~, but sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance.

On and after July 1, 1971, a member whose account was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service by the amount of creditable service lost when his account was closed.

On and after July 1, 1973, a member whose account in the North Carolina Local Governmental Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member of this System with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the North Carolina Local Governmental Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this System by the amount of creditable service lost when his account was closed.

On or after July 1, 1979, a member who has obtained 60 months of aggregate service, or five years of membership service, as an employee of the North Carolina General Assembly, except legislators, participants in the Legislative Intern Program and pages, may make a

lump sum payment together with interest, and an administrative fee for such service, to the Teachers' and State Employees' Retirement System of an amount equal to what he would have contributed had he been a member on his first day of employment.

On and after January 1, 1985, the creditable service of a member who was a member of the Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement officers employed by the State from that System to this Retirement System and whose accumulated contributions are transferred from that System to this Retirement System, shall include service that was creditable in the Law-Enforcement Officers' Retirement System; and membership service with that System shall be membership service with this Retirement System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service for military service, withdrawn service and prior service under the rules and regulations of the Law-Enforcement Officers' Retirement System shall not be diminished and may be purchased as creditable service with this Retirement System under the same conditions which would have otherwise applied."

SECTION 32.28.(b) This section becomes effective July 1, 2001, and applies to persons retiring on or after that date.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

SICK LEAVE/JUDICIAL RETIREMENT

SECTION 32.29.(a) G.S. 135-58(a2) reads as rewritten:

"(a2) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 1999, but before July 1, 2001, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

- (1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

SECTION 32.29.(b) G.S. 135-58 is amended by adding a new subsection to read:

"(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of

payment) would total three-fourths of the member's final compensation:

- (1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;
- (3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;
- (4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and
- (5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

AMEND MEMBERSHIP REQUIREMENTS

SECTION 32.30.(a) G.S. 120-4.11 reads as rewritten:

"§ 120-4.11. *Membership.*

The following members of the General Assembly and former members of the General Assembly are eligible for membership in the Retirement System, ~~provided they are not contributing to nor are qualified to contribute to the North Carolina Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Law Enforcement Officers' Retirement System or the Consolidated Judicial Retirement System of North Carolina:~~ System:

- (1) Members of the General Assembly who serve on and after June 15, 1983; and
- (2) Former members of the General Assembly who served prior to June 15, 1983; and
 - a. Who elect to transfer current and future entitlements, or contributions, from the Legislative Retirement Fund established by Chapter 1269 of the 1969 Session Laws; or
 - b. Who have five or more years of service as a member of the General Assembly."

SECTION 32.30.(b) G.S. 120-4.21(c) reads as rewritten:

"(c) Limitations. – In no event shall any member receive a service retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' salary. ~~nor shall he receive any service retirement allowance whatever while employed in a position that makes him a contributing member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, or the Consolidated Judicial Retirement System. If he should become a member of any of these systems, payment of his service retirement allowance shall be suspended until he withdraws from membership in that system."~~

SECTION 32.30.(c) G.S. 120-4.22(d) reads as rewritten:

"(d) Limitations. – In no event shall any member receive a disability retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' salary. ~~nor shall he receive any disability retirement allowance whatever while employed in a position that makes him a contributing member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law Enforcement Officers' Retirement System, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems payment of his disability retirement allowance shall be suspended until he withdraws from membership in that system."~~

SECTION 32.30.(d) This section is effective when it becomes law.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

DUES DEDUCTION FOR RETIREES

SECTION 32.31. Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"§ 128-38.3. Deduction for payment to certain employees' associations allowed.

Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of employers as defined in G.S. 128-21(11), may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson, Nesbitt

ALLOW THE PURCHASE OF WITHDRAWAL SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION 32.32.(a) G.S. 135-4(k) reads as rewritten:

~~"(k) Notwithstanding any other provision of this Chapter, any person who withdrew his contributions in accordance with the provisions of G.S. 128-27(f) or G.S. 135-5(f) or the rules and regulations of the Law-Enforcement Officers' Retirement System and who subsequently returns to service may, upon completion of 10 five years of membership service, repay in a total lump sum any and all of the accumulated contributions previously withdrawn with sufficient interest added thereto to cover one half of the cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and receive credit for the service forfeited at time of withdrawal(s), provided that he left service prior to July 1, 1974. interest compounded annually at the rate of six and one-half percent (6.5%) for each calendar year from the year of withdrawal to the year of repayment plus a fee to cover expense of handling which shall be determined by the Board of Trustees, and receive credit for the service forfeited at time of withdrawal. Any person who leaves service after June 30, 1974, and who withdraws his contributions in accordance with G.S. 128-27(f) or G.S. 135-5(f) or the rules and regulations of the Law Enforcement Officers' Retirement System and who subsequently returns to service may, upon completion of 10 years of membership service, repay in a total lump sum any and all of the accumulated contributions previously withdrawn with sufficient interest added thereto to cover the full cost of providing such additional credit plus a fee to cover expense of handling which shall be determined by the Board of Trustees and~~

~~receive credit for the service forfeited at time of withdrawal(s). These provisions shall apply equally to retired members who had attained ~~10~~ five years of membership service prior to retirement. The retirement benefit shall be increased the month following the receipt of payment. The retirement benefit shall not include any benefit as a result of retirement adjustments or cost-of-living increases granted since the date of retirement. The retirement benefit will be calculated based in the accrual rate at the time of purchase. Cost as used in this subsection shall mean the amount of money required to provide additional retirement benefits based on service credit allowed at the time any adjustment to the service credit of a member is made.~~

~~Notwithstanding any provision to the contrary, a law enforcement officer who was transferred from the Law Enforcement Officers' Retirement System to this Retirement System pursuant to Article 12C of Chapter 143 of the General Statutes and withdrew his accumulated contributions prior to January 1, 1985, in accordance with G.S. 128-27(f) or G.S. 135-5(f) for non-law enforcement service and who has ~~10~~ five years or more of membership service standing to his credit may repay in a total lump sum the accumulated contributions previously withdrawn with sufficient interest added thereto to cover one half the cost of providing such additional credits plus a fee to cover the expense of handling which shall be determined by the Board of Trustees and receive credit for the creditable service forfeited at the time of withdrawal. interest compounded annually at the rate of six and one-half percent (6.5%) for each calendar year from the year of withdrawal to the year of repayment plus a fee to cover expense of handling which shall be determined by the Board of Trustees, and receive credit for the service forfeited at time of withdrawal. The retirement benefit shall be increased the month following the receipt of payment. The retirement benefit shall not include any benefit as a result of retirement adjustments or cost-of-living increases granted since the date of retirement. The retirement benefit will be calculated based in the accrual rate at the time of purchase.~~"

SECTION 32.32.(b) G.S. 135-4(m) reads as rewritten:

"(m) Notwithstanding any language to the contrary of any provision of this section, or of any repealed provision of this section that was repealed with the inchoate and accrued rights preserved, all repayments and purchases of service credits, allowed under the provisions of this section or of any repealed provision of this section that was repealed with inchoate and accrued rights preserved, must be made within three years after the member first becomes eligible to make such repayments and purchases. Any member who does not repay or purchase service credits within said three years after first eligibility to make such repayments and purchases may, under the

same conditions as are otherwise required, repay or purchase service credits provided that the repayment or purchase equals the full cost of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which such member could retire on an unreduced retirement allowance as determined by the Board of Trustees upon the advice of the consulting actuary. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance. Notwithstanding the foregoing, on and after July 1, 2001, the provisions of this subsection shall not apply to the repayment of contributions withdrawn pursuant to subsection (k) of this section."

SECTION 32.32.(c) G.S. 135-4(x) is repealed.

SECTION 32.32.(d) This section becomes effective July 1, 2001.

Requested by: Senators Plyler, Odom, Lee; Representative Easterling, Oldham, Redwine, Thompson

DISABILITY INCOME PLAN CONFORMING CHANGE

SECTION 32.32A. G.S. 135-108 reads as rewritten:

"§ 135-108. *Post disability benefit adjustments.*

The compensation upon which the short-term or long-term disability benefit is calculated under the provisions of G.S. 135-105(c) or G.S. 135-106(b) may be increased by any percentage permanent across-the-board salary increase granted to employees of the State by the General Assembly and the benefits payable to beneficiaries shall be recalculated based upon the increased compensation, reduced by any percentage increase in Social Security benefits granted by the Social Security Administration times the amount used in the reduction of benefits for primary Social Security disability or retirement benefit as provided in G.S. 135-106(b). The provisions of this section shall be subject to future acts of the General Assembly."

PART XXXIII. CAPITAL APPROPRIATIONS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

**GENERAL FUND CAPITAL
APPROPRIATIONS/INTRODUCTION**

SECTION 33.1. The appropriations made by the 2001 General Assembly for capital improvements are for constructing, repairing, or renovating State buildings, utilities, and other capital facilities, for acquiring sites for them where necessary, and acquiring buildings and land for State government purposes.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 33.2.(a) Appropriations are made from the General Fund of the State for the 2001-2002 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	2001-2002
Department of Environment and Natural Resources	\$32,936,000
Repairs and Renovations Reserve Account	125,000,000
TOTAL	\$157,936,000.

SECTION 33.2.(b) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the 2000-2001 fiscal year only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the State Controller shall not transfer funds from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2001.

This subsection becomes effective June 30, 2001.

TOTAL CAPITAL APPROPRIATION – GENERAL FUND

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 33.3.(a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose costs are as indicated:

Name of Project	2001-2002
(1) Wilmington Harbor Deepening	\$22,000,000
(2) Morehead City Harbor Maintenance	500,000

2001]

S.L. 2001-424

(3)	Wilmington Harbor Maintenance	200,000
(4)	Manteo (Shallowbag) Bay Channel Maintenance	2,500,000
(5)	B. Everett Jordan Lake Water Supply	100,000
(6)	John H. Kerr Reservoir Operations Evaluation	400,000
(7)	Brunswick County Beaches Nourishment Supplement	927,000
(8)	Wrightsville Beach Nourishment	518,000
(9)	Dare County Beaches design	338,000
(10)	Indian Beach – Salter Path Nourishment	900,000
(11)	Bogue Banks Beach Protection Study	350,000
(12)	Surf City/North Topsail Beach Protection Study	150,000
(13)	West Onslow Beach Protection Re-analysis (Topsail Beach)	116,000
(14)	Currituck Sound Water Management Study	200,000
(15)	Deep Creek Yadkin County	500,000
(16)	State Local Projects	2,000,000
	a. Town of Washington Park Maple Branch Water Management, Beaufort County	3,000
	b. Pungo River Snagging, Hyde County	22,000
	c. Muddy Creek Stream Restoration, McDowell County	50,000
	d. Town of Chadbourn Water Management, Columbus County	38,000
	e. Perquimans River and Mill Creek Drainage, Perquimans County	38,000
	f. Mitchell River Restoration, Surry County	111,875
	g. Town of Candor Park Drainage, Montgomery County	18,000
	h. Chowan River Restoration and Pembroke and Rocky Hock Creeks Drainage, Chowan County	67,000
	i. Town of Pine Knoll Shores Westport Marina Maintenance Dredging, Carteret County	25,000
	j. Town of Kenly Flood Control, Wilson and Johnston Counties	268,100
	k. Southern Pines Drainage Improvements, Moore County	118,575
	l. Other Projects	1,240,450
(17)	Aquatic Weed Control Lake Gaston and Statewide	200,000

(18) Adkin Branch Flood Control	120,000
(19) Neuse River Basin Flood Control Feasibility Study	100,000
(20) Little Sugar Creek Restoration Projects	360,000
(21) Emergency Flood Control Projects	187,000
(22) Projected Feasibility Studies	120,000
(23) Planning Assistance to Communities	150,000

Total \$32,936,000

SECTION 33.3.(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2001-2002 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

- (1) Corps of Engineers project feasibility studies.
- (2) Corps of Engineers projects whose schedules have advanced and require State-matching funds in fiscal year 2001-2002.
- (3) State-local water resources development projects. Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 2002-2003 fiscal year.

SECTION 33.3.(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

- (1) All projects listed in this section.
- (2) The estimated cost of each project.
- (3) The date that work on each project began or is expected to begin.
- (4) The date that work on each project was completed or is expected to be completed.
- (5) The actual cost of each project.

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

SECTION 33.3.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2001-2002 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental

Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 33.4. The appropriations made by the 2001 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

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

Capital improvement projects authorized by the 2001 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2001 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS

SECTION 33.5. When each capital improvement project appropriated by the 2001 General Assembly, other than those projects

under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EXPENDITURES OF FUNDS FROM THE RESERVE FOR REPAIRS AND RENOVATIONS

SECTION 33.6. Of the funds in the Reserve for Repairs and Renovations for the 2001-2002 fiscal year, forty-six percent (46%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations pursuant to G.S. 143-15.3A, in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, as approved by the Board of Governors of The University of North Carolina, and fifty-four percent (54%) shall be allocated to the Office of State Budget and Management for repairs and renovations pursuant to G.S. 143-15.3A.

Notwithstanding G.S. 143-15.3A, the Board of Governors may allocate funds for the repair and renovation of facilities not supported from the General Fund if the Board determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance. Any such finding shall be included in the Board's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall submit to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office, for their review, the proposed allocations

of these funds. Subsequent changes in the proposed allocations shall be reported prior to expenditure to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

SECTION 33.7. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Highway Fund capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

- (1) That the project was designed and bid within the scope as authorized by the General Assembly;
- (2) That the funds to supplement the project are from the same source as authorized for the original project;
- (3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and
- (4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

PROJECT COST INCREASE

SECTION 33.8. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

NEW PROJECT AUTHORIZATION

SECTION 33.9. Upon the request of the administration of any State agency, department, or institution, the Director of the Budget may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the construction of a capital improvement project pursuant to this section, the Director shall consult with the Joint Legislative Commission on Governmental Operations.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

SECTION 33.10. Funds that become available by gifts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

SECTION 33.11. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 2001 General Assembly may be expended only for specific projects set out by the 2001 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 2001 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been

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

Requested by: Representative Miner

SAMARKAND TIMBER SALE

SECTION 33.12. The Department of Juvenile Justice and Delinquency Prevention shall harvest and sell a portion of the timber on the real property at Samarkand Youth Academy. Notwithstanding Chapter 146 of the General Statutes, G.S. 66-58, and any other provision of law, the net proceeds derived from the sale of the timber in an amount not to exceed two hundred fifty thousand dollars (\$250,000) shall be deposited with the State Treasurer in a capital improvement and repair and renovation account to the credit of the Department of Juvenile Justice and Delinquency Prevention. The Department shall use the funds for major repair to the streets and parking lots at the Samarkand Youth Academy and for additional street lighting and repairs of buildings at the Academy.

The remainder of the net proceeds from the sale of the timber at Samarkand Youth Academy, if any, shall revert to the General Fund.

PART XXXIV. EDUCATION/HUMAN RESOURCES/MENTAL HEALTH REVENUE INITIATIVES

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

INCREASE STATE SALES TAX BY ONE-HALF CENT UNTIL JULY 1, 2003

SECTION 34.13.(a) The introductory language of G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four percent (4%)~~ four and one-half percent (4 ½%)."

SECTION 34.13.(b) The provisions of this section increasing the general rate of State sales tax do not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the

increase or entered into or awarded pursuant to a bid made before the effective date of the increase when the construction materials would otherwise be subject to the increased rate of tax provided under this section.

SECTION 34.13.(c) This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, 2003. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

LOCAL OPTION SALES TAX/HOLD HARMLESS

SECTION 34.14.(a) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 44.

"Third One-Half Cent (½¢) Local Government Sales and Use Tax.
"§ 105-515. Short title.

This Article is the Third One-Half Cent (½¢) Local Government Sales and Use Tax Act.

"§ 105-516. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (½¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (½¢) local sales and use tax under Article 42 of this Chapter.

"§ 105-517. Levy.

(a) After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (½%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

(b) Without Vote. – If the question of whether to levy taxes under this Article has not been defeated in a special election held in the county within two years, the board of commissioners of a county may, by resolution, levy one-half percent (½%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Before adopting a resolution under this subsection, the board of commissioners must give at least 10 days'

public notice of its intent to adopt the resolution and must hold a public hearing on the issue of adopting the resolution.

(c) Effective Date. – A tax levied under this Article may not become effective before July 1, 2003.

"§ 105-518. County election on adoption of tax.

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct a special election on the question of whether to levy local one-half percent (½%) sales and use taxes in the county as provided in this Article. The election must be held on a date jointly agreed upon by the two boards and must be held in accordance with the procedures of G.S. 163-287.

(b) Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

FOR AGAINST

one-half percent (½%) local sales and use taxes, to replace the current one-half percent (½%) State sales and use taxes that end July 1, 2003.'

"§ 105-519. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

"§ 105-520. Distribution of taxes.

(a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each taxing county one-half of the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate one-half of the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

(b) Per Capita. – The Secretary must, on a monthly basis, allocate the remaining net proceeds of the tax collected under this Article among the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).

(c) Distribution Between Counties and Cities. – The Secretary must divide and distribute the funds allocated under this section each month between each taxing county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this

subsection for a month if it is not entitled to a distribution under G.S. 105-501 for the same month.

"§ 105-521. Transitional local government hold harmless.

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

- (1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.
- (2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.
- (3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.
- (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (½¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (½¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before September 15, 2003, and each September 15 thereafter, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars (\$100.00).

On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 thereafter, the amount distributed under this section for the current fiscal year."

SECTION 34.14.(b) Notwithstanding the provisions of G.S. 105-466(c), a tax levied during the 2003 calendar year under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, may become effective on the first day of any calendar month beginning on or after July 1, 2003. Notwithstanding the provisions of G.S. 105-466(c), if a county levies a tax during the 2003 calendar year under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, the county is required to give the Secretary of Revenue only 30 days' advance notice of the tax levy. For taxes levied on or after January 1, 2004, the provisions of G.S. 105-466(c) apply.

SECTION 34.14.(c) A tax levied under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, does not apply to construction materials purchased to fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 44 of Chapter 105 of the General Statutes.

SECTION 34.14.(d) This section is effective when it becomes law.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

LOCAL GOVERNMENT REIMBURSEMENTS

SECTION 34.15.(a) The following sections of the General Statutes are repealed:

- (1) G.S. 105-164.44C. Reimbursement for sales taxes on food stamp foods and supplemental foods.
- (2) G.S. 105-275.1. Reimbursement for exclusion of manufacturers' inventories and poultry and livestock.
- (3) G.S. 105-275.2. Reimbursement to counties and municipalities for repeal of State tax on intangible personal property.
- (4) G.S. 105-277.001. Reimbursement for exclusion of retailers' and wholesalers' inventories.

- (5) G.S. 105-277.1A. Property classified for taxation at reduced valuation; duties of tax collectors; reimbursement of localities for portion of tax lost.

SECTION 34.15.(b) This section becomes effective July 1, 2003.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

SALES TAX HOLIDAY

SECTION 34.16.(a) Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.13C. Sales and use tax holiday.

(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) Clothing accessories, such as hats, scarves, hosiery, and handbags, with a sales price of one hundred dollars (\$100.00) or less per item.
- (3) Footwear with a sales price of one hundred dollars (\$100.00) or less per item.
- (4) School supplies, such as pens, pencils, paper, binders, notebooks, textbooks, reference books, book bags, lunchboxes, and calculators, with a sales price of one hundred dollars (\$100.00) or less per item.
- (5) Computers, printers and printer supplies, and educational computer software, with a sales price of three thousand five hundred dollars (\$3,500) or less per item.

(b) The exemption allowed by this section does not apply to the following:

- (1) Sales of jewelry, cosmetics, eyewear, wallets, or watches.
- (2) Sales of furniture.
- (3) Sales involving a layaway contract or a similar deferred payment and delivery plan.
- (4) Sales of an item for use in a trade or business.
- (5) Rentals.

(c) For the purpose of this section, "computer" means a central processing unit for personal use and any peripherals sold with it and any computer software installed at the time of purchase."

SECTION 34.16.(b) G.S. 105-467, as amended by S.L. 2001-347, reads as rewritten:

"§ 105-467. *Scope of sales tax.*

(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the transactions listed in this subsection. The sales tax authorized by this Article does not apply to sales that are taxable by the State under G.S. 105-164.4 but are not specifically included in this subsection.

- (1) The sales price of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b).
- (2) The gross receipts derived from the lease or rental of tangible personal property when the lease or rental of the property is subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).
- (3) The gross receipts derived from the rental of any room or other accommodations subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(3).
- (4) The gross receipts derived from services rendered by laundries, dry cleaners, and other businesses subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(4).
- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp Program, 7 U.S.C. § 51.

(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13~~ G.S. 105-164.13, the State sales and use tax holiday contained in G.S. 105-164.13C, and the State refund provisions contained in G.S. 105-164.14 apply to the local sales and use tax authorized to be levied and imposed under this Article. A taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax.

(c) Sourcing. – The local sales tax authorized to be imposed and levied under this Article applies to taxable transactions by retailers whose place of business is located within the taxing county. The sourcing principles in G.S. 105-164.4B apply in determining whether the local sales tax applies to a transaction."

SECTION 34.16.(c) The second paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws is rewritten to read:

"The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use tax holiday contained in G.S. 105-164.13C apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax imposed under

this division, to change, alter, add, or delete any exemptions or exclusions contained under G.S. 105-164.13."

SECTION 34.16.(d) This section becomes effective January 1, 2002, and applies to sales made on or after that date.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

EQUALIZE TAXATION OF SATELLITE TV AND CABLE TV

SECTION 34.17.(a) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(6) The rate of five percent (5%) applies to the gross receipts derived from providing direct-to-home satellite service to subscribers in this State. A person engaged in the business of providing direct-to-home satellite service is considered a retailer under this Article."

SECTION 34.17.(b) G.S. 105-164.3 is amended by adding the following new subdivision to read:

"§ 105-164.3. Definitions.

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

...

(4a) Direct-to-home satellite service. – Programming transmitted or broadcast by satellite directly to the subscribers' premises without the use of ground equipment or distribution equipment, except equipment at the subscribers' premises or the uplink process to the satellite."

SECTION 34.17.(c) This section becomes effective January 1, 2002, and applies to sales made on or after that date.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

NEW TAX BRACKET FOR INCOME OVER \$200,000

SECTION 34.18.(a) G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$21,250</u>	<u>6%</u>
<u>\$21,250</u>	<u>\$100,000</u>	<u>7%</u>
<u>\$100,000</u>	<u>\$200,000</u>	<u>7.75%</u>
<u>\$200,000</u>	<u>NA</u>	<u>8.25%</u>

~~On the North Carolina taxable income up to twenty one thousand two hundred fifty dollars (\$21,250), six percent (6%).~~

~~On the amount over twenty one thousand two hundred fifty dollars (\$21,250) and up to one hundred thousand dollars (\$100,000), seven percent (7%).~~

~~On the amount over one hundred thousand dollars (\$100,000), seven and seventy five one hundredths percent (7.75%).~~

- (2) For heads of households, as defined in section 2(b) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$17,000</u>	<u>6%</u>
<u>\$17,000</u>	<u>\$80,000</u>	<u>7%</u>
<u>\$80,000</u>	<u>\$160,000</u>	<u>7.75%</u>
<u>\$160,000</u>	<u>NA</u>	<u>8.25%</u>

~~On the North Carolina taxable income up to seventeen thousand dollars (\$17,000), six percent (6%).~~

~~On the amount over seventeen thousand dollars (\$17,000) and up to eighty thousand dollars (\$80,000), seven percent (7%).~~

~~On the amount over eighty thousand dollars (\$80,000), seven and seventy five one hundredths percent (7.75%).~~

- (3) For unmarried individuals other than surviving spouses and heads of households:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$12,750</u>	<u>6%</u>
<u>\$12,750</u>	<u>\$60,000</u>	<u>7%</u>
<u>\$60,000</u>	<u>\$120,000</u>	<u>7.75%</u>
<u>\$120,000</u>	<u>NA</u>	<u>8.25%</u>

~~On the North Carolina taxable income up to twelve thousand seven hundred fifty dollars (\$12,750), six percent (6%).~~

~~On the amount over twelve thousand seven hundred fifty dollars (\$12,750) and up to sixty thousand dollars (\$60,000), seven percent (7%).~~

~~On the amount over sixty thousand dollars (\$60,000), seven and seventy five one hundredths percent (7.75%).~~

- (4) For married individuals who do not file a joint return under G.S. 105-152:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$10,625</u>	<u>6%</u>
<u>\$10,625</u>	<u>\$50,000</u>	<u>7%</u>
<u>\$50,000</u>	<u>\$100,000</u>	<u>7.75%</u>
<u>\$100,000</u>	<u>NA</u>	<u>8.25%</u>

~~On the North Carolina taxable income up to ten thousand six hundred twenty five dollars (\$10,625), six percent (6%).~~

~~On the amount over ten thousand six hundred twenty five dollars (\$10,625) and up to fifty thousand dollars (\$50,000), seven percent (7%).~~

~~On the amount over fifty thousand dollars (\$50,000), seven and seventy five one hundredths percent (7.75%)."~~

SECTION 34.18.(b) This section becomes effective for taxable years beginning on or after January 1, 2001, and expires for taxable years beginning on or after January 1, 2004. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

ELIMINATE THE MARRIAGE TAX PENALTY FOR THE STANDARD DEDUCTION

SECTION 34.19.(a) Effective for taxable years beginning on or after January 1, 2002, G.S. 105-134.6(c)(3) and (4) reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

...

- (3) Any amount deducted from gross income under section 164 of the Code as state, local, or foreign income tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount by which the taxpayer's allowable standard deduction has been increased under section 63(c)(4) of the Code, the taxpayer is required to add to taxable income under subdivision (4) of this subsection.

- (4) The amount by which the taxpayer's additional standard deduction for aged and blind has been increased for inflation under section 63(c)(4)(A) of the ~~Code~~ Code plus the amount by which the taxpayer's basic standard deduction, including adjustments for inflation, under the Code exceeds the appropriate amount in the following chart based on the taxpayer's filing status:

<u>Filing Status</u>	<u>Standard Deduction</u>
<u>Married filing jointly/</u>	
<u>Surviving Spouse</u>	\$5,500
<u>Head of Household</u>	4,400
<u>Single</u>	3,000
<u>Married filing separately</u>	<u>2,750"</u> .

SECTION 34.19.(b) Effective for taxable years beginning on or after January 1, 2003, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:

"(c) Additions. – The following additions to taxable income shall be made in calculating North Carolina taxable income, to the extent each item is not included in taxable income:

- ...
- (4) The amount by which the taxpayer's additional standard deduction for aged and blind has been increased for inflation under section 63(c)(4)(A) of the Code plus the amount by which the taxpayer's basic standard deduction, including adjustments for inflation, under the Code exceeds the appropriate amount in the following chart based on the taxpayer's filing status:

<u>Filing Status</u>	<u>Standard Deduction</u>
<u>Married filing jointly/</u>	
<u>Surviving Spouse</u>	\$5,500 <u>\$6,000</u>
<u>Head of Household</u>	4,400
<u>Single</u>	3,000
<u>Married filing separately</u>	2,750 <u>3,000"</u> .

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

INCREASE TAX CREDIT FOR CHILDREN

SECTION 34.20.(a) Effective for taxable years beginning on or after January 1, 2002, G.S. 105-151.24 reads as rewritten: "§ 105-151.24. Credit for children.

An individual whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part in an amount equal to ~~sixty dollars (\$60.00)~~ seventy-five dollars (\$75.00) for each dependent

child for whom the individual was allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code for the taxable year:

Filing Status	AGI
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 34.20.(b) Effective for taxable years beginning on or after January 1, 2003, G.S. 105-151.24, as amended by this section, reads as rewritten:

"§ 105-151.24. *Credit for children.*

An individual whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below is allowed a credit against the tax imposed by this Part in an amount equal to ~~seventy five dollars (\$75.00)~~ one hundred dollars (\$100.00) for each dependent child for whom the individual was allowed to deduct a personal exemption under section 151(c)(1)(B) of the Code for the taxable year:

Filing Status	AGI
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

ELIMINATE THE CHILDREN'S HEALTH INSURANCE CREDIT

SECTION 34.21.(a) G.S. 105-151.27 is repealed.

SECTION 34.21.(b) This section is effective for taxable years beginning on or after January 1, 2001.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

EQUALIZE TAXATION OF HMOs AND MEDICAL SERVICE COMPANIES

SECTION 34.22.(a) G.S. 105-228.5 reads as rewritten:

"§ 105-228.5. *Taxes measured by gross premiums.*

(a) Tax Levied. – A tax is levied in this section on insurers, Article 65 corporations, health maintenance organizations, and self-insurers. An ~~insurer~~-insurer, health maintenance organization, or Article 65 corporation that is subject to the tax levied by this section is not subject to franchise or income taxes imposed by Articles 3 and 4, respectively, of this Chapter.

(b) Tax Base. –

- (1) Insurers. – The tax imposed by this section on an insurer or a health maintenance organization shall be measured by gross premiums from business done in this State during the preceding calendar year.
- (2) Additional Local Fire and Lightning Rate. – The additional tax imposed by subdivision (d)(4) of this section shall be measured by gross premiums from business done in fire districts in this State during the preceding calendar year. For the purpose of this section, the term "fire district" has the meaning provided in G.S. 58-84-5.
- (3) Article 65 Corporations. – The tax imposed by this section on an Article 65 corporation shall be measured by gross collections from membership dues, exclusive of receipts from cost plus plans, received by the corporation during the preceding calendar year.
- (4) Self-insurers. – The tax imposed by this section on a self-insurer shall be measured by the gross premiums that would be charged against the same or most similar industry or business, taken from the manual insurance rate then in force in this State, applied to the self-insurer's payroll for the previous calendar year as determined under Article 2 of Chapter 97 of the General Statutes modified by the self-insurer's approved experience modifier.

(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this

State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

- (1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.
- (2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special benefits that are not annuities, means all premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of contract and premiums that were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or estate. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies.

(c) Exclusions. – Every insurer, in computing the premium tax, shall exclude all of the following from the gross amount of ~~premiums;~~ premiums, and the gross amount of excluded premiums is exempt from the tax imposed by this section:

- (1) All premiums received on or after July 1, 1973, from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, 457 or 501 of the Code as defined in G.S. 105-228.90.
- (2) Premiums or considerations received from annuities, as defined in G.S. 58-7-15.
- (3) Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.
- (4) The following premiums, to the extent federal law prohibits their taxation under this Article:
 - a. Federal Employees Health Benefits Plan premiums.
 - b. Medicaid or Medicare premiums.

~~The gross amount of the excluded premiums, funds, and considerations shall be exempt from the tax imposed by this section.~~

(d) Tax Rates; Disposition. –

- (1) ~~Workers' Workers'~~ Compensation. – The tax rate to be applied to gross premiums, or the equivalent thereof in the case of self-insurers, on contracts applicable to liabilities under the Workers' Compensation Act ~~shall be~~ is two and five-tenths percent (2.5%). The net proceeds shall be credited to the General Fund.
- (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums on all other ~~insurance—taxable~~ contracts issued by insurers ~~shall be~~ is one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.
- (3) Additional Statewide Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage, except in the case of marine and automobile policies, at the rate of one and thirty-three hundredths percent (1.33%). Twenty-five percent (25%) of the net proceeds of this additional tax shall be deposited in the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. The remaining net proceeds shall be credited to the General Fund.
- (4) Additional Local Fire and Lightning Rate. – An additional tax shall be applied to gross premiums on contracts of insurance applicable to fire and lightning coverage within fire districts at the rate of one-half of

one percent (1/2 of 1%). The net proceeds shall be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25.

- (5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations ~~shall be one half of one percent (1/2 of 1%).~~ is eight hundred thirty-three thousandths percent (0.833%). The net proceeds shall be credited to the General Fund.
- (6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance organizations is eight hundred thirty-three thousandths percent (0.833%). The net proceeds shall be credited to the General Fund.

(e) Report and Payment. – Each ~~insurer, Article 65 corporation, and self-insurer~~ taxpayer doing business in this State shall, within the first 15 days of March, file with the Secretary of Revenue a full and accurate report of the total gross premiums as defined in this section, the payroll and other information required by the Secretary in the case of a self-insurer, or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. The report shall be verified by the oath of the official or other representative responsible for transmitting it; the taxes imposed by this section shall be remitted to the Secretary with the report.

In the case of an insurer liable for the additional local fire and lightning tax, the report shall include the information required under G.S. 58-84-1.

(f) ~~Installment Payments Required.~~ – ~~Insurers, Article 65 corporations, and self-insurers~~ Taxpayers that are subject to the tax imposed by this section and have a premium tax liability, not including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The company shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary of Revenue may permit an insurance company to pay less than the required estimated payment when the insurer

reasonably believes that the total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment of an installment payment required by this subsection shall bear interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear interest as provided in G.S. 105-266(b) and, together with the interest, shall be credited to the company and applied against the taxes imposed upon the company under this Article.

(g) Exemptions. – This section does not apply to farmers' mutual assessment fire insurance companies or to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except members."

SECTION 34.22.(b) G.S. 58-6-25(a) reads as rewritten:

"(a) Charge Levied. – There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. The charge levied in this section is in addition to all other fees and taxes. The percentage rate of the charge is established pursuant to subsection (b) of this section. For each insurance company that is not an Article 65 corporation nor a health maintenance organization, the rate is applied to the company's premium tax liability for the taxable year. For Article 65 corporations and health maintenance organizations, the rate is applied to a ~~presumed~~ premium tax liability for the taxable year calculated as if the corporation or organization were ~~an insurer providing health insurance.~~ paying tax at the rate in G.S. 105-228.5(d)(2). In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

- (1) Additional taxes imposed by G.S. 105-228.8.
- (2) The additional local fire and lightning tax imposed by G.S. 105-228.5(d)(4).
- (3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. 97-133(a).
- (4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer."

SECTION 34.22.(c) G.S. 58-6-25(e) reads as rewritten:

"(e) Definitions. – The following definitions apply in this section:

- (1) Article 65 corporation. – Defined in G.S. 105-228.3.
- (2) Insurance company. – A company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. ~~105-228.8~~ or a health maintenance organization. ~~105-228.8.~~
- (3) Insurer. – Defined in G.S. 105-228.3."

SECTION 34.22.(d) G.S. 105-228.5(d)(5), as amended by subsection (a) of this section, reads as rewritten:

"(5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is ~~eight hundred thirty three thousandths percent (0.833%)~~. one percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 34.22.(e) G.S. 105-228.5(d)(6), as enacted by subsection (a) of this section, reads as rewritten:

"(6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance organizations is ~~eight hundred thirty three thousandths percent (0.833%)~~. one percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 34.22.(f) Subsections (d) and (e) of this section become effective for taxable years beginning on or after January 1, 2003. The remainder of this section is effective for taxable years beginning on or after January 1, 2002.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

SPIRITUOUS LIQUOR SALES TAX AND EXCISE TAX

SECTION 34.23.(a) G.S. 105-164.13(37) is repealed.

SECTION 34.23.(b) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(6) The rate of six percent (6%) applies to the sales price of spirituous liquor other than mixed beverages. As used in this subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the meanings provided in G.S. 18B-101."

SECTION 34.23.(c) G.S. 105-113.80(c) reads as rewritten:

"(c) Liquor. – An excise tax of twenty-eight percent (28%) is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse freight and bailment charges, and (ii) a markup for local ABC boards. ~~This tax is in lieu of sales and use taxes; accordingly, liquor is exempt from those taxes as provided in G.S. 105-164.13(37).~~"

SECTION 34.23.(d) G.S. 105-113.80(c), as amended by subsection (c) of this section, reads as rewritten:

"(c) Liquor. – An excise tax of ~~twenty-eight percent (28%)~~ twenty-five percent (25%) is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's price plus (i) the State ABC warehouse

freight and bailment charges, and (ii) a markup for local ABC boards."

SECTION 34.23.(e) Subsection (d) of this section becomes effective February 1, 2002. The remainder of this section becomes effective December 1, 2001, and applies to sales made on or after that date.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

NO TAX BREAK FOR LUXURY CARS/NO FIRE & RESCUE VEHICLE TAX

SECTION 34.24.(a) G.S. 105-187.3(a) reads as rewritten:

"(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-187.4. The tax may not be more than one thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The tax may not be more than one thousand five hundred dollars (\$1,500) for each certificate of title issued for any other motor vehicle.~~"

SECTION 34.24.(b) G.S. 105-187.5(b) reads as rewritten:

"(b) Rate. – The tax rate on the gross receipts from the short-term lease or rental of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long-term lease or rental of a motor vehicle is three percent (3%). Gross receipts does not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the lease or rental price. The maximum tax in G.S. 105-187.3(a) on certain commercial motor vehicles applies to a continuous lease or rental of such a motor vehicle to the same person."

SECTION 34.24.(c) G.S. 105-187.9 reads as rewritten:

"§ 105-187.9. *Disposition of tax proceeds.*

(a) Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.

(b) In each fiscal year the State Treasurer shall transfer the ~~sum of one hundred seventy million dollars (\$170,000,000)~~ of amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

- (1) The sum of one hundred seventy million dollars (\$170,000,000).
- (2) In the 2001-2002 fiscal year, the sum of one million seven hundred thousand dollars (\$1,700,000). In the 2002-2003 fiscal year, the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

SECTION 34.24.(d) G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (4) By will or intestacy.
- (5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
- (6) By a distribution of marital or divisible property incident to a marital separation or divorce.
- (7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.
- (8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
 - a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
 - b. By a local board of education.
- (9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:
 - a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire.

b. A four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.

c. An emergency services vehicle."

SECTION 34.24.(e) G.S. 105-187.1 reads as rewritten:

"§ 105-187.1. *Definitions.*

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- (1) ~~"Commissioner"~~ means the Commissioner. – The Commissioner of Motor Vehicles.
- (2) ~~"Division"~~ means the Division. – The Division of Motor Vehicles, Department of Transportation.
- (3) ~~"Long term lease or rental"~~ means a Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
- (3a) Rescue squad. – An organization that provides rescue services, emergency medical services, or both.
- ~~(3a)~~(3b) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.
- (4) ~~"Short term lease or rental"~~ means a Short-term lease or rental. – A lease or rental that is not a long-term lease or rental."

SECTION 34.24.(f) Subsection (c) of this section is effective on and after July 1, 2001. The remainder of this section becomes effective October 1, 2001, and applies to certificates of title issued on or after that date.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

UNIFORM TELECOMMUNICATIONS TAX AT 6%

SECTION 34.25.(a) If House Bill 571, 2001 General Assembly, becomes law on or before January 1, 2002, G.S. 105-164.4(a)(4c), as amended by House Bill 571, reads as rewritten:

"(4c) The rate of ~~four and one half percent (4.5%)~~ six percent (6%) applies to the gross receipts derived from providing telecommunications service. A person who provides telecommunications service is considered a retailer under this Article. Telecommunications service is taxed in accordance with G.S. 105-164.4B."

SECTION 34.25.(b) If House Bill 571, 2001 General Assembly, becomes law on or before January 1, 2002, G.S. 105-164.44F(a), as enacted by House Bill 571, reads as rewritten:

"(a) Amount. – The Secretary must distribute to the cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is ~~twenty-four and four-tenths percent (24.4%)~~ eighteen and twenty-six hundredths percent (18.26%) of the net proceeds of the taxes collected during the quarter, minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must distribute the specified percentage of the proceeds, less the 'freeze deduction' among the cities in accordance with this section."

SECTION 34.25.(c) This section becomes effective January 1, 2002, and applies to taxable services reflected on bills dated on or after January 1, 2002.

Requested by: Senators Hoyle, Kerr, Plyler, Odom, Lee; Representatives Allen, Buchanan, Luebke, Wainwright, Easterling, Oldham, Redwine

EFFECTIVE DATE

SECTION 34.26. Except as otherwise provided in this Part, this Part is effective when it becomes law.

PART XXXVI. MISCELLANEOUS PROVISIONS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EXECUTIVE BUDGET ACT APPLIES

SECTION 36.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

COMMITTEE REPORT

SECTION 36.2.(a) The Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated September 19, 2001, which was distributed in the Senate and House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget

Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 36.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2001-2003 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The Director of the Budget submitted the itemized budget requests to the General Assembly on March 12, 2001, in the document, "The North Carolina State Budget, Summary of Recommendations for 2001-2003". The beginning appropriation for the 2001-2002 fiscal year and the 2002-2003 fiscal year for the various departments, institutions, and other spending agencies of the State is referenced in this document as the recurring baseline budget. The recurring baseline budget was derived from the December 31, 2000, authorized budget by applying adjustments for nonrecurring items, building reserves, enrollment and entitlement changes, and transfers between budget codes.

The General Assembly revised the recurring baseline budget for the 2001-2002 fiscal year and the 2002-2003 fiscal year submitted by the Director of the Budget, in accordance with the steps that follow, and the line item detail in the budget enacted by the General Assembly may be derived accordingly:

- (1) The recurring baseline budget was revised in accordance with reductions and additions that were set out in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated September 19, 2001, together with any accompanying correction sheets.
- (2) Transfers of funds supporting programs were made in accordance with the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated September 19, 2001, together with any accompanying correction sheets.

SECTION 36.2.(c) The budget enacted by the General Assembly shall also be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted

by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

MOST TEXT APPLIES ONLY TO THE 2001-2003 FISCAL BIENNIUM

SECTION 36.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2001-2003 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2001-2003 fiscal biennium.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EFFECT OF HEADINGS

SECTION 36.4. The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act, except for effective dates referring to a Part.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

SEVERABILITY CLAUSE

SECTION 36.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson

EFFECTIVE DATE

SECTION 36.6. Except as otherwise provided, this act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 21st day of September, 2001.

Became law upon approval of the Governor at 11:15 a.m. on the 26th day of September, 2001.

S.B. 551

SESSION LAW 2001-425

AN ACT ALLOWING THE TOWN OF WELDON TO ENTER INTO AN ANNEXATION AGREEMENT AND DEFERRING AN ANNEXATION AND TO ALLOW THE DESIGN-BUILD

METHOD OF CONSTRUCTION ON A PROJECT OF THE
CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. Effective May 7, 2001, Section 2 of Session Law 2001-49 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes ~~law~~law, except that Section 1 of this act becomes effective June 30, 2011."

SECTION 2. Session Law 2001-49 is amended by adding new sections to read:

"**SECTION 1.1.** None of the territory described in Section 1 of this act may be annexed under Article 4A of Chapter 160A of the General Statutes by any municipality other than the Town of Weldon.

"**SECTION 1.2.** Notwithstanding any applicable provision of the General Statutes or any other public or local law, the Town of Weldon is granted certain contract powers as follows:

- (1) To enter into an agreement providing that property described in Section 1 of this act may not be involuntarily annexed by the Town prior to June 30, 2011, under the General Statutes as they now exist or may be subsequently amended. The Town of Weldon shall not seek to repeal this act upon its approval by the General Assembly.
- (2) Any agreement entered into as provided in subdivision (1) of this section is specifically determined to be consistent with the public policy of the State of North Carolina.
- (3) Any agreement entered into as provided in subdivision (1) of this section is a continuing agreement and is binding on and enforceable against the current and future members of the Board of Commissioners of the Town of Weldon during the full term of such agreement and any extension thereof.
- (4) The parties to any agreement entered into as provided in subdivision (1) of this section are authorized by this section to modify, amend, and extend such agreement on mutual written consent, without the approval of the General Assembly, provided that any such modification or amendment does not materially alter the concept of the agreement.
- (5) To accept payments in lieu of taxes as consideration for such agreement."

SECTION 3. Notwithstanding G.S. 143-128, 143-129, and 143-132, the City of Roanoke Rapids may use the design-build method of construction for the Neighborhood Resource Center on the

site of the old A&P building on the corner of Third and Jackson Streets.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of September, 2001.

Became law on the date it was ratified.

H.B. 1324**SESSION LAW 2001-426**

AN ACT TO AMEND DEFINITIONS APPLYING TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM IN ORDER TO COMPLY WITH RECENT UNITED STATES DEPARTMENT OF LABOR REGULATIONS REQUIRING THAT CERTAIN VISA HOLDERS BE OFFERED RETIREMENT BENEFITS AND ELIGIBILITY FOR RETIREMENT BENEFITS ON THE SAME BASIS AS UNITED STATES CITIZENS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-21(10) reads as rewritten:

"(10) "Employee" shall mean any person who is regularly employed in the service of and whose salary or compensation is paid by the employer as defined in subdivision (11) of this section, whether employed or appointed for stated terms or otherwise, except teachers in the public schools and except such employees who hold office by popular election as are not required to devote a major portion of their time to the duties of their office. "Employee" also means all full-time, paid firemen who are employed by any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds. In all cases of doubt the Board of Trustees shall decide who is an employee. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "employee" solely because the person holds a temporary or time-limited visa."

SECTION 2. G.S. 135-1(10) reads as rewritten:

"(10) "Employee" shall mean all full-time employees, agents or officers of the State of North Carolina or any of its departments, bureaus and institutions other than educational, whether such employees are elected,

appointed or employed: Provided that the term "employee" shall not include any person who is a member of the Consolidated Judicial Retirement System, any member of the General Assembly or any part-time or temporary employee. Notwithstanding any other provision of law, "employee" shall include all employees of the General Assembly except participants in the Legislative Intern Program, pages, and reemployed beneficiaries in receipt of a monthly retirement allowance under this Chapter. In all cases of doubt, the Board of Trustees shall determine whether any person is an employee as defined in this Chapter. "Employee" shall also mean every full-time civilian employee of the army national guard and air national guard of this State who is employed pursuant to section 709 of Title 32 of the United States Code and paid from federal appropriated funds, but held by the federal authorities not to be a federal employee: Provided, however, that the authority or agency paying the salaries of such employees shall deduct or cause to be deducted from each employee's salary the employee's contribution in accordance with applicable provisions of G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement System; coverage of employees described in this sentence shall commence upon the first day of the calendar year or fiscal year, whichever is earlier, next following the date of execution of an agreement between the Secretary of Defense of the United States and the Adjutant General of the State acting for the Governor in behalf of the State, but no credit shall be allowed pursuant to this sentence for any service previously rendered in the above-described capacity as a civilian employee of the national guard: Provided, further, that the Adjutant General, in his discretion, may terminate the Retirement System coverage of the above-described national guard employees if a federal retirement system is established for such employees and the Adjutant General elects to secure coverage of such employees under such federal retirement system. Any full-time civilian employee of the national guard described above who is now or hereafter may become a member of the Retirement System may secure Retirement System credit for such service as a national guard civilian employee for the period preceding the time when such

employees became eligible for Retirement System coverage by paying to the Retirement System an amount equal to that which would have constituted employee contributions if he had been a member during the years of ineligibility, plus interest. Employees of State agencies, departments, institutions, boards, and commissions who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "employee" solely because the person holds a temporary or time-limited visa."

SECTION 3. G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1. In all cases of doubt, the Board of Trustees, hereinafter [hereinbefore] defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa."

SECTION 4. This act becomes effective August 1, 2001.

In the General Assembly read three times and ratified this the 20th day of September, 2001.

Became law upon approval of the Governor at 2:40 p.m. on the 28th day of September, 2001.

H.B. 232 SESSION LAW 2001-427

AN ACT TO SET THE INSURANCE REGULATORY CHARGE, THE PUBLIC UTILITY REGULATORY FEE, AND THE ELECTRIC MEMBERSHIP CORPORATION REGULATORY FEE; INCREASE THE NONRESIDENT FEE FOR SEARCHING PUBLIC ARCHIVES; UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE; ACCELERATE PAYMENT OF WITHHOLDING TAXES; ACCELERATE PAYMENT OF SALES AND UTILITY TAXES; AUTHORIZE CERTAIN COUNTIES TO ACQUIRE PROPERTY FOR PUBLIC SCHOOLS; PROVIDE GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES; EXEMPT FROM FUEL TAX FUEL USED BY COMMUNITY COLLEGES; MAKE CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS; AUTHORIZE THE COMMISSIONER OF LABOR TO ESTABLISH CERTAIN FEES; MAKE TECHNICAL AND CLARIFYING CHANGES TO THE FRANCHISE TAX; ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS; AND ACCELERATE PAYMENT OF THE REVENUE GENERATED BY THE STATE EXCISE TAX ON CONVEYANCES TO THE STATE AND EXEMPT PRISONS LOCATED ON LAND OWNED BY THE STATE AND BUILT PURSUANT TO A CONTRACT WITH THE STATE FROM PROPERTY TAX.

The General Assembly of North Carolina enacts:

INSURANCE REGULATORY CHARGE

SECTION 1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2001 calendar year.

SECTION 1.(b) This section is effective when it becomes law.

REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 2.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is one-tenth percent (0.1%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2001.

SECTION 2.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2001-2002 fiscal year is two hundred thousand dollars (\$200,000).

SECTION 2.(c) This section becomes effective July 1, 2001.

INCREASE NONRESIDENT SEARCH FEE

SECTION 3.(a) G.S. 121-5(d) reads as rewritten:

"(d) Preservation of Permanently Valuable Records. – Public records certified by the Department of Cultural Resources as being of permanent value shall be preserved in the custody of the agency in which the records are normally kept or of the North Carolina State Archives. Any State, county, municipal, or other public official is hereby authorized and empowered to turn over to the Department of Cultural Resources any State, county, municipal, or other public records no longer in current official use, and the Department of Cultural Resources is authorized in its discretion to accept such records, and having done so shall provide for their administration and preservation in the North Carolina State Archives. When such records have been thus surrendered, photocopies, microfilms, typescripts, or other copies of them shall be made and certified under seal of the Department, upon application of any person, which certification shall have the same force and effect as if made by the official or agency by which the records were transferred to the Department of Cultural Resources; and the Department may charge reasonable fees for ~~such~~ these copies. The Department may answer written inquiries for nonresidents of ~~North Carolina the State~~ and for ~~such this service~~ may charge a search and handling fee not to exceed ~~ten dollars (\$10.00), twenty-five dollars (\$25.00), the~~ The receipts from ~~which this~~ which this fee shall be used to defray the cost of providing ~~such this~~ such this service."

SECTION 3.(b) This section becomes effective January 1, 2002.

UPDATE INTERNAL REVENUE CODE REFERENCE

SECTION 4.(a) G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of January 1, ~~2000, 2001~~, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 4.(b) G.S. 105-130.5(a)(13) is repealed.

SECTION 4.(c) Notwithstanding subsection (a) of this section, any amendments to the Internal Revenue Code enacted in 2000 that increase North Carolina taxable income for the 2000 taxable year become effective for taxable years beginning on or after January 1, 2001.

SECTION 4.(d) Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2002. The remainder of this section is effective for taxable years beginning on or after January 1, 2001.

ACCELERATE PAYMENT OF WITHHOLDING TAXES

SECTION 5.(a) G.S. 105-163.6(b) reads as rewritten:

"(b) Quarterly. – An employer who withholds an average of less than ~~five hundred two hundred fifty~~ dollars (~~\$500.00~~)(\$250.00) of State income taxes from wages each month ~~shall~~must file a return and pay the withheld taxes on a quarterly basis. A quarterly return covers a calendar quarter and is due by the last day of the month following the end of the quarter."

SECTION 5.(b) G.S. 105-163.6(c) reads as rewritten:

"(c) Monthly. – An employer who withholds an average of at least ~~five hundred two hundred fifty~~ dollars (~~\$500.00~~)(\$250.00) but less than two thousand dollars (\$2,000) from wages each month ~~shall~~must file a return and pay the withheld taxes on a monthly basis. A return for the months of January through November is due by the 15th-day of the month following the end of the month covered by the return. A return for the month of December is due the following January 31."

SECTION 5.(c) In order to pay for its costs of postage, printing, and computer programming to implement this section, the Department of Revenue may withhold not more than seventy-five thousand dollars (\$75,000) from collections under Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

SECTION 5.(d) Subsection (c) of this section is effective when it becomes law. The remainder of this section becomes effective January 1, 2002, and applies to payments of withheld income taxes made on or after that date.

ACCELERATE PAYMENT OF SALES AND UTILITY TAXES

SECTION 6.(a) G.S. 105-164.16, as amended by S.L. 2001-347, reads as rewritten:

"§ 105-164.16. *Returns and payment of taxes.*

(a) General. – Sales and use taxes are payable quarterly, monthly, or semimonthly as specified in this section. A return is due quarterly or monthly as specified in this section. A return must be filed with the Secretary on a form prescribed by the Secretary and in the manner required by the Secretary. A return must be signed by the taxpayer or the taxpayer's agent.

A sales tax return must state the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. A use tax return must state the cost price of tangible personal property that was purchased or received during the reporting period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other information required by the Secretary. Returns that do not contain the required information will not be accepted. When an

unacceptable return is submitted, the Secretary must require a corrected return to be filed.

(b) Quarterly. – A taxpayer who is consistently liable for less than one hundred dollars (\$100.00) a month in State and local sales and use taxes must file a return and pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and is due by the 15th day of the month following the end of the quarter.

(b1) Monthly. – A taxpayer who is consistently liable for more than one hundred dollars (\$100.00) but less than ~~twenty thousand dollars (\$20,000)~~ ten thousand dollars (\$10,000) a month in State and local sales and use taxes must file a return and pay the taxes due on a monthly basis. A monthly return is due by the 15th day of the month following the calendar month covered by the return.

(b2) Semimonthly. – A taxpayer who is consistently liable for at least ~~twenty thousand dollars (\$20,000)~~ ten thousand dollars (\$10,000) a month in State and local sales and use taxes must pay the tax twice a month and must file a return on a monthly basis. One semimonthly payment covers the period from the first day of the month through the 15th day of the month. The other semimonthly payment covers the period from the 16th day of the month through the last day of the month. The semimonthly payment for the period that ends on the 15th day of the month is due by the 25th day of that month. The semimonthly payment for the period that ends on the last day of the month is due by the 10th day of the following month. ~~A~~

A return covers both semimonthly payment periods. The return is due by the 20th day of the month following the month of the payment periods covered by the return. A taxpayer is not subject to interest on or penalties for an underpayment for a semimonthly payment period if the taxpayer timely pays at least ~~95%~~ ninety-five percent (95%) of the amount due for each semimonthly payment period and includes the underpayment with the monthly return for those semimonthly payment periods.

(b3) Category. – The Secretary must monitor the amount of State and local sales and use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new taxpayer and must direct each taxpayer to pay tax and file returns in accordance with the appropriate schedule. In determining the amount of taxes due from a taxpayer, the Secretary must consider the total amount due from all places of business owned or operated by the same person as the amount due from that person. A taxpayer must file a return and pay tax in accordance with the Secretary's direction until notified in writing to file and pay under a different schedule.

~~(e) Sales Tax on Utility Services. — Taxes levied under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c) are payable when a return is required to be filed. A return for these taxes is due quarterly~~

or monthly as specified in this subsection. A utility that is allowed to pay tax under G.S. 105-120 on a quarterly basis shall file a quarterly return. All other utilities shall file a monthly return. A quarterly return is due by the last day of the month following the quarter covered by the return. A monthly return is due by the last day of the month following the month in which the taxes accrue, except the return for taxes that accrue in May. A return for taxes that accrue in May is due by June 25.

~~A utility that is required to file a monthly return may file an estimated return for the first month, the second month, or both the first and second months in a quarter. A utility is not subject to interest on or penalties for an underpayment submitted with an estimated monthly return if the utility timely pays at least ninety five percent (95%) of the amount due with a monthly return and includes the underpayment with the company's return for the third month in the same quarter.~~

(d) **(Effective until taxable years beginning on or after January 1, 2003)** Use Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases tangible personal property outside the State for a nonbusiness purpose is due on an annual basis. For an individual who is not required to file an individual income tax return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the last day of the calendar year and a use tax return is due by the following April 15. For an individual who is required to file an individual income tax return, the annual reporting period ends on the last day of the individual's income tax year, and the use tax must be paid on the income tax return as provided in G.S. 105-269.14.

(d) **(Effective for taxable years beginning on or after January 1, 2003)** Use Tax on Out-of-State Purchases. – Notwithstanding subsection (b), an individual who purchases tangible personal property outside the State for a nonbusiness purpose shall file a use tax return on an annual basis. The annual reporting period ends on the last day of the calendar year. The return is due by the due date, including any approved extensions, for filing the individual's income tax return."

SECTION 6.(b) G.S. 105-241(b) reads as rewritten:

"(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required as provided in this subsection.

(1) Corporate estimated taxes. – A corporation that is required under the Code to pay its federal-estimated corporate income tax by electronic funds transfer must pay its State-estimated corporate income tax by electronic funds transfer as provided in G.S. 105-163.40.

- (2) Semimonthly taxes. – A taxpayer that is required to pay tax on a semimonthly schedule must pay the tax by electronic funds transfer.
- (3) Large tax payments. – Except as ~~provided in G.S. 105-163.40,~~ otherwise provided in this subsection, the Secretary shall not require a taxpayer to pay a tax by electronic funds transfer unless, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars (\$20,000) a month. The twenty thousand dollar (\$20,000) threshold applies separately to each tax. The applicable period for a tax is a 12-month period, designated by the Secretary, preceding the imposition or review of the payment requirement. The requirement that a taxpayer pay a tax by electronic funds transfer remains in effect until suspended by the Secretary. Every 12 months after requiring a taxpayer to pay a tax by electronic funds transfer, the Secretary ~~shall~~ must determine whether, during the applicable period for that tax, the average amount of the taxpayer's required payments of the tax was at least twenty thousand dollars (\$20,000) a month. If it was not, the Secretary ~~shall~~ must suspend the requirement that the taxpayer pay the tax by electronic funds transfer and ~~shall~~ must notify the taxpayer in writing that the requirement has been suspended."

SECTION 6.(c) G.S. 105-116(b) reads as rewritten:

"(b) Report and Payment. – The tax imposed by this section is payable quarterly, semimonthly, or monthly ~~or quarterly~~ as specified in this subsection. A report ~~return~~ is due quarterly.

A water company or public sewerage company must pay tax quarterly when filing a return. An electric power company ~~shall pay tax monthly.~~ A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues, except the payment for tax that accrues in May. The payment for tax that accrues in May is due by June 25. A taxpayer is not subject to interest on or penalties for an underpayment of a monthly amount due if the taxpayer timely pays at least ninety five percent (95%) of the amount due and includes the underpayment with the next report the company files. must pay tax in accordance with the schedule that applies to its payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly. An electric power company is not subject to interest on or penalties for an underpayment for a semimonthly or monthly payment period if the electric power company timely pays at least ninety-five percent (95%) of the amount due for each semimonthly or

monthly payment period and includes the underpayment with the quarterly return for those semimonthly or monthly payment periods. A water company or a public sewerage company shall pay tax quarterly when filing a report. A

A quarterly ~~report~~ return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the ~~report~~ return. A taxpayer shall ~~must~~ submit a ~~report~~ return on a form provided by the Secretary. The ~~report shall~~ return must include the taxpayer's gross receipts from all property it owned or operated during the reporting period in connection with its business taxed under this ~~section and shall~~ section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the following information:

- (1) The taxpayer's gross receipts for the reporting period from business inside and outside this State, stated separately.
- (2) The taxpayer's gross receipts from commodities or services described in subsection (a) that are sold to a vendee subject to the tax levied by this section or to a joint agency established under Chapter 159B of the General Statutes or a city having an ownership share in a project established under that Chapter.
- (3) The amount of and price paid by the taxpayer for commodities or services described in subsection (a) that are purchased from others engaged in business in this State and the name of each vendor.
- (4) For an electric power company the entity's gross receipts from the sale within each city of the commodities and services described in subsection (a).

~~A taxpayer must report its gross receipts on an accrual basis. If a taxpayer's report does not state the taxpayer's taxable gross receipts derived within a city, the Secretary must determine a practical method of allocating part of the taxpayer's taxable gross receipts to the city."~~

SECTION 6.(d) G.S. 105-116(d) reads as rewritten:

"(d) Distribution. – Part of the taxes imposed by this section on electric power companies is distributed to cities under G.S. 105-116.1. If a taxpayer's return does not state the taxpayer's taxable gross receipts derived within a city, the Secretary must determine a practical method of allocating part of the taxpayer's taxable gross receipts to the city."

SECTION 6.(e) G.S. 105-120(b) reads as rewritten:

"(b) Report and Payment. – The tax imposed by this section is payable quarterly, semimonthly, or monthly in accordance with the schedule that applies to the company's payments of sales and use tax under G.S. 105-164.16, and a return is due quarterly. A company is

not subject to interest on or penalties for an underpayment for a semimonthly or monthly payment period if the company timely pays at least ninety-five percent (95%) of the amount due for each semimonthly or monthly payment period and includes the underpayment with the quarterly return for those semimonthly or monthly payment periods. monthly or quarterly as specified in this subsection. A report is due quarterly. A company that is liable for an average of less than three thousand dollars (\$3,000) a month in tax imposed by this section may, with the approval of the Secretary of Revenue, pay tax quarterly when filing a report. All other companies shall pay tax monthly. A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues, except the payment for tax that accrues in May. The payment for tax that accrues in May is due by June 25. A company is not subject to interest on or penalties for an underpayment of a monthly amount due if the company timely pays at least ninety five percent (95%) of the amount due and includes the underpayment with the next report the company files.

A quarterly ~~report-return~~ covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the ~~report-return~~. A company shall submit a ~~report-return~~ on a form provided by the Secretary. ~~The report shall-~~The return must state the company's gross receipts for the reporting period from providing local telecommunications service and from providing local telecommunications service within each city served. If a company's ~~report-return~~ does not state the company's taxable gross receipts derived within a city, the Secretary must determine a practical method of allocating part of the company's taxable gross receipts to the city. A company ~~shall-must~~ report its gross receipts on an accrual basis."

SECTION 6.(f) G.S. 105-187.43 reads as rewritten:

"§ 105-187.43. *Payment of the tax.*

(a) Payment. – The tax imposed by this Article is payable monthly semimonthly to the Secretary. ~~A monthly tax payment is due by the last day of the month that follows the month in which the tax accrues.~~ in accordance with the schedule set in G.S. 105-164.16 for semimonthly payments of sales and use taxes. The tax imposed by this Article on piped natural gas delivered to a sales or transportation customer accrues when the gas is delivered. The tax payable on piped natural gas received by a person who has direct access to an interstate pipeline for consumption by that person accrues when the gas is received.

(b) Small Underpayments. – A person is not subject to interest on or penalties for an underpayment of a ~~monthly~~ semimonthly amount due if the person timely pays at least ninety-five percent (95%) of the

amount due and includes the underpayment with the next return the person files.

(c) Return. – A return is due quarterly. A quarterly return covers a calendar quarter and is due by the last day of the month that follows the quarter covered by the return."

SECTION 6.(g) The Secretary of Revenue must review the thresholds in G.S. 105-163.6 for accelerated payment of withheld taxes to evaluate the efficiency, burden, and level of compliance under the current law. The Secretary must take steps to assure taxpayer compliance and must report the results of the study and any recommendations to the Revenue Laws Study Committee by April 1, 2002.

SECTION 6.(h) The Revenue Laws Study Committee may study the reporting requirements for electric power companies and the method by which the franchise tax on these companies is distributed to cities to determine simpler ways to achieve the goals of the current requirements and distribution method. The Committee may ask the League of Municipalities for its recommendations on this issue. The Committee may report its findings to the 2002 Regular Session of the 2001 General Assembly.

SECTION 6.(i) In order to pay for its costs of postage, printing, and computer programming to implement this section, the Department of Revenue may withhold not more than seventy-five thousand dollars (\$75,000) from collections under Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

SECTION 6.(j) Subsection (i) of this section is effective when it becomes law. The remainder of this section becomes effective January 1, 2002, and applies to taxes levied on or after that date.

CERTAIN COUNTIES MAY ACQUIRE PROPERTY FOR PUBLIC SCHOOLS

SECTION 7.(a) G.S. 153A-158.1(e), as amended by S.L. 2001-76, reads as rewritten:

"(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Robeson, Rockingham, Rowan,

Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, and Wilson ~~Wilson~~, and Yadkin Counties."

SECTION 7.(b) This section is effective when it becomes law.

GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES

SECTION 8.(a) G.S. 12-3.1 reads as rewritten:

"§ 12-3.1. *Fees and charges by agencies.*

(a) Authority. – Only the General Assembly has the power to authorize an agency to establish or increase a fee or charge for the rendering of any service or fulfilling of any duty to the public. In the construction of a statute, unless that construction would be inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute, the legislative grant of authority to an agency to make and promulgate rules shall not be construed as a grant of authority to the agency to establish by rule a fee or a charge for the rendering of any service or fulfilling of any duty to the public, unless the statute expressly provides for the grant of authority to establish a fee or charge for that specific service. Notwithstanding any other law, an agency's establishment or increase of a fee or charge shall not go into effect until one of the following conditions has been met:

- (1) The General Assembly has enacted express authorization of the amount of the fee or charge to be established or increased and the purpose of that fee or charge.
- (2) The General Assembly has enacted general authorization for the agency to establish or increase the fee or charge, and the agency has consulted with the Joint Legislative Commission on Governmental Operations on the amount and purpose of the fee or charge to be established or increased.

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

- (1) Agency. – Every "Agency" means every agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the legislative, executive or judicial branches of State government. "Agency" The term does not include counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such these subdivisions, the University of North Carolina, community colleges, hospitals, county or city boards of education, other local public districts,

units, or bodies of any kind, or private corporations created by act of the General Assembly.

- (2) Rule. – Every "~~Rule~~" means ~~every~~ rule, regulation, ordinance, standard, and amendment thereto adopted by any ~~agency and includes agency, including~~ rules and regulations regarding substantive matters, standards for products, procedural rules for complying with statutory or regulatory authority or requirements and executive orders of the Governor.

(c) Exceptions. – This section does not apply to any of the following:

- (1) Rules establishing fees or charges to State, federal or local governmental units.
- (2) A reasonable fee or charge for copying, transcripts of public hearings, State publications, or mailing a document or other item.
- (3) Reasonable registration fees covering the cost of a conference or workshop.
- (4) Reasonable user fees covering the cost of providing data processing services."

SECTION 8.(b) This section is effective when it becomes law.

COMMUNITY COLLEGE FUEL TAX EXEMPTION

SECTION 9.(a) G.S. 105-449.88 reads as rewritten:

"§ 105-449.88. *Exemptions from the excise tax.*

The excise tax on motor fuel does not apply to the following:

- (1) Motor fuel removed, by transport truck or another means of transfer outside the terminal transfer system, from a terminal for export, if the motor fuel is removed by a licensed distributor or a licensed exporter and the supplier of the motor fuel collects tax on it at the rate of the motor fuel's destination state.
- (1a) Motor fuel removed by transport truck from a terminal for export if the motor fuel is removed by a licensed distributor or licensed exporter, the supplier that is the position holder for the motor fuel sells the motor fuel to another supplier as the motor fuel crosses the terminal rack, the purchasing supplier or its customer receives the motor fuel at the terminal rack for export, and the supplier that is the position holder collects tax on the motor fuel at the rate of the motor fuel's destination state.
- (2) Motor fuel sold to the federal government for its use.
- (3) Motor fuel sold to the State for its use.

- (4) Motor fuel sold to a local board of education for use in the public school system.
- (5) Diesel that is kerosene and is sold to an airport.
- (6) Motor fuel sold to a charter school for use for charter school purposes.
- (7) Motor fuel sold to a community college for use for community college purposes."

SECTION 9.(b) G.S. 115D-5 is amended by adding a new subsection to read:

"(n) The North Carolina Community Colleges System Office shall provide the Department of Revenue with a list of all community colleges, including name, address, and other identifying information requested by the Department of Revenue. The North Carolina Community Colleges System Office shall update this list whenever there is a change."

SECTION 9.(c) This section becomes effective January 1, 2002.

CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS

SECTION 10.(a) G.S. 105-130.5(b)(3a) and (3b), as enacted by S.L. 2001-327, reads as rewritten:

"(b) The following deductions from federal taxable income shall be made in determining State net income:

- ...
- (3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income.
- (3b) Any amount included in federal taxable income under section 78 or section 951 of the ~~Code~~, Code, net of related expenses."

SECTION 10.(b) This section is effective for taxable years beginning on or after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of corporation income tax to the extent the underpayment was created or increased by this section.

LABOR COMMISSIONER FEE AUTHORITY

SECTION 11.(a) G.S. 95-105 is repealed.

SECTION 11.(b) G.S. 95-106 is repealed.

SECTION 11.(c) G.S. 95-107 reads as rewritten:

"§ 95-107. *Assessment and collection of fees; certificates of safe operation.*

The assessment of the fees ~~pursuant to this Article~~ adopted by the Commissioner pursuant to G.S. 95-110.5 and G.S. 95-111.4 shall be made against the owner or operator of ~~such the~~ the equipment and may be collected at the time of inspection. If the fees are not collected at the time of inspection, the Department must bill the owner or operator of the equipment for the amount of the fee assessed ~~under this Article~~ for the inspection of the equipment and the amount assessed is payable by the owner or operator of the equipment upon receipt of the bill. Certificates of safe operation may be withheld by the Department of Labor until such time as the assessed fees are collected."

SECTION 11.(d) G.S. 95-108 reads as rewritten:

"§ 95-108. *Disposition of fees.*

All fees collected by the Department of Labor pursuant to ~~this Article~~ G.S. 95-110.5 and G.S. 95-111.4 shall be deposited with the State Treasurer and shall be used exclusively for inspection ~~purposes of the equipment referenced in this Article.~~ and certification purposes."

SECTION 11.(e) G.S. 95-110.5 is amended by adding a new subdivision to read:

"(20) To establish fees not to exceed two hundred dollars (\$200.00) for the inspection and issuance of certificates of operation for all devices and equipment subject to this Article upon installation or alteration, for each follow-up inspection, and for annual periodic inspections thereafter."

SECTION 11.(f) G.S. 95-111.4 is amended by adding a new subdivision to read:

"(19) To establish fees not to exceed two hundred fifty dollars (\$250.00) for the inspection and issuance of certificates of operation for devices subject to this Article that are in use."

SECTION 11.(g) Subsection (a) of this section becomes effective upon the effective date of a rule adopted pursuant to G.S. 95-110.5(20), as enacted by this section. Subsection (b) of this section becomes effective upon the effective date of a rule adopted pursuant to G.S. 95-111.4(19), as enacted by this section. The remainder of this section is effective when it becomes law.

TECHNICAL AND CLARIFYING CHANGES TO THE FRANCHISE TAX

SECTION 12.(a) G.S. 105-122(d1) reads as rewritten:

"(d1) Credits. – A corporation is allowed ~~the following credits~~ a credit against the tax imposed by this section for a taxable ~~year~~ year equal to

(1) ~~The credit claimed for the taxable year under Part 5 of Article 4 of this Chapter.~~

(2) ~~One half~~

one-half of the amount of tax payable during the taxable year under Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer."

SECTION 12.(b) This section is effective when it becomes law.

ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS

SECTION 13.(a) G.S. 105-472(a) reads as rewritten:

"§ 105-472. *Disposition and distribution of taxes collected.*

(a) County Allocation. – The Secretary shall, on a ~~quarterly~~ monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the ~~quarterly~~ monthly distribution.

(b) Distribution Between Counties and Cities. – The Secretary shall divide the amount allocated to each taxing county among the county and its municipalities in accordance with the method determined by the county. The board of county commissioners shall, by resolution, choose one of the following methods of distribution:

(1) Per Capita Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and to the municipalities in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the taxing county is

considered its "total population". In order to make the distribution, the Secretary shall determine a per capita figure by dividing the amount allocated to each taxing county by the total population of that county plus the total population of all municipalities in the county. The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each municipality in the county; each respective product shall be the amount to be distributed to the county and to each municipality in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer.

- (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding the distribution. For purposes of this section, the amount of the ad valorem taxes levied by a county or municipality includes ad valorem taxes levied by the county or municipality in behalf of a taxing district and collected by the county or municipality. In addition, the amount of taxes levied by a county includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to each county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality that fails to provide the Department of Revenue with information concerning ad valorem taxes levied by it adequate to permit a timely determination of its appropriate share of tax proceeds collected under this Article may be excluded by the Secretary from each ~~quarterly~~ monthly distribution with respect to which the information was not provided in a timely manner, and those tax proceeds shall then be distributed only to the remaining counties

or municipalities, as appropriate. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located in the county for any ~~quarter-month~~ with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the county and the municipalities in the county, the Department shall use the last property valuation of the public service company that has been certified.

The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for the resolution to be effective, a certified copy of it must be delivered to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails to adopt a resolution choosing a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Secretary, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year.

(c) Municipality Defined. – As used in this Article, the term "municipality" means "city" as defined in G.S. 153A-1.

(d) No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

SECTION 13.(b) G.S. 105-486(a) reads as rewritten:

"(a) County Allocation. – The Secretary shall, on a ~~quarterly~~ monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer."

SECTION 13.(c) G.S. 105-486(c) reads as rewritten:

"(c) Distribution Between Counties and Cities. – The amount allocated to each taxing county shall then be divided among the county and its municipalities in accordance with the method by which

the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. ~~If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter."~~

SECTION 13.(d) G.S. 105-501 reads as rewritten:

"§ 105-501. *Distribution of additional taxes.*

The Secretary shall, on a ~~quarterly~~ monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

~~If any taxes levied under this Article by a county have not been collected in that county for a full quarter because of the levy or repeal of the taxes, the Secretary shall distribute a pro rata share to that county for that quarter based on the number of months the taxes were collected in that county during the quarter.~~

In determining the net proceeds of the tax to be distributed, the Secretary shall deduct from the collections to be allocated an amount equal to ~~one-fourth~~ one-twelfth of the costs during the preceding fiscal year of:

- (1) The Department of Revenue in performing the duties imposed by G.S. 105-275.2 and by Article 15 of this Chapter.
- (2) The Property Tax Commission.
- (3) The Institute of Government in operating a training program in property tax appraisal and assessment.

- (4) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission."

SECTION 13.(e) Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

- (1) By deleting the word "quarterly" each time it appears and substituting the word "monthly".
- (2) By deleting the word "quarter" in the first sentence of the second paragraph and substituting the word "month".

SECTION 13.(f) G.S. 105-510(a), as enacted by Section 1 of S. L. 1997-417, reads as rewritten:

"(a) Distribution. – The Secretary shall, on a ~~quarterly~~monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article by that county. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this Article in that month and shall include them in the ~~quarterly~~monthly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate public transportation systems. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government that does not operate a public transportation system."

SECTION 13.(g) This section becomes effective July 1, 2003, and applies to amounts collected on or after that date.

ACCELERATE PAYMENT OF EXCISE TAX ON CONVEYANCES

SECTION 14.(a) G.S. 105-228.30(b) reads as rewritten:

"(b) The register of deeds of each county must remit the proceeds of the tax levied by this section to the county finance officer. The finance officer of each county must credit one-half of the proceeds to the county's general fund and remit the remaining one-half of the proceeds, less the county's allowance for administrative expenses, to the Department of Revenue on a ~~quarterly~~monthly basis. A county may retain two percent (2%) of the amount of tax proceeds allocated for remittance to the Department of Revenue as compensation for the county's cost in collecting and remitting the State's share of the tax. Of the funds remitted to it pursuant to this section, the Department of Revenue must credit seventy-five percent (75%) to the Parks and Recreation Trust Fund established under G.S. 113-44.15 and twenty-five percent (25%) to the Natural Heritage Trust Fund established under G.S. 113-77.7."

SECTION 14.(b) This section becomes effective July 1, 2003, and applies to amounts collected on or after that date.

PRISON PROPERTY TAX EXEMPTION

SECTION 15.(a) G.S. 105-275 is amended by adding a new subdivision to read:

"§ 105-275. *Property classified and excluded from the tax base.*

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

...

(39a) A correctional facility, including construction in progress, that is located on land owned by the State and is constructed pursuant to a contract with the State, and any leasehold interest in the land owned by the State upon which the correctional facility is located."

SECTION 15.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2001.

In the General Assembly read three times and ratified this the 20th day of September, 2001.

Became law upon approval of the Governor at 2:55 p.m. on the 28th day of September, 2001.

S.B. 433 SESSION LAW 2001-428

AN ACT TO INCORPORATE THE TOWN OF FAIRVIEW, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Fairview is enacted to read:

"Charter of the Town of Fairview.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Fairview are a body corporate and politic under the name 'Town of Fairview'. The Town of Fairview has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Fairview are as follows:

Beginning at the county line on Highway 601 North at Cabarrus County and Union County and following the county line east to Rocky River, then following the south side of Rocky River to Sikes

Mill Road. Follow the centerline of Sikes Mill Road, crossing Highway 218 East, until it intersects with Old Fish Road, then taking the centerline of Old Fish Road west until it intersects with Unionville-Brief Road. Taking the centerline of Unionville-Brief Road south until Unionville-Brief Road intersects with Clontz-Long Road. Following the centerline of Clontz-Long Road west until it intersects with Highway 601 and following the centerline of Highway 601 South until it intersects with Lawyers Road. Taking the centerline of Lawyers Road west until it intersects with Howey Bottoms Road. Taking the centerline of Howey Bottoms Road until it intersects with Mill Grove Road and following the centerline of Mill Grove Road west crossing Highway 218 West, until it reaches the Mecklenburg County line. Following the Mecklenburg County line until it reaches the Cabarrus County line and following the Cabarrus County line east to Highway 601 North.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Fairview shall be the Town Council, which shall have four members, and the Mayor.

"Section 3.2. **Manner of Electing Council.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and biennially thereafter, two members shall be elected to four-year terms.

"Section 3.3. **Temporary Officers.** Until the initial elections of 2003 provided for by Section 4.1 of this Charter, Richard Williams is hereby appointed Mayor, and Brad Purser, Kathy Casey, Jerry Clontz, and Libby Long are appointed members of the Town Council. They shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2003, and quadrennially thereafter, the Mayor shall be elected for a term of four years.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Fairview will operate under the Mayor-Council form of

government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2. From and after the effective date of this act, the citizens and property in the Town of Fairview shall be subject to municipal taxes levied for the fiscal year beginning July 1, 2001, and for that purpose, the Town shall obtain from Union County a record of property in the area herein incorporated which was listed for taxes as of January 1, 2001. The Town may adopt a budget ordinance for fiscal year 2001-2002 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2001-2002, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360 as if the taxes had been due and payable on September 1, 2001.

SECTION 3. The Union County Board of Elections shall conduct an election on a date set by it, not less than 70 nor more than 150 days after the date this act becomes effective, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Town of Fairview, the question of whether or not the area shall be incorporated as the Town of Fairview. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 4. In the election, the question on the ballot shall be:

" FOR AGAINST
Incorporation of the Town of Fairview".

SECTION 5. In the election, if a majority of the votes are cast "For the Incorporation of the Town of Fairview", Sections 1 and 2 of this act shall become effective on the date that the Union County Board of Elections certifies the results of the election. Otherwise, Sections 1 and 2 of this act shall have no force and effect.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law on the date it was ratified.

S.B. 35

SESSION LAW 2001-429

AN ACT TO MAKE A TECHNICAL CORRECTION IN THE BOUNDARY BETWEEN IREDELL AND MECKLENBURG COUNTIES, AND TO ALLOW THE TOWN OF SWANSBORO TO REQUIRE SIDEWALK IMPROVEMENTS THROUGH THE SITE PLAN REVIEW PROCESS UNDER THE AUTHORITY OF THE TOWN ZONING ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1998-15 reads as rewritten:

"SECTION 1. The boundary line between Iredell County and Mecklenburg County is hereby changed and relocated so as to divest Mecklenburg County of the territory described below, which territory shall vest in and become part of Iredell County:

That area commonly known as the Meck Neck, being all that land in Mecklenburg County which is connected by land to Iredell County and not connected by land to Mecklenburg County, and the area of Lake Norman in Mecklenburg County around such land, all as more particularly described as follows:

BEGINNING at Latitude 35° at 29.466"North and Longitude 80° at 56.597"West 35 degrees 29 minutes 28.42159 seconds North, Longitude 80 degrees 56 minutes 35.05785 seconds West (the "present location of Fixed Lighted Marker D1" as established by the global positioning system, a survey performed by the North Carolina Geodetic Survey and being approximately .3 mile south of the southerly most point of the Meck Neck Land Area); thence in a northeasterly direction in a straight line which passes through Latitude 35° at 30.024"North and Longitude 80° at 55.736"West 35 degrees 30 minutes 01.90664 seconds North, Longitude 80 degrees 55 minutes 43.40940 seconds West (the "present location of Fixed Lighted Marker D5" as established by the global positioning system) a survey performed by the North Carolina Geodetic Survey) to a point in the Mecklenburg County-Iredell County line located near where the old channel of Reeds Creek intersects said line; thence in a westerly direction with the Mecklenburg County-Iredell County line to the point where said line intersects the Lincoln County line; thence in a southerly direction with the Mecklenburg County-Lincoln County line to a point where a straight line from the present location of Fixed Lighted Marker D5 to the present location of Fixed Lighted Marker D1 extended would intersect with the Mecklenburg County-Lincoln County line; thence in a northeasterly direction with said straight line from the present location of Fixed Lighted Marker D5 to the present location of Fixed Lighted Marker D1 extended to the Mecklenburg County-Lincoln County Line to the present location of Fixed Lighted Marker D1, the point or place of BEGINNING. A plat of survey will be recorded in the office of the Register of Deeds in both Iredell and Mecklenburg Counties. All geographic positions are based on the North American Datum of 1983/86."

SECTION 1.1. The Town of Swansboro may require sidewalk improvements for all development that is subject to be reviewed under the site plan review provisions of the town zoning ordinance.

SECTION 1.2. Section 1 of this act applies to Iredell and Mecklenburg counties only. Section 1.1 of this act applies to the Town of Swansboro only.

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law on the date it was ratified.

H.B. 571 SESSION LAW 2001-430

AN ACT TO SIMPLIFY THE COLLECTION OF TELECOMMUNICATIONS TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding the following new subdivisions in the correct alphabetical order to read: "§ 105-164.3. Definitions.

The following definitions apply in this Article, except when the context clearly indicates a different meaning:

...

(8b) Mobile telecommunications service. – A radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves and includes all of the following:

- a. Both one-way and two-way radio communication services.
- b. A mobile service that provides a regularly interacting group of base, mobile, portable, and associated control and relay stations for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.
- c. Any service for which a federal license is required in a personal communications service.

...

(11a) Prepaid telephone calling arrangement. – A right that meets all of the following requirements:

- a. Authorizes the exclusive purchase of telecommunications service.
- b. Must be paid for in advance.
- c. Enables the origination of calls by means of an access number, authorization code, or another similar means, regardless of whether the access number or authorization code is manually or electronically dialed.

d. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.

...
 (16b) Service address. – The location of the telecommunications equipment from which a customer originates or receives telecommunications service. In the case of mobile telecommunications service, maritime systems, third-number calls, calling card calls, and other similar services for which the location of the equipment cannot be determined as part of the billing process, the telecommunications service provider may determine the location of the equipment based upon the customer's telephone number, the mailing address to which the bills are sent, or a street address provided by the customer if the street address is within the licensed service area of the service provider. In the case of telecommunications service paid through a payment mechanism that does not relate to the location of the equipment, such as a bank, travel, debit, or credit card, the service address is the address of the central office as determined by the area code and the first three digits of the seven-digit originating telephone number.

...
 (21a) Telecommunications service. – The transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, optical, microwave, or other medium, regardless of the protocol used for the transmission, conveyance, or routing. The term includes mobile telecommunications service and vertical services. Vertical services are switch-based services offered in connection with a telecommunications service, such as call forwarding services, caller ID services, and three-way calling services."

SECTION 2. G.S. 105-164.3(25) is repealed.

SECTION 3. G.S. 105-164.4(a)(4a) reads as rewritten:

"(4a) The rate of three percent (3%) applies to the gross receipts derived by a utility from sales of ~~electricity or local telecommunications service as defined by G.S. 105-120(e), electricity,~~ other than sales of electricity subject to tax under another subdivision in this section. ~~Gross receipts from sales of local telecommunications service do not include receipts from service provided by~~

~~means of public coin-operated pay telephone instruments and paid for by coin. A person who operates a utility sells electricity is considered a retailer under this Article.~~"

SECTION 4. G.S. 105-164.4(a)(4c) reads as rewritten:

"(4c) ~~The rate of six and one half percent (6 1/2%)~~ four and one-half percent (4.5%) applies to the gross receipts derived from providing ~~to~~ telecommunications services or private telecommunications services as defined by G.S. 105-120(e) that both originate from and terminate in the State and are not subject to the privilege tax under G.S. 105-120. ~~service.~~ A person who provides telecommunications service is considered a retailer under this Article. Telecommunications service is taxed in accordance with G.S. 105-164.4B. Any business entity that provides these services is considered a retailer under this Article. This subdivision does not apply to telephone membership corporations as described in Chapter 117 of the General Statutes."

SECTION 5. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(4d) The sale or recharge of prepaid telephone calling arrangements is taxable at the general rate of tax. The tax applies regardless of whether tangible personal property, such as a card or a telephone, is transferred. Prepaid telephone calling arrangements taxed under this subdivision are not subject to tax as a telecommunications service.

Prepaid telephone calling arrangements are taxable at the point of sale instead of at the point of use. If the sale or recharge of a prepaid telephone calling arrangement does not take place at a retailer's place of business, the sale or recharge is considered to have taken place at one of the following:

- a. The customer's shipping address, if an item of tangible personal property is shipped to the customer as part of the transaction.
- b. The customer's billing address or, for mobile telecommunications service, the customer's service address, if no tangible personal property is shipped to the customer as part of the transaction."

SECTION 6. Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.4B. Tax on telecommunications.

(a) General. – The gross receipts derived from providing telecommunications service in this State are taxed at the rate set in G.S. 105-164.4(a)(4c). Mobile telecommunications service is provided in this State if the customer's service address is in this State and the call originates or terminates in this State.

(b) Included in Gross Receipts. – Gross receipts derived from telecommunications service include the following:

- (1) Receipts from local, intrastate, interstate, toll, private, and mobile telecommunications service.
- (2) Charges for directory assistance, directory listing that is not yellow-page classified listing, call forwarding, call waiting, three-way calling, caller ID, and other similar services.
- (3) Customer access line charges billed to subscribers for access to the intrastate or interstate interexchange network.
- (4) Charges billed to a pay telephone provider who uses the telecommunications service to provide pay telephone service.

(c) Excluded From Gross Receipts. – Gross receipts derived from telecommunications service do not include any of the following:

- (1) Charges for telecommunications services that are a component part of or are integrated into a telecommunications service that is resold. Examples of services that are resold include carrier charges for access to an intrastate or interstate interexchange network, interconnection charges paid by a provider of mobile telecommunications service, and charges for the sale of unbundled network elements. An unbundled network element is a network element, as defined in 47 U.S.C. § 153(29), to which access is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3).
- (2) Telecommunications services that are resold as part of a prepaid telephone calling arrangement.
- (3) 911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and remitted to the Emergency Telephone System Fund under G.S. 62A-7 or the Wireless Fund under G.S. 62A-24.
- (4) Allowable surcharges imposed to recoup assessments for the Universal Service Fund.
- (5) Receipts of a pay telephone provider from the sale of pay telephone service.
- (6) Charges for commercial, cable, mobile, broadcast, or satellite video or audio service unless the service provides two-way communication, other than the

customer's interactive communication in connection with the customer's selection or use of the video or audio service.

- (7) Paging service, unless the service provides two-way communication.
 - (8) Charges for telephone service made by a hotel, motel, or another entity whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the charges are incidental to the occupancy of the entity's accommodations.
 - (9) Receipts from the sale, installation, maintenance, or repair of tangible personal property.
 - (10) Directory advertising and yellow-page classified listings.
 - (11) Voicemail services.
 - (12) Information services. – An information service is a service that can generate, acquire, store, transform, process, retrieve, use, or make available information through a communications service. Examples of an information service include an electronic publishing service and a web hosting service.
 - (13) Internet access service, electronic mail service, electronic bulletin board service, or similar on-line services.
 - (14) Billing and collection services.
 - (15) Charges for bad checks or late payments.
- (d) Bundled Services. – When a taxable telecommunications service is bundled with a service that is not taxable, the tax applies to the gross receipts from the taxable service in the bundle as follows:
- (1) If the service provider offers all the services in the bundle on an unbundled basis, tax is due on the unbundled price of the taxable service, less the discount resulting from the bundling. The discount for a service as the result of bundling is the proportionate price decrease of the service, determined on the basis of the total unbundled price of all the services in the bundle compared to the bundled price of the services.
 - (2) If the service provider does not offer one or more of the services in the bundle on an unbundled basis, tax is due on the taxable service based on a reasonable allocation of revenue to that service. If the service provider maintains an account for revenue from a taxable service, the service provider's allocation of revenue to that service for the purpose of determining the tax due on the service must reflect its accounting allocation of revenue to that service.

(e) Interstate Private Line. – The gross receipts derived from interstate private telecommunications service are taxable as follows:

- (1) One hundred percent (100%) of the charge imposed at each channel termination point in this State.
- (2) One hundred percent (100%) of the charge imposed for the total channel mileage between each channel termination point in this State.
- (3) Fifty percent (50%) of the charge imposed for the total channel mileage between the first channel termination point in this State and the nearest channel termination point outside this State.

(f) Call Center Cap. – The gross receipts tax on interstate telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay certificate issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to each legal entity.

(g) Credit. – A taxpayer who pays a tax legally imposed by another state on a telecommunications service taxable under this section is allowed a credit against the tax imposed in this section.

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

- (1) Call center. – Defined in G.S. 105-164.27A.
- (2) Interstate telecommunications service. – Telecommunications service that originates or terminates in this State, but does not both originate and terminate in this State, and is charged to a service address in this State.
- (3) Intrastate telecommunications service. – Telecommunications service that both originates and terminates in this State.
- (4) Local telecommunications service. – Telecommunications service that provides access to a local telephone network and enables a user to communicate with substantially everyone who has a telephone or radiotelephone station that is part of the local telephone network.
- (5) Mobile telecommunications service. – Defined in G.S. 105-164.3.
- (6) Private telecommunications service. – Telecommunications service that entitles a subscriber of the service to exclusive or priority use of a communications channel or group of channels.
- (7) Service address. – Defined in G.S. 105-164.3.
- (8) Telecommunications service. – Defined in G.S. 105-164.3.

- (9) Toll telecommunications service. – Any of the following:
- a. A service for which there is a toll charge that varies in amount with the distance or elapsed transmission time of each individual communication.
 - b. A service that entitles the subscriber, upon payment of a periodic charge, determined as a flat amount or on the basis of total elapsed transmission time, to an unlimited number of communications to or from all or a substantial portion of those who have a telephone or radiotelephone station in an area outside the local telephone network."

SECTION 7. G.S. 105-164.16(c) reads as rewritten:

"(c) Sales Tax on Utility Services.—Electricity and Telecommunications. – A return for taxes levied under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c) is due ~~quarterly or monthly as specified in this subsection.~~ A utility that is allowed to pay tax under G.S. 105-120 on a quarterly basis shall file a quarterly return. All other utilities shall file a monthly return. A quarterly return is due by the last day of the month following the quarter covered by the return. A monthly. The monthly return is due by the last day of the month following the month in which the taxes accrue, except the return for taxes that accrue in May. A return for taxes that accrue in May is due by June 25.

A ~~utility-retailer~~ that is required to file a monthly return may file an estimated return for the first month, the second month, or both the first and second months in a quarter. A ~~utility-retailer~~ is not subject to interest on or penalties for an underpayment submitted with an estimated monthly return if the ~~utility-retailer~~ timely pays at least ninety-five percent (95%) of the amount due with a monthly return and includes the underpayment with the ~~company's~~ retailer's return for the third month in the same quarter."

SECTION 8. G.S. 105-164.20 reads as rewritten:

"§ 105-164.20. *Cash or accrual basis of reporting.*

Any retailer, except a ~~utility,~~ retailer who sells electricity or telecommunications service, may report sales on either the cash or accrual basis of accounting upon making application to the Secretary for permission to use the basis selected. Permission granted by the Secretary to report on a selected basis continues in effect until revoked by the Secretary or the taxpayer receives permission from the Secretary to change the basis selected. A ~~utility-retailer~~ who sells electricity or telecommunications service must report its sales on an accrual basis. A sale ~~by a utility~~ of electricity or ~~intrastate telephone telecommunications~~ service is considered to accrue when the ~~utility~~ retailer bills its customer for the sale."

SECTION 9. G.S. 105-164.27A reads as rewritten:

~~"§ 105-164.27A. Direct pay certificate-permit.~~

(a) ~~Requirements.—Tangible Personal Property.~~ — A direct pay permit for tangible personal property authorizes its holder to purchase any tangible personal property without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases tangible personal property under a direct pay permit issued under this subsection is liable for use tax due on the purchase. The tax is payable when the property is placed in use. A direct pay permit issued under this subsection does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).

A person who purchases tangible personal property whose tax status cannot be determined at the time of the purchase because of one of the reasons listed below may apply to the Secretary for a ~~direct pay certificate-permit~~ direct pay permit for tangible personal property:

- (1) The place of business where the property will be used is not known at the time of the purchase and a different tax consequence applies depending on where the property is used.
- (2) The manner in which the property will be used is not known at the time of the purchase and one or more of the potential uses is taxable but others are not taxable.

~~(b) Procedure.—An application for a direct pay certificate Secretary and contain the information required by the Secretary. The Secretary may grant the application if the Secretary finds that the applicant complies with the sales and use tax laws and that the applicant's compliance burden will be greatly reduced by use of the certificate.~~

~~(c) Effect.—A direct pay certificate authorizes its holder to purchase any tangible personal property without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the certificate holder. A person who purchases tangible personal property under a direct pay certificate is liable for use tax due on the purchase. The tax is payable when the property is placed in use. A direct pay certificate does not apply to taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).~~

(b) Telecommunications Service. — A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases telecommunications service under a direct pay permit must file a return and pay the tax due monthly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service.

A call center that purchases interstate telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.

(c) Application. – An application for a direct pay permit must be made on a form provided by the Secretary and contain the information required by the Secretary. The Secretary may grant the application if the Secretary finds that the applicant complies with the sales and use tax laws and that the applicant's compliance burden will be greatly reduced by use of the permit.

(d) Revocation. – A direct pay ~~certificate-permit~~ is valid until the holder returns it to the Secretary or ~~it is revoked by the Secretary.~~ ~~The Secretary revokes it.~~ The Secretary may revoke a direct pay ~~certificate permit~~ if the holder of the ~~certificate-permit~~ does not file a sales and use tax return on time, does not pay sales and use on time, or otherwise fails to comply with the sales and use tax laws."

SECTION 10. Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44F. *Distribution of part of telecommunications taxes to cities.*

(a) Amount. – The Secretary must distribute to the cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is twenty-four and four-tenths percent (24.4%) of the net proceeds of the taxes collected during the quarter, minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-120, was required to be reduced beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must distribute the specified percentage of the proceeds, less the 'freeze deduction' among the cities in accordance with this section.

(b) Share of Cities Incorporated on or After January 1, 2001. – The share of a city incorporated on or after January 1, 2001, is its per capita share of the amount to be distributed to all cities incorporated on or after this date. This amount is the proportion of the total to be distributed under this section that is the same as the proportion of the population of cities incorporated on or after January 1, 2001, compared to the population of all cities. In making the distribution

under this subsection, the Secretary must use the most recent annual population estimates certified to the Secretary by the State Planning Officer.

(c) Share of Cities Incorporated Before January 1, 2001. – The share of a city incorporated before January 1, 2001, is its proportionate share of the amount to be distributed to all cities incorporated before this date. A city's proportionate share for a quarter is based on the amount of telephone gross receipts franchise taxes attributed to the city under G.S. 105-116.1 for the same quarter that was the last quarter in which taxes were imposed on telephone companies under repealed G.S. 105-120. The amount to be distributed to all cities incorporated before January 1, 2001, is the amount determined under subsection (a) of this section, minus the amount distributed under subsection (b) of this section.

The following changes apply when a city incorporated before January 1, 2001, alters its corporate structure. When a change described in subdivision (2) or (3) occurs, the resulting cities are considered to be cities incorporated before January 1, 2001, and the distribution method set out in this subsection rather than the method set out in subsection (b) of this section applies:

- (1) If a city dissolves and is no longer incorporated, the proportional shares of the remaining cities incorporated before January 1, 2001, must be recalculated to adjust for the dissolution of that city.
- (2) If two or more cities merge or otherwise consolidate, their proportional shares are combined.
- (3) If a city divides into two or more cities, the proportional share of the city that divides is allocated among the new cities on a per capita basis.

(d) Ineligible Cities. – An ineligible city is disregarded for all purposes under this section. A city incorporated on or after January 1, 2000, is not eligible for a distribution under this section unless it meets both of the following requirements:

- (1) It is eligible to receive funds under G.S. 136-41.2.
- (2) A majority of the mileage of its streets are open to the public."

SECTION 11. G.S. 105-116.1 reads as rewritten:

"§ 105-116.1. Distribution of gross receipts taxes to cities.

- (a) Definitions. – The following definitions apply in this section:
 - (1) Freeze deduction. – The amount by which the percentage distribution amount of a city was required to be reduced in fiscal year 1995-96 in determining the amount to distribute to the city.
 - (2) Percentage distribution amount. – Three and nine hundredths percent (3.09%) of the gross receipts derived

by an electric power company ~~and a telephone company~~ from sales within a city that are taxable under ~~G.S. 105-116 or G.S. 105-120~~. G.S. 105-116.

(b) Distribution. – The Secretary must distribute to the cities part of the taxes collected under this Article on electric power ~~companies and telephone~~ companies. Each city's share for a calendar quarter is the percentage distribution amount for that city for that quarter minus one-fourth of the city's hold-back amount and one-fourth of the city's proportionate share of the annual cost to the Department of administering the distribution. The Secretary must make the distribution within 75 days after the end of each calendar quarter.

(c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes on electric power companies and natural gas companies less than ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year but at least sixty percent (60%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Adjust the city's 1995-96 distribution by adding the city's freeze deduction attributable to receipts from electric power companies and natural gas companies to the amount distributed to the city for that year.
- (2) Compare the adjusted 1995-96 amount with the city's 1990-91 distribution.
- (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.
- (4) If the adjusted 1995-96 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction attributable to receipts from electric power companies and natural gas companies minus the difference between the city's 1990-91 distribution and the city's 1995-96 distribution.

(c1) Additional Limited Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes on electric power companies and natural gas companies less than sixty percent (60%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Adjust the city's 1999-2000 distribution by adding the city's freeze deduction attributable to receipts from electric power companies and natural gas companies to the amount distributed to the city for that year.
- (2) Compare the adjusted 1999-2000 amount with the city's 1990-91 distribution.

- (3) If the adjusted 1999-2000 amount is less than or equal to the city's 1990-91 distribution, the hold-back amount for the city is zero.
- (4) If the adjusted 1999-2000 amount is more than the city's 1990-91 distribution, the hold-back amount for the city is the city's freeze deduction attributable to receipts from electric power companies and natural gas companies minus the difference between the city's 1990-91 distribution and the city's 1999-2000 distribution.

(d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city that, in the 1995-96 fiscal year, received from gross receipts taxes on electric power companies and natural gas companies at least ninety-five percent (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by the following calculation:

- (1) Determine the amount by which the freeze deduction attributable to receipts from electric power companies and natural gas companies is reduced for all cities whose hold-back amount is determined under subsections (c) and (c1) of this section. This amount is the total hold-harmless adjustment.
- (2) Determine the amount of gross receipts taxes that would be distributed for the quarter to cities whose hold-back amount is determined under this subsection if these cities received their percentage distribution amount minus one-fourth of their freeze ~~deduction~~ deduction attributable to receipts from electric power companies and natural gas companies.
- (3) For each city included in the calculation in subdivision (2) of this subsection, determine that city's percentage share of the amount determined under that subdivision.
- (4) Add to the city's freeze deduction attributable to receipts from electric power companies and natural gas companies an amount equal to the city's percentage share under subdivision (3) of this subsection multiplied by the total hold-harmless adjustment.

(e) Disqualification. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

SECTION 12. G.S. 105-120 is repealed.

SECTION 13. G.S. 105-467 is amended by adding a new subdivision to read:

"(6) The sales price of prepaid telephone calling arrangements taxed as tangible personal property under G.S. 105-164.4(a)(4d)."

SECTION 14. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

- (1) By deleting the word "and" before subdivision (5).
- (2) By changing the period at the end of subdivision (5) to a semicolon and adding the word "and".
- (3) By adding a new subdivision to read:

"(6) The sales price of prepaid telephone calling arrangements taxed as tangible personal property under G.S. 105-164.4(a)(4d)."

SECTION 15. The Department of Revenue must report to the Revenue Laws Study Committee by October 1, 2003, on the amounts collected under this act and on the distributions made to local governments, including the amounts received by them from the sales and use tax on prepaid calling arrangements. On or before October 1, 2007, the Department must report to the Revenue Laws Study Committee any recommendations it has, if any, to adjust the distributions made to local governments. The Department must consult with the North Carolina League of Municipalities in developing its recommendations.

SECTION 16. G.S. 153A-152 reads as rewritten:
 "§ 153A-152. *Privilege license taxes.*

(a) Authority. – A county may levy privilege license taxes on trades, occupations, professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A county may levy privilege license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter 105 of the General Statutes before they were repealed:

G.S. 105-50	Pawnbrokers.
G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
G.S. 105-55	Installing elevators and automatic sprinkler systems.
G.S. 105-58	Fortune tellers, palmists, etc.
G.S. 105-65	Music machines.
G.S. 105-66.1	Electronic video games.
G.S. 105-80	Firearms dealers and dealers in other weapons.
G.S. 105-89	Automobiles, wholesale supply dealers and service stations.

- G.S. 105-89.1 Motorcycle dealers.
- G.S. 105-90 Emigrant and employment agents.
- G.S. 105-102.5 General business license.

(b) Telecommunications Restriction. – A county may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."

SECTION 17. G.S. 160A-211 is amended by adding a new subsection to read:

"(d) Telecommunications Restriction. – A city may not impose a license, franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."

SECTION 18. Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for local telecommunications service to reflect the repeal of G.S. 105-120 and the resulting liability of local telecommunications companies for the tax imposed under G.S. 105-122.

SECTION 19. The Revenue Laws Study Committee shall recommend to the 2002 Regular Session of the 2001 General Assembly any changes necessary to this act to conform with the federal Mobile Telecommunications Sourcing Act.

SECTION 20. This act becomes effective January 1, 2002, and applies to taxable services reflected on bills dated on or after January 1, 2002.

In the General Assembly read three times and ratified this the 25th day of September, 2001.

Became law upon approval of the Governor at 3:00 p.m. on the 6th day of October, 2001.

S.B. 181 SESSION LAW 2001-431

AN ACT TO ALLOW A PASS-THROUGH ENTITY TO ALLOCATE A HOUSING TAX CREDIT TO ANY OF ITS OWNERS AT THE DISCRETION OF THE PASS-THROUGH ENTITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15 is amended by adding a new subdivision to read:

"(4a) Pass-through entity. – Defined in G.S. 105-129.35."

SECTION 2. G.S. 105-129.16B reads as rewritten:
 "§ 105-129.16B. Credit for low-income housing.

(a) Credit. – A taxpayer that is allowed for the taxable year a federal income tax credit for low-income housing under section 42 of the Code with respect to a qualified North Carolina low-income building, is allowed a credit under this Article equal to a percentage

of the total federal credit allowed with respect to that building. For the purposes of this section, the total federal credit allowed is the total allowed during the 10-year federal credit period plus the disallowed first-year credit allowed in the 11th year. For the purposes of this section, the total federal credit is calculated based on qualified basis as of the end of the first year of the credit period and is not recalculated to reflect subsequent increases in qualified basis. For buildings that meet condition (c)(1) or (c)(1a) of this section, the credit percentage is seventy-five percent (75%). For other buildings, the credit percentage is twenty-five percent (25%).

(b) Timing. – The credit must be taken in equal installments over the five years beginning in the first taxable year in which the federal credit is claimed for that building. During the first taxable year in which the credit allowed under this section may be taken with respect to a building, the amount of the installment must be multiplied by the applicable fraction under section 42(f)(2)(A) of the Code. Any reduction in the amount of the first installment as a result of this multiplication is carried forward and may be taken in the first taxable year after the fifth installment is allowed under this section.

(b1) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as the amount of credit allocated to an owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the federal credit is first claimed. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15.

(c) Definitions. – The definitions in section 42 of the Code apply in this section. In addition, as used in this section the term "qualified North Carolina low-income building" means a qualified low-income building that was allocated a federal credit under section 42(h)(1) of the Code, was not allowed a federal credit under section 42(h)(4) of the Code, and meets any of the following conditions:

- (1) It is located in an area that, at the time the federal credit is allocated to the building, is a tier one or two enterprise area, as defined in G.S. 105-129.3.
- (1a) It is located in a county that, at the time the federal credit is allocated to the building, has been designated as having sustained severe or moderate damage from a hurricane or a hurricane-related disaster, according to the

Federal Emergency Management Agency impact map, revised on September 25, 1999. Those counties are Bertie, Beaufort, Bladen, Brunswick, Carteret, Columbus, Craven, Dare, Duplin, Edgecombe, Greene, Halifax, Hertford, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pasquotank, Pender, Pitt, Washington, Wayne, and Wilson Counties.

- (2) It is located in an area that, at the time the federal credit is allocated to the building, is a tier three or four enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is fifty percent (50%) or less of area median gross income as defined in the Code.
- (3) It is located in an area that, at the time the federal credit is allocated to the building, is a tier five enterprise area, and forty percent (40%) of its residential units are both rent-restricted and occupied by individuals whose income is thirty-five percent (35%) or less of area median gross income as defined in the Code.

(d) Expiration. – If, in one of the five years in which an installment of the credit under this section accrues, the taxpayer is no longer eligible for the corresponding federal credit with respect to the same qualified North Carolina low-income building, then the credit under this section expires and the taxpayer may not take any remaining installment of the credit. If, in one of the five years in which an installment of the credit under this section accrues, the building no longer qualifies as a low-income building under subdivision (2) or (3) of subsection (c) of this section because less than forty percent (40%) of its residential units are both rent-restricted and occupied by individuals who meet the income requirements, then the credit under this section expires and the taxpayer may not take any remaining installments of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(e) ~~Forfeiture.~~ Forfeiture for Disposition. – If the taxpayer is required under section 42(j) of the Code to recapture all or part of a federal credit under that section with respect to a qualified North Carolina low-income building, the taxpayer forfeits the corresponding part of the credit allowed under this section with respect to that qualified North Carolina low-income building. ~~A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to~~

pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If the credit was allocated among the owners of a pass-through entity, the forfeiture applies to the owners in the same proportion that the credit was allocated.

(f) Forfeiture for Change in Ownership. – If an owner of a pass-through entity that has qualified for the credit allowed under this section disposes of all or a portion of the owner's interest in the pass-through entity within five years from the date the federal credit is first claimed and the owner's interest in the pass-through entity is reduced to less than two-thirds of the owner's interest in the pass-through entity at the time the federal credit is first claimed, the owner forfeits a portion of the credit. The amount forfeited is determined by multiplying the amount of credit by the percentage reduction in ownership and then multiplying that product by the forfeiture percentage. The forfeiture percentage equals the recapture percentage found in the table in section 50(a)(1)(B) of the Code. The remaining allowable credit is allocated equally among the five years in which the credit is claimed. Forfeiture as provided in this subsection is not required if the change in ownership is the result of any of the following:

- (1) The death of the owner.
- (2) A merger, consolidation, or similar transaction requiring approval by the shareholders, partners, or members of the taxpayer under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, consolidation, or other similar transaction.

(g) Liability From Forfeiture. – A taxpayer or an owner of a pass-through entity that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited. A taxpayer or owner of a pass-through entity that fails to pay the taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 3. G.S. 105-129.17(a) reads as rewritten:

"(a) Tax Election. – The credits allowed in this Article are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. In addition, the credit allowed under G.S. 105-129.16B is allowed against the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax."

SECTION 4. This act is effective for taxable years beginning on or after January 1, 2001, and applies to buildings that are placed in service on or after January 1, 2001.

In the General Assembly read three times and ratified this the 27th day of September, 2001.

Became law upon approval of the Governor at 3:00 p.m. on the 6th day of October, 2001.

H.B. 1269 SESSION LAW 2001-432

AN ACT REGARDING AIRPORT FEES AND CHARGE FOR RENTAL CARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-202 reads as rewritten:
"§ 66-202. *Rental car advertising.*

(a) Except as set forth in subsections (d) and (e) of this section and G.S. 66-204(a), ~~A~~ rental car company shall only advertise and charge a rental rate that includes the entire amount, except taxes and a mileage ~~charge~~charge, if any, that a renter must pay to hire or lease a vehicle for the period of time to which the rental rate applies.

(b) If a rental car company states a rental rate in a print advertisement or in an in-person or computer-transmitted quotation,~~quotation contained in the rental car company's proprietary computer reservation system,~~ the rental car company shall clearly disclose or cause to be disclosed in that advertisement or quotation the terms of any mileage conditions relating to the advertised or quoted rental rate, including, but not limited to: To the extent applicable, the amount of mileage and fuel charges; the number of miles for which no charge will be imposed; and a description of the geographic driving limitations, if any, within the United States and Canada.

(c) A rental car company shall also include in all advertising the daily rate it charges for collision damage waivers; shall state in such advertising that collision damage waivers are not required; and shall state that prospective renters should examine or inquire about their automobile insurance policies to see whether such policies will cover damage to rental vehicles.

(d) ~~An advertised rental rate does not have to include airport access charges that may be avoided, as long as the advertisement clearly and conspicuously discloses, immediately adjacent to the advertised rate, the range of airport access charges that exists in the area to which the advertised rental rate applies and clearly and conspicuously discloses the method of avoiding the airport access charge.~~For a rental rate stated in an advertisement, quotation, or

reservation for an airport location, a rental car company shall clearly and conspicuously disclose the existence and actual amount of the airport charges or fees, if any. For a rental rate stated in an advertisement, quotation, or reservation involving more than one airport location, a rental car company shall clearly and conspicuously disclose the existence and range of airport charges or fees, if any, or the maximum airport charge or fee. For purposes of this section, advertisements shall include radio, television, other electronic media, and print. For purposes of this section, quotations and reservations shall include in-person or proprietary computer-transmitted reservation systems.

(e) A rental car company shall clearly and conspicuously display the amount of the airport charges or fees in any proprietary computer-assisted reservation system, shown or referenced on the same page on the computer screen viewed by the renter as the displayed rental rate and in a print size not smaller than the print size of the rental rate. A rental car company shall inform the renter of the amount of the airport charges or fees either at the time of making an initial quotation of a rental rate or at the time of making a reservation, if the quotation is made by the rental car company for a location at which it collects airport charges or fees. A rental car company shall separately identify the amount and existence of the airport charges or fees on the rental agreement."

SECTION 2. G.S. 66-203(a) reads as rewritten:

"(a) No rental car company may charge, in addition to the rental rate, taxes, airport charges and fees, if any, and mileage charge, if any, any fee that must be paid by the renter as a condition of hiring or leasing a vehicle, such as, but not limited to, required fuel charges or any fee for transporting the renter to the location where the rented vehicle will be delivered to that person."

SECTION 3. G.S. 66-204(a) reads as rewritten:

"(a) In addition to the rental rate, taxes, airport charges and fees, if any, and mileage charge, if any, a rental car company may charge a renter for an item or service provided in connection with a particular rental transaction if the renter can avoid incurring that charge by choosing not to obtain or utilize the optional item or service. Items and services for which a rental car company may impose an additional charge include, but are not limited to: Optional insurance and accessories requested by the renter unless otherwise prohibited by law; service charges incident to a person's optional return of the vehicle to a location other than the location where the vehicle was hired or leased; ~~airport access charges that may be avoided by the renter, provided the requirements of G.S. 66-202(d) are met;~~ and charges for refueling the vehicle at the conclusion of the rental

transaction in the event the rented vehicle is not returned with as much fuel as was in its fuel tank at the beginning of the rental."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of September, 2001.

Became law upon approval of the Governor at 3:01 p.m. on the 6th day of October, 2001.

H.B. 1154**SESSION LAW 2001-433**

AN ACT TO AMEND THE CRIME VICTIMS' RIGHTS ACT AND TO OTHERWISE IMPROVE THE RIGHTS OF VICTIMS OF CRIME IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-830(a)(3) reads as rewritten:

"(3) Custodial agency. – The agency that has legal custody of an accused or defendant arising from a charge or conviction of a crime covered by this Article including, but not limited to, local jails or detention facilities, regional jails or detention facilities, facilities designated under G.S. 122C-252 for the custody and treatment of involuntary clients, or the Department of Correction."

SECTION 2. G.S. 15A-831 reads as rewritten:

"§ 15A-831. *Responsibilities of law enforcement agency.*

(a) As soon as practicable but within 72 hours after identifying a victim covered by this Article, the investigating law enforcement agency shall provide the victim with the following information:

- (1) The availability of medical services, if needed.
- (2) The availability of crime victims' compensation funds under Chapter 15B of the General Statutes and the address and telephone number of the agency responsible for dispensing the funds.
- (3) The address and telephone number of the district attorney's office that will be responsible for prosecuting the victim's case.
- (4) The name and telephone number of an investigating law enforcement agency employee whom the victim may contact if the victim has not been notified of an arrest in the victim's case within six months after the crime was reported to the law enforcement agency.
- (5) Information about an accused's opportunity for pretrial release.
- (6) The name and telephone number of an investigating law enforcement agency employee whom the victim may

contact to find out whether the accused has been released from custody.

(b) As soon as practicable but within 72 hours after the arrest of a person believed to have committed a crime covered by this Article, the arresting law enforcement agency shall inform the investigating law enforcement agency of the arrest. As soon as practicable but within 72 hours of being notified of the arrest, the investigating law enforcement agency shall notify the victim of the arrest.

(c) As soon as practicable but within 72 hours after receiving notification from the arresting law enforcement agency that the accused has been arrested, the investigating law enforcement agency shall forward to the district attorney's office that will be responsible for prosecuting the case the defendant's name and the victim's name, address, date of birth, social security number, race, sex, and telephone number, unless the victim refuses to disclose any or all of the information, in which case, the investigating law enforcement agency shall so inform the district attorney's office.

(d) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the investigating law enforcement agency, indicate whether the victim wishes to receive any further notices from the investigating law enforcement ~~agency~~ agency on the status of the accused during the pretrial process. If the victim elects to receive further notices during the pretrial process, the victim shall be responsible for notifying the investigating law enforcement agency of any changes in the victim's name, address, and telephone number."

SECTION 3. G.S. 15A-832 reads as rewritten:

"§ 15A-832. *Responsibilities of the district attorney's office.*

(a) Within 21 days after the arrest of the accused, but not less than 24 hours before the accused's first scheduled probable-cause hearing, the district attorney's office shall provide to the victim a pamphlet or other written material that explains in a clear and concise manner the following:

- (1) The victim's rights under this Article, including the right to confer with the attorney prosecuting the case about the disposition of the case and the right to provide a victim impact statement.
- (2) The responsibilities of the district attorney's office under this Article.
- (3) The victim's eligibility for compensation under the Crime Victims Compensation Act and the deadlines by which the victim must file a claim for compensation.
- (4) The steps generally taken by the district attorney's office when prosecuting a felony case.

- (5) Suggestions on what the victim should do if threatened or intimidated by the accused or someone acting on the accused's behalf.
- (6) The name and telephone number of a victim and witness assistant in the district attorney's office whom the victim may contact for further information.

(b) Upon receiving the information in subsection (a) of this section, the victim shall, on a form provided by the district attorney's office, indicate whether the victim wishes to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused. If the victim elects to receive notices, the victim shall be responsible for notifying the district attorney's office or any other department or agency that has a responsibility under this Article of any changes in the victim's address and telephone number. The victim may alter the request for notification at any time by notifying the district attorney's office and completing the form provided by the district attorney's office.

(c) The district attorney's office shall notify a victim of the date, time, and place of all trial court proceedings of the type ~~which~~ that the victim has elected to receive notice. All notices required to be given by the district attorney's office shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the court proceeding.

(d) Whenever practical, the district attorney's office shall provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family.

(e) When the victim is to be called as a witness in a court proceeding, the court shall make every effort to permit the fullest attendance possible by the victim in the proceedings. This subsection shall not be construed to interfere with the defendant's right to a fair trial.

(f) Prior to the disposition of the case, the district attorney's office shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the case, including the victim's views about dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.

(g) At the sentencing hearing, the prosecuting attorney shall submit to the court a copy of a form containing the identifying information set forth in G.S. 15A-831(c) about any victim's electing to receive further notices under this Article. ~~The form shall be included~~ The clerk of superior court shall include the form with the final judgment and ~~commitment~~ commitment, or judgment suspending sentence, transmitted to the Department of Correction or other agency receiving custody of the defendant and shall be maintained by the custodial agency as a confidential file."

SECTION 4. Article 46 of Chapter 15A of the General Statutes is amended by adding two new sections to read:

"§ 15A-832.1. Responsibilities of judicial officials issuing arrest warrants.

(a) In issuing a warrant for the arrest of an offender for any of the misdemeanor offenses set forth in G.S. 15A-830(a)(7)g., based on testimony or evidence from a complaining witness rather than from a law enforcement officer, a judicial official shall record the defendant's name and the victim's name, address, and telephone number electronically or on a form separate from the warrant and developed by the Administrative Office of the Courts for the purpose of recording that information, unless the victim refuses to disclose any or all of the information, in which case the judicial official shall so indicate.

(b) A judicial official issuing a warrant for the arrest of an offender for any of the misdemeanor offenses set forth in G.S. 15A-830(a)(7)g. shall deliver the court's copy of the warrant and the victim-identifying information to the office of the clerk of superior court by the close of the next business day. As soon as practicable, but within 72 hours, the office of the clerk of superior court shall forward to the district attorney's office the victim-identifying information set forth in subsection (a) of this section."

SECTION 5. G.S. 15A-833 reads as rewritten:

"§ 15A-833. Evidence of victim impact.

(a) A victim has the right to offer admissible evidence of the impact of the crime, which shall be considered by the court or jury in sentencing the defendant. The evidence may include the following:

- (1) A description of the nature and extent of any physical, psychological, or emotional injury suffered by the victim as a result of the offense committed by the defendant.
- (2) An explanation of any economic or property loss suffered by the victim as a result of the offense committed by the defendant.
- (3) A request for restitution and an indication of whether the victim has applied for or received compensation under the Crime Victims Compensation Act.

(b) No victim shall be required to offer evidence of the impact of the crime. No inference or conclusion shall be drawn from a victim's decision not to offer evidence of the impact of the crime. At the victim's request and with the consent of the defendant, a representative of the district attorney's office or a law enforcement officer may proffer evidence of the impact of the crime to the court."

SECTION 6. G.S. 15A-835 reads as rewritten:

"§ 15A-835. Posttrial responsibilities.

(a) Within 30 days after the final trial court proceeding in the case, the district attorney's office shall notify the victim, in writing, of:

- (1) The final disposition of the case.
- (2) The crimes of which the defendant was convicted.
- (3) The defendant's right to appeal, if any.
- (4) The telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

(b) Upon a defendant's giving notice of appeal to the Court of Appeals or the Supreme Court, the district attorney's office shall forward to the Attorney General's office the defendant's name and the victim's name, address, and telephone number. Upon receipt of this information, and thereafter as the circumstances require, the Attorney General's office shall provide the victim with the following:

- (1) A clear and concise explanation of how the appellate process works, including information about possible actions that may be taken by the appellate court.
- (2) Notice of the date, time, and place of any appellate proceedings involving the defendant. Notice shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the proceedings.
- (3) The final disposition of an appeal.

(c) If the defendant has been released on bail pending the outcome of the appeal, the agency that has custody of the defendant shall notify the investigating law enforcement agency as soon as practicable, and within 72 hours of receipt of the notification the investigating law enforcement agency shall notify the victim that the defendant has been released.

(d) If the defendant's conviction is overturned, and the district attorney's office decides to retry the case or the case is remanded to superior court for a new trial, the victim shall be entitled to the same rights under this Article as if the first trial did not take place.

~~(e) The Conference of District Attorneys shall maintain a repository relating to victims' identities, addresses, and other appropriate information for use by agencies charged with responsibilities under this Article."~~

SECTION 7. G.S. 15A-836 reads as rewritten:

"§ 15A-836. *Responsibilities of agency with custody of defendant.*

(a) When a form is included with the final judgment and commitment pursuant to G.S. 15A-832(g), or when the victim has otherwise filed a written request for notification with the custodial agency, the custodial agency shall notify the victim of:

- (1) The projected date by which the defendant can be released from custody. The calculation of the release

date shall be as exact as possible, including earned time and disciplinary credits if the sentence of imprisonment exceeds 90 days.

- (2) An inmate's assignment to a minimum custody unit and the address of the unit. This notification shall include notice that the inmate's minimum custody status may lead to the inmate's participation in one or more community-based programs such as work release or supervised leaves in the community.
- (3) The victim's right to submit any concerns to the agency with custody and the procedure for submitting such concerns.
- (4) The defendant's escape from custody, within ~~72 hours~~ hours, except that if a victim has notified the agency in writing that the defendant has issued a specific threat against the victim, the agency shall notify the victim as soon as possible and within 24 hours at the latest.
- (5) The defendant's capture, within ~~72~~ 24 hours.
- (6) The date the defendant is scheduled to be released from the facility. Whenever practical, notice shall be given 60 days before release. In no event shall notice be given less than seven days before release.
- (7) The defendant's death.

(b) Notifications required in this section shall be provided within ~~30~~ 60 days of the date the custodial agency takes custody of the defendant or within ~~30~~ 60 days of the event requiring notification, or as otherwise specified in subsection (a) of this section."

SECTION 8. G.S. 15A-837 reads as rewritten:

"§ 15A-837. *Responsibilities of Division of Adult Probation and Parole.*

(a) The Division of Adult Probation and Parole shall notify the victim of:

- (1) The defendant's regular conditions of probation or post-release supervision, special or added conditions, supervision requirements, and any subsequent changes.
- (2) The date and location of a any hearing to determine whether the defendant's supervision should be revoked, continued, modified, or terminated.
- (3) The final disposition of any hearing referred to in subdivision (2) of this section.
- (4) Any restitution modification.
- (5) The defendant's movement into or out of any intermediate sanction as defined in G.S. 15A-1340.11(6).

- (6) The defendant's absconding supervision, within 72 hours.
- (7) The capture of a defendant described in subdivision (6) of this section, within 72 hours.
- (8) The date when the defendant is terminated or discharged.
- (9) The defendant's death.

(b) Notifications required in this section shall be provided within 30 days of the event requiring notification, or as otherwise specified in subsection (a) of this section."

SECTION 9. G.S. 148-10.2 reads as rewritten:

"§ 148-10.2. Policy: ~~Death row~~ Certain inmates not to contact family members of victims.

(a) It shall be the policy of the Department of Correction to prohibit death row inmates from contacting the surviving family members of the victims without the written consent of the family members being contacted. For purposes of this ~~section, subsection,~~ the term "contact" includes arranging for a third party to forward communications from the inmate to the surviving family members of the victim.

(b) At the request of the victim or a family member of the victim, the Department of Correction shall prohibit an inmate convicted of an offense listed in G.S. 15A-830(a)(7) from contacting the requesting party. For purposes of this subsection, the term "contact" includes arranging for a third party to forward communications from the inmate to the victim or family member.

(c) The Department of Correction shall develop and impose sanctions against any inmate who violates the provisions of this section."

SECTION 10. Article 1 of Chapter 148 of the General Statutes is amended by adding a new section to read:

"§ 148-5.1. Confining inmates away from victims.

If a victim or immediate family member of a victim requests that, for the safety of the victim or family member, an inmate be confined outside the county where the victim or family member resides or is employed, the Department shall make a reasonable effort to house the inmate in a facility in another county. If the inmate is not so housed in another county, the Department shall notify the victim or family member in writing."

SECTION 11. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 1st day of October, 2001.

Became law upon approval of the Governor at 9:25 a.m. on the 11th day of October, 2001.

H.B. 685**SESSION LAW 2001-434**

AN ACT TO AUTHORIZE ANSON, MONTGOMERY, AND STANLY COUNTIES TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO CHANGE THE PURPOSES FOR WHICH BEECH MOUNTAIN CAN USE ITS OCCUPANCY TAX, TO MAKE ADMINISTRATIVE CHANGES TO THE BEECH MOUNTAIN OCCUPANCY TAX, TO CREATE AN OCCUPANCY TAX DISTRICT IN BEECH MOUNTAIN, AND TO AUTHORIZE THE BEECH MOUNTAIN TAX DISTRICT TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

PART I. COUNTY ADMINISTRATIVE PROVISIONS**SECTION 1.** G.S. 153A-155 reads as rewritten:

"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues.

Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Anson, Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Montgomery, Nash, Person, Randolph, Scotland, Stanly, and Transylvania Counties."

PART II. ANSON COUNTY

SECTION 2. Anson Occupancy Tax. (a) Authorization and Scope. – The Anson County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 2.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 2.(c) Distribution and Use of Tax Revenue. – Anson County shall, on a quarterly basis, remit the net proceeds of

the occupancy tax to the Anson Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Anson County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 3. Anson Tourism Development Authority.

(a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Anson County shall be the ex officio finance officer of the Authority.

SECTION 3.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 3.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

PART III. MONTGOMERY COUNTY

SECTION 4. Montgomery Occupancy Tax. (a) **Authorization and Scope.** – The Montgomery County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 4.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 4.(c) Distribution and Use of Tax Revenue. – Montgomery County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Montgomery Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Montgomery County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) **Net proceeds.** – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) **Promote travel and tourism.** – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or

business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 5. Montgomery Tourism Development Authority. (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Montgomery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

PART IV. STANLY COUNTY

SECTION 6. Stanly Occupancy Tax. (a) Authorization and Scope. – The Stanly County Board of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S.

105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 6.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 6.(c) Distribution and Use of Tax Revenue. – Stanly County shall, on a quarterly basis, remit to the City of Albemarle five-sixths of the gross proceeds of the occupancy tax derived from accommodations in the City of Albemarle. The City of Albemarle shall remit to the Stanly County Tourism Development Authority forty percent (40%) of the proceeds it receives under this subsection. The City of Albemarle shall use the remainder of the proceeds only for tourism-related expenditures.

Stanly County shall remit to each municipality in the county other than the City of Albemarle the net proceeds of the occupancy tax derived from accommodations in that municipality. Each of these municipalities shall remit to the Stanly County Tourism Development Authority each year the greater of one dollar (\$1.00) per capita of the municipality's population or one-half of the amount remitted to the municipality under this subsection. The municipalities shall use the remaining funds received under this subsection only for tourism-related expenditures in the county.

The county shall remit to the Stanly County Tourism Development Authority the greater of twenty-five thousand dollars (\$25,000) a year or one-half of the remaining net proceeds of the occupancy tax.

The Authority shall use the funds remitted to it under this subsection only to promote travel and tourism in Stanly County.

Stanly County shall use the remainder of the net proceeds only for tourism-related expenditures in the county.

SECTION 6.(d) Definitions. – The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed an amount equal to three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in

similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the entity making the expenditure, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 6.(e) Effect on Local Act. – Chapter 915 of the 1991 Session Laws is repealed effective on the effective date of a tax levied under this Part by Stanly County.

SECTION 7. Stanly County Tourism Development Authority. – As used in this Part, the term "Stanly County Tourism Development Authority" means a nonprofit corporation established for the purpose of promoting travel, tourism, and conventions in the county, sponsoring tourist-related events and activities in the county, and financing tourist-related capital projects in the county. The county and municipalities shall remit funds to the Authority under this Part only pursuant to a contract that requires the Authority to expend the funds to promote travel and tourism in Stanly County. The contract must also require the Authority to report quarterly and at the close of the fiscal year to the board of commissioners and annually to each municipality in the county on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

PART V. BEECH MOUNTAIN

SECTION 8. Chapter 376 of the 1987 Session Laws, as amended by Part XV of Senate Bill 92, 2001 Regular Session, reads as rewritten:

"AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

Section 1. Occupancy Tax. The Town Council of Beech Mountain may levy a room occupancy and tourism development ~~tax~~.

~~The occupancy and tourism development tax that may be levied under this act shall be tax of~~ three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation in the Town of Beech Mountain that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales ~~tax~~. The tax does tax or room occupancy tax. The tax does not apply to sleeping rooms or lodgings furnished by charitable, educational, or religious institutions or nonprofit organizations.

Sec. 2. Administration of Tax. ~~–~~(a) A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this ~~section–act.~~

(c) All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the town a list of all rental properties. This list shall include the owner's name, current address, and location of rental property. The list shall be submitted semi-annually on or before November 30 and May 30.

Failure to file this listing shall subject the person, firm, corporation or association to a civil penalty.

Sec. 5. Distribution and Use of Tax Revenue. ~~–~~ The Town of Beech Mountain shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Beech Mountain Tourism Development Authority. ~~The Beech Mountain Tourism Development Authority shall use at least two thirds of the funds remitted to it under this subsection–~~segregate the funds received under this act into two separate accounts based on the county from which the proceeds were collected. Net proceeds collected under this act from accommodations located in Watauga County shall be credited to a Watauga Proceeds Account, and net proceeds collected under this act from accommodations located in Avery County shall be credited to an Avery Proceeds Account. The Beech Mountain Tourism Development Authority shall segregate the tax proceeds it receives from Beech Mountain District W into a third separate account, the District W Account. The Beech Mountain Tourism Development Authority shall use at least two-thirds of the funds in the Avery Proceeds Account to promote travel and tourism in Beech Mountain and shall use the remainder for tourism-related expenditures.

For the first seven years that funds are remitted to the Beech Mountain Tourism Development Authority under this section, the Authority shall use at least one-third of the funds in the Watauga Proceeds Account to promote travel and tourism in Beech Mountain and shall use the remainder for tourism-related expenditures. For funds remitted to it thereafter, the Beech Mountain Tourism Development Authority shall use at least two-thirds of the funds in the Watauga Proceeds Account to promote travel and tourism in Beech Mountain and shall use the remainder for tourism-related expenditures.

For the first seven years that funds are remitted to the Beech Mountain Tourism Development Authority from Beech Mountain District W, the Authority shall use at least one-third of the funds in the District W Account to promote travel and tourism in Beech Mountain District W and shall use the remainder for tourism-related

expenditures for the direct benefit of Beech Mountain District W. For funds remitted to it thereafter, the Beech Mountain Tourism Development Authority shall use at least two-thirds of the funds in the District W Account to promote travel and tourism in Beech Mountain District W and shall use the remainder for tourism-related expenditures for the direct benefit of Beech Mountain District W.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 5.1. Beech Mountain Tourism Development Authority. (a) Appointment and Membership. – When the Beech Mountain Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Beech Mountain shall be the ex officio finance officer of the Authority.

Sec. 5.2. Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Sec. 5.3. Reports. The Authority shall report quarterly and at the close of the fiscal year to the Beech Mountain Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

Sec. 7. This act is effective upon ratification."

PART VI. CITY ADMINISTRATIVE PROVISIONS

SECTION 9. G.S. 160A-215 reads as rewritten:

"§ 160A-215. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term "city" means a municipality.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from

rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing city has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Beech Mountain District W, to the Cities of Goldsboro, Greensboro, Lumberton, Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk, Beech Mountain, Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

PART VII. BEECH MOUNTAIN DISTRICT W

SECTION 10.(a) District W Created. – Beech Mountain District W is created as a taxing district. Its jurisdiction consists of that part of the Town of Beech Mountain that is located in Watauga County. Beech Mountain District W is a body politic and corporate and has the power to carry out the provisions of this section. The Beech Mountain Town Council shall serve ex officio as the governing body of the district, and the officers of the town council shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 10.(b) Authorization and Scope. – The governing body of Beech Mountain District W may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S.

105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 10.(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215 as if Beech Mountain District W were a town. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the district a list of all rental properties. This list must include the owner's name, current address, and location of rental property. The list must be submitted semiannually on or before November 30 and May 30. Failure to file this list subjects the person, firm, corporation, or association to a civil penalty.

SECTION 10.(d) Distribution and Use of Tax Revenue. – Beech Mountain District W shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Beech Mountain Tourism Development Authority created in Chapter 376 of the 1987 Session Laws, as amended. The Beech Mountain Tourism Development Authority shall use the tax proceeds remitted to it under this act for the purposes provided in Chapter 376 of the 1987 Session Laws, as amended. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Beech Mountain District W.

For the purposes of this section, "net proceeds" means gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

PART VIII. EFFECTIVE DATE

SECTION 11. Parts V and VII of this act become effective the first day of the fourth month after this act becomes law. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of October, 2001.

Became law on the date it was ratified.

H.B. 943**SESSION LAW 2001-435****AN ACT TO AUTHORIZE DISCONTINUED SERVICE RETIREMENT ALLOWANCES UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27 is amended by adding a new subsection to read:

"(a2) **Discontinued Service Retirement Allowance.** – A member whose employment with a participating employer is involuntarily terminated as a result of a termination event as defined in this subsection may be allowed a discontinued service retirement allowance, provided that the discontinued service retirement allowance is approved by the terminated member's participating employer, and provided that reemployment with that participating employer is not available to the member at the time of the termination event. For purposes of this section, "termination event" means termination of employment as a result of (i) the participating employer's cessation of operations; (ii) the participating employer's dissolution; (iii) the merger of a participating employer with and into an unrelated entity, other than another participating employer; (iv) the acquisition of the participating employer by an unrelated entity, other than another participating employer; or (v) the determination by the participating employer that a reduction in force will accomplish economies in the participating employer's budget resulting from either the elimination of a job and its responsibilities or from lack of funds to support the job. Final action approving the discontinued service retirement allowance for a terminated member by the member's participating employer shall be taken in an open meeting.

Upon the occurrence of a termination event, and subject to the provisions of this subsection, an unreduced discontinued service retirement allowance, not otherwise allowed under this Chapter, may be approved for terminated members with 20 or more years of creditable service who are at least 55 years of age. Alternatively, upon the occurrence of a termination event, a discontinued service retirement allowance, not otherwise allowed under this Chapter, may be approved for terminated members with 20 or more years of creditable service who are at least 50 years of age, reduced by one-fourth of one percent (1/4 of 1%) for each month that retirement precedes the member's fifty-fifth birthday.

In cases in which a discontinued service retirement allowance is approved, the terminated member's employer shall be responsible for making a lump-sum payment to the Retirement System's Board of Trustees equal to the actuarial present value of the additional

liabilities imposed upon the Retirement System, to be determined by the Retirement System's consulting actuary, as a result of the discontinued service retirement allowance, plus an administrative fee to be determined by the Board of Trustees. An employer shall not discriminate against any member or group of members employed by the employer in the approval or disapproval of a discontinued service retirement allowance."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of October, 2001.

Became law upon approval of the Governor at 10:15 a.m. on the 12th day of October, 2001.

H.B. 359 SESSION LAW 2001-436

AN ACT TO REVISE NORTH CAROLINA'S LAW REGULATING VIATICAL SETTLEMENTS IN ACCORDANCE WITH A MODEL ACT OF THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

The General Assembly of North Carolina enacts:

PART I. INSURANCE LAWS PROVISIONS

SECTION 1. The title of Article 58 of Chapter 58 of the General Statutes reads as rewritten:

"Article 58.

~~General Regulations of Business—Life Insurance.~~Life Insurance and Viatical Settlements."

SECTION 2. Article 58 of Chapter 58 of the General Statutes is amended as follows:

- (1) By designating G.S. 58-58-1 through G.S. 58-58-40 as Part 1 with the heading "General Provisions".
- (2) By designating G.S. 58-58-45 through G.S. 58-58-65 as Part 2 with the heading "Financial Provisions".
- (3) By designating G.S. 58-58-70 through G.S. 58-58-120 as Part 3 with the heading "Insurable Interests and Other Rights".
- (4) By designating G.S. 58-58-125 through G.S. 58-58-170 as Part 4 with the heading "Miscellaneous Provisions".
- (5) By reserving G.S. 58-58-175 through G.S. 58-58-195 for future codification purposes.

SECTION 3. Article 58 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 5. Viatical Settlements.

"§ 58-58-200. Short title.

This Part may be cited as the Viatical Settlements Act.

"§ 58-58-205. Definitions.

As used in this Article:

- (1) 'Advertising' means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including filmstrips, motion pictures, and videos, published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of creating an interest in or inducing a person to sell a life insurance policy under a viatical settlement contract.
- (2) 'Business of viatical settlements' means an activity involved in, but not limited to, the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner, of viatical settlement contracts. 'Business of viatical settlements' does not include an activity involving viatical settlement contracts as investments as regulated by Chapter 78A of the General Statutes.
- (3) 'Chronically ill' means:
 - a. Being unable to perform at least two activities of daily living (i.e., eating, toileting, transferring, bathing, dressing, or continence);
 - b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or
 - c. Having a level of disability similar to that described in sub-subdivision a. of this subdivision as determined by the Secretary of Health and Human Services.
- (4) 'Financing entity' means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy from a viatical settlement provider, credit enhancer, or any entity that has a direct ownership in a policy that is the subject of a viatical settlement contract, but:
 - a. Whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies; and

- b. Who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.
'Financing entity' does not include a nonaccredited investor or viatical settlement purchaser.
- (5) 'Fraudulent viatical settlement act' includes:
 - a. Acts or omissions committed by any person who, knowingly and with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to engage in acts including:
 - 1. Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, financing entity, insurer, insurance producer, viator, insured or any other person false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:
 - I. An application for the issuance of a viatical settlement contract or insurance policy.
 - II. The underwriting of a viatical settlement contract or insurance policy.
 - III. A claim for payment or benefit under a viatical settlement contract or insurance policy.
 - IV. Premiums paid on an insurance policy.
 - V. Payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy.
 - VI. The reinstatement or conversion of an insurance policy.
 - VII. The solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy.
 - VIII. The issuance of written evidence of viatical settlement contract or insurance.
 - IX. A financing transaction.
 - 2. Employing any device, scheme, or artifice to defraud related to viaticated policies.

- b. In the furtherance of a fraud or to prevent the detection of a fraud, any person commits or permits the person's employees or agents to:
 - 1. Remove, conceal, alter, destroy, or sequester from the Commissioner the assets or records of a licensee or other person engaged in the business of viatical settlements;
 - 2. Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;
 - 3. Transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or
 - 4. File with the Commissioner or the insurance regulator of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner.
 - c. Embezzlement, theft, misappropriation, or conversion of monies, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policy owner, or any other person engaged in the business of viatical settlements or insurance; or
 - d. Attempting to commit, assisting, aiding, or abetting in the commission of, or conspiracy to commit, the acts or omissions specified in this subdivision.
- (6) 'Policy' means an individual or group life insurance policy, group life insurance certificate, group life insurance contract, or any other arrangement of life insurance affecting the rights of a resident of this State or bearing a reasonable relation to this State, regardless of whether delivered or issued for delivery in this State.
 - (7) 'Related provider trust' means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction.
 - (8) 'Special purpose entity' means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets for a financing entity or licensed viatical settlement provider.

- (9) 'Terminally ill' means having an illness or sickness that can reasonably be expected to result in death in 24 months or fewer.
- (10) 'Viatical settlement broker' or 'broker' means a person that on behalf of a viator and for a fee, commission, or other valuable consideration offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers. The term does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.
- (11) 'Viatical settlement contract' means a written agreement establishing the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of the policy, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the policy. A viatical settlement contract also includes a contract for a loan or other financing transaction with a viator secured primarily by a policy, other than a loan by a life insurance company under the terms of the life insurance contract, or a loan secured by the cash value of a policy. A viatical settlement contract includes an agreement with a viator to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator.
- (12) 'Viatical settlement provider' or 'provider' means a person, other than a viator, that enters into or effectuates a viatical settlement contract. Viatical settlement provider does not include:
- a. A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;
 - b. The issuer of a life insurance policy providing accelerated benefits under rules adopted by the Commissioner and under the contract;
 - c. An authorized or eligible insurer that provides stop-loss coverage to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

- d. A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;
 - e. A financing entity;
 - f. A special purpose entity;
 - g. A related provider trust;
 - h. A viatical settlement purchaser; or
 - i. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, and who purchases a viaticated policy from a viatical settlement provider.
- (13) 'Viatical settlement purchase agreement' or 'purchase agreement' means an agreement, entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in a life insurance policy, that is entered into for the purpose of deriving an economic benefit.
- (14) 'Viatical settlement purchaser' or 'purchaser' means a person who gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract for the purpose of deriving an economic benefit. 'Viatical settlement purchaser' does not include:
- a. A licensee under this Part;
 - b. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;
 - c. A financing entity;
 - d. A special purpose entity; or
 - e. A related provider trust.
- (15) 'Viaticated policy' means a policy that has been acquired by a viatical settlement provider under a viatical settlement contract.
- (16) 'Viator' means the owner of a policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. For the purposes of this Part, a viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group

policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. 'Viator' does not include:

- a. A licensee under this Part;
- b. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;
- c. A financing entity;
- d. A special purpose entity; or
- e. A related provider trust.

"§ 58-58-210. License requirements.

(a) No person shall operate as a provider or broker without first obtaining a license from the insurance regulator of the state of residence of the viator. If there is more than one viator on a single policy and the viators are residents of different states, the viatical settlement shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all viators.

(b) Application for a provider or broker license shall be made to the Commissioner by the applicant on a form prescribed by the Commissioner, and these applications shall be accompanied by a fee of one hundred dollars (\$100.00).

(c) Licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee of one hundred dollars (\$100.00). Failure to pay the fees by the renewal date results in expiration of the license.

(d) The applicant shall provide information on forms required by the Commissioner. The Commissioner may require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees; and the Commissioner may refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member of the legal entity who may materially influence the applicant's conduct meets the standards of this Part.

(e) A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as providers or brokers, as applicable, under the license; and all those persons shall be named in the application and any supplements to the application.

(f) Upon the filing of an application and the payment of the license fee, the Commissioner shall investigate each applicant and issue a license if the Commissioner finds that the applicant:

- (1) If a provider, has provided a detailed plan of operation.

- (2) Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for.
- (3) Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied.
- (4) If a legal entity, provides a certificate of good standing from the state of its domicile.

(g) The Commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the Commissioner or the applicant has filed with the Commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Commissioner.

(h) A provider or broker shall provide to the Commissioner new or revised information about officers, ten percent (10%) or more stockholders, partners, directors, members, or designated employees within 20 days after any change in the constituent membership of that respective category of persons.

"§ 58-58-215. License revocation and denial.

The Commissioner may suspend, revoke, or refuse to issue or renew the license of a provider or broker if the Commissioner finds that:

- (1) There was any material misrepresentation in the application for the license;
- (2) The licensee or any officer, partner, member, or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent;
- (3) The provider demonstrates a pattern of unreasonable payments to viators;
- (4) The licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;
- (5) The provider has entered into any viatical settlement contract that has not been approved pursuant to this Part;
- (6) The provider has failed to honor contractual obligations set out in a viatical settlement contract;
- (7) The licensee no longer meets the requirements for initial licensure;

- (8) The provider has assigned, transferred, or pledged a viaticated policy to a person other than a provider licensed in this State, viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended, financing entity, special purpose entity, or related provider trust; or
- (9) The licensee or any officer, partner, member, or key management personnel has violated any provision of this Part.

"§ 58-58-220. Approval of viatical settlement contracts and disclosure statements.

A person shall not use a contract or provide to a viator a disclosure statement form in this State unless filed with and approved by the Commissioner. The Commissioner shall disapprove a contract form or disclosure statement form if, in the Commissioner's opinion, the contract or provisions contained therein are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. The Commissioner may also require the submission of advertising material.

"§ 58-58-225. Reporting requirements and privacy.

(a) Each licensee shall file with the Commissioner on or before June 1 of each year an annual statement containing such information as the Commissioner prescribes by administrative rule.

(b) Except as otherwise allowed or required by law, a provider, broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity shall not disclose that identity as an insured, or the insured's financial or medical information, to any other person unless the disclosure:

- (1) Is necessary to effect a viatical settlement between the viator and a provider and the viator and insured have provided prior written consent to the disclosure;
- (2) Is provided in response to an investigation or examination by the Commissioner or any other governmental officer or agency or pursuant to the requirements of G.S. 58-58-270;
- (3) Is a term of or condition to the transfer of a policy by one provider to another provider;
- (4) Is necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a provider and the viator and insured have provided prior written consent to the disclosure;

(5) Is necessary to allow the provider or broker or its authorized representatives to make contacts for the purpose of determining health status; or

(6) Is required to purchase stop-loss coverage.

"§ 58-58-230. Examinations.

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Part shall be conducted in accordance with the Examination Law.

(c) In lieu of an examination of any foreign or alien person licensed under this Part, the Commissioner may accept an examination report on the licensee prepared by the appropriate viatical settlement regulator for the licensee's state of domicile or port-of-entry state.

(d) When making an examination under this Part, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"§ 58-58-235. Record retention requirements.

(a) A person licensed under this Part shall retain copies for five years of all:

(1) Proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later.

(2) Checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction.

(3) Other records and documents related to the requirements of this Part.

(b) This section does not relieve a person of the obligation to produce these documents to the Commissioner after the retention period has expired if the person has retained the documents.

(c) Records required to be retained by this section must be legible and complete and may be retained in paper, photograph, microprocessor, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

"§ 58-58-240. Investigative authority of the Commissioner.

The Commissioner may investigate suspected fraudulent viatical settlement acts and persons engaged in the business of viatical settlements.

"§ 58-58-245. Disclosure.

(a) With each application for a viatical settlement, the provider or broker shall provide the viator with at least the following disclosures no later than the time the application for the contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the viator and the provider or broker and shall provide the following information:

- (1) There are possible alternatives to contracts including any accelerated death benefits or policy loans offered under the viator's policy.
- (2) Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance should be sought from a professional tax advisor.
- (3) Proceeds of the viatical settlement could be subject to the claims of creditors.
- (4) Receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.
- (5) The viator has the right to rescind a contract for 10 business days after the receipt of the viatical settlement proceeds by the viator, as provided in G.S. 58-58-250(h). If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment of all viatical settlement proceeds and any premiums, loans, and loan interest to the provider or purchaser.
- (6) Funds will be sent to the viator within three business days after the provider has received the insurer or group administrator's acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.
- (7) Entering into a contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator. Assistance should be sought from a financial adviser.
- (8) Disclosure to a viator shall include distribution of a brochure describing the process of viatical settlements. The NAIC's form for the brochure shall be used unless the Commissioner develops one.
- (9) The disclosure document shall contain the following language: 'All medical, financial, or personal

information solicited or obtained by a provider or broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.'

- (10) The insured may be contacted by either the provider or broker or its authorized representative for the purpose of determining the insured's health status. This contact is limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less.

(b) A provider shall provide the viator with at least the following disclosures no later than the date the contract is signed by all parties. The disclosures shall be conspicuously displayed in the contract or in a separate document signed by the viator and the provider or broker, and provide the following information:

- (1) State the affiliation, if any, between the provider and the issuer of the insurance policy to be viaticated.
- (2) The document shall include the name, address, and telephone number of the provider.
- (3) A broker shall disclose to a prospective viator the amount and method of calculating the broker's compensation. The term 'compensation' includes anything of value paid or given to a broker for the placement of a policy.
- (4) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with his or her insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement.
- (5) State the dollar amount of the current death benefit payable to the provider under the policy. If known, the provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment

benefits under the policy, and the provider's interest in those benefits.

- (6) State the name, business address, and telephone number of the independent third-party escrow agent and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(c) If the provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate the change in ownership or beneficiary to the insured within 20 days after the change.

"§ 58-58-250. General rules.

(a) A provider entering into a contract shall first obtain:

- (1) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a contract.
- (2) A document in which the insured consents to the release of his or her medical records to a provider or broker and, if the policy being viaticated has been in effect for less than five years, to the insurance company that issued the policy covering the life of the insured.

(b) Within 20 days after a viator executes documents necessary to transfer any rights under a policy or within 20 days after entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the provider shall give written notice to the insurer that issued that policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by subsection (c) of this section.

(c) If the policy being viaticated has been in effect for less than five years, the viatical provider shall deliver a copy of the medical release required under subdivision (a)(2) of this section, a copy of the viator's application for the contract, the notice required under subsection (b) of this section, and a request for verification of coverage to the insurer that issued the policy that is the subject of the viatical settlement. The NAIC's form for verification shall be used unless the Commissioner develops standards for verification.

(d) The insurer shall respond to a request for verification of coverage submitted on an approved form by a provider within 30 days after the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the policy.

(e) Before or at the time of execution of the contract, the provider shall obtain a witnessed document in which the viator consents to the contract, represents that the viator has a full and

complete understanding of the contract, that he or she has a full and complete understanding of the benefits of the policy, acknowledges that he or she is entering into the contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness or condition and that the terminal or chronic illness or condition was first diagnosed after the policy was issued.

(f) If a broker performs any of these activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.

(g) All medical information solicited or obtained by any licensee is subject to the applicable provisions of federal and North Carolina law relating to confidentiality of medical information.

(h) All contracts entered into in this State shall provide the viator with an unconditional right to rescind the contract for at least 10 business days after the receipt of the viatical settlement proceeds. If the insured dies during the rescission period, the contract shall be deemed to have been rescinded, subject to repayment to the provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the provider or purchaser.

(i) The provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three business days after the date the escrow agent receives the documents, or from the date the provider receives the documents, if the viator erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the viatical settlement into an escrow or trust account maintained in a state or federally chartered financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation (FDIC) or any successor entity. Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator.

(j) Failure to tender consideration to the viator for the contract within the time required under G.S. 58-58-245(a)(6) renders the contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator.

(k) Contacts with the insured for the purpose of determining the health status of the insured by the provider or broker after the viatical

settlement has occurred shall only be made by the provider or broker licensed in this State or its authorized representatives and shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. The provider or broker shall explain the procedure for these contacts at the time the contract is entered into. The limitations set forth in this subsection shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Providers and brokers shall be responsible for the actions of their authorized representatives.

(l) Every related provider trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the Commissioner as if those records and files were maintained directly by the licensed viatical settlement provider.

(m) Notwithstanding the manner in which a viatical settlement broker is compensated, a broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.

"§ 58-58-255. Prohibited practices.

(a) It is a violation of this Part for any person to enter into a contract within a two-year period commencing with the date of issuance of the policy unless the viator certifies to the provider that one or more of the following conditions have been met within the two-year period:

- (1) The policy was issued upon the viator's exercise of conversion rights arising out of a policy, provided the total time covered under the conversion policy plus the time covered under the prior policy is at least 24 months, or the contestability and suicide time periods have been waived by the insurer. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.
- (2) The viator is a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).
- (3) The viator is not a natural person (e.g., the owner is a corporation, limited liability company, partnership, etc.).
- (4) The viator submits independent evidence to the provider that one or more of the following conditions have been met within the two-year period:
 - a. The viator or insured is terminally or chronically ill.

- b. The viator's spouse dies.
- c. The viator divorces his or her spouse.
- d. The viator retires from full-time employment.
- e. The viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment.
- f. The viator was the insured's employer at the time the policy was issued and the employment relationship terminated.
- g. A final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the viator, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization of the viator or appointing a receiver, trustee, or liquidator to all or a substantial part of the viator's assets.
- h. The viator experiences a significant decrease in income that is unexpected and that impairs the viator's reasonable ability to pay the policy premium.
- i. The viator or insured disposes of his or her ownership interests in a closely held corporation.

(b) Copies of the independent evidence described in subdivision (a)(4) of this section and documents required by G.S. 58-58-250(a) shall be submitted to the insurer when the provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider.

(c) If the provider submits to the insurer a copy of the owner or insured's certification described in subdivision (a)(4) and subsection (b) of this section when the provider submits a request to the insurer to effect the transfer of the policy to the provider, the copy shall be deemed to conclusively establish that the contract satisfies the requirements of this section, and the insurer shall timely respond to the request.

"§ 58-58-260. Advertising for viatical settlements.

(a) The purpose of this section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any contract. This purpose is intended to be accomplished by the establishment of guidelines and standards of permissible and impermissible conduct in the advertising of viatical settlements to

assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising and is conducive to accurate presentation and description of viatical settlements through the advertising media and material used by viatical settlement licensees.

(b) This section shall apply to any advertising of contracts or related products or services intended for dissemination in this State, including Internet advertising viewed by persons located in this State. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(c) Every viatical settlement licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the viatical settlement licensee, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others, authorized by the viatical settlement licensee, who disseminate advertisements of the requirements and procedures for approval before the use of any advertisements not furnished by the viatical settlement licensee.

(d) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a contract shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(e) All information required to be disclosed under this Part shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

(f) An advertisement shall not:

(1) Omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the contract offered is made available for inspection before

consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the contract includes a 'free look' period that satisfies or exceeds legal requirements, does not remedy misleading statements.

- (2) Use the name or title of a life insurance company or a policy unless the insurer has approved the advertisement.
- (3) State or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.
- (4) State or imply that a contract, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.
- (5) Contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.
- (6) Disparage insurers, providers, brokers, insurance producers, policies, services, or methods of marketing.
- (7) Use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a contract.
- (8) Use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is

in some manner connected with a government program or agency.

- (9) Create the impression that the provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its contracts are recommended or endorsed by any government entity.

(g) The words 'free', 'no cost', 'without cost', 'no additional cost', 'at no extra cost', or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service, may state that a charge is included in the payment, or use other appropriate language.

(h) Testimonials, appraisals, or analyses used in advertisements must be genuine; represent the current opinion of the author; be applicable to the contract, product, or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisals, analyses, or endorsements. In using testimonials, appraisals, or analyses, the viatical settlement licensee makes as its own all the statements contained therein, and the statements are subject to all the provisions of this section.

(i) If the individual making a testimonial, appraisal, analysis, or an endorsement has a financial interest in the provider or related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(j) When an endorsement refers to benefits received under a contract, all pertinent information shall be retained for a period of five years after its use.

(k) The name of the viatical settlement licensee shall be clearly identified in all advertisements about the licensee or its contracts, products, or services, and if any specific contract is advertised, the contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the provider or broker shall be shown on the application.

(l) An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the Department to find out if the state requires licensing and, if so, whether the provider or broker is licensed.

(m) The name of the actual licensee shall be stated in all of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the

licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(n) An advertisement shall not directly or indirectly create the impression that any state or federal governmental agency endorses, approves, or favors:

- (1) Any viatical settlement licensee or its business practices or methods of operation;
- (2) The merits, desirability, or advisability of any contract;
- (3) Any contract; or
- (4) Any policy or life insurance company.

(o) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(p) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past six months.

"§ 58-58-265. Fraudulent viatical settlement acts, interference, and participation of convicted felons prohibited.

(a) A person who commits a fraudulent viatical settlement act is guilty of a Class H felony.

(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this Part or investigations of suspected or actual violations of this Part.

(c) A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

"§ 58-58-267. Fraud warning required.

(a) Viatical settlement contracts and purchase agreement forms and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

'Any person who knowingly presents false information in an application for insurance or viatical settlement contract or a viatical settlement purchase agreement is guilty of a felony and may be subject to fines and confinement in prison.'

(b) The lack of a statement as required in subsection (a) of this section does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

"§ 58-58-268. Viatical settlement antifraud initiatives.

(a) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the Commissioner, the Commissioner may order, or a licensee may request and the Commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

(b) Antifraud initiatives shall include:

(1) Fraud investigators, who may be viatical settlement provider employees or viatical settlement broker employees or independent contractors; and

(2) An antifraud plan, which shall be submitted to the Commissioner. The antifraud plan shall include, but not be limited to:

a. A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

b. A description of the procedures for reporting possible fraudulent viatical settlement acts to the Commissioner;

c. A description of the plan for antifraud education and training of underwriters and other personnel; and

d. A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(c) Antifraud plans submitted to the Commissioner are privileged and confidential, are not public records, and are not subject to discovery or subpoena in a civil or criminal action.

"§ 58-58-270. Report to Commissioner.

Whenever any person licensed under this Part knows or has reasonable cause to believe that any other person has violated any provision of this Part, it is the duty of that person, upon acquiring the knowledge, to notify the Commissioner and provide the Commissioner with a complete statement of all of the relevant facts

and circumstances. The report is a privileged communication and when made without actual malice does not subject the person making the report to any liability whatsoever. The Commissioner may suspend, revoke, or refuse to renew the license of any person who willfully fails to comply with this section.

"§ 58-58-275. Reporting and investigation of suspected viatical settlement fraudulent acts; immunity from liability.

(a) As used in this section, 'Commissioner' includes an employee, agent, or designee of the Commissioner. A person, or an employee or agent of that person, acting without actual malice, is not subject to civil liability for libel, slander, or any other cause of action by virtue of furnishing to the Commissioner, under the requirements of law or at the direction of the Commissioner, reports or other information relating to any known or suspected viatical settlement fraudulent act.

(b) The Commissioner, acting without actual malice, is not subject to civil liability for libel or slander by virtue of an investigation of any known or suspected viatical settlement fraudulent act; or by virtue of the publication or dissemination of any official report related to any such investigation, which report is published or disseminated in the absence of fraud, bad faith, or actual malice on the part of the Commissioner.

(c) During the course of an investigation of a known or suspected viatical settlement fraudulent act, the Commissioner may request any person to furnish copies of any information relative to the known or suspected viatical settlement fraudulent act. The person shall release the information requested and cooperate with the Commissioner under this section.

"§ 58-58-280. Confidentiality.

(a) Information and evidence provided under G.S. 58-58-270 or G.S. 58-58-275 or obtained by the Commissioner in an investigation of suspected or actual fraudulent viatical settlement acts shall be privileged and confidential, is not a public record, and is not subject to discovery or subpoena in a civil or criminal action.

(b) Subsection (a) of this section does not prohibit release by the Commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent viatical settlement acts:

- (1) In administrative or judicial proceedings to enforce laws administered by the Commissioner;
- (2) To federal, state, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the NAIC; or
- (3) At the discretion of the Commissioner, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act.

(c) Release of documents and evidence under subsection (b) of this section does not abrogate or modify the privilege granted in subsection (a) of this section.

"§ 58-58-285. Other law enforcement or regulatory authority.

This Part does not:

- (1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.
- (2) Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the Commissioner.
- (3) Limit the powers granted elsewhere by the laws of this State to the Commissioner to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

"§ 58-58-290. Injunctions; civil remedies; cease and desist orders.

(a) In addition to the penalties and other enforcement provisions of this Part, if any person violates this Part or any rule implementing this Part, the Commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person in violation of this Part may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Part, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(d) When the Commissioner finds that an activity in violation of this Part presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(e) In addition to the penalties and other enforcement provisions of this Part, any person who violates this Part is subject to G.S. 58-2-70.

"§ 58-58-295. Unfair trade practices.

A violation of this Part is an unfair trade practice under Article 63 of this Chapter.

"§ 58-58-300. Authority to adopt rules.

The Commissioner may:

- (1) Adopt rules implementing this Part.
- (2) Establish standards for evaluating reasonableness of payments under contracts for persons who are terminally or chronically ill, including standards for the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy.
- (3) Establish appropriate licensing requirements, fees, and standards for continued licensure for providers.
- (4) Require a bond or other mechanism for financial accountability for providers and brokers.
- (5) Adopt rules governing the relationship and responsibilities of insurers, providers, and brokers during the viatication of a policy.

"§ 58-58-305. Jurisdictional limitations.

Nothing in this Part affects the North Carolina Securities Act or the jurisdiction of the North Carolina Secretary of State.

"§ 58-58-310. Effective date.

A provider or broker transacting business in this State, pursuant to G.S. 58-58-42, on the effective date of this Part may continue to do so pending approval of the provider's or broker's application for a license as long as the application is filed with the Commissioner no later than July 1, 2002. If the application is disapproved, then the provider or broker shall cease transacting viatical business in this State."

SECTION 4. G.S. 58-33-32(e) reads as rewritten:

"(e) Notwithstanding any other provision of this section, a person licensed or registered as a viatical settlement ~~broker, viatical settlement provider, or viatical settlement representative, broker or provider,~~ as defined in G.S. 58-58-42 (a), G.S. 58-58-205, in that person's home state shall receive a nonresident viatical settlement ~~broker, viatical settlement provider, or viatical settlement representative broker or provider~~ license pursuant to this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of G.S. 58-58-42. Part 5 of Article 58 of this Chapter."

SECTION 5. G.S. 58-58-42 is repealed.

PART II. SECURITIES LAWS PROVISIONS

SECTION 6. G.S. 78A-2 reads as rewritten:

"§ 78A-2. Definitions.

When used in this Chapter, unless the context otherwise requires:

- ...
- (2) "Dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Dealer" does not include:
- a. A salesman,
 - b. A bank, savings institution, or trust company,
 - c. A person who has no place of business in this State if
 1. He effects transactions in this State exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or
 2. In the case of a person registered as a dealer with the Securities and Exchange Commission under the Securities Exchange Act of 1934 and in one or more states, during any period of 12 consecutive months he does not effect more than 15 purchases or sales in this State in any manner with persons other than those specified in clause 1, whether or not the dealer or any of the purchasers or sellers is then present in this State, or
 - d. An issuer if
 1. The security is exempted under subdivisions (1), (2), (3), (4), (5), (7), (9), (10), (11), (13), or (14) of G.S. 78A-16, or the security is a security covered under federal law, or the transaction is exempted under G.S. 78A-17, except for G.S. 78A-17(19) if the security is a viatical settlement contract, or the transaction is in a security covered under federal law, and such exemption has not been denied or revoked under G.S. 78A-18, or
 2. The security is registered under this Chapter and it is offered and sold through a registered dealer, or
 3. All of the following conditions are met: (i) No commission or other remuneration is paid or

given directly or indirectly for soliciting any prospective purchaser in this State; (ii) the total amount of the offering, both within and without this State, does not exceed two million five hundred thousand dollars (\$2,500,000); and (iii) the total number of purchasers, both within and without this State, does not exceed 100. Provided, however, the Administrator may by rule or order waive the condition imposed by subdivision (iii) hereof; or

4. The security is issued by an open-end management company that is registered under the Investment Company Act of 1940 and so long as no sales load is paid or given, directly or indirectly.
 - e. A person who acts as a business broker with respect to a transaction involving the offer or sale of all of the stock in any closely held corporation provided that such stock is sold to no more than one person, as that term is defined herein.
 - f. An individual who represents an issuer in effecting transactions in a security described in sub-subdivision (2)d. of this section or a security covered under federal law, provided no commission or other special remuneration is paid or given directly or indirectly for soliciting any prospective purchaser in this State.
- ...
- (5) "Issuer" means any person who issues or proposes to issue any security, except that
- a. With respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or persons performing similar functions or of the fixed, restricted-management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and
 - b. With respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payments out of production under such titles or leases, there is not considered to be any "issuer."

c. With respect to a viatical settlement contract, "issuer" means a person involved in creating, offering, transferring, or selling to an investor any interest in a viatical settlement contract, including, but not limited to, fractional or pooled interests.

...

(11) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract including without limitation any investment contract taking the form of a whiskey warehouse receipt or other investment of money in whiskey or malt beverages; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under a title or lease; viatical settlement contract or any fractional or pooled interest in a viatical settlement contract; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy, funding agreement, as defined in G.S. 58-7-16, or annuity contract under which an insurance company promises to pay (i) a fixed sum of money either in a lump sum or periodically for life or for some other specified period, or (ii) benefits or payments or value that vary so as to reflect investment results of any segregated portfolio of investments or of a designated separate account or accounts in which amounts received or retained in connection with a contract have been placed if the delivering or issuing insurance company has currently satisfied the Commissioner of Insurance that it is in compliance with G.S. 58-7-95.

...

(13) "Viatical settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of all or any portion of the death benefit or ownership of a life insurance policy or contract for consideration which is less than the expected death

benefit of the life insurance policy or contract. "Viatical settlement contract" does not include:

- a. The assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract made by the viator to an insurance company or to a viatical settlement provider or broker licensed pursuant to the Viatical Settlements Act (Part 5 of Article 58 of Chapter 58 of the General Statutes);
- b. The assignment of a life insurance policy or contract to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan; or
- c. The exercise of accelerated benefits pursuant to the terms of a life insurance policy or contract and consistent with applicable law."

SECTION 7. Article 2 of Chapter 78A of the General Statutes is amended by adding two new sections to read:

"§ 78A-13. Disclosures required in offer and sale of viaticals.

(a) Disclosures Required Prior to Signing of Purchase Agreement or Transfer of Consideration. – The following disclosures shall be required in the offer and sale of viatical settlement contracts, whether such offer and sale is pursuant to an exemption from registration or pursuant to the registration of such securities, and shall be conspicuously displayed in each viatical settlement purchase agreement or in a separate document signed by the viatical settlement purchaser and by the issuer or its sales agent:

- (1) Disclosures prior to payment of consideration. – On or before the date the viatical settlement purchaser remits consideration pursuant to the purchase agreement, the viatical settlement purchaser shall be provided the following written disclosures:
 - a. The name, principal business, and mailing addresses, and telephone number of the issuer;
 - b. The suitability standards for prospective purchasers as set forth by rule or order promulgated by the Administrator;
 - c. A description of the issuer's type of business organization and the state in which the issuer is organized or incorporated;
 - d. A brief description of the business of the issuer;
 - e. If the issuer retains ownership or becomes the beneficiary of the insurance policy, an audit report from an independent certified public accountant together with a balance sheet and related statements of income, retained earnings, and cash flows that

reflect the issuer's financial position, the results of the issuer's operations, and the issuer's cash flows as of a date within six months before the date of the initial issuance of the securities described in this subdivision. The financial statements shall be prepared in conformity with generally accepted accounting principles. If the date of the audit report is more than 120 days before the date of the initial issuance of the securities described in this subdivision, the issuer shall provide unaudited interim financial statements;

- f. The names of all directors, officers, partners, members, or trustees of the issuer;
- g. A description of any order, judgment, or decree that is final as to the issuing entity of any state, federal, or foreign governmental agency or administrator, or of any state, federal, or foreign court of competent jurisdiction (i) revoking, suspending, denying, or censuring, for cause, any license, permit, or other authority of the issuer or of any director, officer, partner, member, trustee, or person owning or controlling, directly or indirectly ten percent (10%) or more of the outstanding interest or equity securities of the issuer, to engage in the securities, commodities, franchise, insurance, real estate, or lending business or in the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (ii) permanently restraining, enjoining, barring, suspending, or censuring any such person from engaging in or continuing any conduct, practice, or employment in connection with the offer or sale of securities, commodities, franchises, insurance, real estate, or loans, (iii) convicting any such person of, or pleading nolo contendere by any such person to, any felony or misdemeanor involving a security, commodity, franchise, insurance, real estate, or loan, or any aspect of the securities, commodities, franchise, insurance, real estate, or lending business, or involving dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property, or (iv) holding any such person liable in a civil action involving breach of a fiduciary duty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property. This subdivision does not apply to any

- order, judgment, or decree that has been vacated or overturned or is more than 10 years old;
- h. Notice of the purchaser's right to rescind or cancel the investment and receive a refund;
 - i. A statement to the effect that any projected rate of return to the purchaser from the purchase of a viatical settlement contract or any fractionalized or pooled interest therein is based on an estimated life expectancy for the person insured under the life insurance policy; that the return on the purchase may vary substantially from the expected rate of return based upon the actual life expectancy of the insured that may be less than, may be equal to, or may greatly exceed the estimated life expectancy; and that the rate of return would be higher if the actual life expectancy were less than, and lower if the actual life expectancy were greater than, the estimated life expectancy of the insured at the time the viatical settlement contract was closed;
 - j. A statement that the purchaser should consult with his or her tax advisor regarding the tax consequences of the purchase of the viatical settlement contract or any fractionalized or pooled interest therein; and
 - k. Any other information as may be prescribed by rule or order of the Administrator.
- (2) Disclosures prior to closing. – At least five business days prior to the date the purchase agreement is signed, the viatical settlement purchaser shall receive the following written disclosures:
- a. The name, address, and telephone number of the issuing insurance company and the name, address, and telephone number of the state or foreign country regulator of the insurance company;
 - b. The total face value of the insurance policy and the percentage of the insurance policy the purchaser will own;
 - c. The insurance policy number, issue date, and type;
 - d. If a group insurance policy, the name, address, and telephone number of the group and, if applicable, the material terms and conditions of converting the policy to an individual policy, including the amount of increased premiums;
 - e. If a term insurance policy, the term and the name, address, and telephone number of the person who

will be responsible for renewing the policy if necessary;

- f. Whether the insurance policy is beyond the state statute for contestability and the reason therefor;
- g. The insurance policy premiums and terms of premium payments;
- h. The amount of the purchaser's money that will be set aside to pay premiums;
- i. The name, address, and telephone number of the person who will be the insurance policy owner and the person who will be responsible for paying premiums;
- j. The date on which the purchaser will be required to pay premiums and the amount of the premium, if known;
- k. A statement of risk factors associated with investment in viatical settlement contracts, including, but not limited, to the following:
 1. The purchaser will receive no returns (i.e., dividends and interest) until the insured dies.
 2. The actual annual rate of return on a viatical settlement contract is dependent upon an accurate projection of the insured's life expectancy, and the actual date of the insured's death. An annual 'guaranteed' rate of return is not determinable.
 3. The viaticated life insurance contract should not be considered a liquid purchase since it is impossible to predict the exact timing of its maturity and the funds probably are not available until the death of the insured. There is no established secondary market for resale of these products by the purchaser.
 4. The purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.
 5. The purchaser is responsible for payment of the insurance premium or other costs related to the policy, if required by the terms of the viatical purchase agreement. These payments may reduce the purchaser's return. If a party other than the purchaser is responsible for the payment, the name and address of that party also shall be disclosed.

6. If the purchaser is responsible for payment of the insurance premiums or other costs related to the policy or if the insured returns to health, the amount of the premiums, if applicable.
7. The name and address of any person providing escrow services and the relationship to the issuer.
8. The amount of any trust fees or other expenses to be charged to the viatical settlement purchaser shall be disclosed.
9. Whether the purchaser is entitled to a refund of all or part of his or her investment under the settlement contract if the policy is later determined to be null and void.
10. A disclosure that group policies may contain limitations or caps in the conversion rights; that additional premiums may have to be paid if the policy is converted; the name of the party responsible for the payment of the additional premiums; and, if a group policy is terminated and replaced by another group policy, that there may be no right to convert the original coverage.
11. A disclosure of the risks associated with policy contestability including, but not limited to, the risk that the purchaser will have no claim or only a partial claim to death benefits should the insurer rescind the policy within the contestability period.
12. A disclosure of whether the purchaser will be the owner of the policy in addition to being the beneficiary, and if the purchaser is the beneficiary only and not also the owner, the special risks associated with that status, including, but not limited to, the risk that the beneficiary may be changed or the premium may not be paid.
13. The experience and qualifications of the person who determines the life expectancy of the insured, i.e., in-house staff, independent physicians, and specialty firms that weigh medical and actuarial data; the information this projection is based on; and the relationship of the projection maker to the viatical settlement provider, if any.

14. Disclosure to an investor shall include distribution of a brochure describing the process of investment in viatical settlements. The NAIC's form for the brochure shall be used unless the Administrator prescribes one by rule or order.

1. Any other information as may be prescribed by rule or order of the Administrator.

(b) Disclosures Required Upon Assignment or Sale of Underlying Insurance Policy. – The issuer shall provide the viatical settlement purchaser with at least the following disclosures no later than at the time of the assignment, transfer, or sale of all or a portion of an insurance policy underlying the viatical settlement contract, and the disclosure shall be contained in a document signed by the viatical settlement purchaser and by the issuer or its sales agent:

- (1) Disclose all the life expectancy certifications obtained by the provider in the process of determining the price paid to the viator.
- (2) State whether premium payments or other costs related to the policy have been escrowed. If escrowed, state the date upon which the escrowed funds will be depleted; whether the purchaser will be responsible for payment of premiums thereafter and, if so, the amount of the premiums; and the name and address of the escrow agent.
- (3) State whether premium payments or other costs related to the policy have been waived. If waived, disclose whether the investor will be responsible for payment of the premiums if the insurer that wrote the policy terminates the waiver after purchase and the amount of those premiums.
- (4) Disclose the type of policy offered or sold, i.e., whole life, term life, universal life, or a group policy certificate, any additional benefits contained in the policy, and the current status of the policy.
- (5) If the policy is term insurance, disclose the special risks associated with term insurance including, but not limited to, the purchaser's responsibility for additional premiums if the viator continues the term policy at the end of the current term.
- (6) State whether the policy is contestable.
- (7) State whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the purchaser's rights under the viatical

settlement contract, what these rights are, and under what conditions these rights are activated.

- (8) State the name and address of the person responsible for monitoring the insured's condition. Describe how often the monitoring of the insured's condition is done, how the date of death is determined, and how and when this information will be transmitted to the purchaser."

"§ 78A-14. Advertising of Viatical Settlement Contracts.

(a) The purpose of this section is to provide prospective viatical settlement purchasers with clear and unambiguous statements in the advertisement of viatical settlement contracts and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any contract or purchase agreement offered or sold. This purpose is intended to be accomplished by the establishment of guidelines and standards of permissible and impermissible conduct in the advertising of viatical settlement contracts to assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising and is conducive to accurate presentation and description of viatical settlement contracts through the advertising media and material used by issuers of viatical settlement contracts and their sales agents.

(b) This section shall apply to any advertising of viatical settlement contracts intended for dissemination in this State, including Internet advertising viewed by persons located in this State. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(c) Every person offering or selling viatical settlement contracts shall establish and, at all times, maintain a system of control over the content, form, and method of dissemination of all advertisements of these securities. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the issuer. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the issuer who disseminate advertisements of the requirements and procedures for approval before the use of any advertisements not furnished by the issuer.

(d) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a contract or purchase agreement, product, or service shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Administrator from the overall impression that the advertisement may be reasonably expected to create upon a

person of average education or intelligence within the segment of the public to which it is directed.

(e) Certain viatical settlement contract advertisements are deemed false and misleading on their face and are prohibited. False and misleading viatical settlement advertisements include, but are not limited to, the following representations:

- (1) 'Guaranteed', 'fully secured', '100 percent secured', 'fully insured', 'secure', 'safe', 'backed by rated insurance companies', 'backed by federal law', 'backed by state law', or 'state guaranty funds', or similar representations;
- (2) 'No risk', 'minimal risk', 'low risk', 'no speculation', 'no fluctuation', or similar representations;
- (3) 'Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEP), 403(b), Keogh plans, TSA, other retirement account rollovers', 'tax deferred', or similar representations;
- (4) Utilization of the word 'guaranteed' to describe the fixed return, annual return, principal, earnings, profits, investment, or similar representations;
- (5) 'No sales charges or fees' or similar representations;
- (6) 'High yield', 'superior return', 'excellent return', 'high return', 'quick profit', or similar representations;
- (7) Purported favorable representations or testimonials about the benefits of contracts or purchase agreements as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print and electronic media.

(f) All information required to be disclosed under this section shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion, or intermingled with the context of the advertisement so as to be confusing or misleading.

(g) An advertisement shall not:

- (1) Omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the contract or purchase agreement offered is made available for inspection before consummation of the sale, or an offer is made to refund the payment if the purchaser is not satisfied or that the contract or purchase

agreement includes a 'free look' period that satisfies or exceeds legal requirements, does not remedy misleading statements.

- (2) Use the name or title of a life insurance company or a policy unless the insurer has approved the advertisement.
- (3) Represent that premium payments will not be required to be paid on the policy that is the subject of a contract or purchase agreement in order to maintain that policy, unless that is the fact.
- (4) State or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.
- (5) State or imply that a contract or purchase agreement, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the seller or its agents is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the seller or its agents, or receives any payment or other consideration from the seller or its agents for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.
- (6) Contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.
- (7) Disparage insurers, providers, brokers, dealers, salesmen, insurance producers, policies, services, or methods of marketing.
- (8) Use a trade name, group designation, name of the parent company of an issuer, name of a particular division of the issuer, service mark, slogan, symbol, or other device or reference without disclosing the name of the issuer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the issuer, or to create the impression that a company other than the issuer would have any responsibility for the financial obligation under a contract or purchase agreement.
- (9) Use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective purchasers into believing that the solicitation

is in some manner connected with a government program or agency.

(10) Create the impression that the issuer, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its contracts or purchase agreement forms are recommended or endorsed by any government entity.

(h) The words 'free', 'no cost', 'without cost', 'no additional cost', 'at no extra cost', or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service, may state that a charge is included in the payment, or use other appropriate language.

(i) Testimonials, appraisals, or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the contract or purchase agreement, product, or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective purchasers as to the nature or scope of the testimonials, appraisals, analysis, or endorsement. In using testimonials, appraisals, or analysis, the issuer makes as its own all the statements contained therein, and the statements are subject to all the provisions of this section.

(j) If the individual making a testimonial, appraisal, analysis, or an endorsement has a financial interest in the issuer or related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(k) When an endorsement refers to benefits received under a contract or purchase agreement, all pertinent information shall be retained for a period of five years after its use.

(l) The name of the issuer shall be clearly identified in all advertisements about the issuer or its contract or purchase agreements, products, or services, and if any specific contract or purchase agreement is advertised, the contract or purchase agreement shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the issuer shall be shown on the application.

(m) An advertisement may state that issuer is registered in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing issuer may not be so licensed. The advertisement may ask the audience to consult the issuer's web site or contact the department of insurance and/or the state securities regulatory agency to find out if the state requires licensing or registration and, if so, whether the issuer or its sales agents are licensed.

(n) The name of the actual issuer shall be stated in all of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the issuer, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual issuer or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the issuer.

(o) An advertisement shall not directly or indirectly create the impression that any state or federal governmental agency endorses, approves, or favors:

- (1) Any issuer or its business practices or methods of operation;
- (2) The merits, desirability, or advisability of any contract or purchase agreement;
- (3) Any contract or purchase agreement; or
- (4) Any policy or life insurance company.

(p) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator."

SECTION 8. G.S. 78A-17 reads as rewritten:

"§ 78A-17. *Exempt transactions.*

Except as otherwise provided in this Chapter, the following transactions are exempt from G.S. 78A-24 and G.S. 78A-49(d):

...

(19) Any offer or sale of any viatical settlement contract or any fractionalized or pooled interest therein by the issuer in a transaction that meets all of the following criteria:

- a. The underlying viatical settlement transaction with the viator was not in violation of any applicable state or federal law; and
- b. The offer and sale of such contract or interest therein is conducted in accordance with such conditions as the Administrator requires by rule or order, including conditions governing advertising, suitability standards, financial statements, the investor's right of rescission, and the disclosure of information to offerees and purchasers.

The Administrator may establish a fee to recover costs for any filing required by such rules, not to exceed five hundred dollars (\$500.00)."

SECTION 9. G.S. 78A-27(b) reads as rewritten:

(b) A registration statement under this section shall contain the following information and be accompanied by the following

documents in addition to the information specified in G.S. 78A-28(c) and the consent to service of process required by G.S. 78A-63(f):

- ...
- (12) A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering; if the security is a viatical settlement contract, the prospectus and advertising shall comply with G.S. 78A-13 and G.S. 78A-14 relating to the offering of viatical settlement contracts;".

SECTION 10. G.S. 78A-49 reads as rewritten:

"§ 78A-49. *Rules, forms, orders, and hearings.*

(a) The Administrator may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this Chapter, including rules and forms governing registration statements, applications, and reports, and defining any terms, whether or not used in this Chapter, insofar as the definitions are not inconsistent with the provisions of this Chapter. For the purpose of rules and forms the Administrator may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes. In order to protect the investing public, the Administrator may by rule or order prescribe suitability standards for investments in viatical settlement contracts.

(b) No rule, form, or order may be made, amended, or rescinded unless the Administrator finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this Chapter. In prescribing rules and forms the Administrator may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable.

(c) The Administrator may by rule or order prescribe (i) the form and content of financial statements required under this Chapter, (ii) the circumstances under which consolidated financial statements shall be filed, and (iii) whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(d) The Administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security or transaction is exempted by G.S. 78A-16 or 78A-17 (except ~~78A-~~

~~17(9), (17))~~78A-17(9), (17), and (19)) and such exemption has not been denied or revoked under G.S. 78A-18 or the security is a security covered under federal law or the transaction is with respect to a security covered under federal law.

(e) All rules and forms of the Administrator shall be published.

(f) No provision of this Chapter imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the Administrator, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(g) Every hearing in an administrative proceeding shall be public unless the Administrator in his discretion grants a request joined in by all the respondents that the hearing be conducted privately."

SECTION 11. G.S. 78A-56 reads as rewritten:

"§ 78A-56. *Civil liabilities.*

(a) Any person who:

- (1) Offers or sells a security in violation of G.S. 78A-8(1), 78A-8(3), 78A-10(b), 78A-12, 78A-13, 78A-14, 78A-24, or 78A-36(a), or of any rule or order under G.S. 78A-49(d) which requires the affirmative approval of sales literature before it is used, or of any condition imposed under G.S. 78A-27(d) or 78A-28(g), or
- (2) Offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading (the purchaser not knowing of the untruth or omission), and who does not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the untruth or omission,

is liable to the person purchasing the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less the value of the security when the purchaser disposed of it and interest at the legal rate as provided by G.S. 24-1 from the date of disposition.

...

(k) The purchaser of a viatical settlement contract may rescind or cancel the purchase agreement for any reason by providing written notice of rescission or cancellation to the issuer or the issuer's agent, by certified mail, return receipt requested, within 10 business days

after each of the following: (i) the date on which the purchase agreement for the viatical settlement contract is signed by the purchaser, and (ii) the date of actual notice to the purchaser of the assignment, transfer, or sale of all or a portion of an insurance policy on which the viatical settlement contract is based. Notice of rescission is effective upon deposit in the United States mail. The notice of rescission need not take a particular form and is sufficient if it expresses the intention of the purchaser to rescind the transaction. For purposes of this subsection and subsection (k1) of this section only, the rescission period of 10 business days following the purchaser's signing of the purchase agreement shall also be known as the "initial 10-day rescission period."

(k1) Immediately upon receipt of any consideration by an issuer or its agent pursuant to a viatical settlement purchase agreement, the issuer or its agent shall deliver the consideration to a domestic independent escrow agent. For purposes of this section, 'domestic independent escrow agent' means an escrow agent, located in this State, and not affiliated with the issuer, its affiliate, its officers or directors, or its promoter, or any agents thereof. The domestic independent escrow agent shall maintain the funds received, in their entirety, in an escrow account or trust account located in this State, for the initial 10-day rescission period following the signing of the purchase agreement, as provided in subsection (k) of this section, unless the domestic independent escrow agent, prior to the completion of the initial 10-day rescission period, receives notice of the purchaser's cancellation or rescission of the purchase agreement in accordance with this section. If the purchase agreement is rescinded or cancelled within the initial 10-day rescission period, the domestic independent escrow agent shall immediately deliver the funds, in their entirety along with any interest earned on the funds during the time in which the funds were held in escrow, to the purchaser upon receiving notice, by certified mail, from the issuer or its agent that the purchase agreement has been rescinded or cancelled by the purchaser. If the purchase agreement has not been rescinded or cancelled within the initial 10-day rescission period, the domestic independent escrow agent shall release the funds to the issuer or its agent in a manner to be determined by agreement between the issuer and the domestic independent escrow agent. Until the funds become available for release by the domestic independent escrow agent to the issuer upon the expiration of the initial 10-day rescission period without rescission or cancellation by the purchaser, the funds are not subject to claims by creditors of the issuer, its affiliates, or associates.

(l) Within 90 days after the sale or execution of a contract of sale for an investment of funds intended to be used to purchase a viatical settlement contract or contracts, the seller shall provide the purchaser

with a rescission offer in accordance with rules prescribed by the Administrator, if, within that period, there has not been the identification of each and every viatical settlement contract acceptable to the purchaser which has been or shall be purchased for the investment. The purchaser may accept the rescission offer within 10 business days after receiving it. Acceptance of the rescission offer is effective upon compliance by the purchaser with the procedural requirements for notice of rescission or cancellation by a viatical settlement purchaser set forth in subsection (k) of this section. The seller shall keep a record of the rescission offer and its acceptance or rejection for at least three years after providing that offer and shall provide that record to the Administrator at the Administrator's request. For purposes of this subsection only, "purchaser" means a person who executes a contract of sale, with a seller, for an investment of funds to be used to purchase a viatical settlement contract or viatical settlement contracts when, at the time of execution of the contract, each and every viatical settlement contract to be purchased pursuant to the investment has not been identified."

SECTION 12. G.S. 78A-57(a) reads as rewritten:

"(a) Any person who willfully violates any provision of this Chapter except G.S. 78A-8, 78A-9, 78A-11, ~~or 78A-12, 78A-13, or 78A-14~~ or who willfully violates any rule or order under this Chapter, or who willfully violates G.S. 78A-9 knowing the statement made to be false or misleading in any material respect, shall upon conviction be punished as a Class I felon; but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. Any person who willfully violates G.S. 78A-8, 78A-11, ~~or 78A-12, 78A-13, or 78A-14~~ shall, upon conviction be punished as a Class H felon."

SECTION 13. G.S. 78A-63(a) reads as rewritten:

"(a) Sections 78A-8, 78A-10, 78A-13, 78A-14, 78A-24, 78A-31, 78A-36(a), and 78A-56 apply to persons who sell or offer to sell when (i) an offer to sell is made in this State, or (ii) an offer to buy is made and accepted in this State."

SECTION 14. Article 8 of Chapter 78A of the General Statutes is amended by adding a new section to read:

"§ 78A-66. Jurisdictional limitations.

Nothing in this Chapter affects the Viatical Settlements Act or the jurisdiction of the North Carolina Department of Insurance."

PART III. MISCELLANEOUS PROVISIONS

SECTION 15. The Revisor of Statutes shall cause to be printed along with this act such official comments as the Revisor deems appropriate.

SECTION 16. The headings to the parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SECTION 17. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

SECTION 18. This act becomes effective April 1, 2002.

In the General Assembly read three times and ratified this the 3rd day of October, 2001.

Became law upon approval of the Governor at 10:16 a.m. on the 12th day of October, 2001.

H.B. 381**SESSION LAW 2001-437**

AN ACT TO PHASE IN IMPLEMENTATION OF MENTAL HEALTH SYSTEM REFORM AT THE STATE AND LOCAL LEVEL.

Whereas, the 1999 General Assembly, Regular Session 2000, established the Joint Legislative Oversight Committee ("Committee") on Mental Health, Developmental Disabilities, and Substance Abuse Services; and

Whereas, the Committee was directed to develop a Plan for Mental Health System Reform; and

Whereas, the General Assembly expressed the intent that the Plan be fully implemented not later than July 1, 2005; and

Whereas, the General Assembly directed the Committee to "Report to the 2001 General Assembly upon its convening the changes that should be made to the governance, structure, and financing of the State's mental health system at the State and local levels"; and

Whereas, the Committee reviewed the governance, structure, and financing of the current mental health system and reported its findings and recommendations to the 2001 General Assembly for legislative action; Now, therefore,

The General Assembly of North Carolina enacts:

PART 1. MENTAL HEALTH SYSTEM GOVERNANCE CHANGES

SECTION 1.1. G.S. 122C-2 reads as rewritten:
"§ 122C-2. Policy.

The policy of the State is to assist individuals with needs for mental illness, health, developmental disabilities, and substance abuse problems services in ways consistent with the dignity, rights, and responsibilities of all North Carolina citizens. Within available resources it is the obligation of State and local government to provide mental health, developmental disabilities, and substance abuse services to eliminate, reduce, or prevent the disabling effects of mental illness, developmental disabilities, and substance abuse through a service delivery system designed to meet the needs of clients in the least restrictive available setting, if the least restrictive setting is therapeutically most appropriate, restrictive, therapeutically most appropriate setting available and to maximize their quality of life. It is further the obligation of State and local government to provide community-based services when such services are appropriate, unopposed by the affected individuals, and can be reasonably accommodated within available resources and taking into account the needs of other persons for mental health, developmental disabilities, and substance abuse services.

State and local governments shall develop and maintain a unified system of services centered in area authorities or county programs. The public service system will strive to provide a continuum of services for clients while considering the availability of services in the private sector. Within available resources, State and local government shall ensure that the following core services are available:

- (1) Screening, assessment, and referral.
- (2) Emergency services.
- (3) Service coordination.
- (4) Consultation, prevention, and education.

Within available resources, the State shall provide funding to support services to targeted populations, except that the State and counties shall provide matching funds for entitlement program services as required by law.

As used in this Chapter, the phrase 'within available resources' means State funds appropriated and non-State funds and other resources appropriated, allocated or otherwise made available for mental health, developmental disabilities, and substance abuse services.

The furnishing of services to implement the policy of this section requires the cooperation and financial assistance of counties, the State, and the federal government."

SECTION 1.2.(a) G.S. 122C-3 is amended by adding the following new subdivisions in alphabetical order to read:

- "(1) 'Area director' means the administrative head of the area authority program appointed pursuant to G.S. 122C-121.

- (2) 'Board of county commissioners' includes the participating boards of county commissioners for multicounty area authorities and multicounty programs.
- (3) 'Core services' are services that are necessary for the basic foundation of any service delivery system. Core services are of two types: front-end service capacity such as screening, assessment, and emergency triage, and indirect services such as prevention, education, and consultation at a community level.
- (4) 'County program' means a mental health, developmental disabilities, and substance abuse services program established, operated, and governed by a county pursuant to G.S. 122C-115.1.
- (5) 'Program director' means the director of a county program established pursuant to G.S. 122C-115.1.
- (6) 'Public services' means publicly funded mental health, developmental disabilities, and substance abuse services, whether provided by public or private providers.
- (7) 'Specialty services' means services that are provided to consumers from low-incidence populations.
- (8) 'State' or 'Local' Consumer Advocate means the individual carrying out the duties of the State or Local Consumer Advocacy Program Office in accordance with Article 1A of this Chapter.
- (9) 'State Plan' means the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (10) 'Targeted population' means those individuals who are given service priority under the State Plan.
- (11) 'Uniform portal process' means a standardized process and procedures used to ensure consumer access to, and exit from, public services in accordance with the State Plan."

SECTION 1.2.(b) G.S. 122C-3(5) reads as rewritten:

"(5) 'Catchment area' means the geographic part of the State served by a specific area ~~authority~~. authority or county program."

SECTION 1.2.(c) G.S. 122C-3(34) and G.S. 122C-3(35) are repealed.

SECTION 1.3. G.S. 122C-64 reads as rewritten:

"§ 122C-64. *Human rights committees.*

Human rights committees responsible for protecting the rights of clients shall be established at each State facility ~~and may be established for area authorities. The Commission shall adopt rules for the establishment of committees. These rules shall include the~~

~~composition and duties of the committees and procedures for appointment of the members by the Secretary for State facilities and by the area board for area authorities. facility and for each area authority and county program. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Consumer Advocacy programs. In multicounty area authorities and multicounty programs, the membership of the human rights committee shall include a representative from each of the participating counties.~~"

SECTION 1.4. G.S. 122C-101 reads as rewritten:
 "§ 122C-101. Policy.

Within the public system of mental health, developmental disabilities, and substance abuse services, there are ~~both area area, county, and State facilities. An area authority or county program is the locus of coordination among public services for clients of its catchment area. To assure the most appropriate and efficient care of clients within the publicly supported service system, area authorities are encouraged to develop and secure approval for a single portal of entry and exit policy for their catchment areas for mental health and substance abuse authorities. Effective January 1, 1994, an area authority shall develop and secure approval for a single portal of entry and exit policy for public and private services for individuals with developmental disabilities.~~"

SECTION 1.5. Part 1 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-102. State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.

The Department shall develop and implement a State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. The State Plan shall include the following:

- (1) Vision and mission of the State Mental Health, Developmental Disabilities, and Substance Abuse Services system.
- (2) Organizational structure of the Department and the divisions of the Department responsible for managing and monitoring mental health, developmental disabilities, and substance abuse services.
- (3) Protection of client rights and consumer involvement in planning and management of system services.
- (4) Provision of services to targeted populations, including criteria for identifying targeted populations.

- (5) Compliance with federal mandates in establishing service priorities in mental health, developmental disabilities, and substance abuse.
- (6) Description of the core services that are available to all individuals in order to improve consumer access to mental health, developmental disabilities, and substance abuse services at the local level.
- (7) Service standards for the mental health, developmental disabilities, and substance abuse services system.
- (8) Implementation of the uniform portal process.
- (9) Strategies and schedules for implementing the service plan, including consultation on Medicaid policy with area and county programs, qualified providers, and others as designated by the Secretary, intersystem collaboration, promotion of best practices, technical assistance, outcome-based monitoring, and evaluation.
- (10) A plan for coordination of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services with the Medicaid State Plan, and NC Health Choice.
- (11) A business plan to demonstrate efficient and effective resource management of the mental health, developmental disabilities, and substance abuse services system, including strategies for accountability for non-Medicaid and Medicaid services.
- (12) Strategies and schedules for implementing a phased in plan to eliminate disparities in the allocation of State funding across county programs and area authorities by January 1, 2007, including methods to identify service gaps and to ensure equitable use of State funds to fill those gaps among all counties."

SECTION 1.6. G.S. 122C-111 reads as rewritten:

"§ 122C-111. *Administration.*

The Secretary shall administer and enforce the provisions of this Chapter and the rules of the Commission and shall operate State facilities. An area director or program director shall administer the programs of the area authority or county program, as applicable, and enforce ~~the rules of the area board~~, applicable State laws, rules of the Commission, and rules of the Secretary. The Secretary in cooperation with area and county program directors and State facility directors shall provide for the coordination of public services between area ~~authorities~~ authorities, county programs, and State facilities."

SECTION 1.7.(a) G.S. 122C-112 is repealed.

SECTION 1.7.(b) Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-112.1. Powers and duties of the Secretary.

(a) The Secretary shall do all of the following:

- (1) Oversee development of the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (2) Enforce the provisions of this Chapter and the rules of the Commission and the Secretary.
- (3) Establish a process and criteria for the submission, review, and approval or disapproval of business plans submitted by area authorities and counties for the management and provision of mental health, developmental disabilities, and substance abuse services.
- (4) Adopt rules specifying the content and format of business plans.
- (5) Review business plans and, upon approval of the business plan, certify the submitting area authority or county program to provide mental health, developmental disabilities, and substance abuse services.
- (6) Establish comprehensive, cohesive oversight and monitoring procedures and processes to ensure continuous compliance by area authorities, county programs, and all providers of public services with State and federal policy, law, and standards. Procedures shall include performance measures and report cards for each area authority and county program.
- (7) Conduct regularly scheduled monitoring and oversight of area authority, county programs, and all providers of public services. Monitoring and oversight shall include compliance with the program business plan, core administrative functions, and fiscal and administrative practices and shall also address outcome measures, consumer satisfaction, client rights complaints, and adherence to best practices.
- (8) Make findings and recommendations based on information and data collected pursuant to subdivision (7) of this subsection and submit these findings and recommendations to the applicable area authority board, county program director, board of county commissioners, providers of public services, and to the Local Consumer Advocacy Office.

- (9) Assist area authorities and county programs in the establishment and operation of community-based programs.
- (10) Operate State facilities and adopt rules pertaining to their operation.
- (11) Develop a unified system of services provided in area, county, and State facilities, and by providers enrolled or under a contract with the State.
- (12) Adopt rules governing the expenditure of all funds for mental health, developmental disabilities, and substance abuse programs and services.
- (13) Adopt rules to implement the appeal procedure authorized by G.S. 122C-151.2.
- (14) Adopt rules for the implementation of the uniform portal process.
- (15) Except as provided in G.S. 122C-26(4), adopt rules establishing procedures for waiver of rules adopted by the Secretary under this Chapter.
- (16) Notify the clerks of superior court of changes in the designation of State facility regions and of facilities designated under G.S. 122C-252.
- (17) Promote public awareness and understanding of mental health, mental illness, developmental disabilities, and substance abuse.
- (18) Administer and enforce rules that are conditions of participation for federal or State financial aid.
- (19) Carry out G.S. 122C-361.
- (20) Monitor the fiscal and administrative practices of area authorities and county programs to ensure that the programs are accountable to the State for the management and use of federal and State funds allocated for mental health, developmental disabilities, and substance abuse services. The Secretary shall ensure maximum accountability by area authorities and county programs for rate-setting methodologies, reimbursement procedures, billing procedures, provider contracting procedures, record keeping, documentation, and other matters pertaining to financial management and fiscal accountability. The Secretary shall further ensure that the practices are consistent with professionally accepted accounting and management principles.
- (21) Provide technical assistance, including conflict resolution, to counties in the development and implementation of area authority and county program

- business plans and other matters, as requested by the county.
- (22) Develop a methodology to be used for calculating county resources to reflect cash and in-kind contributions of the county.
 - (23) Adopt rules establishing program evaluation and management of mental health, developmental disabilities, and substance abuse services.
 - (24) Adopt rules regarding the requirements of the federal government for grants-in-aid for mental health, developmental disabilities, or substance abuse programs which may be made available to area authorities or county programs or the State. This section shall be liberally construed in order that the State and its citizens may benefit from the grants-in-aid.
 - (25) Adopt rules for determining minimally adequate services for purposes of G.S. 122C-124.1 and G.S. 122C-125.
 - (26) Establish a process for approving area authorities and county programs to provide services directly in accordance with G.S. 122C-141.
 - (27) Sponsor training opportunities in the fields of mental health, developmental disabilities, and substance abuse.
 - (28) Enforce the protection of the rights of clients served by State facilities, area authorities, county programs, and providers of public services.
 - (29) Adopt rules for the enforcement of the protection of the rights of clients being served by State facilities, area authorities, county programs, and providers of public services.
 - (30) Prior to requesting approval to close a State facility under G.S. 122C-181(b):
 - a. Notify the Joint Legislative Commission on Governmental Operations, the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and members of the General Assembly who represent catchment areas affected by the closure; and
 - b. Present a plan for the closure to the members of the Joint Legislative Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Senate Appropriations Committee on Health and Human Services for their review, advice, and recommendations. The plan

shall address specifically how patients will be cared for after closure, how support services to community-based agencies and outreach services will be continued, and the impact on remaining State facilities. In implementing the plan, the Secretary shall take into consideration the comments and recommendations of the committees to which the plan is presented under this subdivision.

- (31) Ensure that the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services is coordinated with the Medicaid State Plan and NC Health Choice.
- (b) The Secretary may do the following:
- (1) Acquire, by purchase or otherwise in the name of the Department, equipment, supplies, and other personal property necessary to carry out the mental health, developmental disabilities, and substance abuse programs.
 - (2) Promote and conduct research in the fields of mental health, developmental disabilities, and substance abuse; promote best practices.
 - (3) Receive donations of money, securities, equipment, supplies, or any other personal property of any kind or description that shall be used by the Secretary for the purpose of carrying out mental health, developmental disabilities, and substance abuse programs. Any donations shall be reported to the Office of State Budget and Management as determined by that office.
 - (4) Accept, allocate, and spend any federal funds for mental health, developmental disabilities, and substance abuse activities that may be made available to the State by the federal government. This Chapter shall be liberally construed in order that the State and its citizens may benefit fully from these funds. Any federal funds received shall be deposited with the Department of State Treasurer and shall be appropriated by the General Assembly for the mental health, developmental disabilities, or substance abuse purposes specified.
 - (5) Enter into agreements authorized by G.S. 122C-346.
 - (6) Notwithstanding G.S. 126-18, authorize funds for contracting with a person, firm, or corporation for aid or assistance in locating, recruiting, or arranging employment of health care professionals in any facility listed in G.S. 122C-181.

- (7) Contract with one or more private providers or other public service agencies to serve clients of an area authority or county program and reallocate program funds to pay for services under the contract if the Secretary finds all of the following:
- a. The area authority or county program refuses or has failed to provide the services to clients within its catchment area, or provide specialty services in another catchment area, in a manner that is at least adequate.
 - b. Clients within the area authority or county program catchment area will either not be served or will suffer an unreasonable hardship if required to obtain the services from another area authority or county program.
 - c. There is at least one private provider or public service agency within the area authority or county program catchment area, or within reasonable proximity to the catchment area, willing and able to provide services under contract.

Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and to the applicable participating boards of county commissioners of the Secretary's intent to contract and shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.

- (8) Contract with one or more private providers or other public service agencies to serve clients from more than one area authority or county program and reallocate the funds of the applicable programs to pay for services under the contract if the Secretary finds either that there is no other area authority or county program available to act as the administrative entity under contract with the provider or that the area authority or county program refuses or has failed to properly manage and administer the contract with the contract provider, and clients will either not be served or will suffer unreasonable hardship if services are not provided under the contract. Before contracting with a private provider as authorized under this subdivision, the Secretary shall provide written notification to the area authority or county program and the applicable participating boards of county commissioners of the Secretary's intent to contract and

shall provide the area authority or county program and the applicable participating boards of county commissioners an opportunity to be heard.

- (9) Require reports of client characteristics, staffing patterns, agency policies or activities, services, or specific financial data of the area authority, county program, and providers of public services. The reports shall not identify individual clients of the area authority or county program unless specifically required by State law or by federal law or regulation or unless valid consent for the release has been given by the client or legally responsible person."

SECTION 1.8. G.S. 122C-115 reads as rewritten:

"§ 122C-115. Powers and duties of counties and cities. Duties of counties; appropriation and allocation of funds by counties and cities.

(a) ~~Except as provided in G.S. 153A-77, a county shall provide mental health, developmental disabilities, and substance abuse services through an area authority. A county shall provide mental health, developmental disabilities, and substance abuse services through an area authority or through a county program established pursuant to G.S. 122C-115.1. To the extent this section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control.~~

(b) Counties shall and cities may appropriate funds for the support of programs that serve the catchment area, whether the programs are physically located within a single county or whether any facility housing a program is owned and operated by the city or county. Counties and cities may make appropriations for the purposes of this Chapter and may allocate for these purposes other revenues not restricted by law, and counties may fund them by levy of property taxes pursuant to G.S. 153A-149(c)(22).

(c) ~~Within~~ Except as authorized in G.S. 122C-115.1, within a catchment area designated by the Commission in the business plan pursuant to G.S. 122C-115.2, a board of county commissioners or two or more boards of county commissioners jointly shall establish an area authority with the approval of the Secretary.

(d) Except as otherwise provided in this subsection, counties shall not reduce county appropriations and expenditures for current operations and ongoing programs and services of area authorities or county programs because of the availability of State-allocated funds, fees, capitation amounts, or fund balance to the area ~~authority.~~ authority or county program. Counties may reduce county appropriations by the amount previously appropriated by the county for one-time, nonrecurring special needs of the area ~~authority.~~ authority or county program."

SECTION 1.9. Part 2 of Article 4 of Chapter 122C of the General Statutes is amended by adding the following new sections to read:

"§ 122C-115.1. County governance and operation of mental health, developmental disabilities, and substance abuse services program.

(a) A county may operate a county program for mental health, developmental disabilities, and substance abuse services as a single county or, pursuant to Article 20 of Chapter 160A of the General Statutes, may enter into an interlocal agreement with one or more other counties for the operation of a multicounty program. An interlocal agreement shall provide for the following:

- (1) Adoption and administration of the program budget in accordance with Chapter 159 of the General Statutes.
- (2) Appointment of a program director to carry out the provisions of G.S. 122C-111 and duties and responsibilities delegated by the county. Except when specifically waived by the Secretary, the program director shall meet the following minimum qualifications:
 - a. Masters degree,
 - b. Related experience, and
 - c. Management experience.
- (3) A targeted minimum population of 200,000 or a targeted minimum number of five counties served by the program.
- (4) Compliance with the provisions of this Chapter and the rules of the Commission and the Secretary.
- (5) Written notification to the Secretary prior to the termination of the interlocal agreement.
- (6) Appointment of an advisory committee. The interlocal agreement shall designate a county manager to whom the advisory committee shall report. The interlocal agreement shall also designate the appointing authorities. The appointing authorities shall make appointments that take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. At least fifty percent (50%) of the membership shall conform to the requirements provided in G.S. 122C-118.1(b)(1)-(4).

(b) Before establishing a county program pursuant to this section, a county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(c) A county shall ensure that the county program and the services provided through the county program comply with the provisions of this Chapter and the rules adopted by the Commission and the Secretary.

(d) A county program shall submit on a quarterly basis to the Secretary and the board of county commissioners service delivery reports that assess the quality and availability of public services within the county program's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include an assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.

(e) Within 30 days of the end of each quarter of the fiscal year, the program director and finance officer of the county program shall present to each member of the board of county commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. This information shall be read into the minutes of the meeting at which it is presented. The program director or finance officer of the county program shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(f) In a single-county program, the program director shall be appointed by the county manager. In a multicounty program, the program director shall be appointed in accordance with the terms of the interlocal agreement.

(g) In a single-county program, an advisory committee shall be appointed by the board of county commissioners and shall report to the county manager. The appointments shall take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. At least fifty percent (50%) of the membership shall conform to the requirements in G.S. 122C-118.1(b)(1)-(4). In a multicounty program, the advisory committee shall be appointed in accordance with the terms of the interlocal agreement.

(h) The county program may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(i) Except as otherwise specifically provided, this Chapter applies to counties that provide mental health, developmental disabilities, and substance abuse services through a county program.

As used in the applicable sections of this Article, the terms 'area authority', 'area program', and 'area facility' shall be construed to include 'county program'. The following sections of this Article do not apply to county programs:

- (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.
- (2) G.S. 122C-119 and G.S. 122C-119.1.
- (3) G.S. 122C-120 and G.S. 122C-121.
- (4) G.S. 122C-127.
- (5) G.S. 122C-147.
- (6) G.S. 122C-152 and G.S. 122C-153.
- (7) G.S. 122C-156.
- (8) G.S. 122C-158.

"§ 122C-115.2. *Business plan required; content, process, certification.*

(a) Every county, through an area authority or county program, shall provide for development, review, and approval of a business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. A business plan shall provide detailed information on how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness. The business plan shall be in effect for at least three State fiscal years.

(b) Business plans shall include the following:

- (1) Description of how the following core administrative functions will be carried out:
 - a. Planning. – Local services plans that identify service gaps and methods for filling the gaps, ensure the availability of an array of services based on consumer needs, provision of core services, equitable service delivery among member counties, and prescribing the efficient and effective use of all funds for targeted services. Local planning shall be an open process involving key stakeholders.
 - b. Provider network development. – Ensuring available, qualified providers to deliver services based on the business plan. Development of new providers and monitoring provider performance and service outcomes. Provider network development shall address consumer choice and fair competition. For the purposes of this section, a 'qualified provider' means a provider who meets the provider

- qualifications as defined by rules adopted by the Secretary.
- c. Service management. – Implementation of uniform portal process. Service management shall include appropriate level and intensity of services, management of State hospitals/facilities bed days, utilization management, case management, and quality management. If services are provided directly by the area authority or county program, then the plan shall indicate how consumer choice and fair competition in the marketplace is ensured.
 - d. Financial management and accountability. – Carrying out business functions in an efficient and effective manner, cost-sharing, and managing resources dedicated to the public system.
 - e. Service monitoring and oversight. – Ensuring that services provided to consumers and families meet State outcome standards and ensure quality performance by providers in the network.
 - f. Evaluation. – Self-evaluation based on statewide outcome standards and participation in independent evaluation studies.
 - g. Collaboration. – Collaborating with other local service systems in ensuring access and coordination of services at the local level. Collaborating with other area authorities and county programs and the State in planning and ensuring the delivery of services.
 - h. Access. – Ensuring access to core and targeted services.
- (2) Description of how the following will be addressed:
- a. Reasonable administrative costs based on uniform State criteria for calculating administrative costs and costs or savings anticipated from consolidation.
 - b. Proposed reinvestment of savings toward direct services.
 - c. Compliance with the catchment area consolidation plan adopted by the Secretary.
 - d. Based on rules adopted by the Secretary, method for calculating county resources to reflect cash and in-kind contributions of the county.
 - e. Financial and services accountability and oversight in accordance with State and federal law.
 - f. The composition, appointments, selection process, and the process for notifying each board of county

commissioners of all appointments made to the area authority board.

g. The population base of the catchment area to be served.

h. Use of local funds for the alteration, improvement, and rehabilitation of real property as authorized by and in accordance with G.S. 122C-147.

(3) Other matters determined by the Secretary to be necessary to effectively and efficiently ensure the provision of mental health, developmental disabilities, and substance abuse services through an area authority or county program.

(c) The county program or area authority proposing the business plan shall submit the proposed plan as approved by the board of county commissioners to the Secretary for review and certification. The Secretary shall review the business plan within 30 days of receipt of the plan. If the business plan meets all of the requirements of State law and standards adopted by the Secretary, then the Secretary shall certify the area authority or county program as a single-county area authority, a single-county program, a multicounty area authority, or a multicounty program. Implementation of the certified plan shall begin within 30 days of certification. If the Secretary determines that changes to the plan are necessary, then the Secretary shall so notify the submitting county program or area authority and the applicable participating boards of county commissioners and shall indicate in the notification the changes that need to be made in order for the proposed program to be certified. The submitting county program or area authority shall have 30 days from receipt of the Secretary's notice to make the requested changes and resubmit the amended plan to the Secretary for review. The Secretary shall provide whatever assistance is necessary to resolve outstanding issues. Amendments to the business plan shall be subject to the approval of the participating boards of county commissioners.

(d) Annually, in accordance with procedures established by the Secretary, each area authority and county program submitting a business plan shall enter into a memorandum of agreement with the Secretary for the purpose of ensuring that State funds are used in accordance with priorities expressed in the business plan.

"§ 122C-115.3. Dissolution of area authority.

(a) Whenever the board of commissioners of each county constituting an area authority determines that the area authority is not operating in the best interests of consumers, it may direct that the area authority be dissolved. In addition, whenever a board of commissioners of a county that is a member of an area authority determines that the area authority is not operating in the best interests

of consumers of that county, it may withdraw from the area authority. Dissolution of an area authority or withdrawal from the area authority by a county shall be effective only at the end of the fiscal year in which the action of dissolution or withdrawal transpired.

(b) Notwithstanding the provisions of subsection (a) of this section, no county shall withdraw from an area authority nor shall an area authority be dissolved without first demonstrating that continuity of services will be assured and without prior approval of the Secretary.

(c) Prior to withdrawal of a county from an area authority, the county board of commissioners shall hold a public hearing with notice published at least 10 days before the hearing.

(d) Prior to dissolution of an area authority, the area authority shall hold a public hearing with notice published in every participating county at least 10 days before the hearing.

(e) Any budgetary surplus available to an area authority at the time of its dissolution shall be distributed to those counties comprising the area authority on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year. Distribution to the counties shall be determined on the basis of an audit of the financial record of the area authority. The area authority board shall select a certified public accountant or an accountant who is subsequently certified by the Local Government Commission to conduct the audit. The audit shall be performed in accordance with G.S. 159-34. The same method of distribution of funds described in this subsection shall apply when one or more counties of an area authority withdraw from the area authority.

(f) Funds distributed to counties pursuant to subsection (e) of this section shall be placed in the fund balance of the county program or area authority subsequently established or joined pursuant to G.S. 122C-115.

(g) Any liabilities at the time of its dissolution shall be paid from unobligated surplus funds available to the area authority. If unobligated surplus funds are not sufficient to satisfy the total indebtedness of the area authority, then the remaining unsatisfied indebtedness shall be apportioned on the same pro rata basis that the counties appropriated and contributed funds to the area authority's budget during the current fiscal year."

SECTION 1.10. G.S. 122C-117 reads as rewritten:

"§ 122C-117. *Powers and duties of the area authority.*

(a) The area authority ~~shall~~ shall do all of the following:

(1) Engage in comprehensive planning, budgeting, implementing, and monitoring of community-based

- mental health, developmental disabilities, and substance abuse ~~services;~~ services.
- (2) ~~Provide~~ Ensure the provision of services to clients in the catchment area, including clients committed to the custody of the Department of Juvenile Justice and Delinquency ~~Prevention;~~ Prevention.
 - (3) Determine the needs of the area authority's clients and coordinate with the Secretary and with the Department of Juvenile Justice and Delinquency Prevention the provision of services to clients through area and State ~~facilities;~~ facilities.
 - (4) Develop plans and budgets for the area authority subject to the approval of the ~~Secretary;~~ Secretary. The area authority shall submit the approved budget to the board of county commissioners and the county manager and provide quarterly reports on the financial status of the program in accordance with subsection (c) of this section.
 - (5) Assure that the services provided by the county through the area authority meet the rules of the Commission and ~~Secretary;~~ Secretary.
 - (6) Comply with federal requirements as a condition of receipt of federal ~~grants;~~ and grants.
 - (7) ~~Appoint an area director, chosen through a search committee on which the Secretary of the Department of Health and Human Services or the Secretary's designee serves as a nonvoting member. Appoint an area director in accordance with G.S. 122C-121(d). The appointment is subject to the approval of the board of county commissioners except that one or more boards of county commissioners may waive its authority to approve the appointment. The appointment shall be based on a selection by a search committee of the area authority board. The search committee shall include consumer board members, a county manager, and one or more county commissioners. The Secretary shall have the option to appoint one member to the search committee.~~
 - (8) Develop and submit to the board of county commissioners for approval the business plan required under G.S. 122C-115.2. A multicounty area authority shall submit the business plan to each participating board of county commissioners for its approval. The boards of county commissioners of a multicounty area authority shall jointly submit one approved business plan to the Secretary for approval and certification.

- (9) Perform public relations and community advocacy functions.
- (10) Recommend to the board of county commissioners the creation of local program services.
- (11) Submit to the Secretary and the board of county commissioners service delivery reports, on a quarterly basis, that assess the quality and availability of public services within the area authority's catchment area. The service delivery reports shall include the types of services delivered, number of recipients served, and services requested but not delivered due to staffing, financial, or other constraints. In addition, at least annually, a progress report shall be submitted to the Secretary and the board of county commissioners. The progress report shall include an assessment of the progress in implementing local service plans, goals, and outcomes. All reports shall be in a format and shall contain any additional information required by the Secretary or board of county commissioners.
- (12) Comply with this Article and rules adopted by the Secretary for the development and submission of and compliance with the area authority business plan.

(a1) The area authority may contract to provide services to governmental or private entities, including Employee Assistance Programs.

(b) The governing unit of the area authority is the area board. All powers, duties, functions, rights, privileges, or immunities conferred on the area authority may be exercised by the area board.

(c) Within 30 days of the end of each quarter of the fiscal year, the area director and finance officer of the area authority shall provide to each member of the board of county commissioners the quarterly report of the area authority. This information shall be presented in a format prescribed by the county. At least twice a year, this information shall be presented in person and shall be read into the minutes of the meeting at which it is presented. In addition, the area director or finance officer of the area authority shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.

(d) A multicounty area authority shall provide to each board of county commissioners of participating counties a copy of the area authority's annual audit. The audit findings shall be presented in a format prescribed by the county and shall be read into the minutes of the meeting at which the audit findings are presented."

SECTION 1.11.(a) G.S. 122C-118 is repealed.

SECTION 1.11.(b) Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-118.1. Structure of area board.

(a) An area board shall have no fewer than 11 and no more than 25 members. In a single-county area authority, the members shall be appointed by the board of county commissioners. Except as otherwise provided, in areas consisting of more than one county, each board of county commissioners within the area shall appoint one commissioner as a member of the area board. These members shall appoint the other members. The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C-155.2(b). These appointments shall take into account sufficient citizen participation, equitable representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include an individual with financial expertise or a county finance officer, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

(b) At least fifty percent (50%) of the members of the area board shall represent the following:

- (1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry.
- (2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse.
- (3) A family member or an individual from citizens' organizations composed primarily of consumers or their family members, representing the interests of individuals:
 - a. With mental illness; and
 - b. In recovery from addiction; and
 - c. With developmental disabilities.
- (4) Openly declared consumers:

- a. With mental illness; and
- b. With developmental disabilities; and
- c. In recovery from addiction.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity. The terms of county commissioners on an area board are concurrent with their terms as county commissioners. The terms of the other members on the area board shall be for four years, except that upon the initial formation of an area board one-fourth shall be appointed for one year, one-fourth for two years, one-fourth for three years, and all remaining members for four years. Members other than county commissioners shall not be appointed for more than two consecutive terms.

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes."

SECTION 1.11.(c) G.S. 122C-119 reads as rewritten:

"§ 122C-119. *Organization of area board.*

(a) The area board shall meet at least six times per year.

(b) Meetings shall be called by the area board chairman or by three or more members of the board after notifying the area board chairman in writing.

(c) Members of the area board elect the board's chairman. The term of office of the area board chairman shall be one year. A county commissioner area board member may serve as the area board chairman.

(d) The area board shall establish a finance committee that shall meet at least six times per year to review the financial strength of the area program. The finance committee shall have a minimum of three members, two of whom have expertise in budgeting and fiscal control. The member of the area board who is the county finance officer or individual with financial expertise shall serve as an ex officio member. All other finance officers of participating counties in a multicounty area authority may serve as ex officio members. If the area board so chooses, the entire area board may function as the finance committee; however, its required meetings as a finance committee shall be distinct from its meetings as an area board."

SECTION 1.12. G.S. 122C-121 reads as rewritten:

"§ 122C-121. *Area director.*

~~(a) The area director is an employee of the area board and shall serve at the pleasure of the area board. The director is responsible for the staff appointments, for implementation of the policies and~~

programs of the board in compliance with rules of the Commission and the Secretary, and for the supervision of all service programs and staff. The area director is an employee of the area board and shall be appointed in accordance with G.S. 122C-117(7). The area director is the administrative head of the area program.

(b) The area board shall evaluate annually the area director for performance based on criteria established by the Secretary and the area board. In conducting the evaluation, the area board shall consider comments from the board of county commissioners.

(c) In addition to the duties under G.S. 122C-111, the area director shall:

- (1) Appoint and supervise area program staff.
- (2) Administer area authority services.
- (3) Develop the budget of the area authority for review by the area board.
- (4) Provide information and advice to the board of county commissioners through the county manager.
- (5) Act as liaison between the area authority and the Department.

(d) Except when specifically waived by the Secretary, the area director shall meet the following minimum qualifications:

- (1) Masters degree;
- (2) Related experience; and
- (3) Management experience."

SECTION 1.13.(a) G.S. 122C-124, 122C-125.1, and 122C-126 are repealed.

SECTION 1.13.(b) Article 4 of Chapter 122C of the General Statutes is amended by adding the following new section to read:

"§ 122C-124.1. Actions by the Secretary when area authority or county program is not providing minimally adequate services.

(a) Notice of Likelihood of Action. – When the Secretary determines that there is a likelihood of suspension of funding, assumption of service delivery or management functions, or appointment of a caretaker board under this section within the ensuing 60 days, the Secretary shall so notify in writing the area authority board or the county program and the board of county commissioners of the area authority or county program. The notice shall state the particular deficiencies in program services or administration that must be remedied to avoid action by the Secretary under this section. The area authority board or county program shall have 60 days from the date it receives notice under this subsection to take remedial action to correct the deficiencies. The Secretary shall

provide technical assistance to the area authority or county program in remedying deficiencies.

(b) Suspension of Funding; Assumption of Service Delivery or Management Functions. – If the Secretary determines that a county, through an area authority or county program, is not providing minimally adequate services, in accordance with rules adopted by the Secretary or the Commission, to persons in need in a timely manner, or fails to demonstrate reasonable efforts to do so, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and to the board of county commissioners of the area authority or county program, and after providing the area authority or county program and the boards of county commissioners of the area authority or county program an opportunity to be heard, may:

- (1) Withhold funding for the particular service or services in question from the area authority or county program and ensure the provision of these services through contracts with public or private agencies or by direct operation by the Department.

Upon suspension of funding, the Department shall direct the development and oversee implementation of a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of any ongoing concerns or problems with the area authority's or county program's finances or delivery of services.

- (2) Assume control of the particular service or management functions in question or of the area authority or county program and appoint an administrator to exercise the powers assumed. This assumption of control shall have the effect of divesting the area authority or county program of its powers in G.S. 122C-115.1 and G.S. 122C-117 and all other service delivery powers conferred on the area authority or county program by law as they pertain to this service or management function. County funding of the area authority or county program shall continue when the State has assumed control of the catchment area or of the area authority or county program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program.

Upon assumption of control of service delivery or management functions, the Department shall, in

conjunction with the area authority or county program, develop and implement a corrective plan of action and provide notification to the area authority or county program and the board of county commissioners of the area authority or county program of the plan. The Department shall also keep the area authority board and the board of county commissioners informed of any ongoing concerns or problems with the delivery of services.

(c) Appointment of Caretaker Administrator. – In the event that a county, through an area authority or county program, fails to comply with the corrective plan of action required when funding is suspended or when the State assumes control of service delivery or management functions, the Secretary, after providing written notification of the Secretary's intent to the area authority or county program and the applicable participating boards of county commissioners of the area authority or county program, shall appoint a caretaker administrator, a caretaker board of directors, or both.

The Secretary may assign any of the powers and duties of the area director or program director or of the area authority board or board of county commissioners of the area authority or county program pertaining to the operation of mental health, developmental disabilities, and substance abuse services to the caretaker board or to the caretaker administrator as it deems necessary and appropriate to continue to provide direct services to clients, including the powers as to the adoption of budgets, expenditures of money, and all other financial powers conferred on the area authority or county program by law pertaining to the operation of mental health, developmental disabilities, and substance abuse services. County funding of the area authority or county program shall continue when the State has assumed control of the financial affairs of the program. At no time after the State has assumed this control shall a county withdraw funds previously obligated or appropriated to the area authority or county program. The caretaker administrator and the caretaker board shall perform all of these powers and duties. The Secretary may terminate the area director or program director when it appoints a caretaker administrator. Chapter 150B of the General Statutes shall apply to the decision to terminate the area director or program director. Neither party to any such contract shall be entitled to damages. After a caretaker board has been appointed, the General Assembly shall consider, at its next regular session, the future governance of the identified area authority or county program."

SECTION 1.14. G.S. 122C-132 and G.S. 122C-132.1 are repealed.

SECTION 1.15. G.S. 122C-141 reads as rewritten:

"§ 122C-141. *Provision of services.*

(a) ~~The area authority may provide services directly and may contract with other public or private agencies, institutions, or resources for the provision of services.~~ or county program shall contract with other qualified public or private providers, agencies, institutions, or resources for the provision of services, and, subject to the approval of the Secretary, is authorized to provide services directly. The area authority or county program shall indicate in its local business plan how services will be provided and how the provision of services will address issues of access, availability of qualified public or private providers, consumer choice, and fair competition. The Secretary shall take into account these issues when reviewing the local business plan and considering approval of the direct provision of services. The Secretary shall develop criteria for the approval of direct service provision by area authorities and county programs in accordance with this section and as evidenced by compliance with the local business plan. For the purposes of this section, a qualified public or private provider is a provider that meets the provider qualifications as defined by rules adopted by the Secretary.

(b) All area authority or county program services provided directly or under contract shall meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. The Secretary may delay payments and, with written notification of cause, may reduce or deny payment of funds if an area authority or county program fails to meet these requirements.

(c) The area authority or board of county commissioners of a county program may contract with a health maintenance organization, certified and operating in accordance with the provisions of Article 67 of Chapter 58 of the General Statutes for the area ~~authority,~~ authority or county program, to provide mental health, developmental disabilities, or substance abuse services to enrollees in a health care plan provided by the health maintenance organization. The terms of the contract must meet the requirements of all applicable State statutes and rules of the Commission and Secretary governing both the provision of services by an area authority or county program and the general and fiscal operation of an area authority or county program and the reimbursement rate for services rendered shall be based on the usual and customary charges paid by the health maintenance organization to similar providers. Any provision in conflict with a State statute or rule of the Commission or the Secretary shall be void; however, the presence of any void provision in that contract does not render void any other provision in that contract which is not in conflict with a State statute or rule of the Commission or the Secretary. Subject to approval by the Secretary

and pending the timely reimbursement of the contractual charges, the area authority or county program may expend funds for costs which may be incurred by the area authority or county program as a result of providing the additional services under a contractual agreement with a health maintenance organization."

SECTION 1.16. G.S. 122C-143.2 is repealed.

SECTION 1.17.(a) G.S. 122C-151.2 reads as rewritten:

"§ 122C-151.2. *Appeal by area ~~authorities~~: authorities and county programs.*

(a) The area authority or county program may appeal to the Commission any action regarding rules under the jurisdiction of the Commission or rules under the joint jurisdiction of the Commission and the Secretary.

(b) The area authority or county program may appeal to the Secretary any action regarding rules under the jurisdiction of the Secretary.

(c) Appeals shall be conducted according to rules adopted by the Commission and Secretary and in accordance with Chapter 150B of the General Statutes."

SECTION 1.17.(b) G.S. 122C-151.3 reads as rewritten:

"§ 122C-151.3. *Dispute with area ~~authorities~~: authorities or county programs.*

An area authority or county program shall establish written procedures for resolving disputes over decisions of an area authority or county program that may be appealed to the ~~Area Authority~~ State MH/DD/SA Appeals Panel under G.S. 122C-151.4. The procedures shall be informal and shall provide an opportunity for those who dispute the decision to present their position."

SECTION 1.17.(c) G.S. 122C-151.4 reads as rewritten:

"§ 122C-151.4. *Appeal to ~~Area Authority~~ State MH/DD/SA Appeals Panel.*

- (a) Definitions. – The following definitions apply in this section:
- (1) "Contract" means a contract with an area authority or county program to provide services, other than personal services, to clients and other recipients of services.
 - (2) "Contractor" means a person who has a contract or who had a contract during the current fiscal year.
 - (3) "Former contractor" means a person who had a contract during the previous fiscal year.
 - (4) "Appeals Panel" means the State MH/DD/SA Appeals Panel established under this section.
 - (5) "Client" means an individual who is admitted to or receiving public services from an area facility. "Client" includes the client's personal representative or designee.

(b) Appeals Panel. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel is established. The Panel shall consist of three members appointed by the Secretary. The Secretary shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Secretary.

(c) Who Can Appeal. – The following persons may appeal to the ~~Area Authority~~ State MH/DD/SA Appeals Panel after having exhausted the appeals process at the appropriate area authority or county program:

- (1) A contractor or a former contractor who claims that an area authority or county program is not acting or has not acted within applicable State law or rules in imposing a particular requirement on the contractor on fulfillment of the contract;
- (2) A contractor or a former contractor who claims that a requirement of the contract substantially compromises the ability of the contractor to fulfill the contract;
- (3) A contractor or former contractor who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided by the contractor or former contractor;
- (4) A client or a person who was a client in the previous fiscal year, who claims that an area authority or county program has acted arbitrarily and capriciously in reducing funding for the type of services provided or formerly provided to the client directly by the area ~~authority;~~ authority or county program; and
- (5) A person who claims that an area authority or county program did not comply with a State law or a rule adopted by the Secretary or the Commission in developing the plans and budgets of the area authority or county program and that the ~~area authority's~~ failure to comply has adversely affected the ability of the person to participate in the development of the plans and budgets.

(d) Hearing. – All members of the ~~Area Authority~~ State MH/DD/SA Appeals Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within the time required by the Secretary and shall be heard by the Panel within the time required by the Secretary. A hearing shall be conducted at the place determined in accordance with the rules adopted by the Secretary. A hearing before the Panel shall be informal; no sworn testimony shall be taken and the rules of evidence do not apply. The person who appeals to the Panel has the burden of proof. The Panel shall not stay a decision of an area authority during an appeal to the Panel.

(e) Decision. – The ~~Area Authority~~ State MH/DD/SA Appeals Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct a ~~contractor or contractor~~, an area ~~authority~~ authority, or a county program to take an action or to refrain from taking an action, but it shall not require a party to the appeal to pay any amount except payment due under the contract. In making a decision, the Panel shall determine the course of action that best protects or benefits the clients of the area ~~authority~~ authority or county program. If a party to an appeal fails to comply with a decision of the Panel and the Secretary determines that the failure deprives clients of the area ~~authority~~ authority or county program of a type of needed service, the Secretary may use funds previously allocated to the area ~~authority~~ authority or county program to provide the service.

(f) Chapter 150B Appeal. – A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of Chapter 150B of the General Statutes. Notwithstanding ~~G.S. 150B-2(1)~~, G.S. 150B-2(1a), an area ~~authority~~ authority or county program is considered an agency for purposes of the limited appeal authorized by this section. The Secretary shall make a final decision in the contested case."

SECTION 1.18. G.S. 122C-154 reads as rewritten:
"§ 122C-154. *Personnel*.

Employees under the direct supervision of the area ~~authority~~ director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1."

SECTION 1.19. G.S. 122C-181 reads as rewritten:
"§ 122C-181. *Secretary's jurisdiction over State facilities*.

(a) Except as provided in subsection (b) of this section, the Secretary shall operate the following facilities:

- (1) For the mentally ill:
 - a. Cherry Hospital;
 - b. Dorothea Dix Hospital;
 - c. John Umstead Hospital; and
 - d. Broughton Hospital; and
- (2) For the mentally retarded:
 - a. Caswell Center;
 - b. O'Berry Center;
 - c. Murdoch Center;
 - d. Western Carolina Center; and

- e. Black Mountain Center; and
- (3) For substance abusers:
 - a. Walter B. Jones Alcohol and Drug Abuse Treatment Center at Greenville;
 - b. Alcohol and Drug Abuse Treatment ~~Center at~~ Butner; ~~Center at John Umstead Hospital~~; and
 - c. Julian F. Keith Alcohol and Drug Abuse Treatment ~~Center at Black Mountain~~; Center; and
- (4) As special care facilities:
 - a. ~~Wilson~~ North Carolina Special Care Center;
 - b. Whitaker School; and
 - c. ~~Wright School~~; and School.
 - d. ~~Butner Adolescent Treatment Center~~.

(b) ~~The~~ Subject to the requirements of subsection (c) of this section, the Secretary may, with the approval of the Governor and Council of State, close any State facility.

(c) Closure of a State facility under subsection (b) of this section becomes effective on the earlier of the 31st legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 10 days after the date the closure is approved, unless a different effective date applies under this subsection. If a bill that specifically disapproves the State facility closure is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the closure becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the State facility closure. If the Secretary specifies a later effective date for closure than the date that would otherwise apply under this subsection, the later date applies. Closure of a State facility does not become effective if the closure is specifically disapproved by a bill ratified by the General Assembly before it becomes effective. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove closure of a facility that has been approved by the Governor and Council of State as provided in subsection (b) of this section. Nothing in this subsection shall be construed to impair the Secretary's power or duty otherwise imposed by law to close a State facility temporarily for the protection of health and safety."

SECTION 1.20.(a) G.S. 122C-112(13) is repealed.

SECTION 1.20.(b) Part 1 of Article 3 of Chapter 143B of the General Statutes is amended by adding the following new section to read:

"§ 143B-139.6A. Secretary's responsibilities regarding availability of early intervention services.

The Secretary of the Department of Health and Human Services shall ensure, in cooperation with other appropriate agencies, that all types of early intervention services specified in the "Individuals with Disabilities Education Act" (IDEA), P.L. 102-119, the federal early intervention legislation, are available to all eligible infants and toddlers and their families to the extent funded by the General Assembly.

The Secretary shall coordinate and facilitate the development and administration of the early intervention system for eligible infants and toddlers and shall assign among the cooperating agencies the responsibility, including financial responsibility, for services. The Secretary shall be advised by the Interagency Coordinating Council for Children from Birth to Five with Disabilities and Their Families, established by G.S. 143B-179.5, and may enter into formal interagency agreements to establish the collaborative relationships with the Department of Public Instruction, other appropriate agencies, and other public and private service providers necessary to administer the system and deliver the services.

The Secretary shall adopt rules to implement the early intervention system, in consultation with all other appropriate agencies."

SECTION 1.21.(a) G.S. 143B-147 reads as rewritten:

"§ 143B-147. *Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – creation, powers and duties.*

(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, ~~alcohol and drug abuse~~ substance abuse programs including education, prevention, intervention, ~~treatment, rehabilitation~~ screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the mental ~~health, illness,~~ developmental disabilities, or ~~alcohol and drug abuse~~ substance abuse problems of the citizens of this State. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

- (1) To adopt rules regarding the
 - a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;

- b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse ~~authorities~~ authorities, county programs, and all providers of public services under Part 4 of Article 4 of Chapter 122C of the General Statutes;
 - c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 of Chapter 122C of the General Statutes; and
 - ~~d. Requirements of the federal government for grants-in-aid for mental health, developmental disabilities, alcohol or drug abuse programs which may be made available to local programs or the State. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid; and~~
 - ~~e. Implementation of single uniform portal process and policies of entry and exit policies established pursuant to Chapter 122C of the General Statutes.~~
 - f. Standards of public services for mental health, developmental disabilities, and substance abuse services.
- (2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes.
- (3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:
- a. Mental illness and mental health,
 - b. Developmental disabilities,
 - c. ~~Alcohol abuse,~~ and Substance abuse.
 - ~~d. Drug abuse;~~
- (4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration

of plans involving mental health, developmental disabilities, ~~alcohol abuse, and drug abuse services;~~ and substance abuse services.

- (5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by ~~G.S. 90-100;~~ G.S. 90-100.
- (6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or ~~welfare;~~ welfare.
- (7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General ~~Statutes;~~ Statutes.
- (8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(b) All rules hereby adopted shall be consistent with the laws of this State and not inconsistent with the management responsibilities of the Secretary of the Department of Health and Human Services provided by this Chapter and the Executive Organization Act of 1973.

(c) All rules and regulations pertaining to the delivery of services and licensing of facilities heretofore adopted by the Commission for Mental Health and Mental Retardation Services, controlled substances rules and regulations adopted by the North Carolina Drug Commission, and all rules and regulations adopted by the Commission for Mental Health, Mental Retardation and Substance Abuse Services shall remain in full force and effect unless and until repealed or superseded by action of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(d) All rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be enforced by the Department of Health and Human Services."

SECTION 1.21.(b) G.S. 143B-148 reads as rewritten:

"§ 143B-148. *Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.*

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of 26 members:

- (1) Four of whom shall be appointed by the General Assembly, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. ~~have concern for the problems of mental illness, developmental disabilities, alcohol and drug abuse.~~ Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;
- (2) Twenty-two of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and 10 at-large members.
 - a. Of these 22 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.
 - b. The remaining seven members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.
 - c. Of these 22 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

- d. The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed by the Governor shall be four years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves.
- (3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.
- (b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.
- (c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.
- (d) A majority of the Commission shall constitute a quorum for the transaction of business.
- (e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

PART 2. MH/DD/SA CONSUMER ADVOCACY PROGRAM

SECTION 2. Effective July 1, 2002, Chapter 122C of the General Statutes is amended by adding the following new Article to read:

"Article 1A.

"MH/DD/SA Consumer Advocacy Program.

"§ 122C-10. MH/DD/SA Consumer Advocacy Program.

The General Assembly finds that many consumers of mental health, developmental disabilities, and substance abuse services are uncertain about their rights and responsibilities and how to access the public service system to obtain appropriate care and treatment. The General Assembly recognizes the importance of ensuring that consumers have information about the availability of services and access to resources to obtain timely quality care. There is established

the MH/DD/SA Consumer Advocacy Program. The purpose of this Program is to provide consumers, their families, and providers with the information and advocacy needed to locate appropriate services, resolve complaints, or address common concerns and promote community involvement. It is further the intent of the General Assembly that the Department, within available resources and pursuant to its duties under this Chapter, ensure that the performance of the mental health care system in this State is closely monitored, reviews are conducted, findings and recommendations and reports are made, and that local and systemic problems are identified and corrected when necessary to promote the rights and interests of all consumers of mental health, developmental disabilities, and substance abuse services.

"§ 122C-11. MH/DD/SA Consumer Advocacy Program/definitions.

Unless the context clearly requires otherwise, as used in this Article:

- (1) 'MH/DD/SA' means mental health, developmental disabilities, and substance abuse.
- (2) 'State Consumer Advocate' means the individual charged with the duties and functions of the State MH/DD/SA Consumer Advocacy Program established under this Article.
- (3) 'State Consumer Advocacy Program' means the State MH/DD/SA Consumer Advocacy Program.
- (4) 'Local Consumer Advocate' means an individual employed and certified by the State Consumer Advocate to perform the duties and functions of the MH/DD/SA Local Consumer Advocacy Program in accordance with this Article.
- (5) 'Local Consumer Advocacy Program' means a local MH/DD/SA Local Consumer Advocacy Program.
- (6) 'Consumer' means an individual who is a client or a potential client of public services from a State or area facility.

"§ 122C-12. State MH/DD/SA Consumer Advocacy Program.

The Secretary shall establish a State MH/DD/SA Consumer Advocacy Program office in the Office of the Secretary of Health and Human Services. The Secretary shall appoint a State Consumer Advocate. In selecting the State Consumer Advocate, the Secretary shall consider candidates recommended by citizens' organizations representing the interest of individuals with needs for mental health, developmental disabilities, and substance abuse services. The State Consumer Advocate may hire individuals to assist in executing the State Consumer Advocacy Program and to act on the State Consumer Advocate's behalf. The State Consumer Advocate shall have expertise

and experience in MH/DD/SA, including expertise and experience in advocacy. The Attorney General shall provide legal staff and advice to the State Consumer Advocate.

"§ 122C-13. State Consumer Advocate duties.

The State Consumer Advocate shall:

- (1) Establish Local Quality Care Consumer Advocacy Programs described in G.S. 122C-14 and appoint the Local Consumer Advocates.
- (2) Establish certification criteria and minimum training requirements for Local Consumer Advocates.
- (3) Certify Local Consumer Advocates. The certification requirements shall include completion of the minimum training requirements established by the State Consumer Advocate.
- (4) Provide training and technical Advocacy to Local Consumer Advocates.
- (5) Establish procedures for processing and resolving complaints both at the State and local levels.
- (6) Establish procedures for coordinating complaints with local human rights committees and the State protection and advocacy agency.
- (7) Establish procedures for appropriate access by the State and Local Consumer Advocates to State, area authority, and county program facilities and records to ensure MH/DD/SA. The procedures shall include, but not be limited to, interviews of owners, consumers, and employees of State, area authority, and county program facilities, and on-site monitoring of conditions and services. The procedures shall ensure the confidentiality of these records and that the identity of any complainant or consumer will not be disclosed except as otherwise provided by law.
- (8) Provide information to the public about available MH/DD/SA services, complaint procedures, and dispute resolution processes.
- (9) Analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to consumers and recommend changes as considered necessary to the Secretary.
- (10) Analyze and monitor data relating to complaints or concerns about access and issues to identify significant local or systemic problems, as well as opportunities for improvement, and advise and assist the Secretary in developing policies, plans, and programs for ensuring

that the quality of services provided to consumers is of a uniformly high standard.

- (11) Submit a report annually to the Secretary, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Health Care Oversight Committee containing data and findings regarding the types of problems experienced and complaints reported by or on behalf of providers, consumers, and employees of providers, as well as recommendations to resolve identified issues and to improve the administration of MH/DD/SA facilities and the delivery of MH/DD/SA services throughout the State.

"§ 122C-14. Local Consumer Advocate; duties.

(a) The State Consumer Advocate shall establish a Local MH/DD/SA Consumer Advocacy Program in locations in the State to be designated by the Secretary. In determining where to locate the Local Consumer Advocacy Programs, the Secretary shall ensure reasonable consumer accessibility to the Local Consumer Advocates. Local Consumer Advocates shall administer the Local Consumer Advocacy Programs. The State Consumer Advocate shall appoint a Local Consumer Advocate for each of the Local Consumer Advocacy Programs. The State Consumer Advocate shall supervise the Local Consumer Advocates.

(b) Pursuant to policies and procedures established by the State Consumer Advocate, the Local Consumer Advocate shall:

- (1) Assist consumers and their families with information, referral, and advocacy in obtaining appropriate services.
- (2) Assist consumers and their families in understanding their rights and remedies available to them from the public service system.
- (3) Serve as a liaison between consumers and their families and facility personnel and administration.
- (4) Promote the development of consumer and citizen involvement in addressing issues relating to MH/DD/SA.
- (5) Visit the State, area authority, or county program facilities to review and evaluate the quality of care provided to consumers and submit findings to the State Consumer Advocate.
- (6) Work with providers and consumers and their families or advocates to resolve issues of common concern.
- (7) Participate in regular Local Consumer Advocate training established by the State Consumer Advocate.

- (8) Report regularly to area authorities and county programs, county and area authority boards, and boards of county commissioners about the Local Consumer Advocate's activities, including the findings made pursuant to subdivision (5) of this subsection.
- (9) Provide training and technical assistance to counties, area authority boards, and providers concerning responding to consumers, evaluating quality of care, and determining availability of services and access to resources.
- (10) Coordinate activities with local human rights committees based on procedures developed by the State Consumer Advocate.
- (11) Provide information to the public on MH/DD/SA issues.
- (12) Perform any other related duties as directed by the State Consumer Advocate.

"§ 122C-15. State/Local Consumer Advocate; authority to enter; communication with residents, clients, patients; review of records.

(a) For purposes of this section, G.S. 122C-16 and G.S. 122C-17, 'Consumer Advocate' means either the State Consumer Advocate or any Local Consumer Advocate.

(b) In performing the Consumer Advocate's duties, a Consumer Advocate shall have access at all times to any State or area facility and shall have reasonable access to any consumer or to an employee of a State or area facility. Entry and access to any consumer or to an employee shall be conducted in a manner that will not significantly disrupt the provision of services. If a facility requires visitor registration, then the Consumer Advocate shall register.

(c) In performing the Consumer Advocate's duties, a Consumer Advocate may communicate privately and confidentially with a consumer. A consumer shall not be compelled to communicate with a Consumer Advocate. When initiating communication, a Consumer Advocate shall inform the consumer of the Consumer Advocate's purpose and that a consumer may refuse to communicate with the Consumer Advocate. A Consumer Advocate also may communicate privately and confidentially with State and area facility employees in performing the Consumer Advocate's duties.

(d) Notwithstanding G.S. 8-53, G.S. 8-53.3, or any other law relating to confidentiality of communications involving a consumer, in the course of performing the Consumer Advocate's duties, the Consumer Advocate may access any information, whether recorded or not, concerning the admission, discharge, medication, treatment, medical condition, or history of any consumer to the extent permitted by federal law and regulations. Notwithstanding any State law

pertaining to the privacy of personnel records, in the course of the Consumer Advocate's duties, the Consumer Advocate shall have access to personnel records of employees of State, area authority, or county program facilities.

"§ 122C-16. State/Local Consumer Advocate; resolution of complaints.

(a) Following receipt of a complaint, a Consumer Advocate shall attempt to resolve the complaint using, whenever possible, informal mediation, conciliation, and persuasion.

(b) If a complaint concerns a particular consumer, the consumer may participate in determining what course of action the Consumer Advocate should take on the consumer's behalf. If the consumer has an opinion concerning a course of action, the Consumer Advocate shall consider the consumer's opinion.

(c) Following receipt of a complaint, a Consumer Advocate shall contact the service provider to allow the service provider the opportunity to respond, provide additional information, or initiate action to resolve the complaint.

(d) Complaints or conditions adversely affecting consumers that cannot be resolved in the manner described in subsection (a) of this section shall be referred by the Consumer Advocate to the appropriate licensing agency under Article 2 of this Chapter.

"§ 122C-17. State/Local Consumer Advocate; confidentiality.

(a) Except as required by law, a Consumer Advocate shall not disclose the following:

- (1) Any confidential or privileged information obtained pursuant to G.S. 122C-15 unless the affected individual authorizes disclosure in writing; or
- (2) The name of anyone who has furnished information to a Consumer Advocate unless the individual authorizes disclosure in writing.

(b) Violation of this section is a Class 3 misdemeanor, punishable only by a fine not to exceed five hundred dollars (\$500.00).

(c) All confidential or privileged information obtained under this section and the names of persons providing information to a Consumer Advocate are exempt from disclosure pursuant to Chapter 132 of the General Statutes. Access to substance abuse records and redisclosure of protected information shall be in compliance with federal confidentiality laws protecting medical records.

"§ 122C-18. State/Local Consumer Advocate; retaliation prohibited.

No one shall discriminate or retaliate against any person, provider, or facility because the person, provider, or facility in good faith complained or provided information to a Consumer Advocate.

"§ 122C-19. State/Local Consumer Advocate; immunity from liability.

(a) The State and Local Consumer Advocate shall be immune from liability for the good faith performance of official Consumer Advocate duties.

(b) A State or area facility, its employees, and any other individual interviewed by a Consumer Advocate are immune from liability for damages resulting from disclosure of any information or documents to a Consumer Advocate pursuant to this Article.

"§ 122C-20. State/Local Consumer Advocate; penalty for willful interference.

Willful interference by an individual other than the consumer or the consumer's representative with the State or a Local Consumer Advocate in the performance of the Consumer Advocate's official duties is a Class 1 misdemeanor."

PART 3. PHASED IN IMPLEMENTATION

SECTION 3.(a) The Department of Health and Human Services shall do the following to prepare for the certification of area authorities and county programs to administer and deliver mental health, developmental disabilities, and substance abuse services.

- (1) Develop the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services in accordance with G.S. 122C-102. Not later than December 1, 2001, the Department shall submit the State Plan to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services for its review.
- (2) Review all rules currently in effect and adopted by the Secretary, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services and identify areas of duplication, vagueness, or ambiguity in content or in application. In conducting this review, the Department shall solicit input from current area authorities and providers on perceived problems with rules. The review may also include review of rules pertaining to mental health, developmental disabilities, and substance abuse services that are in effect and adopted by agencies other than the Secretary and the Commission.
- (3) Review the oversight and monitoring functions currently implemented by the Department to determine the effectiveness of the activities in achieving the intended

- results. Improve the oversight and monitoring functions and activities, if necessary.
- (4) Develop service standards, outcomes, and a financing formula for core and targeted services to prepare for their administration, financing, and delivery by area authorities and county programs.
 - (5) Develop format and required content for business plans submitted by boards of county commissioners and for contractual agreements between the Department and area authorities or county commissioners for county programs. Develop a method for departmental evaluation of local business plans. Contractual agreements for the provision of services shall provide for:
 - a. Terms of a minimum of three years.
 - b. Annual review and renewal.
 - c. Specific conditions under which the Department will provide technical assistance, impose sanctions, or terminate participation.
 - d. Terms of the business plan.
 - e. Award of start-up funds for consolidation of area or county programs.
 - (6) Report on the Department's readiness to implement system reform.
 - (7) Establish criteria and operational procedures for the Consumer Advocacy Program and make a report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.
 - (8) Develop a catchment area consolidation plan. The Secretary shall anticipate receiving letters of intent from boards of county commissioners on or before October 1, 2002, indicating the intent of a county or counties to provide services through an existing area authority or through a county program established pursuant to G.S. 122C-115.1. The Secretary shall develop the consolidation plan based on the letters of intent, the State Plan, geographic and population targeted thresholds, and capacity to implement the business plan. The consolidation plan shall provide for consolidation target of no more than 20 area authorities and county programs. The Secretary, in consultation with county commissioners and area authorities, shall complete the consolidation plan by September 1, 2004, and shall submit it no later than January 1, 2005, to the Joint Legislative Oversight Committee on Mental Health,

Developmental Disabilities, and Substance Abuse Services, the Governor, and each board of county commissioners. The total number of area authorities and county programs shall be reduced to no more than a target of 20 by January 1, 2007.

- (9) Develop a readiness plan to conduct readiness reviews and certify all county programs and area authorities based on readiness by July 1, 2004. Each area authority and county program shall submit its approved business plan to the Secretary pursuant to G.S. 122C-115.2 by January 1, 2003. The Secretary shall review the business plans as provided in G.S. 122C-115.2(c), conduct readiness reviews, and provide necessary assistance to resolve outstanding issues. The Secretary shall complete certification of one-third of the area authorities and county programs by July 1, 2003; two-thirds of the area authorities and county programs by January 1, 2004; and shall complete certification of all area authorities and county programs by July 1, 2004.

The activities required under subdivisions (1) through (6) of this section shall be completed by December 1, 2001. On or before December 1, 2001, and quarterly thereafter, the Department shall submit a progress report on each of the activities required under this section. The Department shall make its reports to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.

SECTION 3.(b) Rules adopted by the Secretary of Health and Human Services and the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall be adopted in accordance with Chapter 150B of the General Statutes.

SECTION 3.(c) The Secretary shall study consolidating the Quality of Care Consumer Advocacy Program as provided in Section 2 of this act with other consumer advocacy or ombudsman programs in the Department of Health and Human Services. The study shall include:

- (1) An analysis of the budgetary implications of consolidation;
- (2) Strategies for local interagency collaboration and coordination of ombudsman and consumer assistance services; and
- (3) The possible effects of the consolidation on quality of care, service delivery, and consumer assistance for each affected consumer population.

The Secretary shall report the findings and recommendations, including enabling legislation, to the Joint Legislative Oversight

Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on or before March 1, 2002.

SECTION 3.(d) The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall conduct an in-depth review of the current methods of and disparities in the allocation of State funding to area authorities and county programs for mental health, developmental disabilities, and substance abuse services and shall recommend necessary changes in allocation formulae, methods, and procedures that will ensure equitable allocation and use of State funds to provide these services throughout the State. Not later than May 1, 2002, the Committee shall report its findings and recommendations, including fiscal information on the cost to address funding allocation disparities, to the General Assembly, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

PART 4. EFFECTIVE DATE

SECTION 4. Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective July 1, 2002, only if funds are appropriated by the 2001 General Assembly, Regular Session 2002, for that purpose. The remainder of this act becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:40 p.m. on the 15th day of October, 2001.

S.B. 210

SESSION LAW 2001-438

AN ACT AUTHORIZING CITIES THAT HAVE ENTERED INTO ANNEXATION AGREEMENTS TO ANNEX CERTAIN NONCONTIGUOUS AREAS WITHOUT COMPLYING WITH GENERAL ANNEXATION STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1 reads as rewritten:
"§ 160A-58.1. *Petition for annexation; standards.*

(a) Upon receipt of a valid petition signed by all of the owners of real property in the area described therein, a city may annex an area not contiguous to its primary corporate limits when the area meets the standards set out in subsection (b) of this section. The petition need not be signed by the owners of real property that is wholly exempt

from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

(b) A noncontiguous area proposed for annexation must meet all of the following standards:

- (1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- (2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing ~~city~~ city, except as set forth in subsection (b1) of this section.
- (3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
- (4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
- (5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

(b1) A city may annex a noncontiguous area that does not meet the standard set out in subdivision (b)(2) of this section if the city has entered into an annexation agreement pursuant to Part 6 of this Article with the city to which a point on the proposed satellite corporate limits is closer and the agreement states that the other city will not annex the area but does not say that the annexing city will not annex the area. The annexing city shall comply with all other requirements of this section.

(c) The petition shall contain the names, addresses, and signatures of all owners of real property within the proposed satellite corporate limits (except owners not required to sign by subsection (a)), shall describe the area proposed for annexation by metes and bounds, and shall have attached thereto a map showing the area proposed for annexation with relation to the primary corporate limits of the annexing city. When there is any substantial question as to whether the area may be closer to another city than to the annexing city, the map shall also show the area proposed for annexation with relation to the primary corporate limits of the other city. The city council may prescribe the form of the petition.

(d) A city council which receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the city may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established under G.S. 160A-385.1 or G.S. 153A-344.1 shall be binding on the landowner and any such vested rights shall be terminated."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:41 p.m. on the 15th day of October, 2001.

S.B. 92 SESSION LAW 2001-439

AN ACT TO AUTHORIZE VARIOUS MUNICIPALITIES AND COUNTIES TO LEVY ROOM OCCUPANCY TAXES.

The General Assembly of North Carolina enacts:

PART I. CITY OF GASTONIA.

SECTION 1.1. Occupancy tax. – (a) Authorization and Scope. – The Gastonia City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.1.(c) Distribution and Use of Tax Revenue. – The City of Gastonia shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Gastonia Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection for tourism-related expenditures and shall use the remainder to promote travel and tourism in Gastonia.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city by attracting tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 1.2. Gastonia Tourism Development Authority. – (a) Appointment and Membership. – When the Gastonia City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Gastonia shall be the ex officio finance officer of the Authority.

SECTION 1.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 1.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the city council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

PART II. CITY OF KINGS MOUNTAIN.

SECTION 2.1. Occupancy tax. – (a) Authorization and Scope. – The Kings Mountain City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 2.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 2.1.(c) Distribution and Use of Tax Revenue. – Kings Mountain shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Kings Mountain Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Kings Mountain and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to

attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 2.2. Kings Mountain Tourism Development Authority. – (a) Appointment and Membership. – When the Kings Mountain City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Kings Mountain shall be the ex officio finance officer of the Authority.

SECTION 2.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 2.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Kings Mountain City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

PART III. CITY OF LINCOLNTON.

SECTION 3.1. Occupancy tax. – (a) Authorization and Scope. – The Lincolnton City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as

provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 3.1.(c) Distribution and Use of Tax Revenue. – The City of Lincolnton shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Lincolnton Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Lincolnton and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 3.2. Lincolnton Tourism Development Authority. – (a) Appointment and Membership. – When the Lincolnton City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Lincolnton shall be the ex officio finance officer of the Authority.

SECTION 3.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 3.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Lincolnton City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

PART IV. MONROE.

SECTION 4.1. Occupancy tax. – (a) Authorization and Scope. – The Monroe City Council may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 4.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

The tax collector may collect any unpaid taxes levied under this act through the use of attachment and garnishment proceedings as provided in G.S. 105-368 for collection of property taxes. The tax collector has the same enforcement powers concerning the tax authorized by this act as the Secretary of Revenue in enforcing the State sales tax under G.S. 105-164.30.

SECTION 4.1.(c) Distribution and Use of Tax Revenue. – The City of Monroe shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Monroe Tourism Development Authority. For the first 10 years that funds are remitted to the Authority under this section, the Authority shall use at least two-thirds of the funds remitted to it under this subsection for tourism-related expenditures and shall use the remainder to promote travel and tourism in Monroe. For funds remitted to it under this section thereafter, the Authority shall use at least two-thirds of the funds remitted to it under this section to promote travel and tourism and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 4.2. Monroe Tourism Development Authority. –

(a) Appointment and Membership. – When the Monroe City Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Monroe shall be the ex officio finance officer of the Authority.

SECTION 4.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 4.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the city council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

PART V. NORTH TOPSAIL BEACH.

SECTION 5.1. Occupancy tax. – (a) Authorization and Scope. – The North Topsail Beach Board of Aldermen may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 5.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 5.1.(c) Distribution and Use of Tax Revenue. – North Topsail Beach shall spend the net proceeds of the occupancy tax levied for beach nourishment.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
 - b. The nonfederal share of the cost required to construct these projects;

- c. The costs associated with providing enhanced public beach access; and
- d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

PART VI. PENDER COUNTY.

SECTION 6.1. Pender County's authority to levy a tax under Chapter 970 of the 1987 Session Laws is repealed effective on the effective date of a tax levied under this Part. Repeal of a tax levied under this Part does not revive Pender County's authority to levy a tax under Chapter 970 of the 1987 Session Laws.

SECTION 6.2. Occupancy Tax. – (a) Authorization and Scope. – The Pender County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3) and from the rental of private residences and cottages, whether or not the residence or cottage is rented for fewer than 15 days. This tax is in addition to any State or local sales tax.

SECTION 6.2.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 6.2.(c) Distribution and Use of Tax Revenue. – Pender County shall, on a quarterly basis, remit to Surf City the net proceeds of the occupancy tax derived from accommodations in Surf City and shall remit to Topsail Beach the net proceeds of the occupancy tax derived from accommodations in Topsail Beach. Surf City and Topsail Beach shall spend the net proceeds of the occupancy tax levied under this Part for beach nourishment. The remainder of the net proceeds derived from accommodations in Pender County shall, on a quarterly basis, be remitted to the Pender Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Pender County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.
- (4) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
 - b. The nonfederal share of the costs required to construct these projects;
 - c. The costs associated with providing enhanced public beach access; and
 - d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

SECTION 6.3. Pender Tourism Development Authority. –

- (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and

tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Pender County shall be the ex officio finance officer of the Authority.

SECTION 6.3.(b) Duties. – The Authority shall expend the net proceeds of the tax remitted to it under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 6.3.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

PART VII. DARE COUNTY.

SECTION 7.1. Section 1(a) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy Tax. (a) Authorization and Scope. The Dare County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of the following in Dare County:

- (1) Any room, lodging, or similar accommodation subject to sales tax under G.S. 105-164.4(a)(3); and
- (2) A campsite.

This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose. This tax is in addition to any State or local sales tax."

SECTION 7.2. Section 1(b) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, reads as rewritten:

"(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. Collection. ~~Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the~~

~~charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Dare County. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The Dare County Tax Collector shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax."~~

SECTION 7.3. Section 1(c) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, is repealed.

SECTION 7.4. Section 1(f) of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, is repealed.

SECTION 7.5. Section 2 of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, reads as rewritten:

"Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition, the following definitions apply in this act:

- (1) Net proceeds. Gross proceeds less the cost to the county of administering and collecting the tax.
- (2) Prepared food and beverages. Meals, food, and beverages which a retailer has added value to or whose state has been altered (other than solely by cooling) by preparing, combining, dividing, heating, or serving, in order to make them available for immediate consumption.
- (3) Beach nourishment. The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program, or which have otherwise been authorized by the General Assembly, along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property and transportation routes. The term includes expenditures for the following:
 - a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;

- b. The nonfederal share of the costs required to construct these projects;
- c. The costs associated with providing enhanced public beach access; and
- d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences."

SECTION 7.6. Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, is amended by adding a new section to read:

"Sec. 3.1. Supplemental Occupancy Tax. In addition to the taxes authorized by Sections 1 and 3 of this act, the Dare County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under Section 1 of this act. The county may not levy a tax under this section unless it also levies the taxes under Sections 1 and 3 of this act. The levy, collection, administration, and repeal of the tax authorized by this section shall be in accordance with Section 1 of this act. The county shall use the net proceeds of the tax authorized by this section for beach nourishment."

SECTION 7.7. Section 5 of Chapter 449 of the 1985 Session Laws, as amended by Chapter 826 of the 1985 Session Laws and Chapters 177 and 906 of the 1991 Session Laws, is repealed.

PART VIII. ROWAN ADMINISTRATIVE CHANGES.

SECTION 8.1. Section 1 of Chapter 379 of the 1987 Session Laws, as amended by Chapter 882 of the 1991 Session Laws, reads as rewritten:

"Section 1. Occupancy tax. (a) Authorization and scope. – The Rowan County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under G.S. ~~105-164.4(3).~~ 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) Collection. — ~~Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on~~

account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.

(c) Administration. — A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section. The county shall administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. The board of commissioners shall appoint a board to oversee the operations of the Rowan County Convention and Visitors Bureau. Appointments to the board shall be made by the board of commissioners for specified terms as outlined in the bylaws of the Bureau.

A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) Penalties. — A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) Distribution and use of tax revenue. – Rowan County shall apply the net proceeds of the occupancy tax to the purposes provided in this subsection. The county shall, on a ~~quarterly~~ monthly basis, remit the net proceeds of the occupancy tax to the Rowan County ~~Convention and Visitors Bureau.~~ Tourism Development Authority. The ~~Bureau~~ Authority shall spend funds remitted to it under this subsection only to promote travel, tourism, and conventions in Rowan County and to sponsor tourist-oriented events and activities in Rowan County. The ~~Bureau~~ Authority may not spend any of the funds for construction, improvement, or maintenance of real property or for any other capital project. The ~~Bureau~~ Authority shall report ~~quarterly and~~ at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the ~~preceding quarter and for the year~~ in such detail as the board may require.

As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.

(f) ~~Effective date of levy.~~ — A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) ~~Repeal.~~ — A tax levied under this section may be repealed by a resolution adopted by the Rowan County Board of Commissioners. ~~Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

SECTION 8.2. Chapter 379 of the 1987 Session Laws, as amended by Chapter 882 of the 1991 Session Laws, is amended by adding a new section to read:

"Section 1.1. Establishment, Appointment, and Duties of Tourism Authority. (a) The board of commissioners shall adopt a resolution establishing and creating the Rowan County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following 11 members appointed by the board of commissioners:

- (1) A county commissioner or his or her designee.
- (2) A member of the Salisbury City Council or his or her designee.
- (3) Two owners, operators, or representatives of hotels, motels, or other taxable tourist accommodations.

- (4) Two individuals to represent all bona fide Rowan County sites and attractions, to be selected from those sites and attractions.
- (5) One individual to represent the Rowan County Chamber of Commerce, either the chair of the board or the chair's designee.
- (6) Four individuals who have an interest in tourism development and do not own or operate hotels, motels, or other taxable tourist accommodations.

The board of commissioners shall appoint all members of the Tourism Development Authority, except for the City of Salisbury appointee, who shall be appointed directly by the Salisbury City Council from its council members. The term of office of each member of the Authority shall be two years. Members may serve no more than two consecutive terms. All members of the Authority shall serve without compensation.

(b) In addition to any other powers and duties of the Authority otherwise conferred by law, the Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel and tourism and to carry out the purposes identified in Section 1 of this act. The Authority may accept contributions from any source to be used for the purposes stated in Section 1 of this act."

PART IX. TOWN OF WILKESBORO.

SECTION 9.1. Occupancy tax. – (a) Authorization and Scope. – The Wilkesboro Board of Town Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 9.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 9.1.(c) Distribution and Use of Tax Revenue. – The Town of Wilkesboro shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Wilkesboro Tourism Development, Convention, and Visitors Bureau. The Bureau shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Wilkesboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area, including the operation of a visitors' center. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Bureau, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 9.2. Wilkesboro Tourism Development, Convention, and Visitors Bureau. – (a) Appointment and Membership. – When the Wilkesboro Board of Town Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Wilkesboro Tourism Development, Convention, and Visitors Bureau, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide that the board of town commissioners shall appoint members of the Bureau for one-year terms and shall provide for the filling of vacancies on the Bureau. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The board of town commissioners shall designate one member of the Bureau as chair and shall determine the compensation, if any, to be paid to members of the Bureau.

The Bureau shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Wilkesboro shall be the ex officio finance officer of the Bureau.

SECTION 9.2.(b) Duties. – The Bureau shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Bureau shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 9.2.(c) Reports. – The Bureau shall report quarterly and at the close of the fiscal year to the board of town commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board of town commissioners may require.

PART X. TOWN OF SELMA.

SECTION 10.1. Occupancy tax. – (a) Authorization and Scope. – The Town Council of the Town of Selma may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 10.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 10.1.(c) Distribution and Use of Tax Revenue. – The Town of Selma shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Johnston County Tourism Authority created in Chapter 647 of the 1987 Session Laws. The Johnston County Tourism Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Selma and shall use the remainder for tourism-related expenditures in Selma. The net proceeds of the occupancy tax levied under this Part shall supplement rather than supplant any proceeds being used in the Town of Selma derived from the occupancy tax levied by Johnston County pursuant to Chapter 647 of the 1987 Session Laws.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes

administrative expenses incurred in engaging in these activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 10.2. A tax levied under this Part expires five years after the effective date of its levy. The town's authority to levy a tax under this Part expires five years after the effective date of its levy of a tax under this Part. The expiration of a tax pursuant to this Part does not affect the rights or liabilities of the town, a taxpayer, or another person arising under the expired tax before the effective date of its expiration; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before the effective date of its expiration.

PART XI. TOWN OF SMITHFIELD.

SECTION 11.1. Occupancy tax. – (a) Authorization and Scope. – The Town Council of the Town of Smithfield may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 11.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 11.1.(c) Distribution and Use of Tax Revenue. – The Town of Smithfield shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Johnston County Tourism Authority created in Chapter 647 of the 1987 Session Laws. The Johnston County Tourism Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Smithfield and shall use the remainder for tourism-related expenditures in Smithfield. The net proceeds of the occupancy tax levied under this Part shall supplement rather than supplant any proceeds being used in the Town of Smithfield derived from the occupancy tax levied by Johnston County pursuant to Chapter 647 of the 1987 Session Laws.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 11.2. A tax levied under this Part expires five years after the effective date of its levy. The town's authority to levy a tax under this Part expires five years after the effective date of its levy of a tax under this Part. The expiration of a tax pursuant to this Part does not affect the rights or liabilities of the town, a taxpayer, or another person arising under the expired tax before the effective date of its expiration; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before the effective date of its expiration.

PART XII. AVERASBORO TOWNSHIP IN HARNETT COUNTY.

SECTION 12.1. Section 1 of Chapter 142 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy Tax. = (a) Authorization and Scope. = The Harnett County Board of Commissioners may ~~by resolution, after not less than ten (10) days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax in an amount not to exceed three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within Averasboro Township that is subject to sales tax imposed by the State under G.S.—~~105-164.4(3)-105-164.4(a)(3).~~ This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious institutions or organizations.

(a) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Harnett County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The county may not levy a tax under this section unless it also levies the tax under subsection (a) of this section. A tax levied under this section may not become effective before the first day of the second month after the resolution levying the tax is adopted. The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with this section.

(b) Collection. Every operator of a business subject to the tax levied under this act shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the township. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. As compensation for collecting a tax levied under this act, the operator of a business subject to the tax may retain three percent (3%) of the total tax collected by the operator each month.

(c) Administration. – For the purpose of levying and administering the tax authorized by this act, Averagesboro Township shall be a body politic and corporate and shall have the power to carry out the provisions of this act. The Harnett County Board of Commissioners shall serve, ex officio, as the governing body of the Township, and the officers of the board of commissioners shall serve as the officers of the governing body of the township. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

The Harnett County Board of Commissioners, as the governing body of Averagesboro Township, shall administer a tax levied under this act. A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Averagesboro Township were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. A tax levied under this act is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. The township shall design, print, and furnish to all appropriate businesses and persons in the township the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person, firm, corporation, or association

liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the township. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

(d) ~~Penalties.~~ A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of thirty (30) days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.

Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(e) ~~Distribution and use of tax revenue.~~ Use of Tax Revenue. – The township shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Averagesboro Township Tourism Development Authority. The Authority may spend funds remitted to it under this subsection only to develop, promote, and advertise travel and tourism in Averagesboro Township, to sponsor tourist oriented events and activities for Averagesboro Township, to operate and maintain museums and historic sites throughout Averagesboro Township, and to purchase, operate, and maintain a convention facility for Averagesboro Township. As used in this subsection, "net proceeds" means gross proceeds less the cost to the township of administering and collecting the tax, as determined by the finance officer, shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Averagesboro Township and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the township of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and

one percent (1%) of the remaining gross receipts collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a township or to attract tourists or business travelers to the township. The term includes tourism-related capital expenditures.

~~(f) Effective date of levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Harnett County Board of Commissioners. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

PART XIII. RICHMOND COUNTY.

SECTION 13.1. Chapter 969 of the 1987 Session Laws reads as rewritten:

"Section 1. Levy of Tax. – (a) The Board of Commissioners of Richmond County may by resolution levy a room occupancy and tourism development tax.

(b) Collection of the tax and liability therefor, shall begin and continue only on and after the first day of a calendar month set by the board of county commissioners in the resolution levying the tax, which in no case may be earlier than the first day of the succeeding calendar month after the date of adoption of the resolution.

~~Sec. 2. Occupancy Tax. The county room occupancy and tourism development tax that may be levied under this act shall be tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by any hotel, motel, inn, tourist camp or other similar place within the county now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164(3). G.S. 105-164.4(a)(3). This tax is in addition to any~~

local sales tax. This tax does not apply to gross receipts derived by the following entities from accommodations furnished by them:

- (1) Religious organizations;
- (2) Educational organizations;
- (3) Any business that offers to rent fewer than five units; and
- (4) Summer camps.

Sec. 2. Additional Occupancy Tax. – In addition to the tax authorized by Section 1 of this act, the Richmond County Board of Commissioners may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. Richmond County may not levy a tax under this section unless it also levies a tax under Section 1 of this act.

Sec. 3. Administration of Tax. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. (a) Any tax levied under this act is due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

(c) In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to the penalty prescribed in subsection (b), with an additional tax of five percent (5%) for each additional month or fraction thereof until the occupancy tax is paid.

(d) Any person who willfully attempts in any manner to evade the occupancy tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both.

Sec. 4. Collection of Tax. Every operator of a business subject to a tax levied under this act shall, on and after the effective date of the levy of the tax, collect the three percent (3%) room occupancy tax.

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of Richmond County. The room occupancy tax levied pursuant to this act shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses in Richmond County the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~An operator of a business who collects the occupancy tax levied under this act may deduct from the amount remitted to the county a discount of three percent (3%) of the amount collected.~~

~~Sec. 5. Disposition of Taxes Collected. – (a) Richmond County shall remit the net proceeds of the occupancy tax to the county Richmond County Tourism Development Authority in Richmond County Authority. "Net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, which may not exceed three percent (3%) of the collected tax.~~

~~(b) The Tourism Development Authority shall use fifty percent (50%) of the funds remitted to it under this section to promote travel and tourism in Richmond County and shall use the remaining fifty percent (50%) for tourism-related expenditures in the City of Rockingham that are mutually agreed upon by the Richmond County Tourism Development Authority and the Rockingham City Council. may expend any funds distributed to it pursuant to subsection (a) only to further the development of travel, tourism, and conventions in the county through State, national, and international advertising and promotion. The Authority may not use more than twenty five percent (25%) fifteen percent (15%) of the funds distributed to it pursuant to subsection (a) for administrative expenses of the Authority.~~

~~(c) The following definitions apply in this act:~~

- ~~(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.~~
- ~~(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes~~

administrative expenses incurred in engaging in the listed activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

Sec. 6. Appointment, Duties of Tourism Development Authority. –

(a) When the board of county commissioners adopts a resolution levying a room occupancy tax pursuant to this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act and shall be composed of the following ~~five~~ seven members:

- (1) A county commissioner appointed by the board of county commissioners;
- (2) One owner or operator of hotels, motels, or other taxable tourist accommodations, who shall be appointed by the board of county commissioners;
- (3) The Executive Director of the Richmond County Area Chamber of Commerce; and
- (4) Two individuals interested in the tourist business who have demonstrated an interest in tourist development, but do not own or operate a hotel, motel, or other taxable tourist accommodation, who shall be appointed by the board of county commissioners.
- (5) Two individuals appointed by the Rockingham City Council. At least one of these individuals must be an owner or operator of a hotel, motel, or other taxable tourist accommodation in the City of Rockingham.

All members of the Authority shall serve without compensation.

Vacancies in the Authority shall be filled in the same manner as the initial appointments. Members appointed to fill vacancies shall serve for the remainder of the unexpired term which they are appointed to fill. Members shall serve terms as provided in the rules of procedures and bylaws of the Authority.

The members shall elect a chairman. The Authority shall meet at the call of the chairman and shall adopt rules of procedure and bylaws to govern its meetings and activities. The finance officer for Richmond County shall be the ex officio finance officer of the Authority.

(b) The Tourism Development Authority may contract with any person, firm, or agency to advise and assist it in the promotion of travel, tourism, and conventions.

(c) The Tourism Development Authority shall report quarterly and at the close of the fiscal year to the board of county commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

~~Sec. 7. Repeal of Levy. (a) The board of county commissioners may by resolution repeal the levy of the room occupancy tax in Richmond County, but no repeal of taxes levied under this Part shall be effective until the end of the fiscal year in which the repeal resolution was adopted.~~

~~(b) No liability for any tax levied under this Part that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.~~

Sec. 8. This act is effective upon ratification."

PART XIV. TOWN OF CARRBORO.

SECTION 14.1. Occupancy tax. – (a) Authorization and Scope. – The governing body of the Town of Carrboro may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 14.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 14.1.(c) Distribution and Use of Tax Revenue. – The Town of Carrboro shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Carrboro Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Carrboro and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 14.2. Carrboro Tourism Development Authority. – (a) Appointment and Membership. – When the governing body of the Town of Carrboro adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating a Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The governing body of the Town of Carrboro shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Carrboro shall be the ex officio finance officer of the Authority.

SECTION 14.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in this Part. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 14.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the governing body of the Town of Carrboro on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

**PART XV. BEECH MOUNTAIN ADMINISTRATIVE
PROVISIONS.**

SECTION 15.1. Chapter 376 of the 1987 Session Laws reads as rewritten:

"AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

Section 1. Occupancy Tax. The Town Council of Beech Mountain may by resolution, ~~after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy and tourism development tax. ~~Collection of the tax, and liability therefor shall begin and continue only on and after the first day of a calendar month set by the Town Council of Beech Mountain in the resolution levying the tax, which in no case may be earlier than the first day of the second succeeding calendar month after the date of adoption of the resolution.~~

The occupancy and tourism development tax that may be levied under this act shall be three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation in the Town of Beech Mountain that is subject to sales tax imposed by the State under G.S. 405-164.4(3). 105-164.4(a)(3). This tax is in addition to any State or local sales tax. The tax ~~shall~~ does not apply to ~~any room, lodging, or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, or religious institutions or non-profit nonprofit organizations.~~

Sec. 2. Administration of Tax. (a) A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section. ~~The Town of Beech Mountain shall administer a tax levied under this act. A tax levied under this act is due and payable to the Town in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, and association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the Town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the Town under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

(b) ~~Any person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.~~

~~In case of failure or refusal to file the return or pay the tax for a period of 30 days or more after the time required for filing the return~~

or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the total tax due, for each additional month or fraction thereof until the occupancy tax is paid.

Any person who willfully attempts in any manner to evade the occupancy tax levied under this act or to make a return and who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or both. The Town Council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.

(c) All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the ~~Town~~town a list of all rental properties. This list shall include the owner's name, current address, and location of rental property. The list shall be submitted semi-annually on or before November 30 and May 30.

Failure to file ~~said~~ this listing shall subject the person, firm, corporation or association to a civil penalty.

~~Sec. 3. Collection of Tax. (a) Every operator of a business and every individual renting his or her own property subject to the tax levied pursuant to this act shall, on and after the effective date of the levy of the tax, collect the three percent (3%) room occupancy tax.~~

~~This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the Town of Beech Mountain. It is the intent of this act that the room occupancy tax levied by the Town of Beech Mountain shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the operator of the business. The Town shall design, print, and furnish to all appropriate businesses in the Town, the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(b) Collection of the tax shall be the responsibility of the Beech Mountain Tax Administrator. In his/her discretion, the Tax Administrator may proceed against an operator whose occupancy tax is delinquent, employing all remedies for collection of tax as set out in G.S. 105-367, 105-368, 105-374, and 105-375. The Tax Administrator may audit occupancy tax reports as he/she deems necessary, utilizing information available to him/her in property tax matters.~~

~~Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the occupancy tax imposed by this Article shall be entitled to deduct from the amount of the tax for which he is liable and which~~

he actually pays a discount of three percent (3%). Provided, however, the Tax Administrator may deny a taxpayer the benefits of this section for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and clear records as herein required. Provided, further, that in order to receive the discount the taxpayer must deduct the three percent (3%) at the time of making his monthly remittance of tax to the Town.

Sec. 5. Disposition of Taxes Collected: Distribution and Use of Tax Revenue. The Town of Beech Mountain shall retain from the gross proceeds of the tax collected an amount sufficient to pay its direct costs for administrative and collection expenses. "Net proceeds" shall mean gross proceeds less the direct costs for administrative and collection expenses not to exceed three percent (3%) of the amount collected. The net proceeds shall be distributed to the Town Council. The Town Council may expend the funds distributed to it pursuant to this section only to further the development of travel, tourism, conventions, and convention facilities in the Town. shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Beech Mountain Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Beech Mountain and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 5.1. Beech Mountain Tourism Development Authority. (a) Appointment and Membership. – When the Beech Mountain Town

Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a town Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Beech Mountain shall be the ex officio finance officer of the Authority.

Sec. 5.2. Duties. The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 5 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

Sec. 5.3. Reports. The Authority shall report quarterly and at the close of the fiscal year to the Beech Mountain Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

Sec. 6. Repeal of Levy. The Beech Mountain Town Council may by resolution repeal the levy of the room occupancy tax in Beech Mountain, but no repeal of taxes levied under this part shall be effective until the end of the fiscal year in which the repeal resolution was adopted. No liability for any tax levied under this part that attached prior to the date on which a levy is repealed shall be discharged as a result of the repeal, and no right to a refund of a tax that accrued prior to the effective date on which a levy is repealed shall be denied as a result of the repeal.

Sec. 7. This act is effective upon ratification."

PART XVI. AVERY COUNTY.

SECTION 16.1. Chapter 472 of the 1993 Session Laws, as amended by Sections 4 and 5 of S.L. 1997-410, is repealed.

SECTION 16.2. Authorization and Scope. – (a) This section applies only to cities in Avery County that are not otherwise authorized to levy a room occupancy tax. The governing body of a city may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or

similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 16.2.(b) Administration. – A tax levied under this section must be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 16.2.(c) Distribution and Use of Tax Revenue. – The taxing city shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the taxing city's Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in the taxing city and shall use the remainder for tourism-related expenditures.

SECTION 16.2.(d) Definitions. – The following definitions apply in this section:

- (1) City. – Defined in G.S. 153A-1.
- (2) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (4) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 16.3. Tourism Development Authority. – (a) Appointment and Membership. – When the city council of a taxing city adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall

provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to the members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the taxing city shall be the ex officio finance officer of the Authority.

SECTION 16.3.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 16.2(c) of this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 16.3.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the taxing city's city council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

PART XVII. CABARRUS COUNTY.

SECTION 17.1. Section 1 of Chapter 658 of the 1989 Session Laws reads as rewritten:

"**Section 1. Occupancy Tax Levy.** (a) **Authorization and Scope.** – The Cabarrus County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of not less than three percent (3%) nor more than ~~five percent (5%)~~ six percent (6%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the county that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3).~~ G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(b) **Administration.** – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. ~~Collection. On and after the effective date of the levy of the tax, every operator of a business subject to the tax levied under this act shall collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be~~

~~stated and charged separately on the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax.~~

~~(c) Administration. The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the Cabarrus County Finance Officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the county in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this act shall pay a penalty of fifty dollars (\$50.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The board of commissioners may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

~~(e) Use and Disposition of Revenue. = Cabarrus County shall remit one hundred percent (100%) of the net proceeds of the occupancy tax to the Cabarrus County Tourism Authority established under Section 2 of this act. As used in this act, "net proceeds" means gross proceeds less the direct cost to the county of administering and collecting the tax, not to exceed five percent (5%) of the amount collected.~~

~~The Authority may expend occupancy tax revenue remitted to it by the county during a fiscal year, and any other revenue it receives,~~

only to develop or promote tourism, tourist-related support services and facilities, tourist-related events, tourist-related activities, or tourist attractions. The Cabarrus County Finance Officer shall distribute the amounts due the Authority at least monthly.

~~(f) Effective Date of Levy. A tax levied under this act shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this act may be repealed by a resolution adopted by the Cabarrus County Board of Commissioners. Repeal of a tax levied under this act shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this act does not affect a liability for a tax that attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal."~~

PART XVIII. UNIFORM PROVISIONS.

SECTION 18.1. City administrative provisions. – G.S. 160A-215 reads as rewritten:

"§ 160A-215. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to municipalities the General Assembly has authorized to levy room occupancy taxes. For the purpose of this section, the term "city" means a municipality.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing city. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing city shall design, print, and furnish to all appropriate businesses and persons in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing city a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing city has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a city may be repealed or reduced by a resolution adopted by the governing body of the city. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to the Cities of Gastonia, Goldensboro, Greensboro, Kings Mountain, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, and Statesville, to the Towns of ~~Banner Elk~~ Carrboro, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, and Wilkesboro, and to the municipalities in Avery and Brunswick County-Counties."

SECTION 18.2. County administrative provisions. – G.S. 153A-155 reads as rewritten:

"§ 153A-155. *Uniform provisions for room occupancy taxes.*

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That

date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a

refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Avery, Brunswick, Cabarrus, Craven, Currituck, Dare, Davie, Granville, Madison, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, and Transylvania ~~Counties~~. Counties, and to the Township of Averagesboro in Harnett County."

PART XIX. EFFECTIVE DATE.

SECTION 19.1. Part XV of this act becomes effective the first day of the fourth month after this act becomes law. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:42 p.m. on the 15th day of October, 2001.

S.B. 312

SESSION LAW 2001-440

AN ACT TO: (1) AMEND CERTAIN LAWS RELATING TO THE CERTIFICATION OF WELL CONTRACTORS AND TO INCREASE THE MAXIMUM CIVIL PENALTY THAT MAY BE ASSESSED FOR VIOLATIONS OF THE WELL CONTRACTORS CERTIFICATION ACT OR THE WELL CONSTRUCTION ACT; (2) CLARIFY THAT THE REQUIREMENTS OF G.S. 106-660 APPLY ONLY TO INSTALLATIONS THAT HANDLE, STORE, DISTRIBUTE, OR APPLY ANHYDROUS AMMONIA FOR FERTILIZER USE; (3) REQUIRE THAT SOLID WASTE THAT IS TO BE INCINERATED IN CERTAIN INCINERATORS BE VISUALLY INSPECTED IN ORDER TO PREVENT THE INCINERATION OF WASTE THAT MAY NOT BE LAWFULLY INCINERATED; AND (4) AMEND THE EXEMPTION OF CERTAIN ESTABLISHMENTS THAT PREPARE OR SERVE FOOD OR DRINK FROM REGULATION AS FOOD AND LODGING FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1.1. G.S. 87-98.4(a) reads as rewritten:

"(a) Certification Required. – No well contractor shall perform or offer to perform any well contractor activity without being certified under this Article. The Commission may specify the types of general construction activities or geophysical activities that are not directly related to locating, testing, or withdrawing groundwater; evaluating, testing, developing, draining, or recharging any groundwater reservoir or aquifer; or controlling, diverting, or otherwise causing the

movement of water from or into any aquifer and are therefore not well construction activities."

SECTION 1.2. G.S. 87-98.7 reads as rewritten:

"§ 87-98.7. *Issuance and renewal of certificates; temporary ~~certification~~; certification; refusal to issue a certificate.*

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

- (1) The certificate holder voluntarily surrenders the certificate to the Commission.
- (2) The certificate is revoked or suspended by the Commission for cause.

(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee. A person who fails to renew a certificate within ~~three months~~ 30 days of the expiration of the certificate must reapply for certification under this Article.

(c) Temporary Certification. – A person may receive temporary certification to construct a well upon submission of an application to the Commission and subsequent approval in accordance with the criteria established by the Commission and upon payment of a temporary certification fee. A temporary certification shall be granted to the same person only once per calendar year and may not be valid for a period in excess of 45 consecutive days. To perform additional well contractor activity during that same calendar year, the person shall apply for certification under this Article.

(d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under any of the following circumstances:

- (1) The applicant has not paid civil penalties assessed against the applicant under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles.
- (2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.
- (3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles."

SECTION 1.3. G.S. 87-98.12 reads as rewritten:

"§ 87-98.12. *Continuing education ~~requirements~~; requirements; exemption.*

(a) In order to continue to be certified under this Article, a well contractor shall satisfactorily complete the number of hours of approved continuing education required by the Commission. The Commission shall establish the minimum number of hours of continuing education that shall be required to maintain certification, shall specify the scope of required continuing education courses, and shall approve continuing education courses.

(b) A well contractor who is 70 years of age or more; who has engaged in well contractor activity for more than 20 years; who has no record of having violated any provision of this Article, Article 7 of this Chapter, or order issued pursuant to or rule adopted under this Article or Article 7 of this Chapter in the previous 10 years; and who meets all other requirements for certification under this Article is exempt from continuing education requirements adopted pursuant to this section."

SECTION 1.4. G.S. 87-94(a) reads as rewritten:

"(a) Any person who violates any provision of this Article, Article 7A of this Chapter, any order issued pursuant thereto, or any rule adopted thereunder, shall be subject to a civil penalty of not more than ~~one hundred dollars (\$100.00)~~ one thousand dollars (\$1,000) for each violation, as determined by the Secretary of Environment and Natural Resources. Each day of a continuing violation shall be considered a separate offense. No person shall be subject to a penalty who did not directly commit the violation or cause it to be committed."

SECTION 1.5. The Well Contractors Certification Commission may adopt temporary and permanent rules to implement the provisions of Sections 1.1 through 1.4 of this act and to alter the minimum requirements of education, experience, and knowledge for certification of well contractors adopted by the Commission pursuant to G.S. 87-98.6. Sections 1.1 through 1.4 of this act constitute a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Well Contractors Certification Commission may adopt temporary rules as provided in this section until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name and address of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 2. G.S. 106-660(g) reads as rewritten:

"(g) Before any anhydrous ammonia installation that handles, stores, distributes, or applies anhydrous ammonia for fertilizer use shall be built in this State, a general layout of ~~such~~the installation shall be submitted in duplicate and approved by the Commissioner. In order that ~~such a~~the layout may be approved it must conform to the minimum standards and rules and regulations, relating to safe handling, storage, ~~distribution and/or distribution~~, or application adopted by the Board of Agriculture. All storage tanks, transfer or transport containers, applicator containers, and attached equipment for fertilizer use shall conform to the minimum standards adopted by the Board of Agriculture. It shall be the duty of ~~the contractors referred to in G.S. 106-657(4)~~ a contractor, as defined in G.S. 106-657 to obtain, maintain and operate in accordance with the minimum standards and rules and regulations adopted by the Board of Agriculture, ~~any and all equipment which he~~ any equipment that the contractor may use in the application of anhydrous ammonia. It shall be the duty of the Commissioner to inspect and ascertain whether or not the provisions of this section are complied with."

SECTION 3.1. G.S. 130A-309.10(h) reads as rewritten:

"(h) The accidental or occasional disposal of small amounts of prohibited solid waste by landfill ~~or incineration~~ shall not be construed as a violation of subsection (f) ~~or (f1)~~ of this section."

SECTION 3.2. G.S. 130A-309.10 is amended by adding new subsections to read:

"(i) The accidental or occasional disposal of small amounts of prohibited solid waste by incineration shall not be construed as a violation of subsection (f1) of this section if the Department has approved a plan for the incinerator as provided in subsection (j) of this section or if the incinerator is exempt from subsection (j) of this section.

(j) The Department may issue a permit pursuant to this Article for an incinerator that is subject to subsection (f1) of this section only if the applicant for the permit has a plan approved by the Department pursuant to this subsection. The applicant shall file the plan at the time of the application for the permit. The Department shall approve a plan only if it complies with the requirements of this subsection. The plan shall provide for the implementation of a program to prevent the incineration of the solid waste listed in subsection (f1) of this section. The program shall include the random visual inspection prior to incineration of at least ten percent (10%) of the solid waste to be incinerated. The program shall also provide for the retention of the records of the random visual inspections and the training of personnel to recognize the solid waste listed in subsection (f1) of this section. If a random visual inspection discovers solid waste that may not be incinerated pursuant to subsection (f1) of this section, the program

shall provide that the operator of the incinerator shall dispose of the solid waste in accordance with applicable federal and State laws, regulations, and rules. This subsection does not apply to an incinerator that disposes only of medical waste."

SECTION 3.3. If an incinerator that is subject to the new G.S. 130A-309.10(j) as enacted by Section 3.2 of this act has received a permit pursuant to this Article prior to the effective date of Section 3.2 of this act, then a plan that complies with the requirements of G.S. 130A-309.10(j) shall be submitted to the Department for approval within 90 days after Section 3.2 of this act becomes effective. The Department shall review and either approve or disapprove a plan submitted pursuant to this section within 90 days of the day the plan is submitted. Upon approval by the Department, a plan submitted pursuant to this section shall be implemented within 60 days of the date of its approval.

SECTION 3.4. The Environmental Management Commission shall adopt temporary rules in accordance with 65 Federal Register No. 235 pp. 76,378 through 76,405 (6 December 2000) by 1 March 2002. These rules shall include a compliance schedule that requires existing small municipal waste combustion units to achieve final compliance with the rules no later than 1 March 2003.

SECTION 3.5. The Lower Cape Fear River Research and Education Program, located at and administered by the Center for Marine Science at the University of North Carolina at Wilmington, shall pursue and apply for funding to conduct water quality and sediment sampling for heavy metals and other contaminants in the Lower Cape Fear River.

SECTION 4. G.S. 130A-250(7) reads as rewritten:
"§ 130A-250. *Exemptions.*

The following shall be exempt from this Part:

- ...
- (7) Establishments (i) that are incorporated as nonprofit corporations in accordance with Chapter 55A of the General Statutes or (ii) that are exempt from federal income tax under the Internal Revenue Code, as defined in G.S. 105-228.90, or (iii) that are political committees as defined in G.S. 163-278.6(14) and that prepare or serve food or drink for pay no more frequently than once a month for a period not to exceed two consecutive days, including establishments permitted pursuant to this Part when preparing or serving food or drink at a location other than the permitted locations. A nutrition program for the elderly that is administered by the Division of Aging of the Department of Health and Human Services

and that prepares and serves food or drink on the premises where the program is located in connection with a fundraising event is exempt from this Part if food and drink are prepared and served no more frequently than one day each month.

...."

SECTION 5. This act is effective when it becomes law. Section 1.3 of this act expires 1 September 2008.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:42 p.m. on the 15th day of October, 2001.

S.B. 438 SESSION LAW 2001-441

AN ACT TO ALLOW PRIVATE PROPERTY TO BE DESIGNATED AS A PUBLIC VEHICULAR AREA BY THE PRIVATE PROPERTY OWNER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(32) reads as rewritten:

"(32) Public Vehicular Area. – Any area within the State of North Carolina that is generally meets one or more of the following requirements:

a. The area is generally open to and used by the public for vehicular traffic, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of:

a-1. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions;

b-2. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space for customers, patrons, or the public;

e-3. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not

limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13).

- b. ~~The term "public vehicular area" shall also include any~~ The area is a beach area used by the public for vehicular traffic as well as any traffic.
- c. ~~The area is a road opened to vehicular traffic within or leading to a subdivision for use by subdivision residents, their guests, and members of the public, whether or not the subdivision roads have been offered for dedication to the public. The term "public vehicular area" shall not be construed to mean any private property not generally open to and used by the public.~~
- d. The area is a portion of private property used for vehicular traffic and designated by the private property owner as a public vehicular area in accordance with G.S. 20-219.4."

SECTION 2. Article 7 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-219.4. Public vehicular area designated.

(a) Any area of private property used for vehicular traffic may be designated by the property owner as a public vehicular area by registering the area with the Department of Transportation and by erecting signs identifying the area as a public vehicular area in conformity with rules adopted by the Department of Transportation.

(b) The Department of Transportation shall serve as a registry for registrations of public vehicular areas permitted under this section. The Department shall adopt rules for registration requirements and procedures. The Department shall also adopt rules governing the size and locations of signs designating public vehicular areas by private property owners in accordance with this section. These rules shall ensure that signs erected pursuant to this provision shall be placed so as to provide reasonable notice to motorists.

(c) The Department shall charge a fee not to exceed five hundred dollars (\$500.00) per registration request authorized by this section. The Department may also charge the reasonable cost for furnishing a certified copy of a registration when requested. Funds collected under this subsection shall be used to cover the cost of maintaining the registry."

SECTION 3. G.S. 136-91(b) reads as rewritten:

"(b) As used in this section:

- (1) "Highway" shall be defined as it is in ~~Article 3 of Chapter 20; G.S. 20-4.01;~~ and

- (2) "Public vehicular area" shall be defined as ~~any driveway, roadway, parking lot, or other public or private area open to the public, or a segment of the public, for vehicular traffic or parking; it is in G.S. 20-4.01.~~"

SECTION 4. This act becomes effective December 1, 2001, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:43 p.m. on the 15th day of October, 2001.

H.B. 1063

SESSION LAW 2001-442

AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND STORAGE TANKS AND TO AUTHORIZE THE STATE BUILDING COMMISSION TO ADOPT RULES TO AUTHORIZE OPEN-END DESIGN AGREEMENTS FOR WETLANDS MITIGATION AND SIMILAR PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.94B is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Commercial Fund that are not otherwise obligated for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a commercial underground storage tank. The Department may contract for performance-based cleanups with environmental services firms that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select environmental services firms for performance-based cleanup through a competitive bidding process. The Commission shall adopt rules governing the competitive bidding process. The rules shall establish qualifications for environmental services firms and for individuals and firms that

provide engineering services as part of a contract to satisfactorily complete work associated with cleanup."

SECTION 2. G.S. 143-215.94D is amended by adding a new subsection to read:

"(f) On the first day of each fiscal quarter, the Department may allocate up to fifty percent (50%) of the funds in the Noncommercial Fund that are not otherwise obligated for performance-based cleanups as provided in this subsection. The Department may also use any funds that are available from any other source and that are specifically intended to be used for performance-based cleanups as provided in this section. Each performance-based cleanup shall comply with the requirements of this Part and any other provisions of law that govern the cleanup of environmental damage resulting from the discharge or release of a petroleum product from a noncommercial underground storage tank. The Department may contract for performance-based cleanups with environmental services firms that the Department has determined to be qualified to satisfactorily complete the work associated with a cleanup. A performance-based contract shall provide that cleanup will be completed within the time and for the cost stated in the contract. The Department shall select environmental services firms for performance-based cleanup through a competitive bidding process. The Commission shall adopt rules governing the competitive bidding process. The rules shall establish qualifications for environmental services firms and for individuals and firms that provide engineering services as part of a contract to satisfactorily complete work associated with cleanup."

SECTION 3. G.S. 143-215.94G is amended by adding a new subsection to read:

"(a3) The Department may implement the provisions of subsection (a) of this section as provided in G.S. 143-215.94B(f) and G.S. 143-215.94D(f)."

SECTION 4. G.S. 143-135.27 reads as rewritten:
 "§ 143-135.27. *Definition of capital improvement project.*

As used in this Article, 'State capital improvement project' means the construction of and any alteration, renovation, or addition to State buildings, as defined in G.S. 143-336, for which State funds, as defined in G.S. 143-1, are used and which is required by G.S. 143-129 to be publicly advertised. 'State capital improvement project' does not include a performance-based cleanup of environmental damage resulting from the discharge or release of a petroleum product from an underground storage tank pursuant to G.S. 143-215.94B(f) and G.S. 143-215.94D(f)."

SECTION 5. G.S. 143-336 reads as rewritten:
 "§ 143-336. *Definitions.*

(a) As used in this Article:

- (1) 'Agency' includes every agency, institution, board, commission, bureau, council, department, division, officer, and employee of the State, but does not include counties, municipal corporations, political subdivisions, county and city boards of education, and other local public bodies.
- (2) 'Community college buildings' means all buildings, utilities, and other property developments located at a community college, which is defined in G.S. 115D-2(2).
- (3) 'Department' means the Department of Administration, unless the context otherwise requires.
- (4) 'Public buildings' means all buildings owned or maintained by the State in the City of Raleigh, but does not mean any building ~~which~~ that a State agency other than the Department of Administration is required by law to care for and maintain.
- (5) 'Public buildings and grounds' means all buildings and grounds owned or maintained by the State in the City of Raleigh, but does not mean any building or grounds ~~which~~ that a State agency other than the Department of Administration is required by law to care for and maintain.
- (6) 'Public grounds' means all grounds owned or maintained by the State in the City of Raleigh, but does not mean any grounds ~~which~~ that a State agency other than the Department of Administration is required by law to care for and maintain.
- (7) 'Secretary' means the Secretary of Administration, unless the context otherwise requires.
- (8) 'State buildings' mean all State buildings, utilities, and other property developments except the State Legislative Building, railroads, highway structures, bridge structures, ~~and~~ any buildings, utilities, or property owned or leased by the North Carolina Global TransPark Authority. Authority, and performance-based cleanups of environmental damage resulting from the discharge or release of a petroleum product from an underground storage tank pursuant to G.S. 143-215.94B(f) and G.S. 143-215.94D(f).

(b) ~~But under~~ Under no circumstances shall this Article or any part thereof apply to the judicial or to the legislative branches of the State."

SECTION 6.(a) This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1.

SECTION 6.(b) Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission may adopt temporary rules to implement this act until 1 July 2002. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register.

SECTION 6.(c) Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the State Building Commission may adopt temporary rules to authorize open-end design agreements for design and construction of wetland, stream, and buffer creation, mitigation, and restoration projects. Prior to the adoption of a temporary rule under this section, the Commission shall publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comment on the proposed temporary rule may be submitted. The Commission shall accept written comment on the proposed temporary rule for at least 30 days after the notice of intent to adopt a temporary rule is published in the North Carolina Register. The State Building Commission is authorized to adopt temporary rules under this section until 1 July 2002.

SECTION 7. Beginning 1 March 2002, the Department of Environment and Natural Resources shall submit a semiannual report to the Environmental Review Commission on the implementation of Sections 1 through 6 of this act as a part of the report required by G.S. 143-215.94M.

SECTION 8. Sections 1 through 5 of this act become effective 1 October 2001. Sections 6, 7, and 8 of this act are effective when this act becomes law. Sections 1, 2, 3, 4, 5, and 7 of this act expire 1 October 2006.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:43 p.m. on the 15th day of October, 2001.

S.B. 890

SESSION LAW 2001-443

AN ACT TO REVISE THE NORTH CAROLINA MONEY TRANSMITTERS ACT, ARTICLE 16 OF CHAPTER 53 OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 53 of the General Statutes, G.S. 53-192 through G.S. 53-208, is hereby repealed.

SECTION 2. Chapter 53 of the General Statutes is amended by adding a new Article to read:

"Article 16A.

"Money Transmitters Act.

"§ 53-208.1. Citation of Article.

This Article shall be known and cited as the 'Money Transmitters Act'.

"§ 53-208.2. Definitions.

(a) Unless otherwise provided in this Article, or when the context clearly indicates that a different meaning is intended, the following definitions apply in this Article:

- (1) Applicant. – A person filing an application for a license under this Article.
- (2) Authorized delegate. – An entity designated by the licensee under the provisions of this Article to sell or issue payment instruments or stored value or engage in the business of transmitting money on behalf of a licensee.
- (3) Commissioner. – The Commissioner of Banks of the State of North Carolina.
- (4) Control. – Ownership of, or the power to vote, ten percent (10%) or more of the outstanding voting securities of a licensee or controlling person. For purposes of determining the percentage of a licensee controlled by any person, there shall be aggregated with the person's interest the interest of any other person controlled by the person or by any spouse, parent, or child of the person.
- (5) Controlling person. – Any person in control of a licensee.
- (6) Electronic instrument. – A card or other tangible object for the transmission or payment of money or monetary value which contains a microprocessor chip, magnetic strip, or other means for the storage of information that is prefunded and for which the value is decremented upon each use. The term does not include a card or other tangible object that is redeemable by the issuer in goods or services.
- (7) Executive officer. – The licensee's president, chair of the executive committee, senior officer responsible for the licensee's business, chief financial officer, and any other person who performs similar functions.

- (8) Key shareholder. – Any person, or group of persons acting in concert, who is the owner of ten percent (10%) or more of any voting class of an applicant's stock.
- (9) Licensee. – A person licensed under this Article.
- (10) Material litigation. – Any litigation that, according to generally accepted accounting principles, is deemed significant to an applicant's or licensee's financial health and would be required to be referenced in that entity's annual audited financial statements, report to shareholders, or similar documents.
- (11) Monetary value. – A medium of exchange, whether or not redeemable in money.
- (12) Monetary transmission. – The term means either of the following:
 - a. The sale or issuance of payment instruments or stored value.
 - b. The act of engaging in the business of receiving money or monetary value for transmission within the United States or to locations abroad by any and all means, including payment instrument, wire, facsimile, or electronic transfer.
- (13) Payment instrument. – Any electronic or written check, draft, money order, traveler's check, or other electronic or written instrument or order for the transmission or payment of money or monetary value, whether or not the instrument is negotiable. The term does not include a credit card voucher, letter of credit, or any other instrument that is redeemable by the issuer in goods or services.
- (14) Outstanding payment instrument. – Any payment instrument issued by the licensee which has been sold in the United States directly by the licensee or any payment instrument issued by the licensee which has been sold by an authorized delegate of the licensee in the United States, which has been reported to the licensee as having been sold and which has not yet been paid by or for the licensee.
- (15) Person. – Any individual, partnership, association, joint-stock association, trust, or corporation.
- (16) Remit. – To do one or more of the following:
 - a. Make direct payment of the funds to the licensee or its representatives authorized to receive those funds.
 - b. Deposit the funds in a bank, credit union, or savings and loan association or other similar financial institution in an account specified by the licensee.

(17) Permissible investments. – One or more of the following:

- a. Cash.
- b. Certificates of deposit or other debt obligations of a financial institution, either domestic or foreign.
- c. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, which are eligible for purchase by member banks of the Federal Reserve System.
- d. Any investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities.
- e. Investment securities that are obligations of the United States, its agencies, or instrumentalities or obligations that are guaranteed fully as to principal and interest of the United States or any obligations of any state, municipality, or any political subdivision thereof.
- f. Shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures, or preferred stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities or a fund composed of one or more permissible investments as set forth herein.
- g. Any demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange.
- h. Receivables due to a licensee from its authorized delegates pursuant to a contract described in G.S. 53-208.19, which are not past due or doubtful of collection.
- i. Any other investments or security device approved by the Commissioner.

(18) Stored value. – Monetary value that is evidenced by an electronic record.

"§ 53-208.3. License required.

(a) On or after October 1, 2001, no person except those exempt pursuant to G.S. 53-208.4 shall engage in the business of money transmission in this State without a license as provided in this Article.

(b) A licensee may conduct its business in this State at one or more locations, directly or indirectly owned, or through one or more

authorized delegates, or both, pursuant to the single license granted to the licensee.

(c) For the purposes of this Article, a person is considered to be engaged in the business of money transmission in this State if that person makes available, from a location inside or outside of this State, an Internet website North Carolina citizens may access in order to enter into those transactions by electronic means.

"§ 53-208.4. Exemptions.

(a) This Article shall not apply to any of the following:

- (1) The United States or any department, agency, or instrumentality thereof.
- (2) The United States Postal Service.
- (3) The State or any political subdivisions thereof.
- (4) Banks, credit unions, savings and loan associations, savings banks, or mutual banks organized under the laws of any state or the United States.
- (5) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as a broker-dealer.
- (6) The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in Federal Reserve Board Regulation E, by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof, or any state or any political subdivisions thereof.

(b) Authorized delegates of a licensee, acting within the scope of authority conferred by a written contract as described in G.S. 53-208.19 shall not be required to obtain a license pursuant to this Article.

"§ 53-208.5. License qualifications.

(a) Each licensee shall have at all times a net worth of not less than one hundred thousand dollars (\$100,000) calculated in accordance with generally accepted accounting principles. Licensees engaging in money transmission at more than one location or through authorized delegates shall have an additional net worth of ten thousand dollars (\$10,000) per location in this State, as applicable, to a maximum of five hundred thousand dollars (\$500,000). Licensees with neither locations nor authorized delegates in this State shall have an additional net worth as established by the Commissioner in an amount not to exceed a maximum of five hundred thousand dollars (\$500,000).

(b) Every corporate applicant, at the time of filing of an application for license under this Article and at all times after a license is issued, shall be in good standing in the state of its incorporation and, if required by the North Carolina Business

Corporations Act, Chapter 55 of the General Statutes, shall be registered or qualified to do business in this State. All noncorporate applicants shall, at the time of the filing of an application for a license under this Article and at all times after a license is issued, be registered or qualified to do business in the State as required by law.

"§ 53-208.6. Permissible investments and statutory trust.

(a) Each licensee under this Article shall possess at all times unencumbered permissible investments having an aggregate market value, calculated in accordance with generally accepted accounting principles, of not less than the aggregate face amount of all outstanding payment instruments and stored value obligations issued or sold. This requirement may be waived by the Commissioner if the dollar volume of a licensee's outstanding payment instruments and stored value do not exceed the bond or other security devices posted by the licensee pursuant to G.S. 53-208.8.

(b) Permissible investments, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored value obligations in the event of the bankruptcy of the licensee.

"§ 53-208.7. License application.

(a) Each application for a license under this Article shall be made in writing, under oath, and in a form prescribed by the Commissioner. For all applicants, each application shall contain:

- (1) The exact name of the applicant, the applicant's principal address, any assumed or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records.
- (2) The history of the applicant's material civil litigation for a 10-year period prior to the date of the application and a record of any criminal convictions.
- (3) A description of the activities conducted by the applicant and a history of operations.
- (4) A description of the business activities in which the applicant seeks to be engaged in the State.
- (5) A list identifying the applicant's proposed authorized delegates in the State, if any, at the time of the filing of the license application.
- (6) A sample authorized delegate contract, if applicable.
- (7) A sample form of payment instrument, if applicable, which bears the name and address or telephone number of the issuer clearly printed on the payment instrument.
- (8) The location or locations at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the State.

(9) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which the payment instruments will be payable.

(b) If the applicant is a corporation, the applicant shall also provide:

- (1) The date of the applicant's incorporation and state of incorporation.
- (2) A certificate of good standing from the state in which the applicant was incorporated.
- (3) A certificate of authority from the Secretary of State to conduct business in this State, if required by the North Carolina Business Corporations Act, Chapter 55 of the General Statutes.
- (4) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.
- (5) The name, business and residence address, and employment history for the past five years of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed pursuant to this Article.
- (6) The name, business and residence address, and employment history for the period five years prior to the date of the application of any key shareholder of the applicant.
- (7) The history of material civil litigation for a 10-year period prior to the date of the application and a record of any criminal conviction for every executive officer or key shareholder.
- (8) A copy of the applicant's most recent audited financial statement, including the balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position and, if available, the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the prior three years in lieu of the applicant's financial statements.

If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision.

- (9) Copies of all filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.

(c) If the applicant is not a corporation, the applicant shall also provide:

- (1) The name, business and residence address, personal financial statement, and employment history, for the past five years, of each principal of the applicant and the name, business and residence address, and employment history for the past five years of any other person or persons who will be in charge of the applicant's activities to be licensed pursuant to this Article.
- (2) The place and date of the applicant's registration or qualification to do business in this State.
- (3) The history of material civil litigation for a 10-year period prior to the date of the application and a record of any criminal conviction for each individual having an ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities.
- (4) Copies of the applicant's audited financial statements, including the balance sheet, statement of income or loss, and statement of changes in financial position, for the current year and, if available, for the immediately preceding two-year period.

The Commissioner is authorized, for good cause shown, to waive any requirements of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.

"§ 53-208.8. Surety bond.

(a) Each application shall be accompanied by a surety bond acceptable to the Commissioner in the amount of one hundred fifty thousand dollars (\$150,000). If the applicant proposes to engage in business under this Article at more than one location, through authorized delegates or otherwise, then the amount of the security bond will be increased by five thousand dollars (\$5,000) per location, up to a maximum of two hundred fifty thousand dollars (\$250,000).

In the case of an applicant which engages in business under this Article, but has no locations or authorized delegates in this State, the amount of the security bond may be increased at the Commissioner's discretion to a maximum of two hundred fifty thousand dollars (\$250,000). The surety bond shall be in a form satisfactory to the Commissioner and shall run to the State for the benefit of any claimants against the licensee to secure the faithful performance of the obligations of the licensee with respect to the receipt, handling, transmission, and payment of money or monetary value in connection with the sale and issuance of payment instruments, stored value, or transmission of money. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Claimants against the licensee may themselves bring suit directly on the security bond, or the Commissioner may bring suit on behalf of claimants, either in one action or in successive actions.

(b) In lieu of a surety bond, the licensee may deposit with the Commissioner, or with any bank in this State designated by the licensee and approved by the Commissioner, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the surety bond or portion thereof, the following:

- (1) Unencumbered cash.
- (2) Unencumbered interest-bearing bonds.
- (3) Unencumbered notes.
- (4) Unencumbered debentures.
- (5) Unencumbered obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States.
- (6) Unencumbered obligations of this State or of any political subdivision of the State, or guaranteed by this State.

The securities or cash shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Commissioner, to substitute other securities for those deposited, and shall be required to do so on written order of the Commissioner made for good cause shown.

(c) The surety bond shall remain in effect until cancellation, which may occur only after 90 days' written notice to the Commissioner. Cancellation shall not affect any liability incurred or accrued during that period.

(d) The surety bond shall remain in place for no longer than five years after the licensee ceases money transmission operations in the State. However, notwithstanding this provision, the Commissioner

may permit the surety bond to be reduced or eliminated prior to that time to the extent that the amount of the licensee's outstanding payment instruments, stored value obligations, and money transmitted in this State is reduced.

(e) The surety bond proceeds and any cash or other collateral posted as security by a licensee shall be deemed by operation of law to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments, stored value obligations, and money transmissions in the event of the bankruptcy of the licensee.

"§ 53-208.9. Fees.

(a) Investigation and License Fees. – Each application for a license shall be accompanied by a nonrefundable investigation fee of five hundred dollars (\$500.00), together with the initial license fee of one thousand dollars (\$1,000) plus ten dollars (\$10.00) per location within this State at which a money transmission business is to be conducted by the applicant or an authorized delegate.

(b) Annual License Fee. – On or before December 31 of each year, each licensee under this Article shall pay to the Commissioner a license fee in the amount of one thousand dollars (\$1,000) plus ten dollars (\$10.00) per location in this State at which the licensee or an authorized delegate is conducting a money transmitter business.

(c) Location Fee. – Notwithstanding the number of locations within this State at which a licensee or authorized delegate conducts a money transmitter business, the per location fee provided in subsections (a) and (b) of this section shall not exceed five thousand dollars (\$5,000) per licensee per year. The per year location fee shall be based on the number of locations set forth in the annual report required by G.S. 53–208.11.

"§ 53-208.10. Issuance of license.

(a) Upon the filing of a complete application, the Commissioner shall investigate the financial condition and responsibility, financial and business experience, and the character and general fitness of the applicant. The Commissioner may conduct an on-site investigation of the applicant, the reasonable cost of which shall be borne by the applicant. If the Commissioner finds that the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community and that the applicant has fulfilled the requirements imposed by this Article and has paid the required license fee, the Commissioner shall issue a license to the applicant authorizing the applicant to engage in the licensed activities in this State. If these requirements have not been met, the Commissioner shall deny the application in a written statement setting forth the reasons for the denial.

(b) The Commissioner shall approve or deny every application for an original license within 120 days from the date a complete application is submitted, which period may be extended by the written consent of the applicant. The Commissioner shall notify the applicant of the date when the application is deemed complete. In the absence of approval or denial of the application, or consent to the extension of the 120-day period, the application is deemed approved and the Commissioner shall issue the license effective as of the first day after the 120-day or extended period has elapsed.

(c) No license shall be denied except on 10 days' notice to the applicant. Any applicant aggrieved by a denial issued by the Commissioner under this section may at any time within five days from the date of receipt of written notice of the denial, contest the denial by serving a written demand for a hearing on the Commissioner. The serving of a written demand on the Commissioner shall automatically stay the denial until a ruling is issued. The Commissioner shall set a date for a hearing not later than 30 days after service of the response, unless a later date is set with the consent of the applicant. The hearing authorized by this subsection shall be an informal hearing.

"§ 53-208.11. *Renewal of license and annual report.*

(a) The annual license fee shall be accompanied by a report, in a form prescribed by the Commissioner, to be filed by the licensee on or before December 31 of each year. The licensee shall include all of the following in its annual renewal report:

- (1) A copy of its most recent audited consolidated annual financial statement, including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited financial statement.
- (2) For the most recent quarter for which data is available prior to the date of the filing of the renewal application, but in no event more than 120 days prior to the renewal date, the licensee shall provide the number of payment instruments sold by the licensee in the State, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding.
- (3) Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the

Commissioner on any other report required to be filed under this Article.

- (4) A list of the licensee's permissible investments.
- (5) A list of the locations within this State at which business regulated by this Article is being conducted by either the licensee or its authorized delegates, except for entities exempt under G.S. 53-208.4.

(b) A licensee that has not filed a renewal report or paid its annual license fee by the renewal filing deadline and has not been granted an extension of time to do so by the Commissioner shall be notified by the Commission, in writing, that a hearing will be scheduled at which time the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements.

"§ 53-208.12. Quarterly reports.

A licensee shall file for each calendar quarter, no later than 60 days after the quarter has ended, a report which contains the total number of authorized delegates in this State.

"§ 53-208.13. Extraordinary reporting requirements.

(a) Within 15 days of the occurrence of any one of the events listed below, a licensee shall file a written report with the Commissioner describing the event and its expected impact on the licensee's activities in the State:

- (1) The filing for bankruptcy or reorganization by the licensee.
- (2) The institution of revocation or suspension proceedings against the licensee by any State or governmental authority with regard to the licensee's money transmission activities.
- (3) Any felony indictment of the licensee or any of its key officers or directors related to money transmission activities.
- (4) Any felony conviction of the licensee or any of its key officers or directors related to money transmission activities.

(b) A licensee shall update information contained in the original application filed with the Commissioner. If the information contained in the application is or becomes inaccurate in any material respect, the licensee shall file a corrected amendment as soon as practicable, but in no event later than 30 days after the effective date of the material changes.

"§ 53-208.14. Changes in control of a license.

Within 15 days of a change or acquisition of control of a licensee, the licensee shall provide notice of the event to the Commissioner in writing and in a form prescribed by the Commissioner. The notice

shall be accompanied by any information, data, and records required by the Commissioner. Notwithstanding the foregoing, the Commissioner may waive this notification requirement if, in the Commissioner's discretion, the change in control does not pose any risk to the interests of the public.

"§ 53-208.15. Examinations.

(a) The Commissioner may conduct an annual on-site examination of a licensee. Should the Commissioner conclude that an on-site examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of the examination. If the Commissioner determines, based on the licensee's financial statements and past history of operations in the State, that an on-site examination is unnecessary, then the on-site examination may be waived by the Commissioner. An on-site examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. The Commissioner, in lieu of an on-site examination, may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm, and reports so accepted are considered for all purposes as an official report of the Commissioner. The Commissioner may examine a licensee without prior notice if the Commissioner has a reasonable basis to believe that the licensee is not in compliance with this Article.

(b) If the Commissioner has a reasonable basis to believe that the licensee or authorized delegate is not in compliance with this Article, the Commissioner may (i) request financial data from a licensee in addition to that required under G.S. 53-208.11, or (ii) conduct an on-site examination of any authorized delegate or of any location of a licensee within this State without prior notice to the authorized delegate or licensee. When the Commissioner examines an authorized delegate's operations, the authorized delegate shall pay all reasonably incurred costs of the examination. When the Commissioner examines a licensee's location within the State, the licensee shall pay all reasonably incurred costs of the examination.

"§ 53-208.16. Maintenance of records and certificate of authority.

(a) Each licensee shall make, keep, and preserve the following books, accounts, and other records for a period of three years:

- (1) A record or records of each payment instrument sold.
- (2) A general ledger containing all assets, liability, capital, income, and expense accounts, which general ledger shall be posted at least monthly.
- (3) Settlement sheets received from authorized delegates.
- (4) Bank statements and bank reconciliation records.
- (5) Records of outstanding payment instruments and stored value.

(6) Records of each payment instrument paid within the three-year period.

(7) A list of the names and addresses of all of the licensee's authorized delegates, if any.

(b) Maintenance of the documents required by this section in a photographic, electronic, or other similar form shall constitute compliance with this section.

(c) Records may be maintained at a location other than within this State so long as they are made accessible to the Commissioner on seven days' written notice.

"§ 53-208.17. Confidentiality of data submitted to the Commissioner.

(a) Notwithstanding any other provision of law, all information or reports obtained by the Commissioner from an applicant, licensee, or authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including (i) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the Commissioner; and (ii) financial statements, balance sheets, or authorized delegate information are confidential and may not be disclosed by the Commissioner or any officer or employee of the Commissioner. The Commissioner, however, may provide for the release of information to representatives of State or federal agencies who state in writing under oath that they will maintain the confidentiality of the information if: (i) the licensee provides consent prior to the release; or (ii) the Commissioner finds that the release is reasonably necessary for the protection of the public or in the interests of justice.

(b) Nothing in this section shall prohibit the Commissioner from releasing to the public a list of persons licensed under this Article or aggregated financial data on those licenses.

"§ 53-208.18. Suspension or revocation of licenses.

After notice and hearing, the Commissioner may suspend or revoke a license issued under this Article if the Commissioner finds any of the following:

(1) Any fact or condition exists that, if it had existed at the time when the licensee applied for its license, would have been grounds for denying the application.

(2) The licensee's net worth becomes inadequate and the licensee, after 10 days' written notice from the Commissioner, fails to take such steps as the Commissioner deems necessary to remedy the deficiency.

(3) The licensee knowingly violates any material provision of this Article or any rule or order validly adopted by the Commissioner under authority of this title.

- (4) The licensee is conducting its business in an unsafe or unsound manner.
- (5) The licensee is insolvent.
- (6) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.
- (7) The licensee has applied for an adjudication for bankruptcy, reorganization, arrangement, or other relief under any bankruptcy.
- (8) The licensee refuses to permit the Commissioner to make any examination authorized by this Article.
- (9) The licensee willfully fails to make any report required by this Article.

"§ 53-208.19. Authorized delegate contracts.

Licensees desiring to conduct licensed activities through authorized delegates in this State shall authorize each delegate to operate pursuant to an express written contract, which shall provide the following:

- (1) That the licensee appoints the person as its delegate with authority to engage in money transmission on behalf of the licensee.
- (2) That neither a licensee nor an authorized delegate may authorize subdelegates without the written consent of the Commissioner.
- (3) That licensees are subject to supervision and regulation by the Commissioner.
- (4) A licensee shall issue a certificate of authority for each location at which it conducts licensed activities in this State through authorized delegates. The certificate shall be posted in public view at each location and shall state as follows: "Money transmission on behalf of (licensee) is conducted at this location pursuant to the Money Transmitters Act."

"§ 53-208.20. Authorized delegate conduct.

(a) An authorized delegate shall not make any fraudulent or false statement or misrepresentation to a licensee or to the Commissioner.

(b) All money transmission or sale or issuance of payment instrument activities conducted by authorized delegates shall be strictly in accordance with the licensee's written procedures provided to the authorized delegates.

(c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. The failure of an authorized delegate to remit all money owing to a licensee within the time

presented shall result in liability of the authorized delegates to the licensee for three times the licensee's actual damages. The Commissioner may set, by regulation, the maximum remittance time.

(d) An authorized delegate is deemed to consent to the Commissioner's inspection, with or without prior notice to the licensee or authorized delegate, of the books and records of the authorized delegate of the licensee when the Commissioner has a reasonable basis to believe that the licensee or authorized delegate is not in compliance with this Article.

(e) An authorized delegate is under a duty to act only as authorized under the contract with the licensee. An authorized delegate who exceeds its authority is subject to cancellation of its contract and further disciplinary action by the Commissioner.

(f) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument or stored value issued by a licensee or received by an authorized delegate for transmission shall constitute trust funds owned by and belonging to the licensee from the time the funds are received by the authorized delegate until the time when the funds or an equivalent amount are remitted by the authorized delegate to the licensee. If an authorized delegate commingles any funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(g) An authorized delegate shall report to the licensee the theft or loss of payment instruments within 24 hours from the time it knew or should have known of the theft or loss.

(h) An authorized delegate shall prominently post the certificate of authority specified in G.S. 53-208.19 at each location at which it conducts licensed activities in this State.

"§ 53-208.21. Revocation or suspension of authorized delegates.

(a) If, after notice and a hearing, the Commissioner finds that any authorized delegate of a licensee or any director, officer, employee, or controlling person of the authorized delegate: (i) has violated any provision of this Article or of any rule or regulation or order issued under this Article; (ii) has engaged or participated in any unsafe or unsound act with respect to the business of selling or issuing payment instruments of the licensee or the business of money transmission; or (iii) has made or caused to be made in any application or report filed with the Commissioner or in any proceeding before the Commissioner, any statement which was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which is required to be stated therein, the

Commissioner may issue an order suspending or barring the authorized delegate from continuing to be or becoming an authorized delegate of any licensee during the period for which the order is in effect. Upon issuance of the order, the licensee shall terminate its relationship with the authorized delegate according to the terms of the order.

(b) Any authorized delegate to whom an order is issued under this section may apply to the Commissioner to modify or rescind the order. The Commissioner shall not grant the application unless the Commissioner finds that (i) it is in the public interest to do so, and (ii) it is reasonable to believe that the person will comply with all applicable provisions of this Article and of any regulation and order issued under this Article if and when that person is permitted to resume being an authorized delegate of a licensee. The right of any authorized delegate to whom an order is issued under this section to petition for judicial review of the order shall not be affected by the failure of the person to apply to the Commissioner to modify or rescind the order.

"§ 53-208.22. Licensee liability.

A licensee's responsibility to any person for a money transmission conducted on that person's behalf by the licensee or the licensee's authorized delegate shall be limited to the amount of money transmitted or the face amount of the payment instrument purchased.

"§ 53-208.23. Hearings; procedures.

Except as provided by G.S. 53-208.10(c), hearings conducted pursuant to this Article shall proceed in accordance with Article 3A of Chapter 150B of the General Statutes.

"§ 53-208.24. Civil penalties.

(a) If, after notice and hearing, the Commissioner finds that a person has intentionally violated this Article or a rule adopted under this Article, the Commissioner may order the person to pay to the Commissioner a civil penalty in an amount specified by the Commissioner, not to exceed one thousand dollars (\$1,000) for each violation or, in the case of a continuing violation, one thousand dollars (\$1,000) for each day that the violation continues. No proceeding shall be initiated and no penalty shall be assessed pursuant to this section until after the person has been notified in writing of the nature of the violation and has been afforded a reasonable period of time, as set forth in the notice, to correct the violation and has failed to do so.

(b) The Commissioner, in the exercise of the Commissioner's reasonable judgment, may compromise, settle, and collect civil penalties with any person for violations of any provision of this Article, or of any rule, regulation, or order issued or promulgated to this Article.

"§ 53-208.25. Enforcement.

(a) If it appears to the Commissioner that any person has committed or is about to commit a violation of any provision of this Article or of any rule or order of the Commissioner, the Commissioner may apply to the Wake County Superior Court for an order enjoining the person from violating or continuing to violate this Article or any rule, regulation, or order and for injunctive or such other relief as the nature of the case may require.

(b) The Commissioner may enter into consent orders at any time with any person to resolve any matter arising under this Article. A consent order shall be signed by the person to whom it is issued or a duly authorized representative and shall indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that any provision of this Article, or any rule, regulation, or order promulgated or issued thereunder has been violated, nor need it constitute a finding by the Commissioner that the person has violated any provision of this Article or any rule, regulation, or order promulgated or issued thereunder.

(c) Notwithstanding the issuance of a consent order, the Commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the Commissioner from so doing.

"§ 53-208.26. Criminal penalties.

(a) Any person who knowingly and willfully violates any provision of this Article for which a penalty is not specifically provided is guilty of a Class 1 misdemeanor.

(b) Any person who knowingly and willfully makes a material, false statement in any document filed or required to be filed under this Article with the intent to deceive the recipient of the document is guilty of a Class 1 misdemeanor.

(c) Any person who knowingly and willfully engages in the business of money transmission without a license as provided herein shall be guilty of a Class 1 misdemeanor.

"§ 53-208.27. Rules.

(a) The Banking Commission may adopt rules necessary to implement this Article.

(b) The Banking Commission may review any rule, regulation, order, or act of the Commissioner done pursuant to or with respect to the provisions of this Article; and any person aggrieved by any such rule, regulation, order, or act may appeal to the Commission for review upon providing notice in writing within 20 days after any rule, regulation, order, or act complained of is adopted, issued, or done. Notwithstanding any other provision of law, any aggrieved party to a

decision of the Banking Commission shall be entitled to an appeal pursuant to G.S. 53-92.

"§ 53-208.28. Severability.

Should any provision, sentence, clause, section, or part of this Article for any reason be held unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or part of this Article.

"§ 53-208.29. Appointment of Secretary of State as agent for service of process.

(a) Any licensee, authorized delegate, or other person who knowingly engages in business activities that are regulated under this Article, with or without filing an application, is deemed to have done both of the following:

- (1) Consented to the jurisdiction of the courts of this State for all actions arising under this Article; and
- (2) Appointed the Secretary of State as such person's agent for the purpose of accepting service of process in any action, suit, or proceeding that may arise under this Article.

(b) Within three business days after service of process upon the Secretary of State, the Secretary shall transmit by certified mail copies of all lawful process accepted by the Secretary as an agent of that person at its last known address. Service of process shall be considered complete three business days after the Commissioner deposits copies of the documents in the United States mail.

"§ 53-208.30. Transition.

Any person who holds in good standing a money transmitters license issued by the Commissioner of Banks on November 1, 2001 may continue to engage in such business subject to the renewal requirements of G.S. 53-208.11, and upon renewal, proof that the licensee meets the net worth requirements of G.S. 53-208.5(a), and the bonding or other security requirements of G.S. 53-208.8."

SECTION 3. G.S. 53-99(b)(7a) reads as rewritten:

"(7a) Records of examinations and investigations of licensees under the ~~Sale of Checks Act, Article 16~~ Money Transmitters Act, Article 16A of this Chapter;".

SECTION 4. G.S. 53-277 reads as rewritten:

"§ 53-277. Exemptions.

(a) This Article shall not apply to:

- (1) A bank, savings institution, credit union, or farm credit system organized under the laws of the United States or any state; and
- (2) Any person or entity principally engaged in the bona fide retail sale of goods or services, who either as an

incident to or independently of a retail sale or service and not holding itself out to be a check-cashing service, from time to time cashes checks, drafts, or money orders for a fee or other consideration, where not more than two dollars (\$2.00) is charged for the service.

(b) A person licensed under Article ~~16~~16A of this Chapter (Money Transmitters Act) is exempt from G.S. 53-276, 53-278, 53-279, and 53-284, but is deemed a licensee for purposes of the remaining provisions of this Article. This exemption does not apply to an ~~agent-authorized agent~~ of a person licensed under Article ~~16~~16A of this Chapter."

SECTION 5. This act becomes effective November 1, 2001, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:44 p.m. on the 15th day of October, 2001.

H.B. 327**SESSION LAW 2001-444**

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATE TREASURER'S INVESTMENT AUTHORITY AND TO GIVE THE STATE TREASURER MORE INVESTMENT FLEXIBILITY WITH RETIREMENT SYSTEMS' ASSETS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-69.1 reads as rewritten:
"§ 147-69.1. *Investments authorized for General Fund and Highway Funds assets.*

(a) The Governor and Council of State, with the advice and assistance of the State Treasurer, shall adopt such rules and regulations as shall be necessary and appropriate to implement the provisions of this section.

(b) This section applies to funds held by the State Treasurer to the credit of:

- (1) The General Fund;
- (2) The Highway Fund and Highway Trust Fund.

(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the ~~United States;~~States.

- (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, ~~the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks,~~ the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association.
- (3) Repurchase Agreements with respect to securities issued or guaranteed by the United States government or its agencies or other securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New York.
- (4) Obligations of the State of North ~~Carolina;~~Carolina.
- (5) Time deposits of financial institutions with a physical presence in North Carolina for the purpose of receiving commercial or retail deposits; provided that any principal amount of such deposit in excess of the amount insured by the federal government or any agency thereof, be fully secured by surety bonds, or be fully collateralized; provided further that the rate of return or investment yield may not be less than that available in the market on United States government or agency obligations of comparable ~~maturity;~~maturity.
- (6) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.
- (7) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation.
- (8) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally

recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.

- (9) Asset-backed securities (whether considered debt or equity) provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest rating by any nationally recognized rating service which rates the particular securities.
- (10) Corporate bonds and notes provided they bear the highest rating of at least one nationally recognized rating service and do not bear a rating below the highest by any nationally recognized rating service which rates the particular obligation.

(d) Unless otherwise provided by law, the interest or income received and accruing from all deposits or investments of such cash balances shall be paid into the State's General Fund, except that all interest or income received and accruing on the monthly balance of the Highway Fund and Highway Trust Fund shall be paid into the State Highway Fund and Highway Trust Fund. The cash balances of the several funds may be combined for deposit or investment purposes; and when such combined deposits or investments are made, the interest or income received and accruing from all deposits or investments shall be prorated among the funds in conformity with applicable law and the rules and regulations adopted by the Governor and Council of State.

(e) The State Treasurer shall cause to be prepared quarterly statements on or before the tenth day of ~~January, April, July and October~~ February, May, August, and November in each year, which shall show the amount of cash on hand, the amount of money on deposit, the name of each depository, and all investments for which he is in any way responsible. Each quarterly statement shall be delivered to the ~~Governor and Council of State;~~ Governor, Council of State, President Pro Tempore of the Senate, and Speaker of the House of Representatives; and a copy shall be posted in the office of the State Treasurer for the information of the public.

(f) Repealed by Session Laws 1989 (Regular Session, 1990), c. 813, s. 10.

~~(g) If and to the extent the General Assembly shall authorize the sale of all or any part of the stock owned by the State in the North Carolina Railroad Company or the Atlantic and North Carolina Railroad Company, the proceeds of any sale shall be separately accounted for and invested as expressly directed by the General Assembly, but in the absence of any express direction as to~~

investment, the proceeds may be invested as authorized by this section."

SECTION 2. G.S. 147-69.2(b) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- (1) Any of the investments authorized by ~~G.S. 147-69.1(e);~~ G.S. 147-69.1(c)(1)-(7).
- (2) General obligations of other states of the United ~~States;~~ States.
- (3) General obligations of cities, counties and special districts in North ~~Carolina;~~ Carolina.
- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or ~~without~~ outside the United States if ~~such the~~ obligations bear one of the ~~three-four~~ highest ratings of at least one nationally recognized rating service and do not bear a rating below the ~~three-four~~ highest by any nationally recognized rating service which rates the particular ~~security;~~ security.
- (5) ~~Notes secured by mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration on real estate located within the State of North Carolina;~~
- (6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in G.S. 147-69.2(b)(4) and that they do not bear a rating below the ~~three-four~~ highest by any nationally recognized rating service ~~which that~~ rates the particular ~~securities;~~ securities.
- (7) With respect to Retirement Systems' assets referred to in G.S. 147-69.2(b)(8), (i) insurance contracts ~~which that~~ provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, ~~common~~ common, or collective trust funds of banks and trust ~~companies and~~ companies, (iv) real estate investment ~~trusts;~~ trusts, and (v) limited partnerships, whether described as limited liability partnerships or limited liability companies; provided the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or

related debt financing located ~~in~~ within or outside the United States; and provided that the investment authorized by this subsection shall not exceed ten percent (10%) of the ~~book-market~~ market value of all invested assets of the Retirement ~~Systems;~~ Systems.

- (8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, ~~and~~ the Legislative Retirement ~~System-System,~~ and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems), they may be invested in preferred or common stocks issued by any company incorporated or otherwise created or located within or ~~without~~ outside the United States, ~~provided:~~ States provided the investments meet the conditions of this subdivision.

The investments authorized under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems. Up to five percent (5%) of the amount that may be invested under this subdivision may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" that has total assets of at least fifty million dollars (\$50,000,000).

The assets authorized under this subdivision can be invested through individual, common, or collective trust funds of banks, trust companies, and group trust funds of investment advisory companies so long as the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).

The assets authorized under this subdivision can also be invested directly, if all of the following conditions are met:

- a. ~~That~~ The common stock or preferred stock of such corporation is registered on a national securities exchange as provided in the Federal Securities Exchange Act or quoted through the National Association of Securities Dealers' Automated Quotations (NASDAQ) ~~system;~~ system.
- b. ~~That such~~ The corporation ~~shall have~~ has paid a cash dividend on its common stock in each year of the 5-year period next preceding the date of

investment and the aggregate net earnings available for dividends on the common stock of ~~such the~~ corporation for the whole of ~~such that~~ period shall have been at least equal to the amount of ~~such the~~ dividends ~~paid; paid.~~

- c. ~~That in~~ In applying the dividend and earnings test under this section to any issuing, assuming, or guaranteeing corporation, ~~where such corporation shall have~~ if the corporation acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidation, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or ~~shall have~~ acquired the assets of any unincorporated business enterprise by purchase or otherwise, the dividends and net earnings of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this ~~section~~ subdivision have been complied ~~with; with.~~
- d. ~~That the book value of common and preferred stocks including securities convertible into common stocks shall not exceed fifty per centum (50%) of the book value of all invested assets of the Retirement Systems; provided, further:~~
- ~~1. Not~~
No more than one and one-half per centum percent (1 1/2%) of the ~~book value of such~~ market value of the Retirement Systems' assets shall ~~that may be~~ invested under this subdivision can be invested in the stock of a single corporation, and ~~provided further; the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.~~
 - ~~2. The total number of shares in a single corporation shall not exceed eight per centum (8%) of the issued and outstanding stock of such corporation, and provided further;~~
 - ~~3. As used in this subdivision d. and elsewhere in this section, book value shall mean adjusted cost basis as shown on the records of the State Treasurer.~~

- e. ~~Up to five per cent (5%) of the limits authorized in subdivision d. may be invested in the stocks or shares of a diversified investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars (\$50,000,000).~~
 - f. ~~Individual, common or collective trust funds of banks or trust companies provided that the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).~~
 - g. That investments may be made in securities convertible into common stocks issued by any such company, if such securities bear one of the four highest ratings of at least one nationally recognized rating service and do not bear a rating below the four highest by any nationally recognized rating service which may then rate the particular security.
- (9) ~~Obligations With respect to Retirement Systems' assets, as defined in subdivision (b)(8) of this subsection, and securities of The North Carolina Enterprise Corporation, of the North Carolina Economic Opportunities Fund, or of a limited partnership in which The North Carolina Enterprise Corporation or the North Carolina Economic Opportunities Fund is the only general partner, not to exceed twenty million dollars (\$20,000,000) from all funds; and a they may be invested in limited partnership interest interests in a partnership or in interests in a limited liability company whose if the primary purpose of the partnership or limited liability company is to invest in venture capital public or private debt, public or private equity, or corporate buyout transactions, within or outside the United States. The amount invested under this subdivision shall not to exceed thirty million dollars (\$30,000,000) from all funds. five percent (5%) of the market value of all invested assets of the Retirement Systems. These maximum dollar amounts do not apply to or restrict the reinvestment in accordance with this subdivision of any income from these investments.~~
- (10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.
- (11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a

final maturity not later than September 1, 2004. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss."

SECTION 3. G.S. 147-69.2(b1) reads as rewritten:

"(b1) With respect to investments authorized by ~~subsection (b)(8)~~, subsections (b)(8) and (b)(9) of this section, the State Treasurer shall appoint an ~~Equity~~-Investment Advisory Committee, which shall consist of five members: the State Treasurer, who shall be chairman ex officio; two members selected from among the members of the boards of trustees of the Retirement Systems; and two members selected from the general public. The two public members must have experience in one or more of the following areas: investment management, real estate investment trusts, real estate development, venture capital investment, or absolute return strategies. The State Treasurer shall also appoint a Secretary of the ~~Equity~~-Investment Advisory Committee who need not be a member of the committee. Members of the committee shall receive for their services the same per diem and allowances granted to members of the State boards and commissions generally. The committee shall have advisory powers only and membership shall not be deemed a public office within the meaning of Article VI, Section 9 of the Constitution of North Carolina or G.S. 128-1.1."

SECTION 4. G.S. 147-69.3 reads as rewritten:

"§ 147-69.3. *Administration of State Treasurer's investment programs.*

(a) The State Treasurer shall establish, maintain, administer, manage, and operate within the Department of State Treasurer one or more investment programs for the deposit and investment of assets pursuant to the provisions of G.S. 147-69.1 and G.S. 147-69.2.

(b) Any official, board, commission, other public authority, local government, school administrative unit, local ABC board, or community college of the State having custody of any funds not required by law to be deposited with and invested by the State Treasurer may deposit all or any portion of ~~such~~ those funds with the State Treasurer for investment in one of the investment programs established pursuant to this section, subject to any provisions of law with respect to eligible investments, provided that any occupational

licensing board as defined in G.S. 93B-1 may participate in one of the investment programs established pursuant to this section regardless of whether or not the funds were required by law to be deposited with and invested by the State Treasurer. In the absence of specific statutory provisions to the contrary, any ~~such of those~~ funds may be invested in accordance with the provisions of G.S. 147-69.2 and 147-69.3. Upon request from any depositor eligible under this subsection, the State Treasurer may authorize moneys invested pursuant to this subsection to be withdrawn by warrant on the State Treasurer.

(c) The State Treasurer's investment programs shall be so managed that in the judgment of the State Treasurer funds may be readily converted into cash when needed.

(d) Except as provided by G.S. 147-69.1(d), ~~net income~~ the total return earned on investments shall ~~be credited~~ accrue pro rata to the fund whose assets are invested according to ~~such formula as may be the formula~~ prescribed by the State Treasurer with the approval of the Governor and Council of State.

(e) The State Treasurer ~~shall have~~ has full powers as a fiduciary to hold, purchase, sell, assign, transfer, lend and dispose of any of the securities or investments in which any of the programs created pursuant to this section have been invested, and may reinvest the proceeds from the sale of ~~such those~~ securities or investments and any other investable assets of the program.

(f) The cost of administration, management, and operation of investment programs established pursuant to this section shall be apportioned equitably among the programs in such manner as may be prescribed by the State Treasurer, such costs to be paid from each program, and to the extent not otherwise chargeable directly to the income or assets of the specific investment program or pooled investment vehicle, shall be deposited with the State Treasurer as a General Fund nontax revenue. The cost of administration, management, and operation of investment programs established pursuant to this section and not directly paid from the income or assets of such program shall be covered by an appropriation to the State Treasurer for this purpose in the Current Operations Appropriations Act.

(g) The State Treasurer is authorized to retain the services of ~~such~~ independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge ~~as may be~~ necessary for the proper administration of investment programs created pursuant to this section.

(h) The State Treasurer shall prepare, as of the end of each fiscal year, a report on the financial condition of each investment program

created pursuant to this section. A copy of each report shall be submitted within 30 days following the end of the fiscal year to the official, institution, board, commission or other agency whose funds are invested, the State Auditor, and the Advisory Budget Commission.

(i) The State Treasurer's annual report to the General Assembly shall include a full and complete statement of all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2, the nature and character of investments therein, and the revenues derived therefrom. ~~The State Treasurer shall also establish annual investment yield targets for all moneys invested by virtue of the provisions of G.S. 147-69.1 and G.S. 147-69.2, and shall include in his annual report a statement of the extent that these targets have been reached.~~

(j) Subject to the provisions of ~~G.S. 147-69.1(e), G.S. 147-69.1(d),~~ the State Treasurer shall adopt ~~such rules and regulations as may be~~ any rules necessary to carry out the provisions of this section."

SECTION 5. This act becomes effective October 1, 2001.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:44 p.m. on the 15th day of October, 2001.

S.B. 703

SESSION LAW 2001-445

AN ACT TO CLARIFY IMMUNITY FOR HONORING A PORTABLE DO NOT RESUSCITATE ORDER.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1B of Chapter 90 of the General Statutes is amended by adding the following new section to read: "§ 90-21.16. Portable do not resuscitate order.

(a) It is the intent of this section to recognize a patient's desire and right to withhold cardiopulmonary resuscitation to avoid loss of dignity and unnecessary pain and suffering through the use of a portable do not resuscitate ("DNR") order. This section establishes an optional and nonexclusive procedure by which a patient or the patient's representative may exercise this right.

(b) A physician may issue a portable DNR order for a patient:

- (1) With the consent of the patient;
- (2) If the patient is a minor, with the consent of the patient's parent or guardian; or
- (3) If the patient is not a minor but is incapable of making an informed decision regarding consent for the order, with the consent of the patient's representative.

The physician shall document the basis for the order in the patient's medical record.

(c) The Department of Health and Human Services shall develop a portable DNR order form. The official form shall include fields for the name of the patient; the name, address, and telephone number of the physician; the signature of the physician; and other relevant information. The form may be approved by reference to a standard form that meets the requirements of this subsection. For purposes of this section, the "patient's representative" means an individual from the list of persons authorized to consent to the withholding of extraordinary care pursuant to G.S. 90-322 or an individual who has an established relationship with the patient, who is acting in good faith on behalf of the patient, and who can reliably convey the patient's wishes.

(d) No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for withholding cardiopulmonary resuscitation from a patient in good faith reliance on an original DNR form adopted pursuant to subsection (c) of this section, provided that (i) there are no reasonable grounds for doubting the validity of the order or the identity of the patient, and (ii) the provider does not have actual knowledge of the revocation of the portable DNR order. No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for failure to follow a DNR form adopted pursuant to subsection (c) of this section if the provider had no actual knowledge of the existence of the DNR order.

(e) A health care facility may develop policies and procedures that authorize the facility's provider to accept a portable DNR order as if it were an order of the medical staff of that facility. This section does not prohibit a physician in a health care facility from issuing a written order, other than a portable DNR order, not to resuscitate a patient in the event of cardiac or respiratory arrest, in accordance with acceptable medical practice and the facility's policies.

(f) Nothing in this section shall affect the validity of portable DNR forms in existence prior to the effective date of this section."

SECTION 2. This act becomes effective December 1, 2001.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

Became law upon approval of the Governor at 7:45 p.m. on the 15th day of October, 2001.

AN ACT TO IMPROVE PATIENT ACCESS TO HEALTH CARE ADVICE, INFORMATION, AND SERVICES TO COVERED PERSONS UNDER HEALTH BENEFIT PLANS BY PROVIDING FOR: CONTINUITY OF CARE IN HMOs, EXTENDED OR STANDING REFERRAL TO A SPECIALIST, SELECTION OF SPECIALIST AS PRIMARY CARE PROVIDER, DIRECT ACCESS TO PEDIATRICIANS, ACCESS TO NONFORMULARY AND RESTRICTED ACCESS PRESCRIPTION DRUGS, ESTABLISHMENT OF THE MANAGED CARE PATIENT ASSISTANCE PROGRAM, PATIENT'S RIGHT TO CHOOSE THE PROVIDER OF SERVICES UNDER A HEALTH BENEFIT PLAN AND PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS AS PARTICIPATING PROVIDERS BASED ON THE PROVIDER'S LICENSE OR CERTIFICATION, PROHIBITION ON CERTAIN MANAGED CARE PROVIDER INCENTIVES, MANAGED CARE REPORTING AND DISCLOSURE REQUIREMENTS, PROVIDER DIRECTORY INFORMATION, DISCLOSURE OF PAYMENT OBLIGATIONS, MANDATED COVERAGE FOR CLINICAL TRIALS AND NEWBORN HEARING SCREENING, AND STANDARDS FOR INDEPENDENT REVIEW OF NONCERTIFICATIONS BY AN INSURER OR MANAGED CARE PLAN; AND TO HOLD MANAGED CARE ENTITIES LIABLE FOR HARM CAUSED TO INSUREDS OR ENROLLEES BY THE FAILURE TO EXERCISE ORDINARY CARE IN MAKING HEALTH CARE DECISIONS.

The General Assembly of North Carolina enacts:

PART I. PATIENT ACCESS TO MEDICAL ADVICE AND CARE

Subpart A. Continuity of Care in HMOs

SECTION 1. Article 67 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-67-88. Continuity of care.

(a) Definitions. – As used in this section:

(1) 'Ongoing special condition' means:

a. In the case of an acute illness, a condition that is serious enough to require medical care or treatment

to avoid a reasonable possibility of death or permanent harm.

- b. In the case of a chronic illness or condition, a disease or condition that is life-threatening, degenerative, or disabling, and requires medical care or treatment over a prolonged period of time.
- c. In the case of pregnancy, pregnancy from the start of the second trimester.
- d. In the case of a terminal illness, an individual has a medical prognosis that the individual's life expectancy is six months or less.

(2) 'Terminated or termination'. – Includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by an HMO for failure to meet applicable quality standards or for fraud.

(b) Termination of Provider. – If a contract between an HMO benefit plan that is not a point-of-service plan and a health care provider is terminated by the provider or by the HMO, or benefits or coverage provided by the HMO are terminated because of a change in the terms of provider participation in a health benefit plan of an HMO that is not a point-of-service plan, and an individual is covered by the plan and is undergoing treatment from the provider for an ongoing special condition on the date of the termination, then, the HMO shall:

- (1) Upon termination of the contract by the HMO or upon receipt by the HMO of written notification of termination by the provider, notify the individual on a timely basis of the termination and of the right to elect continuation of coverage of treatment by the provider under this section if the individual has filed a claim with the HMO for services provided by the terminated provider or the individual is otherwise known by the HMO to be a patient of the provider.
- (2) Subject to subsection (h) of this section, permit the individual to elect to continue to be covered with respect to the treatment by the provider of the ongoing special condition during a transitional period provided under this section.

(c) Newly Covered Insured. – Each health benefit plan offered by an HMO that is not a point-of-service plan shall provide transition coverage to individuals who are undergoing treatment from a provider for an ongoing special condition and are newly covered under the health benefit plan because the individual's employer has changed health benefit plans, and the HMO shall:

- (1) Notify the individual on the date of enrollment of the right to elect continuation of coverage of treatment by the provider under this section.
- (2) Subject to subsection (h) of this section, permit the individual to elect to continue to be covered with respect to the treatment by the provider of the ongoing special condition during a transitional period provided under this section.

(d) Transitional Period: In General. – Except as otherwise provided in subsections (e), (f), and (g) of this section, the transitional period under this subsection shall extend up to 90 days, as determined by the treating health care provider, after the date of the notice to the individual described in subdivision (b)(1) of this section or the date of enrollment in a new plan described in subdivision (c)(1) of this section.

(e) Transitional Period: Scheduled Surgery, Organ Transplantation, or Inpatient Care. – If surgery, organ transplantation, or other inpatient care was scheduled for an individual before the date of the notice required under subdivision (b)(1) of this section, or the date of enrollment in a new plan described in subdivision (c)(1) of this section, or if the individual on that date was on an established waiting list or otherwise scheduled to have the surgery, transplantation, or other inpatient care, the transitional period under this subsection with respect to the surgery, transplantation, or other inpatient care shall extend beyond the period under subsection (d) of this section through the date of discharge of the individual after completion of the surgery, transplantation, or other inpatient care, and through postdischarge follow-up care related to the surgery, transplantation, or other inpatient care occurring within 90 days after the date of discharge.

(f) Transitional Period: Pregnancy. – If an insured has entered the second trimester of pregnancy on the date of the notice required under subdivision (b)(1) of this section, or the date of enrollment in a new plan described in subdivision (c)(1) of this section, and the provider was treating the pregnancy before the date of the notice, or the date of enrollment in the new plan, the transitional period with respect to the provider's treatment of the pregnancy shall extend through the provision of 60 days of postpartum care.

(g) Transitional Period: Terminal Illness. – If an insured was determined to be terminally ill at the time of a provider's termination of participation under subsection (b) of this section, or at the time of enrollment in the new plan under subdivision (c)(1) of this section, and the provider was treating the terminal illness before the date of the termination or enrollment in the new plan, the transitional period shall extend for the remainder of the individual's life with respect to

care directly related to the treatment of the terminal illness or its medical manifestations.

(h) Permissible Terms and Conditions. – An HMO may condition coverage of continued treatment by a provider under subdivision (b)(2) or (c)(2) of this section upon the following terms and conditions:

- (1) When care is provided pursuant to subdivision (b)(2) of this section, the provider agrees to accept reimbursement from the HMO and individual involved, with respect to cost-sharing, at the rates applicable before the start of the transitional period as payment in full. When care is provided pursuant to subdivision (c)(2) of this section, the provider agrees to accept the prevailing rate based on contracts the insurer has with the same or similar providers in the same or similar geographic area, plus the applicable copayment, as reimbursement in full from the HMO and the insured for all covered services.
 - (2) The provider agrees to comply with the quality assurance programs of the HMO responsible for payment under subdivision (1) of this subsection and to provide to the HMO necessary medical information related to the care provided. The quality assurance programs shall not override the professional or ethical responsibility of the provider or interfere with the provider's ability to provide information or assistance to the patient.
 - (3) The provider agrees otherwise to adhere to the HMO's established policies and procedures for participating providers, including procedures regarding referrals and obtaining prior authorization, providing services pursuant to a treatment plan, if any, approved by the HMO, and member hold harmless provisions.
 - (4) The insured or the insured's representative notifies the HMO within 45 days of the date of the notice described in subdivision (b)(1) of this section or the new enrollment described in subdivision (c)(1) of this section, that the insured elects to continue receiving treatment by the provider.
 - (5) The provider agrees to discontinue providing services at the end of the transition period pursuant to this section and to assist the insured in an orderly transition to a network provider. Nothing in this section shall prohibit the insured from continuing to receive services from the provider at the insured's expense.
- (i) Construction. – Nothing in this section:

- (1) Requires the coverage of benefits that would not have been covered if the provider involved remained a participating provider or, in the case of a newly covered insured, requires the coverage of benefits not provided under the new policy under which the person is covered.
- (2) Requires an HMO to offer a transitional period when the HMO terminates a provider's contract for reasons relating to quality of care or fraud; and refusal to offer a transitional period under these circumstances is not subject to the grievance review provisions of G.S. 58-50-62.
- (3) Prohibits an HMO from extending any transitional period beyond that specified in this section.
- (4) Prohibits an HMO from terminating the continuing services of a provider as described in this section when the HMO has determined that the provider's continued provision of services may result in, or is resulting in, a serious danger to the health or safety of the insured. Such terminations shall be in accordance with the contract provisions that the provider would otherwise be subject to if the provider's contract were still in effect.
 - (j) Disclosure of Right to Transitional Period. – Each HMO shall include a clear description of an insured's rights under this section in its evidence of coverage and summary plan description."

Subpart B. Extended or Standing Referral to Specialist

SECTION 1.2. G.S. 58-3-223 reads as rewritten:

"§ 58-3-223. *Managed care access to specialist care.*

(a) Each insurer offering a health benefit plan that does not allow direct access to all in-plan specialists shall develop and maintain written policies and procedures by which an insured may receive an extended or standing referral to an in-plan specialist. The ~~procedure~~insurer shall provide for an extended or standing referral to a specialist if the insured has a serious or chronic degenerative, disabling, or life-threatening disease or condition, which in the opinion of the insured's primary care physician, in consultation with the specialist, requires ongoing specialty care. The extended or standing referral shall be for a period not to exceed 12 months and shall be made under a treatment plan coordinated with the insurer in consultation with the primary care physician, the specialist, and the insured or the insured's designee.

(b) As used in this section:

- (1) 'Health benefit plan' has the meaning applied in G.S. 58-3-167.~~means an accident and health insurance policy~~

~~or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:~~

- ~~a. Accident.~~
- ~~b. Credit.~~
- ~~c. Disability income.~~
- ~~d. Long term care or nursing home care.~~
- ~~e. Medicare supplement.~~
- ~~f. Specified disease.~~
- ~~g. Dental or vision.~~
- ~~h. Coverage issued as a supplement to liability insurance.~~
- ~~i. Workers' compensation.~~
- ~~j. Medical payments under automobile or homeowners.~~
- ~~k. Hospital income or indemnity.~~
- ~~l. Insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability policy or equivalent self insurance.~~

- (2) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, or a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter has the meaning applied in G.S. 58-3-167.
- (3) 'Serious or chronic degenerative, disabling, or life-threatening disease or condition' means a disease or condition, which in the opinion of the patient's treating primary care physician and specialist, requires frequent and periodic monitoring and consultation with the specialist on an ongoing basis.

(4) 'Specialist' includes a subspecialist."

SECTION 1.2A. G.S. 58-3-200(d) reads as rewritten:

"(d) Services Outside Provider Networks. – No insurer shall penalize an insured or subject an insured to the out-of-network benefit levels offered under the insured's approved health benefit ~~plan~~ plan, including an insured receiving an extended or standing referral under G.S. 58-3-223, unless contracting health care providers able to meet health needs of the insured are reasonably available to the insured without unreasonable delay."

Subpart C. Selection of Specialist as Primary Care Physician

SECTION 1.3. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-235. Selection of specialist as primary care provider.

(a) Each insurer that offers a health benefit plan shall have a procedure by which an insured diagnosed with a serious or chronic degenerative, disabling, or life-threatening disease or condition, either of which requires specialized medical care may select as his or her primary care physician a specialist with expertise in treating the disease or condition who shall be responsible for and capable of providing and coordinating the insured's primary and specialty care. If the insurer determines that the insured's care would not be appropriately coordinated by that specialist, the insurer may deny access to that specialist as a primary care provider.

(b) The selection of the specialist shall be made under a treatment plan approved by the insurer, in consultation with the specialist and the insured or the insured's designee and after notice to the insured's primary care provider, if any. The specialist may provide ongoing care to the insured and may authorize such referrals, procedures, tests, and other medical services as the insured's primary care provider would otherwise be allowed to provide or authorize, subject to the terms of the treatment plan. Services provided by a specialist who is providing and coordinating primary and specialty care remain subject to utilization review and other requirements of the insurer, including its requirements for primary care providers."

Subpart D. Direct Access to Pediatrician

SECTION 1.4. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-240. Direct access to pediatrician for minors.

Each insurer offering a health benefit plan that uses a network of contracting health care providers shall allow an insured to choose a contracting pediatrician in the network as the primary care provider

for the insured's children under the age of 18 and covered under the policy."

Subpart E. Access to Prescription Drugs

SECTION 1.5. G.S. 58-3-221 reads as rewritten:

"§ 58-3-221. *Access to nonformulary and restricted access prescription drugs.*

(a) If an insurer maintains one or more closed formularies for or restricts access to covered prescription drugs or devices, then the insurer shall do all of the following:

- (1) Develop the formulary or formularies and any restrictions on access to covered prescription drugs or devices in consultation with and with the approval of a pharmacy and therapeutics committee, which shall include participating ~~providers—physicians~~ who are licensed to prescribe prescription drugs or devices practice medicine in this State.
- (2) Make available to participating ~~providers—~~ and pharmacists providers, pharmacists, and enrollees the complete drugs or devices formulary or formularies maintained by the insurer including a list of the devices and prescription drugs on the formulary by major therapeutic category that specifies whether a particular drug or device is preferred over other drugs or devices.
- (3) Establish and maintain an expeditious process or procedure that allows an enrollee or the enrollee's physician acting on behalf of the enrollee to obtain, without penalty or additional cost-sharing beyond that provided for in the health benefit plan, coverage for a specific nonformulary drug or device determined to be medically necessary and appropriate by the enrollee's participating physician without prior approval from the insurer, after the enrollee's participating physician notifies the insurer that:
 - a. Either (i) the formulary alternatives have been ineffective in the treatment of the enrollee's disease or condition, or (ii) the formulary alternatives cause or are reasonably expected by the physician to cause a harmful or adverse clinical reaction in the enrollee; and
 - b. Either (i) the drug is prescribed in accordance with any applicable clinical protocol of the insurer for the prescribing of the drug, or (ii) the drug has been

approved as an exception to the clinical protocol pursuant to the insurer's exception procedure.

- (4) Provide coverage for a restricted access drug or device to an enrollee without requiring prior approval or use of a nonrestricted formulary drug if an enrollee's physician certifies in writing that the enrollee has previously used an alternative nonrestricted access drug or device and the alternative drug or device has been detrimental to the enrollee's health or has been ineffective in treating the same condition and, in the opinion of the prescribing physician, is likely to be detrimental to the enrollee's health or ineffective in treating the condition again.

(b) An insurer may not void a contract or refuse to renew a contract between the insurer and a prescribing provider because the prescribing provider has prescribed a medically necessary and appropriate nonformulary or restricted access drug or device as provided in this section.

(c) As used in this section:

- (1) 'Closed formulary' means a list of prescription drugs and devices reimbursed by the insurer that excludes coverage for drugs and devices not listed.
- (1a) ~~'Health benefit plan' has definition provided in G.S. 58-3-167. means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency, or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:~~
- ~~a. Accident.~~
 - ~~b. Credit.~~
 - ~~c. Disability income.~~
 - ~~d. Long term care or nursing home care.~~
 - ~~e. Medicare supplement.~~
 - ~~f. Specified disease.~~
 - ~~g. Dental or vision.~~

- ~~h. Coverage issued as a supplement to liability insurance.~~
 - ~~i. Workers' compensation.~~
 - ~~j. Medical payments under automobile or homeowners.~~
 - ~~k. Hospital income or indemnity.~~
 - ~~l. Insurance under which benefits are payable with or without regard to fault and that are statutorily required to be contained in any liability policy or equivalent self insurance.~~
- (2) 'Insurer' has the meaning provided in G.S. 58-3-167. means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health maintenance organization organized under Article 67 of this Chapter, or a multiple employer welfare arrangement under Article 49 of this Chapter.
- (3) 'Restricted access drug or device' means those covered prescription drugs or devices for which reimbursement by the insurer is conditioned on the insurer's prior approval to prescribe the drug or device or on the provider prescribing one or more alternative drugs or devices before prescribing the drug or device in question.

(d) Nothing in this section requires an insurer to pay for drugs or devices or classes of drugs or devices related to a benefit that is specifically excluded from coverage by the insurer."

Subpart F. Managed Care Patient Assistance Program

SECTION 1.6. Chapter 143 of the General Statutes is amended by adding the following new Article to read:

"Article 77.

"Managed Care Patient Assistance Program.

"§ 143-730. Managed Care Patient Assistance Program.

(a) The Office of Managed Care Patient Assistance Program is established in an existing State agency or department designated by the Governor. The Director of the Office of Managed Care Patient Assistance Program shall be appointed by the Governor.

(b) The Managed Care Patient Assistance Program shall provide information and assistance to individuals enrolled in managed care plans. The Managed Care Patient Assistance Program shall have expertise and experience in both health care and advocacy and will assume the specific duties and responsibilities set forth in subsection (c) of this section.

(c) The duties and responsibilities of the Managed Care Patient Assistance Program are as follows:

- (1) Develop and distribute educational and informational materials for consumers, explaining their rights and responsibilities as managed care plan enrollees.
- (2) Answer inquiries posed by consumers and refer inquiries of a regulatory nature to staff within the Department of Insurance.
- (3) Advise managed care plan enrollees about the utilization review process.
- (4) Assist enrollees with the grievance, appeal, and external review procedures established by Article 50 of Chapter 58 of the General Statutes.
- (5) Publicize the Office of the Managed Care Patient Assistance Program.
- (6) Compile data on the activities of the Office and evaluate such data to make recommendations as to the needed activities of the Office.

(d) The Director of the Managed Care Patient Assistance Program shall annually report the activities of the Managed Care Patient Assistance Program, including the types of appeals, grievances, and complaints received and the outcome of these cases. The report shall be submitted to the General Assembly, upon its convening or reconvening, and shall make recommendations as to efforts that could be implemented to assist managed care consumers."

Subpart G. No Discrimination in the Selection of Providers

SECTION 1.7. G.S. 58-50-30, as amended by Section 1 of S.L. 2001-297, reads as rewritten:

"§ 58-50-30. *Right to choose services of optometrist, podiatrist, certified clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, or physician assistant.*

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 65-67 of this Chapter provides for coverage for, payment of or of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a

duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of or of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provision contained in the policy-plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

- (1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and
- (2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through ~~6564~~ of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly certified clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other ~~statute~~-statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or

beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a "duly licensed psychologist" is a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a "duly certified clinical social worker" is a "certified clinical social worker" as defined in G.S. 90B-3(2) and certified by the North Carolina Certification Board for Social Work pursuant to Chapter 90B of the General Statutes.

(c1) For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

(c2) For purposes of this section, a "duly certified substance abuse professional" is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

(c3) For purposes of this section, a "duly licensed professional counselor" is a person licensed by the North Carolina Board of Licensed Professional Counselors pursuant to Article 24 of Chapter 90 of the General Statutes.

(d) Payment or reimbursement is required by this section for a service performed by an advanced practice registered nurse only when:

- (1) The service performed is within the nurse's lawful scope of practice;
- (2) The policy currently provides benefits for identical services performed by other licensed health care providers;
- (3) The service is not performed while the nurse is a regular employee in an office of a licensed physician;

- (4) The service is not performed while the registered nurse is employed by a nursing facility (including a hospital, skilled nursing facility, intermediate care facility, or home care agency); and
- (5) Nothing in this section is intended to authorize payment to more than one provider for the same service.

No lack of signature, referral, or employment by any other health care provider may be asserted to deny benefits under this ~~provision~~provision, unless these plan requirements apply to all providers for that service.

For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

(e) Payment or reimbursement is required by this section for a service performed by a duly licensed pharmacist only when:

- (1) The service performed is within the lawful scope of practice of the pharmacist;
- (2) The service performed is not initial counseling services required under State or federal law or regulation of the North Carolina Board of Pharmacy;
- (3) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (4) The service is identified as a separate service that is performed by other licensed health care providers and is reimbursed by identical payment methods.

Nothing in this subsection authorizes payment to more than one provider for the same service.

(f) Payment or reimbursement is required by this section for a service performed by a duly licensed physician assistant only when:

- (1) The service performed is within the lawful scope of practice of the physician assistant in accordance with rules adopted by the North Carolina Medical Board pursuant to G.S. 90-18.1;
- (2) The policy currently provides reimbursement for identical services performed by other licensed health care providers; and
- (3) The reimbursement is made to the physician, clinic, agency, or institution employing the physician assistant.

Nothing in this subsection is intended to authorize payment to more than one provider for the same service. For the purposes of this section, a "duly licensed physician assistant" is a physician assistant as defined by G.S. 90-18.1.

(g) A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network or from eligibility to provide particular covered services under the plan or policy any duly licensed physician or provider listed in subsection (a1) of this section, acting within the scope of the provider's license or certification under North Carolina law, solely on the basis of the provider's license or certification. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that offers coverage through a network plan may condition participation in the network on satisfying written participation criteria, including credentialing, quality, and accessibility criteria. The participation criteria shall be developed and applied in a like manner consistent with the licensure and scope of practice for each type of provider. Any health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter that excludes a provider listed in subsection (a1) of this section from participation in its network or from eligibility to provide particular covered services under the plan or policy shall provide the affected listed provider with a written explanation of the basis for its decision. A health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter shall not exclude from participation in its provider network a provider listed in subsection (a1) of this section acting within the scope of the provider's license or certification under North Carolina law solely on the basis that the provider lacks hospital privileges, unless use of hospital services by the provider on behalf of a policy holder, insured, or beneficiary reasonably could be expected.

(h) Nothing in this section shall be construed as expanding the scope of practice of any duly licensed physician or provider listed in subsection (a1) of this section."

Subpart H. Prohibition on Provider Incentives

SECTION 1.8. Article 3 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

"§ 58-3-265. *Prohibition on managed care provider incentives.*

An insurer offering a health benefit plan may not offer or pay any type of material inducement, bonus, or other financial incentive to a participating provider to deny, reduce, withhold, limit, or delay specific medically necessary and appropriate health care services covered under the health benefit plan to a specific insured or enrollee. This section does not prohibit insurers from paying a provider on a capitated basis or withholding payment or paying a bonus based on

the aggregate services rendered by the provider or the insurer's financial performance."

PART II. HEALTH PLAN DISCLOSURES

Subpart A. Managed Care Reporting and Disclosure Requirements

SECTION 2.1. G.S. 58-3-191(b) reads as rewritten:

"(b) Disclosure requirements. – Each health benefit plan shall provide the following applicable information to plan participants and bona fide prospective participants upon request:

- (1) The evidence of coverage (G.S. 58-67-50), subscriber contract (G.S. 58-65-60, 58-65-140), health insurance policy (G.S. 58-51-80, 58-50-125, 58-50-55), or the contract and benefit summary of any other type of health benefit plan;
- (2) An explanation of the utilization review criteria and treatment protocol under which treatments are provided for conditions specified by the prospective participant. This explanation shall be in writing if so requested;
- (3) If denied a recommended treatment, written reasons for the denial and an explanation of the utilization review criteria or treatment protocol upon which the denial was based;
- (4) The plan's ~~restrictive formularies~~ formularies, restricted access drugs or devices as defined in G.S. 58-3-221, or prior approval requirements for obtaining prescription drugs, whether a particular drug or therapeutic class of drugs is excluded from its formulary, and the circumstances under which a nonformulary drug may be covered; and
- (5) The plan's procedures and medically based criteria for determining whether a specified procedure, test, or treatment is experimental."

Subpart B. Provider Directory Information

SECTION 2.2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-245. Provider directories.

(a) Every health benefit plan utilizing a provider network shall maintain a provider directory that includes a listing of network providers available to insureds and shall update the listing no less frequently than once a year. In addition, every health benefit plan

shall maintain a telephone system and may maintain an electronic or on-line system through which insureds can access up-to-date network information. If the health benefit plan produces printed directories, the directories shall contain language disclosing the date of publication, frequency of updates, that the directory listing may not contain the latest network information, and contact information for accessing up-to-date network information.

(b) Each directory listing shall include the following network information:

- (1) The provider's name, address, telephone number, and, if applicable, area of specialty.
- (2) Whether the provider may be selected as a primary care provider.
- (3) To the extent known to the health benefit plan, an indication of whether the provider:
 - a. Is or is not currently accepting new patients.
 - b. Has any other restrictions that would limit an insured's access to that provider.

(c) The directory listing shall include all of the types of participating providers. Upon a participating provider's written request, the insurer shall also list in the directory, as part of the participating provider's listing, the names of any allied health professionals who provide primary care services under the supervision of the participating provider and whose services are covered by virtue of the insurer's contract with the supervising participating provider and whose credentials have been verified by the supervising participating provider. These allied health professionals shall be listed as a part of the directory listing for the participating provider upon receipt of a certification by the supervising participating provider that the credentials of the allied health professional have been verified consistent with the requirements for the type of information required to be verified under G.S. 58-3-230."

Subpart C. Disclosure of Payment Obligations

SECTION 2.3. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-250. *Payment obligations for covered services.*

(a) If an insurer calculates a benefit amount for a covered service under a health benefit plan through a method other than a fixed dollar co-payment, the insurer shall clearly explain in its evidence of coverage and plan summaries how it determines its payment obligations and the payment obligations of the insured. The explanation shall include:

- (1) An example of the steps the insurer would take in calculating the benefit amount and the payment obligations of each party.
- (2) Whether the insurer has obtained the agreement of health care providers not to bill an insured for any amounts by which a provider's charge exceeds the insurer's recognized charge for a covered service and whether the insured may be liable for paying any excess amount.
- (3) Which party is responsible for filing a claim or bill with the insurer.

(b) If an insured is liable for an amount that differs from a stated fixed dollar co-payment or may differ from a stated coinsurance percentage because the coinsurance amount is based on a plan allowance or other such amount rather than the actual charges and providers are permitted to balance bill the insured, the evidence of coverage, plan summaries, and marketing and advertising materials that include information on benefit levels shall contain the following statement: 'NOTICE: Your actual expenses for covered services may exceed the stated [coinsurance percentage or co-payment amount] because actual provider charges may not be used to determine [plan/insurer or similar term] and [insured/member/enrollee or similar term] payment obligations.'"

PART III. MANDATED BENEFITS

Subpart A. Clinical Trials

SECTION 3.1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-255. *Coverage of clinical trials.*

(a) As used in this section:

- (1) 'Covered clinical trials' means phase II, phase III, and phase IV patient research studies designed to evaluate new treatments, including prescription drugs, and that: (i) involve the treatment of life-threatening medical conditions, (ii) are medically indicated and preferable for that patient compared to available noninvestigational treatment alternatives, and (iii) have clinical and preclinical data that shows the trial will likely be more effective for that patient than available noninvestigational alternatives. Covered clinical trials must also meet the following requirements:
 - a. Must involve determinations by treating physicians, relevant scientific data, and opinions of experts in relevant medical specialties.

- b. Must be trials approved by centers or cooperative groups that are funded by the National Institutes of Health, the Food and Drug Administration, the Centers for Disease Control, the Agency for Health Care Research and Quality, the Department of Defense, or the Department of Veterans Affairs. The health benefit plan may also cover clinical trials sponsored by other entities.
- c. Must be conducted in a setting and by personnel that maintain a high level of expertise because of their training, experience, and volume of patients.
 - (2) 'Health benefit plan' is defined by G.S. 58-3-167.
 - (3) 'Insurer' is defined by G.S. 58-3-167.

(b) Each health benefit plan shall provide coverage for participation in phase II, phase III, and phase IV covered clinical trials by its insureds or enrollees who meet protocol requirements of the trials and provide informed consent.

(c) Only medically necessary costs of health care services, as defined in G.S. 58-50-61, associated with participation in a covered clinical trial, including those related to health care services typically provided absent a clinical trial, the diagnosis and treatment of complications, and medically necessary monitoring, are required to be covered by the health benefit plan and only to the extent that such costs have not been or are not funded by national agencies, commercial manufacturers, distributors, or other research sponsors of participants in clinical trials. Nothing in this section shall be construed to require a health benefit plan to pay or reimburse for non-FDA approved drugs provided or made available to a patient who received the drug during a covered clinical trial after the clinical trial has been discontinued.

(d) Clinical trial costs not required to be covered by a health benefit plan include the costs of services that are not health care services, those provided solely to satisfy data collection and analysis needs, those related to investigational drugs and devices, and those that are not provided for the direct clinical management of the patient. In the event a claim contains charges related to services for which coverage is required under this section, and those charges have not been or cannot be separated from costs related to services for which coverage is not required under this section, the health benefit plan may deny the claim."

Subpart B. Newborn Hearing Screening

SECTION 3.2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-260. Insurance coverage for newborn hearing screening mandated.

(a) As used in this section, the terms 'health benefit plan' and 'insurer' have the meanings applied under G.S. 58-3-167.

(b) Each health benefit plan shall provide coverage for newborn hearing screening ordered by the attending physician pursuant to G.S. 130A-125. The same deductibles, coinsurance, reimbursement methodologies, and other limitations and administrative procedures as apply to similar services covered under the health benefit plan shall apply to coverage for newborn hearing screening."

PART IV. EXTERNAL REVIEW AND MANAGED CARE ENTITY LIABILITY

Subpart A. Independent, External Review Process

SECTION 4.1. The title of Article 50 of Chapter 58 of the General Statutes reads as rewritten:

"Article 50.

General Accident and Health Insurance Regulations."

SECTION 4.2. Article 50 of Chapter 58 of the General Statutes is amended as follows:

- (1) By designating G.S. 58-50-1 through G.S. 58-50-45 as Part 1 with the heading "Miscellaneous Provisions."
- (2) By designating G.S. 58-50-50 through G.S. 58-50-64 as Part 2 with the heading "PPOs, Utilization Review and Grievances."
- (3) By designating G.S. 58-50-65 through G.S. 58-50-70 as Part 3 with the heading "Scope and Sanctions."
- (4) By designating G.S. 58-50-75 through G.S. 58-50-95 as Part 4 with the heading "Health Benefit Plan External Review."
- (5) By designating G.S. 58-50-100 through G.S. 58-50-156 as Part 5 with the heading "Small Employer Group Health Insurance Reform."

SECTION 4.3. G.S. 58-50-151 is recodified as G.S. 58-51-116.

SECTION 4.4. The prefatory language of G.S. 58-50-61(a) reads as rewritten:

"(a) Definitions. – As used in this ~~section~~ and section, in G.S. 58-50-62, and in Part 4 of this Article, the term:"

SECTION 4.5. Article 50 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 4. Health Benefit Plan External Review.

"§ 58-50-75. Purpose, scope, and definitions.

(a) The purpose of this Part is to provide standards for the establishment and maintenance of external review procedures to assure that covered persons have the opportunity for an independent review of an appeal decision upholding a noncertification or a second-level grievance review decision upholding a noncertification, as defined in this Part.

(b) This Part applies to all insurers that offer a health benefit plan and that provide or perform utilization review pursuant to G.S. 58-50-61, the Teachers' and State Employees' Comprehensive Major Medical Plan, and the Health Insurance Program for Children. With respect to second-level grievance review decisions, this Part applies only to second-level grievance review decisions involving noncertification decisions.

(c) In addition to the definitions in G.S. 58-50-61(a), as used in this Part:

- (1) 'Covered benefits' or 'benefits' means those benefits consisting of medical care, provided directly through insurance or otherwise and including items and services paid for as medical care, under the terms of a health benefit plan.
- (2) 'Covered person' means a policyholder, subscriber, enrollee, or other individual covered by a health benefit plan. 'Covered person' includes another person, including the covered person's health care provider, acting on behalf of the covered person. Nothing in this subdivision shall require the covered person's health care provider to act on behalf of the covered person.
- (3) 'Independent review organization' or 'organization' means an entity that conducts independent external reviews of appeals of noncertifications and second-level grievance review decisions.

"§ 58-50-76: Reserved.

"§ 58-50-77. Notice of right to external review.

(a) An insurer shall notify the covered person in writing of the covered person's right to request an external review and include the appropriate statements and information set forth in this section at the time the insurer sends written notice of:

- (1) A noncertification decision under G.S. 58-50-61;
- (2) An appeal decision under G.S. 58-50-61 upholding a noncertification; and
- (3) A second-level grievance review decision under G.S. 58-50-62 upholding the original noncertification.

(b) The insurer shall include in the notice required under subsection (a) of this section for a notice related to a noncertification decision under G.S. 58-50-61, a statement informing the covered

person that if the covered person has a medical condition where the time frame for completion of an expedited review of an appeal decision involving a noncertification decision under G.S. 58-50-61 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum function, then the covered person may file a request for an expedited external review under G.S. 58-50-82 at the same time the covered person files a request for an expedited review of an appeal involving a noncertification decision under G.S. 58-50-61, but that the Commissioner will determine whether the covered person shall be required to complete the expedited review of the grievance before conducting the expedited external review.

(c) The insurer shall include in the notice required under subsection (a) of this section for a notice related to an appeal decision under G.S. 58-50-61, a statement informing the covered person that:

- (1) If the covered person has a medical condition where the time frame for completion of an expedited review of a grievance involving an appeal decision under G.S. 58-50-61 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum function, the covered person may file a request for an expedited external review under G.S. 58-50-82 at the same time the covered person files a request for an expedited review of a grievance involving an appeal decision under G.S. 58-50-62, but that the Commissioner will determine whether the covered person shall be required to complete the expedited review of the grievance before conducting the expedited external review.
- (2) If the covered person has not received a written decision from the insurer within 60 days after the date the covered person files the second-level grievance with the insurer pursuant to G.S. 58-50-62 and the covered person has not requested or agreed to a delay, the covered person may file a request for external review under G.S. 58-50-80 and shall be considered to have exhausted the insurer's internal grievance process for purposes of G.S. 58-50-79.

(d) The insurer shall include in the notice required under subsection (a) of this section for a notice related to a final second-level grievance review decision under G.S. 58-50-62, a statement informing the covered person that:

- (1) If the covered person has a medical condition where the time frame for completion of a standard external review

under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum function, the covered person may file a request for an expedited external review under G.S. 58-50-82; or

- (2) If the second-level grievance review decision concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services but has not been discharged from a facility, the covered person may request an expedited external review under G.S. 58-50-82.

(e) In addition to the information to be provided under this section, the insurer shall include a copy of the description of both the standard and expedited external review procedures the insurer is required to provide under G.S. 58-50-93, including the provisions in the external review procedures that give the covered person the opportunity to submit additional information.

"§ 58-50-78: Reserved.

"§ 58-50-79. Exhaustion of internal grievance process.

(a) Except as provided in G.S. 58-50-82, a request for an external review under G.S. 58-50-80 or G.S. 58-50-82 shall not be made until the covered person has exhausted the insurer's internal appeal and grievance processes under G.S. 58-50-61 and G.S. 58-50-62.

(b) A covered person shall be considered to have exhausted the insurer's internal grievance process for purposes of this section, if the covered person:

- (1) Has filed a second-level grievance involving a noncertification appeal decision under G.S. 58-50-61 and G.S. 58-50-62, and
- (2) Except to the extent the covered person requested or agreed to a delay, has not received a written decision on the grievance from the insurer within 60 days since the date the covered person filed the grievance with the insurer.

(c) Notwithstanding subsection (b) of this section, a covered person may not make a request for an external review of a noncertification involving a retrospective review determination made under G.S. 58-50-61 until the covered person has exhausted the insurer's internal grievance process.

(d) A request for an external review of a noncertification may be made before the covered person has exhausted the insurer's internal grievance and appeal procedures under G.S. 58-50-61 and G.S. 58-50-62 whenever the insurer agrees to waive the exhaustion requirement. If the requirement to exhaust the insurer's internal

grievance procedures is waived, the covered person may file a request in writing for a standard external review as set forth in G.S. 58-50-80 or may make a request for an expedited external review as set forth in G.S. 58-50-82. In addition, the insurer may choose to eliminate the second-level grievance review under G.S. 58-50-62. In such case, the covered person may file a request in writing for a standard external review under G.S. 58-50-80 or may make a request for an expedited external review as set forth in G.S. 58-50-82 within 60 days after receiving notice of an appeal decision upholding a noncertification.
"§ 58-50-80. Standard external review.

(a) Within 60 days after the date of receipt of a notice under G.S. 58-50-77, a covered person may file a request for an external review with the Commissioner.

(b) Upon receipt of a request for an external review under subsection (a) of this section, the Commissioner shall, within 10 business days, complete all of the following:

- (1) Notify and send a copy of the request to the insurer that made the decision which is the subject of the request. The notice shall include a request for any information that the Commissioner requires to conduct the preliminary review under subdivision (2) of this subsection and require that the insurer deliver the requested information to the Commissioner within three business days of receipt of the notice.
- (2) Conduct a preliminary review of the request to determine whether:
 - a. The individual is or was a covered person in the health benefit plan at the time the health care service was requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time the health care service was provided.
 - b. The health care service that is the subject of the noncertification appeal decision or the second-level grievance review decision upholding a noncertification reasonably appears to be a covered service under the covered person's health benefit plan.
 - c. The covered person has exhausted the insurer's internal appeal and grievance processes under G.S. 58-50-61 and G.S. 58-50-62, unless the covered person is considered to have exhausted the insurer's internal appeal or grievance process under G.S. 58-50-79, or unless the insurer has waived its right

- to conduct an expedited review of the appeal decision.
- d. The covered person has provided all the information and forms required by the Commissioner that are necessary to process an external review.
- (3) Notify in writing the covered person and the covered person's provider who performed or requested the service whether the request is complete and whether the request has been accepted for external review. If the request is complete and accepted for external review, the notice shall include a copy of the information that the insurer provided to the Commissioner pursuant to subdivision (b)(1) of this section, and inform the covered person that the covered person may submit to the assigned independent review organization in writing, within seven days after the date of the notice, additional information and supporting documentation relevant to the initial denial for the organization to consider when conducting the external review. If the covered person chooses to send additional information to the assigned independent review organization, then the covered person shall at the same time and by the same means, send a copy of that information to the insurer.
- (4) Notify the insurer in writing whether the request for external review has been accepted. If the request has been accepted, the notice shall direct the insurer or its designee utilization review organization to provide to the assigned organization, within seven days of receipt of the notice, the documents and any information considered in making the noncertification appeal decision or the second-level grievance review decision.
- (5) Assign the review to an independent review organization approved under G.S. 58-50-85. The assignment shall be made using an alphabetical list of the independent review organizations, systematically assigning reviews on a rotating basis to the next independent review organization on that list capable of performing the review to conduct the external review. After the last organization on the list has been assigned a review, the Commissioner shall return to the top of the list to continue assigning reviews.
- (6) Forward to the review organization that was assigned by the Commissioner any documents that were received relating to the request for external review.

(c) If the finding of the preliminary review under subdivision (b)(2) of this section is that the request is not complete, the Commissioner shall request from the covered person the information or materials needed to make the request complete. The covered person shall furnish the Commissioner with the requested information or materials within 90 days after the date of the insurer's decision for which external review is requested.

(d) If the finding of the preliminary review under subdivision (b)(2) of this section is that the request is not accepted for external review, the Commissioner shall inform the covered person, the covered person's provider who performed or requested the service, and the insurer in writing of the reasons for its nonacceptance.

(e) Failure by the insurer or its designee utilization review organization to provide the documents and information within the time specified in this subsection shall not delay the conduct of the external review. However, if the insurer or its utilization review organization fails to provide the documents and information within the time specified in subdivision (b)(4) of this section, the assigned organization may terminate the external review and make a decision to reverse the noncertification appeal decision or the second-level grievance review decision. Within one business day of making the decision under this subsection, the organization shall notify the covered person, the insurer, and the Commissioner.

(f) If the covered person submits additional information to the Commissioner pursuant to subdivision (b)(3) of this section, the Commissioner shall forward the information to the assigned review organization within two business days of receiving it and shall forward a copy of the information to the insurer.

(g) Upon receipt of the information required to be forwarded under subsection (f) of this section, the insurer may reconsider its noncertification appeal decision or second-level grievance review decision that is the subject of the external review. Reconsideration by the insurer of its noncertification appeal decision or second-level grievance review decision under this subsection shall not delay or terminate the external review. The external review shall be terminated if the insurer decides, upon completion of its reconsideration, to reverse its noncertification appeal decision or second-level grievance review decision and provide coverage or payment for the requested health care service that is the subject of the noncertification appeal decision or second-level grievance review decision.

(h) Upon making the decision to reverse its noncertification appeal decision or second-level grievance review decision under subsection (g) of this section, the insurer shall notify the covered person, the organization, and the Commissioner in writing of its

decision. The organization shall terminate the external review upon receipt of the notice from the insurer sent under this subsection.

(i) The assigned organization shall review all of the information and documents received under subsections (b) and (f) of this section that have been forwarded to the organization by the Commissioner and the insurer. In addition, the assigned review organization, to the extent the documents or information are available, shall consider the following in reaching a decision:

- (1) The covered person's medical records.
- (2) The attending health care provider's recommendation.
- (3) Consulting reports from appropriate health care providers and other documents submitted by the insurer, covered person, or the covered person's treating provider.
- (4) The most appropriate practice guidelines that are based on sound clinical evidence and that are periodically evaluated to assure ongoing efficacy.
- (5) Any applicable clinical review criteria developed and used by the insurer or its designee utilization review organization.
- (6) Medical necessity, as defined in G.S. 58-3-200(b).
- (7) Any documentation supporting the medical necessity and appropriateness of the provider's recommendation.

The assigned organization shall review the terms of coverage under the covered person's health benefit plan to ensure that the organization's decision shall not be contrary to the terms of coverage under the covered person's health benefit plan with the insurer.

The assigned organization's determination shall be based on the covered person's medical condition at the time of the initial noncertification decision.

(j) Within 45 days after the date of receipt by the Commissioner of the request for external review, the assigned organization shall provide written notice of its decision to uphold or reverse the noncertification appeal decision or second-level grievance review decision to the covered person, the insurer, the covered person's provider who performed or requested the service, and the Commissioner. In reaching a decision, the assigned review organization is not bound by any decisions or conclusions reached during the insurer's utilization review process or the insurer's internal grievance process under G.S. 58-50-61 and G.S. 58-50-62.

(k) The organization shall include in the notice sent under subsection (j) of this section:

- (1) A general description of the reason for the request for external review.

- (2) The date the organization received the assignment from the Commissioner to conduct the external review.
- (3) The date the organization received information and documents submitted by the covered person and by the insurer.
- (4) The date the external review was conducted.
- (5) The date of its decision.
- (6) The principal reason or reasons for its decision.
- (7) The clinical rationale for its decision.
- (8) References to the evidence or documentation, including the practice guidelines, considered in reaching its decision.
- (9) The professional qualifications and licensure of the clinical peer reviewers.
- (10) Notice to the covered person that he or she is not liable for the cost of the external review.

(l) Upon receipt of a notice of a decision under subsection (k) of this section reversing the noncertification appeal decision or second-level grievance review decision, the insurer shall within three business days reverse the noncertification appeal decision or second-level grievance review decision that was the subject of the review and shall provide coverage or payment for the requested health care service or supply that was the subject of the noncertification appeal decision or second-level grievance review decision. In the event the covered person is no longer enrolled in the health benefit plan when the insurer receives notice of a decision under subsection (k) of this section reversing the noncertification appeal decision or second-level grievance review decision, the insurer that made the noncertification appeal decision or second-level grievance review decision shall be responsible under this section only for the costs of those services or supplies the covered person received or would have received prior to disenrollment if the service had not been denied when first requested.

"§ 58-50-81: Reserved.

"§ 58-50-82. Expedited external review.

(a) Except as provided in subsection (g) of this section, a covered person may make a written or oral request for an expedited external review with the Commissioner at the time the covered person receives:

- (1) A noncertification decision under G.S. 58-50-61(f) if:
 - a. The covered person has a medical condition where the time frame for completion of an expedited review of an appeal involving a noncertification set forth in G.S. 58-50-61(l) would be reasonably expected to seriously jeopardize the life or health of

- the covered person or would jeopardize the covered person's ability to regain maximum function; and
- b. The covered person has filed a request for an expedited appeal under G.S. 58-50-61(l).
- (2) An appeal decision under G.S. 58-50-61(k) or (l) upholding a noncertification if:
- a. The noncertification appeal decision involves a medical condition of the covered person for which the time frame for completion of an expedited second-level grievance review of a noncertification set forth in G.S. 58-50-62(i) would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum function; and
 - b. The covered person has filed a request for an expedited second-level review of a noncertification as set forth in G.S. 58-50-61(i); or
- (3) A second-level grievance review decision under G.S. 58-60-62(h) or (i) upholding a noncertification:
- a. If the covered person has a medical condition where the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or jeopardize the covered person's ability to regain maximum function; or
 - b. If the second-level grievance concerns a noncertification of an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, but has not been discharged from a facility.
- (b) Within three days of receiving a request for an expedited external review, the Commissioner shall complete all of the following:
- (1) Notify the insurer that made the noncertification, noncertification appeal decision, or second-level grievance review decision which is the subject of the request that the request has been received and provide a copy of the request or verbally convey all of the information included in the request. The Commissioner shall also request any information from the insurer necessary to make the preliminary review set forth in G.S. 58-50-80(b)(2) and require the insurer to deliver the information not later than one day after the request was made.

- (2) Determine whether the request is eligible for external review and, if it is eligible, determine whether it is eligible for expedited review.
- a. For a request made pursuant to subdivision (a)(1) of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether the request should be reviewed on an expedited basis because the time frame for completion of an expedited review under G.S. 58-50-61(1) would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall then inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be informed by the Commissioner that the covered person must exhaust, at a minimum, the insurer's internal appeal process under G.S. 58-50-61(1) before making another request for an external review with the Commissioner.
- b. For a request made pursuant to subdivision (a)(2) of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether the request should be reviewed on an expedited basis because the time frame for completion of an expedited

review under G.S. 58-50-62 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall then inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the Commissioner has accepted the covered person's request for an expedited external review. If the Commissioner has accepted the covered person's request for an expedited external review, then the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame. If the Commissioner has not accepted the covered person's request for an expedited external review, then the covered person shall be informed by the Commissioner that the covered person must exhaust the insurer's internal grievance process under G.S. 58-50-62 before making another request for an external review with the Commissioner.

- c. For a request made pursuant to sub-subdivision (a)(3)a. of this section that the Commissioner has determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall determine, based on medical advice from a medical professional who is not affiliated with the organization that will be assigned to conduct the external review of the request, whether the request should be reviewed on an expedited basis because the time frame for completion of a standard external review under G.S. 58-50-80 would reasonably be expected to seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function. The Commissioner shall then inform the covered person, the covered person's provider who performed or requested the service, and the insurer whether the review will be conducted using an expedited or standard time frame and shall, in accordance with G.S. 58-50-80, assign an organization to conduct the review within the appropriate time frame.
- d. For a request made pursuant to sub-subdivision (a)(3)b. of this section, that the Commissioner has

determined meets the reviewability requirements set forth in G.S. 58-50-80(b)(2), the Commissioner shall, in accordance with G.S. 58-50-80, assign an organization to conduct the expedited review and inform the covered person, the covered person's provider who performed or requested the service, and the insurer of its decision.

(c) As soon as possible, but within the same day of receiving notice under subdivision (b)(2) of this section that the request has been assigned to a review organization, the insurer or its designee utilization review organization shall provide or transmit all documents and information considered in making the noncertification appeal decision or the second-level grievance review decision to the assigned review organization electronically or by telephone or facsimile or any other available expeditious method.

(d) In addition to the documents and information provided or transmitted under subsection (c) of this section, the assigned organization, to the extent the information or documents are available, shall consider the following in reaching a decision:

- (1) The covered person's pertinent medical records.
- (2) The attending health care provider's recommendation.
- (3) Consulting reports from appropriate health care providers and other documents submitted by the insurer, covered person, or the covered person's treating provider.
- (4) The most appropriate practice guidelines that are based on sound clinical evidence and that are periodically evaluated to assure ongoing efficacy.
- (5) Any applicable clinical review criteria developed and used by the insurer or its designee utilization review organization in making noncertification decisions.
- (6) Medical necessity, as defined in G.S. 58-3-200(b).
- (7) Any documentation supporting the medical necessity and appropriateness of the provider's recommendation.

The assigned organization shall review the terms of coverage under the covered person's health benefit plan to ensure that the organization's decision shall not be contrary to the terms of coverage under the covered person's health benefit plan.

The assigned organization's determination shall be based on the covered person's medical condition at the time of the initial noncertification decision.

(e) As expeditiously as the covered person's medical condition or circumstances require, but not more than four days after the date of receipt of the request for an expedited external review, the assigned organization shall make a decision to uphold or reverse the

noncertification, noncertification appeal decision, or second-level grievance review decision and notify the covered person, the covered person's provider who performed or requested the service, the insurer, and the Commissioner of the decision. In reaching a decision, the assigned organization is not bound by any decisions or conclusions reached during the insurer's utilization review process or internal grievance process under G.S. 58-50-61 and G.S. 58-50-62.

(f) If the notice provided under subsection (e) of this section was not in writing, within two days after the date of providing that notice, the assigned organization shall provide written confirmation of the decision to the covered person, the covered person's provider who performed or requested the service, the insurer, and the Commissioner and include the information set forth in G.S. 58-50-80(m). Upon receipt of the notice of a decision under subsection (e) of this section that reverses the noncertification, noncertification appeal decision, or second-level grievance review decision, the insurer shall within one day reverse the noncertification, noncertification appeal decision, or second-level grievance review decision that was the subject of the review and shall provide coverage or payment for the requested health care service or supply that was the subject of the noncertification, noncertification appeal decision, or second-level grievance review decision.

(g) An expedited external review shall not be provided for retrospective noncertifications.

"§ 58-50-83: Reserved.

"§ 58-50-84. Binding nature of external review decision.

(a) An external review decision is binding on the insurer.

(b) An external review decision is binding on the covered person except to the extent the covered person has other remedies available under applicable federal or State law.

(c) A covered person may not file a subsequent request for external review involving the same noncertification appeal decision or second-level grievance review decision for which the covered person has already received an external review decision under this Part.

"§ 58-50-85. Approval of independent review organizations.

(a) The Commissioner shall approve independent review organizations eligible to be assigned to conduct external reviews under this Part to ensure that an organization satisfies the minimum qualifications established under G.S. 58-50-87. The Commissioner shall develop an application form for initially approving and for reapproving organizations to conduct external reviews.

(b) Any organization wishing to be approved to conduct external reviews under this Part shall submit the application form and include with the form all documentation and information necessary for the

Commissioner to determine if the organization satisfies the minimum qualifications established under G.S. 58-50-87. Applicants must submit pricing information sufficient to demonstrate that if selected, the applicant's total fee per review will not exceed commercially reasonable fees charged for similar services in the industry. The Commissioner shall not approve any independent review organization that either fails to provide sufficient pricing information or has fees that do not meet the guidelines established under this subsection.

(c) The Commissioner may determine that accreditation by a nationally recognized private accrediting entity with established and maintained standards for independent review organizations that meet the minimum qualifications established under G.S. 58-50-87 will cause an independent review organization to be deemed to have met, in whole or in part, the requirements of this section and G.S. 58-50-87. A decision by the Commissioner to recognize an accreditation program for the purpose of granting deemed status may be made only after reviewing the accreditation standards and program information submitted by the accrediting body. An independent review organization seeking deemed status due to its accreditation shall submit original documentation issued by the accrediting body to demonstrate its accreditation.

(d) An approval is effective for two years, unless the Commissioner determines before expiration of the approval that the independent review organization is not satisfying the minimum qualifications established under G.S. 58-50-87.

(e) Whenever the Commissioner determines that an independent review organization no longer satisfies the minimum requirements established under G.S. 58-50-87, the Commissioner shall terminate the approval of the independent review organization.

"§ 58-50-86: Reserved.

"§ 58-50-87. Minimum qualifications for independent review organizations.

(a) As a condition of approval under G.S. 58-50-85 to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of both the standard external review process and the expedited external review process set forth in G.S. 58-50-80 and G.S. 58-50-82 that include, at a minimum:

- (1) A quality assurance mechanism in place that ensures:
 - a. That external reviews are conducted within the specified time frames and required notices are provided in a timely manner.
 - b. The selection of qualified and impartial clinical peer reviewers to conduct external reviews on

- behalf of the independent review organization and suitable matching of reviewers to specific cases.
- c. The confidentiality of medical and treatment records and clinical review criteria.
 - d. That any person employed by or under contract with the independent review organization adheres to the requirements of this Part.
 - e. The independence and impartiality of the independent review organization and the external review process and limits the ability of any person to improperly influence the external review decision.
- (2) A toll-free telephone service to receive information on a 24-hour-day, seven-day-a-week basis related to external reviews that is capable of accepting or recording inquiries or providing appropriate instruction to incoming telephone callers during other than normal business hours.
 - (3) An agreement to maintain and provide to the Commissioner the information set out in G.S. 58-50-90.
 - (4) A program for credentialing clinical peer reviewers.
 - (5) An agreement to contractual terms or written requirements established by the Commissioner regarding the procedures for handling a review.
 - (6) That the independent review organization consult with a medical doctor licensed to practice in North Carolina to advise the independent review organization on issues related to the standard of practice, technology, and training of North Carolina physicians with respect to the organization's North Carolina business.
- (b) All clinical peer reviewers assigned by an independent review organization to conduct external reviews shall be medical doctors or other appropriate health care providers who meet the following minimum qualifications:
- (1) Be an expert in the treatment of the covered person's injury, illness, or medical condition that is the subject of the external review.
 - (2) Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar injury, illness, or medical condition of the covered person.
 - (3) If the covered person's treating provider is a medical doctor, hold a nonrestricted license and, if a specialist medical doctor, a current certification by a recognized

American medical specialty board in the area or areas appropriate to the subject of the external review.

- (4) If the covered person's treating provider is not a medical doctor, hold a nonrestricted license, registration, or certification in the same allied health occupation as the covered person's treating provider.
- (5) Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental, or professional competence or moral character.

(c) In addition to the requirements set forth in subsection (a) of this section, an independent review organization may not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with a health benefit plan, a national, State, or local trade association of health benefit plans, or a national, State, or local trade association of health care providers.

(d) In addition to the requirements set forth in subsections (a), (b), and (c) of this section, to be approved under G.S. 58-50-85 to conduct an external review of a specified case, neither the independent review organization selected to conduct the external review nor any clinical peer reviewer assigned by the independent organization to conduct the external review may have a material professional, familial, or financial conflict of interest with any of the following:

- (1) The insurer that is the subject of the external review.
- (2) The covered person whose treatment is the subject of the external review or the covered person's authorized representative.
- (3) Any officer, director, or management employee of the insurer that is the subject of the external review.
- (4) The health care provider, the health care provider's medical group, or independent practice association recommending the health care service or treatment that is the subject of the external review.
- (5) The facility at which the recommended health care service or treatment would be provided.
- (6) The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose treatment is the subject of the external review.

(e) In determining whether an independent review organization or a clinical peer reviewer of the independent review organization has

a material professional, familial, or financial conflict of interest for purposes of subsection (d) of this section, the Commissioner shall take into consideration situations where the independent review organization to be assigned to conduct an external review of a specified case or a clinical peer reviewer to be assigned by the independent review organization to conduct an external review of a specified case may have an apparent professional, familial, or financial relationship or connection with a person described in subsection (d) of this section, but that the characteristics of that relationship or connection are such that they are not a material professional, familial, or financial conflict of interest that results in the disapproval of the independent review organization or the clinical peer reviewer from conducting the external review.

"§ 58-50-88: Reserved.

"§ 58-50-89. Hold harmless for Commissioner and independent review organizations.

The Commissioner or an independent review organization or clinical peer reviewer working on behalf of an organization shall not be liable for damages to any person for any opinions rendered during or upon completion of an external review conducted under this Part, unless the opinion was rendered in bad faith or involved gross negligence.

"§ 58-50-90. External review reporting requirements.

(a) An organization assigned under G.S. 58-50-80 or G.S. 58-50-82 to conduct an external review shall maintain written records in the aggregate and by insurer on all requests for external review for which it conducted an external review during a calendar year and submit a report to the Commissioner, as required under subsection (b) of this section.

(b) Each organization required to maintain written records on all requests for external review under subsection (a) of this section for which it was assigned to conduct an external review shall submit to the Commissioner, at least annually, a report in the format specified by the Commissioner.

(c) The report shall include in the aggregate and for each insurer:

- (1) The total number of requests for external review.
- (2) The number of requests for external review resolved and, of those resolved, the number resolved upholding the noncertification appeal decision or second-level grievance review decision and the number resolved reversing the noncertification appeal decision or second-level grievance review decision.
- (3) The average length of time for resolution.

- (4) A summary of the types of coverages or cases for which an external review was sought, as provided in the format required by the Commissioner.
- (5) The number of external reviews under G.S. 58-50-80 that were terminated as the result of a reconsideration by the insurer of its noncertification appeal decision or second-level grievance review decision after the receipt of additional information from the covered person.
- (6) Any other information the Commissioner may request or require.

(d) The organization shall retain the written records required under this section for at least three years.

(e) Each insurer shall maintain written records in the aggregate and for each type of health benefit plan offered by the insurer on all requests for external review of which the insurer receives notice from the Commissioner under this Part. The insurer shall retain the written records required under this section for at least three years.

"§ 58-50-91. Reserved.

"§ 58-50-92. Funding of external review.

The insurer against which a request for a standard external review or an expedited external review is filed shall reimburse the Department of Insurance for the fees charged by the organization in conducting the external review, including work actually performed by the organization for a case that was terminated due to the insurer's decision to reconsider a request and reverse its noncertification decision, prior to the insurer notifying the organization of the reversal pursuant to G.S. 58-50-80(j), or when a review is terminated pursuant to G.S. 58-50-80(h) because the insurer failed to provide information to the review organization.

"§ 58-50-93. Disclosure requirements.

(a) Each insurer shall include a description of the external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage it provides to covered persons.

(b) The description required under subsection (a) of this section shall include a statement that informs the covered person of the right of the covered person to file a request for an external review of a noncertification, noncertification appeal decision or a second-level grievance review decision upholding a noncertification with the Commissioner. The statement shall include the telephone number and address of the Commissioner.

(c) In addition to subsection (b) of this section, the statement shall inform the covered person that, when filing a request for an external review, the covered person will be required to authorize the release of any medical records of the covered person that may be

required to be reviewed for the purpose of reaching a decision on the external review.

"§ 58-50-94. Selection of independent review organizations.

(a) At least every two years, or more frequently if the Commissioner determines is needed to secure adequate selection of independent review organizations, the Commissioner shall prepare and publish requests for proposals from independent review organizations that want to be approved under G.S. 58-50-85. All proposals shall be sealed. The Commissioner shall open all proposals in public.

(b) After the public opening, the Commissioner shall review the proposals, examining the costs and quality of the services offered by the independent review organizations, the reputation and capabilities of the independent review organizations submitting the proposals, and the provisions in G.S. 58-50-85 and G.S. 58-50-87. The Commissioner shall determine which proposal or proposals would satisfy the provisions of this Part. The Commissioner shall make his determination in consultation with an evaluation committee whose membership includes representatives of insurers subject to Part 4 of Article 50 of Chapter 58 of the General Statutes, health care providers, and insureds. In selecting the review organizations, in addition to considering cost, quality, and adherence to the requirements of the request for proposals, the Commissioner shall consider the desirability and feasibility of contracting with multiple review organizations and shall ensure that, for any given type of case involving highly specialized services and treatments, at least one review organization is available and capable of reviewing the case.

(c) An independent review organization may seek to modify or withdraw a proposal only after the public opening and only on the basis that the proposal contains an unintentional clerical error as opposed to an error in judgment. An independent review organization seeking to modify or withdraw a proposal shall submit to the Commissioner a written request, with facts and evidence in support of its position, before the determination made by the Commissioner under subsection (b) of this section, but not later than two days after the public opening of the proposals. The Commissioner shall promptly review the request, examine the nature of the error, and determine whether to permit or deny the request.

(d) The provisions of Article 3C of Chapter 143 of the General Statutes do not apply to this Part.

"§ 58-50-95. Report by Commissioner.

The Commissioner shall report semiannually to the Joint Legislative Health Care Oversight Committee regarding the nature and appropriateness of reviews conducted under this Part. The report, which shall be provided to the public upon request, should include the

number of reviews, underlying issues in dispute, character of the reviews, dollar amounts in question, whether the review was decided in favor of the covered person or the health benefit plan, the cost of review, and any other information relevant to the evaluation of the effectiveness of this Part."

SECTION 4.6. G.S. 58-50-62(h)(7) reads as rewritten:

"(7) A statement that the decision is the insurer's final determination in the matter. In cases where the review concerned a noncertification and the insurer's decision on the second-level grievance review is to uphold its initial noncertification, a statement advising the covered person of his or her right to request an external review and a description of the procedure for submitting a request for external review to the Commissioner of Insurance."

SECTION 4.6A. G.S. 143-64.24 reads as rewritten:

"§ 143-64.24. *Applicability of Article.*

This Article shall not apply to the General Assembly, special study commissions, the Research Triangle Institute, or the Institute of Government, nor shall it apply to attorneys employed by the North Carolina Department of Justice, or physicians or doctors performing contractual services for any State agency. This Article shall not apply to Independent Review Organizations selected by the Commissioner of Insurance pursuant to G.S. 58-50-85."

Subpart B. Health Plan Liability

SECTION 4.7. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 1G.

"Health Care Liability.

"§ 90-21.50. *Definitions.*

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

- (1) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a self-insured indemnity program or prepaid hospital and medical benefits plan offered under the Teachers' and State Employees' Comprehensive Major Medical Plan and subject to the requirements of Article 3 of Chapter 135 of the General Statutes, a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent

permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that act provided under federal law or regulation. Except for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, 'Health benefit plan' does not mean any plan implemented or administered by the North Carolina or United States Department of Health and Human Services, or any successor agency, or its representatives. "Health benefit plan" does not mean any of the following kinds of insurance:

- a. Accident.
- b. Credit.
- c. Disability income.
- d. Long-term or nursing home care.
- e. Medicare supplement.
- f. Specified disease.
- g. Dental or vision.
- h. Coverage issued as a supplement to liability insurance.
- i. Workers' compensation.
- j. Medical payments under automobile or homeowners.
- k. Hospital income or indemnity.
- l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.
- m. Short-term limited duration health insurance policies as defined in Part 144 of Title 45 of the Code of Federal Regulations.

(2) 'Health care provider' means:

- a. An individual who is licensed, certified, or otherwise authorized under this Chapter to provide health care services in the ordinary course of business or practice of a profession or in an approved education or training program; or
- b. A health care facility, licensed under Chapters 131E or 122C of the General Statutes, where health care services are provided to patients;
'Health care provider' includes: (i) an agent or employee of a health care facility that is licensed, certified, or otherwise authorized to provide health care services; (ii) the officers and directors of a health care facility; and (iii) an agent or employee

- of a health care provider who is licensed, certified, or otherwise authorized to provide health care services.
- (3) 'Health care service' means a health or medical procedure or service rendered by a health care provider that:
- a. Provides testing, diagnosis, or treatment of a health condition, illness, injury, or disease; or
 - b. Dispenses drugs, medical devices, medical appliances, or medical goods for the treatment of a health condition, illness, injury, or disease.
- (4) 'Health care decision' means a determination that is made by a managed care entity and is subject to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes and is also a determination that:
- a. Is a noncertification, as defined in G.S. 58-50-61, of a prospective or concurrent request for health care services, and
 - b. Affects the quality of the diagnosis, care, or treatment provided to an enrollee or insured of the health benefit plan.
- (5) 'Insured or enrollee' means a person that is insured by or enrolled in a health benefit plan under a policy, plan, certificate, or contract issued or delivered in this State by an insurer.
- (6) 'Insurer' means an entity that writes a health benefit plan and that is an insurance company subject to Chapter 58 of the General Statutes, a service corporation organized under Article 65 of Chapter 58 of the General Statutes, a health maintenance organization organized under Article 67 of Chapter 58 of the General Statutes, a self-insured health maintenance organization or managed care entity operated or administered by or under contract with the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan pursuant to Article 3 of Chapter 135 of the General Statutes, a multiple employer welfare arrangement subject to Article 49 of Chapter 58 of the General Statutes, or the Teachers' and State Employees' Comprehensive Major Medical Plan.
- (7) 'Managed care entity' means an insurer that:
- a. Delivers, administers, or undertakes to provide for, arrange for, or reimburse for health care services or assumes the risk for the delivery of health care services; and

- b. Has a system or technique to control or influence the quality, accessibility, utilization, or costs and prices of health care services delivered or to be delivered to a defined enrollee population. Except for the Teachers' and State Employees' Comprehensive Major Medical Plan and the Health Insurance Program for Children, 'managed care entity' does not include: (i) an employer purchasing coverage or acting on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer, or (ii) a health care provider.
- (8) 'Ordinary care' means that degree of care that, under the same or similar circumstances, a managed care entity of ordinary prudence would have used at the time the managed care entity made the health care decision.
- (9) 'Physician' means:
 - a. An individual licensed to practice medicine in this State;
 - b. A professional association or corporation organized under Chapter 55B of the General Statutes; or
 - c. A person or entity wholly owned by physicians.
- (10) 'Successor external review process' means an external review process equivalent in all respects to G.S. 58-50-75 through G.S. 58-50-95 that is approved by the Department and implemented by a health benefit plan in the event that G.S. 58-50-75 through G.S. 58-50-95 are found by a court of competent jurisdiction to be void, unenforceable, or preempted by federal law, in whole or in part.

"§ 90-21.51. Duty to exercise ordinary care; liability for damages for harm.

(a) Each managed care entity for a health benefit plan has the duty to exercise ordinary care when making health care decisions and is liable for damages for harm to an insured or enrollee proximately caused by its failure to exercise ordinary care.

(b) In addition to the duty imposed under subsection (a) of this section, each managed care entity for a health benefit plan is liable for damages for harm to an insured or enrollee proximately caused by decisions regarding whether or when the insured or enrollee would receive a health care service made by:

- (1) Its agents or employees; or
- (2) Representatives that are acting on its behalf and over whom it has exercised sufficient influence or control to reasonably affect the actual care and treatment of the

insured or enrollee which results in the failure to exercise ordinary care.

(c) It shall be a defense to any action brought under this section against a managed care entity for a health benefit plan that:

(1) The managed care entity and its agents or employees, or representatives for whom the managed care entity is liable under subsection (b) of this section, did not control or influence or advocate for the decision regarding whether or when the insured or enrollee would receive a health care service; or

(2) The managed care entity did not deny or delay payment for any health care service or treatment prescribed or recommended by a physician or health care provider to the insured or enrollee.

(d) In an action brought under this Article against a managed care entity, a finding that a physician or health care provider is an agent or employee of the managed care entity may not be based solely on proof that the physician or health care provider appears in a listing of approved physicians or health care providers made available to insureds or enrollees under the managed care entity's health benefit plan.

(e) An action brought under this Article is not a medical malpractice action as defined in Article 1B of this Chapter. A managed care entity may not use as a defense in an action brought under this Article any law that prohibits the corporate practice of medicine.

(f) A managed care entity shall not be liable for the independent actions of a health care provider, who is not an agent or employee of the managed care entity, when that health care provider fails to exercise the standard of care required by G.S. 90-21.12. A health care provider shall not be liable for the independent actions of a managed care entity when the managed care entity fails to exercise the standard of care required by this Article.

(g) Nothing in this Article shall be construed to create an obligation on the part of a managed care entity to provide to an insured or enrollee a health care service or treatment that is not covered under its health benefit plan.

(h) A managed care entity shall not enter into a contract with a health care provider, or with an employer or employer group organization, that includes an indemnification or hold harmless clause for the acts or conduct of the managed care entity. Any such indemnification or hold harmless clause is void and unenforceable to the extent of the restriction.

"§ 90-21.52. No liability under this Article on the part of an employer or employer group organization that purchases

coverage or assumes risk on behalf of its employees or a physician or health care provider; liability of State Health Plan under State Tort Claims Act.

(a) Except as otherwise provided in subsection (b) of this section, this Article does not create any liability on the part of an employer or employer group purchasing organization that purchases health care coverage or assumes risk on behalf of its employees.

(b) Liability in tort of the Teachers' and State Employees' Comprehensive Major Medical Plan for its health care decisions shall be under Article 31 of Chapter 143 of the General Statutes.

(c) This Article does not create any liability on the part of a physician or health care provider in addition to that otherwise imposed under existing law. No managed care entity held liable under this Article shall be entitled to contribution under Chapter 1B of the General Statutes. No managed care entity held liable under this Article shall have a right to indemnity against physicians, health care providers, or entities wholly owned by physicians or health care providers or any combination thereof, except when:

(1) The liability of the managed care entity is based on a decision to approve or disapprove payment or reimbursement for a health care service and the physicians, health care providers, or entities wholly owned by physicians or health care providers or any combination thereof, have agreed in a written contract with the managed care entity to assume responsibility for these specific decisions; and

(2) The managed care entity has not controlled or influenced or advocated for the decision regarding whether or when payment or reimbursement should be made or whether or when the insured or enrollee should receive a health care service.

"§ 90-21.53. Separate trial required.

Upon motion of any party in an action that includes a claim brought pursuant to this Article involving a managed care entity, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against any physician or other health care provider.

"§ 90-21.54. Exhaustion of administrative remedies and appeals.

No action may be commenced under this Article until the plaintiff has exhausted all administrative remedies and appeals, including those internal remedies and appeals established under G.S. 58-50-61 through G.S. 58-50-62, and G.S. 58-50-75 through G.S. 58-50-95, and including those established under any successor external review process.

"§ 90-21.55. External review decision.

(a) Either the insured or enrollee or the personal representative of the insured or enrollee or the managed care entity may use an external review decision made in accordance with G.S. 58-50-75 through G.S. 58-50-95, or made in accordance with any successor external review process, as evidence in any cause of action which includes an action brought under this Part, provided that an adequate foundation is laid for the introduction of the external review decision into evidence and the testimony is subject to cross-examination.

(b) Any information, documents, or other records or materials considered by the Independent Review Organization licensed under Part 4 of Article 50 of Chapter 58 of the General Statutes, or the successor review process, in conducting its review shall be admissible in any action commenced under this Article in accordance with Chapter 8 of the General Statutes and the North Carolina Rules of Evidence.

"§ 90-21.56. Remedies.

(a) Except as provided in G.S. 90-21.52(b), an insured or enrollee who has been found to have been harmed by the managed care entity pursuant to an action brought under this Article may recover actual or nominal damages and, subject to the provisions and limitations of Chapter 1D of the General Statutes, punitive damages.

(b) This Article does not limit a plaintiff from pursuing any other remedy existing under the law or seeking any other relief that may be available outside of the cause of action and relief provided under this Article.

(c) The rights conferred under this Article as well as any rights conferred by the Constitution of North Carolina or the Constitution of the United States may not be waived, deferred, or lost pursuant to any contract between the insured or enrollee and the managed care entity that relates to a dispute involving a health care decision. Arbitration or mediation may be used to settle the controversy if, after the controversy arises, the insured or enrollee, or the estate of the insured or enrollee, voluntarily and knowingly consents in writing to use arbitration or mediation to settle the controversy."

SECTION 4.8. G.S. 1A-1, Rule 42, reads as rewritten:

"Rule 42. Consolidation; separate trials.

(a) Consolidation. – When Except as provided in subdivision (b)(2) of this section, when actions involving a common question of law or fact are pending in one division of the court, the judge may order a joint hearing or trial of any or all the matters in issue in the actions; he may order all the actions consolidated; and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. When actions involving a common question of law or fact are pending in both the superior and the district court of the same county, a judge of the superior court in

which the action is pending may order all the actions consolidated, and he may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) Separate trials. –

(1) The court may in furtherance of convenience or to avoid prejudice and shall for considerations of venue upon timely motion order a separate trial of any claim, ~~cross-claim~~cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, ~~cross-claims~~cross-claims, counterclaims, third-party claims, or issues.

(2) Upon motion of any party in an action that includes a claim commenced under Article 1G of Chapter 90 of the General Statutes involving a managed care entity as defined in G.S. 90-21.50, the court shall order separate discovery and a separate trial of any claim, cross-claim, counterclaim, or third-party claim against a physician or other medical provider."

SECTION 5.(a) G.S. 58-2-105 reads as rewritten:

"§ 58-2-105. *Confidentiality of medical records.*

(a) All patient medical records in the possession of the Department are confidential and are not public records pursuant to G.S. 58-2-100 or G.S. 132-1. As used in this section, "patient medical records" includes personal information that relates to an individual's physical or mental condition, medical history, or medical treatment, and that has been obtained from the individual patient, a health care provider, or from the patient's spouse, parent, or legal guardian.

(b) Under Part 4 of Article 50 of this Chapter, the Department may disclose patient medical records to an independent review organization, and the organization shall maintain the confidentiality of those records as required by this section, except as allowed by G.S. 58-39-75 and G.S. 58-39-76."

SECTION 5.(b) G.S. 58-3-200(b) reads as rewritten:

"(b) Medical Necessity. – An insurer that limits its health benefit plan coverage to medically necessary services and supplies shall define "medically necessary services or supplies" in its health benefit plan as those covered services or supplies that are:

- (1) Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease; ~~and~~and, ~~except as allowed under G.S. 58-3-255,~~ not for experimental, investigational, or cosmetic purposes.
- (2) Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.

- (3) Within generally accepted standards of medical care in the community.
- (4) Not solely for the convenience of the insured, the insured's family, or the provider.

For medically necessary services, nothing in this subsection precludes an insurer from comparing the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered."

SECTION 5.(c) G.S. 58-50-61(a)(12) reads as rewritten:

"(12) "Medically necessary services or supplies" means those covered services or supplies that are:

- a. Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease.
- b. Except as allowed under G.S. 58-3-255, Not not for experimental, investigational, or cosmetic purposes.
- c. Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.
- d. Within generally accepted standards of medical care in the community.
- e. Not solely for the convenience of the insured, the insured's family, or the provider.

For medically necessary services, nothing in this subdivision precludes an insurer from comparing the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered."

SECTION 5.(d) G.S. 150B-1(e) is amended by adding the following new subdivision to read:

"(12) The Teachers' and State Employees' Comprehensive Major Medical Plan with respect to determinations by the Executive Administrator and Board of Trustees, the Plan's designated utilization review organization, or a self-funded health maintenance organization under contract with the Plan that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon the information provided, does not meet the Plan's requirements for medical necessity, appropriateness, health care setting, or level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated."

SECTION 5.(e) G.S. 135-39.7 reads as rewritten:

"§ 135-39.7. *Administrative review.*

(a) If, after exhaustion of internal appeal handling as outlined in the contract with the Claims Processor any person is aggrieved, the

Claims Processor shall bring the matter to the attention of the Executive Administrator and Board of Trustees, which shall promptly decide whether the subject matter of the appeal is a determination subject to external review under Part 4 of Article 50 of Chapter 58 of the General Statutes. The Executive Administrator and Board of Trustees shall inform the aggrieved person and the aggrieved person's provider of the decision and shall provide the aggrieved person notice of the aggrieved person's right to appeal that decision as provided in this subsection. If the Executive Administrator and Board of Trustees decide that the subject matter of the appeal is not a determination subject to external review, then the Executive Administrator and Board of Trustees may make a binding decision on the matter in accordance with procedures established by the Executive Administrator and Board of Trustees. The Executive Administrator and Board of Trustees shall provide a written summary of the decisions made pursuant to this section to all employing units, all health benefit representatives, the oversight team provided for in G.S. 135-39.3, all relevant health care providers affected by a decision, and to any other parties requesting a written summary and approved by the Executive Administrator and Board of Trustees to receive a summary immediately following the issuance of a decision. A decision by the Executive Administrator and Board of Trustees that a matter raised on internal appeal is a determination subject to external review as provided in subsection (b) of this section may be contested by the aggrieved person under Chapter 150B of the General Statutes. The person contesting the decision may proceed with external review pending a decision in the contested case under Chapter 150B of the General Statutes.

(b) The Executive Administrator and Board of Trustees shall adopt and implement utilization review and internal grievance procedures that are substantially equivalent to those required under G.S. 58-50-61 and G.S. 58-50-62. External review of determinations shall be conducted in accordance with Part 4 of Article 50 of Chapter 58 of the General Statutes. As used in this section, 'determination' is a decision by the Executive Administrator and Board of Trustees, the Plan's designated utilization review organization, or a self-funded health maintenance organization administrated by or under contract with the Plan that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon information provided, does not meet the Plan's requirements for medical necessity, appropriateness, health care setting, or level of care or effectiveness, and the requested service is therefore denied, reduced, or terminated."

SECTION 5.(f) G.S. 143-291 is amended by adding the following new subsection to read:

"(d) Liability in tort of the Teachers' and State Employees' Comprehensive Major Medical Plan for noncertifications as defined under G.S. 58-50-61 shall be only under this Article."

SECTION 6. G.S. 135-39.4A(g) reads as rewritten:

"(g) The Executive Administrator shall be responsible for:

- (1) Cost management programs;
- (2) Education and illness prevention programs;
- (3) Training programs for Health Benefit Representatives;
- (4) Membership functions;
- (5) Long-range planning;
- (6) Provider and participant relations; and
- (7) Communications.

Managed care practices used by the Executive Administrator in cost management programs are subject to the requirements of G.S. 58-3-191, 58-3-221, 58-3-223, 58-3-235, 58-3-240, 58-3-245, 58-3-250, 58-3-265, 58-67-88, and 58-50-30."

SECTION 7. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 8. Section 1.6 of this act becomes effective January 1, 2002. Sections 4.1 through 5(a) of this act become effective July 1, 2002. Sections 7 and 8 of this act are effective when this act becomes law. The remainder of this act becomes effective March 1, 2002. This act applies to health benefit plans that are in effect, delivered, issued for delivery, or renewed on or after the date this act becomes law. Nothing in this act obligates the General Assembly to appropriate funds to implement this act.

In the General Assembly read three times and ratified this the 17th day of October, 2001.

Became law upon approval of the Governor at 10:31 a.m. on the 18th day of October, 2001.

H.B. 1192

SESSION LAW 2001-447

AN ACT TO ALLOW CRAVEN COUNTY MORE FLEXIBILITY IN MODIFYING THE MANNER OF ELECTION OF ITS BOARD OF COMMISSIONERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-60(4) and G.S. 153A-61 are repealed.

SECTION 2. G.S. 153A-64 reads as rewritten:
 "§ 153A-64. ~~Filing results of election.~~ copy of resolution.

If the ~~proposition-resolution~~ is approved under G.S. ~~153A-61,~~ 153A-60, a certified true copy of the resolution ~~and a copy of the abstract of the election~~ shall be filed with the Secretary of State and with the Legislative Library. Before adopting any resolution under Part 4 of Article 4 of Chapter 153A of the General Statutes, a county board of commissioners shall hold a public hearing on that resolution, and shall publish notice of the hearing at least 10 days before it is held."

SECTION 3. This act applies only to resolutions providing that all members of the board of commissioners shall be elected from single-member districts. The board of commissioners may simultaneously with the process of adopting a resolution under this section also adopt a resolution delineating the proposed districts, which must be adopted prior to January 1, 2002, in order to apply to the 2002 election.

SECTION 4. This act applies to Craven County only.

SECTION 5. This act is effective when it becomes law but applies only to resolutions adopted before January 1, 2002.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law on the date it was ratified.

S.B. 352**SESSION LAW 2001-448**

AN ACT TO EXTEND TO ADDITIONAL REAL PROPERTY THE LIEN THAT ATTACHES IF A PERSON FAILS TO REMEDY A PUBLIC HEALTH NUISANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-193 reads as rewritten:
"§ 160A-193. *Abatement of public health nuisances.*

(a) A city shall have authority to summarily remove, abate, or remedy everything in the city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or public safety. The expense of the action shall be paid by the person in default, ~~and, if not paid, shall be a lien upon the land or premises where the trouble arose, and shall be collected as unpaid taxes.~~ default. If the expense is not paid, it is a lien on the land or premises where the nuisance occurred. A lien established pursuant to this subsection shall have the same priority and be collected as unpaid ad valorem taxes.

(b) The expense of the action is also a lien on any other real property owned by the person in default within the city limits or within one mile of the city limits, except for the person's primary residence. A lien established pursuant to this subsection is inferior to all prior liens and shall be collected as a money judgment. This

subsection shall not apply if the person in default can show that the nuisance was created solely by the actions of another."

SECTION 2. G.S. 160A-432 reads as rewritten:

"§ 160A-432. *Civil and equitable enforcement.*

(a) Civil Enforcement. – Whenever any violation is denominated a misdemeanor under the provisions of this Part, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.

(b) Equitable Enforcement. – In the case of a nonresidential building or structure declared unsafe under G.S. 160A-426(b), a city may, in lieu of taking action under subsection (a), cause the building or structure to be removed or demolished. The amounts incurred by the city in connection with the removal or demolition shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be collected in the same manner as liens for special assessments provided in Article 10 of this Chapter. If the building or structure is removed or demolished by the city, the city shall sell the usable materials of the building and any personal property, fixtures, or appurtenances found in or attached to the building. The city shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining from the sale shall be deposited with the clerk of superior court of the county where the property is located and shall be disbursed by the court to the person found to be entitled thereto by final order or decree of the court.

(b1) Additional Lien. – The amounts incurred by the city in connection with the removal or demolition shall also be a lien against any other real property owned by the owner of the building or structure and located within the city limits or within one mile of the city limits, except for the owner's primary residence. The provisions of subsection (b) of this section apply to this additional lien, except that this additional lien is inferior to all prior liens and shall be collected as a money judgment.

(c) Nothing in this section shall be construed to impair or limit the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise."

SECTION 3. G.S. 160A-443(6) reads as rewritten:

"§ 160A-443. *Ordinance authorized as to repair, closing, and demolition; order of public officer.*

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160A-441 exist within a city, the governing body of the city is hereby authorized to adopt and enforce ordinances relating to dwellings within the city's territorial

jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

- ...
- (6) Liens. –
- a. That the amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of this Chapter.
 - b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
 - c. If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

...."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of October, 2001.

Became law upon approval of the Governor at 5:15 p.m. on the 20th day of October, 2001.

S.B. 879

SESSION LAW 2001-449

AN ACT TO PROVIDE SOME BUDGET FLEXIBILITY TO THE NORTH CAROLINA SCHOOL OF SCIENCE AND MATHEMATICS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-30.2 reads as rewritten:

"§ 116-30.2. *Appropriations to special responsibility constituent ~~institutions~~ institutions and to the North Carolina School of Science and Mathematics.*

(a) All General Fund appropriations made by the General Assembly for continuing operations of a special responsibility constituent institution of The University of North Carolina shall be made in the form of a single sum to each budget code of the institution for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), ~~and G.S. 143-23(a3)~~ and G.S. 120-76(8), each special responsibility constituent institution may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it in the manner deemed by the Chancellor to be calculated to maintain and advance the programs and services of the institutions, consistent with the directives and policies of the Board of Governors. The preparation, presentation, and review of General Fund budget requests of special responsibility constituent institutions shall be conducted in the same manner as are requests of other constituent institutions. The quarterly allotment procedure established pursuant to G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of each special responsibility constituent institution. All General Fund monies so appropriated to each special responsibility constituent institution shall be recorded, reported, and audited in the same manner as are General Fund appropriations to other constituent institutions.

(b) The North Carolina School of Science and Mathematics is authorized to be designated as a special responsibility constituent institution for the purposes of G.S. 116-30.1, G.S. 116-30.4, G.S. 116-30.5, G.S. 116-30.6, and G.S. 116-31.10. In addition, all General Fund appropriations made by the General Assembly for continuing operations of the North Carolina School of Science and Mathematics shall be made in the form of a single sum to each budget code of the School for each year of the fiscal period for which the appropriations are being made. Notwithstanding G.S. 143-23(a1), G.S. 143-23(a2), and G.S. 120-76(8), the North Carolina School of Science and Mathematics may expend monies from the overhead receipts special fund budget code and the General Fund monies so appropriated to it

in the manner deemed by the Director of the School to be calculated to maintain and advance the programs and services of the School, consistent with the directives and policies of the Board of Trustees of the North Carolina School of Science and Mathematics. The preparation, presentation, and review of General Fund budget requests of the North Carolina School of Science and Mathematics shall be conducted in the same manner as are requests of the constituent institutions. The quarterly allotment procedure established under G.S. 143-17 shall apply to the General Fund appropriations made for the current operations of the North Carolina School of Science and Mathematics. All General Fund monies so appropriated to the North Carolina School of Science and Mathematics shall be recorded, reported, and audited in the same manner as are General Fund appropriations to constituent institutions of The University of North Carolina."

SECTION 2. This act becomes effective July 1, 2001.

In the General Assembly read three times and ratified this the 11th day of October, 2001.

Became law upon approval of the Governor at 5:16 p.m. on the 20th day of October, 2001.

H.B. 955 SESSION LAW 2001-450

**AN ACT TO PREVENT THE MISREPRESENTATION OF THE
AUTHORITY OF A NOTARY PUBLIC.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 10A-4(c) reads as rewritten:

"(c) The Secretary may deny an application for commission or recommission as a notary if any of the following applies to the applicant:

- (1) The applicant has been convicted of a crime involving dishonesty or moral turpitude.
- (1a) The applicant has been convicted of a felony and the applicant's rights have not been restored.
- (2) The applicant has had a notarial commission or professional license revoked, suspended, or restricted by this or any other state.
- (3) The applicant has engaged in official misconduct, whether or not disciplinary action resulted.
- (4) The applicant knowingly uses false or misleading advertising in which the applicant as a notary represents that the applicant has powers, duties, rights or privileges that the applicant does not possess by law.

- (5) The applicant is found by a court of this State or any other state to have engaged in the unauthorized practice of law."

SECTION 2. G.S. 10-9 is amended by adding the following subsections to read:

"(g) A notary public who is not an attorney licensed to practice law in this State who advertises the person's services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(h) A notary public who is not an attorney licensed to practice law in this State is prohibited from representing or advertising that the notary public is an "immigration consultant" or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the Board of Immigration Appeals pursuant to Title 8, Part 292, Section 2(a-e) of the Code of Federal Regulations (8 CFR 292.2(a-e)).

(i) A notary public who is not an attorney licensed to practice law in this State is prohibited from rendering any service that constitutes the unauthorized practice of law.

(j) A notary public required to comply with the provisions of subsection (g) of this section shall prominently post at the notary public's place of business a schedule of fees established by law, which a notary public may charge. The fee schedule shall be written in English and in the non-English language in which the notary services were solicited, and shall contain the notice required in subsection (g) of this section, unless the notice is otherwise prominently posted at the notary public's place of business."

SECTION 3. G.S. 10A-12 is amended by adding the following subsections to read:

"(f) The Secretary of State, through the Attorney General, may seek injunctive relief against any notary public who violates the provisions of this Chapter. Nothing in this Chapter diminishes the authority of the North Carolina State Bar.

(g) A violation of G.S. 10A-9(h) or (i) constitutes a deceptive trade practice under G.S. 75-1.1."

SECTION 4. The Department of the Secretary of State may study the Notary Public Act, Chapter 10A of the General Statutes, and conforming amendments that may be needed to other sections of the General Statutes, and report any recommendations for changes, including recommended legislation, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 5. This act becomes effective January 1, 2002, and applies to acts committed on or after that date.

In the General Assembly read three times and ratified this the 11th day of October, 2001.

Became law upon approval of the Governor at 5:17 p.m. on the 20th day of October, 2001.

H.B. 13 SESSION LAW 2001-451

AN ACT TO PROHIBIT INSURANCE COMPANIES FROM RECOMMENDING THAT INSURANCE CLAIMANTS OBTAIN MOTOR VEHICLE REPAIR SERVICES FROM PARTICULAR SOURCES WITHOUT INFORMING THEM OF THEIR OPTIONS; TO AMEND THE SURPLUS LINES LAW TO CONFORM IT TO THE GRAMM-LEACH-BLILEY ACT; AND TO CORRECT AN ERROR IN AN AMENDMENT TO THE WORKERS' COMPENSATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-180, as amended by S.L. 2001-203, reads as rewritten:

"§ 58-3-180. *Motor vehicle repairs; selection by claimant.*

(a) A policy covering damage to a motor vehicle shall allow the claimant to select the repair service or source for the repair of the damage.

(b) The amount determined by the insurer to be payable under a policy covering damage to a motor vehicle shall be paid regardless of the repair service or source selected by the claimant.

(b1) No insurer or insurer representative shall recommend the use of a particular motor vehicle repair service without clearly informing the claimant that (i) the claimant is under no obligation to use the recommended repair service, (ii) the claimant may use the repair service of the claimant's choice, and (iii) the amount determined by the insurer to be payable under the policy will be paid regardless of whether or not the claimant uses the recommended repair service.

(b2) The provisions of subsection (b1) of this section shall be included in nonfleet private passenger motor vehicle insurance policy forms promulgated by the Bureau and approved by the Commissioner.

(c) Any person who violates this section is subject to the applicable provisions of G.S. 58-2-70 and G.S. 58-33-46, provided that the maximum civil penalty that can be assessed under G.S. 58-2-70(d) for a violation of this section is two thousand dollars (\$2,000).

(d) As used in this section, 'insurer representative' includes an insurance agent, limited representative, broker, adjuster, and appraiser."

SECTION 2. G.S. 58-21-70 reads as rewritten:

"§ 58-21-70. Surplus lines licensees may accept business from other agents or ~~brokers~~; ~~brokers~~; countersignatures required; remittance of premium tax.

(a) A surplus lines licensee may originate surplus lines insurance or accept such insurance from any other duly licensed agent or broker, and the surplus lines licensee may compensate such agent or broker therefor.

(b) Every report filed by a nonresident licensee under G.S. 58-21-35(a) shall, before being filed with the Commissioner, be countersigned by a resident licensee or by a regulatory support organization. The resident licensee or regulatory support organization may charge the nonresident licensee a countersignature fee.

(c) Every resident licensee and regulatory support organization that countersigns a report under subsection (b) of this section is responsible for remitting the premium tax for the coverage, as specified in G.S. 58-21-85, to the Commissioner."

SECTION 2.1. Section 32 of Session Law 2001-203 reads as rewritten:

"SECTION 32. Section 28 of this act becomes effective ~~October 1, 2001~~ January 1, 2002. Sections 25, 30, and this section are effective when they become law. The remaining sections of this act become effective July 1, 2002."

SECTION 2.2. G.S. 58-21-40(a), as amended by Section 28 of S.L. 2001-203, reads as rewritten:

"(a) A surplus lines regulatory support organization of surplus lines licensees shall be formed to:

- (1) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this State and the rules and regulations of the Commissioner relative to surplus lines insurance;
- (2) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;
- (3) Receive and disseminate to surplus lines licensees information about surplus lines insurance, including, without limitation, new electronic filing procedures

approved by the Commissioner, changes in the list of eligible surplus lines insurers, and modifications in coverages, procedures, and requirements as may be requested by the Commissioner; and

- (4) ~~Certify satisfactory evidence of current nonresident surplus lines licensure in this State by countersigning~~ Countersign nonresident produced surplus lines coverages and remit premium taxes for those coverages under G.S. 58-21-70 by means satisfactory to the Commissioner; and charge the nonresident surplus lines licensee a fee for the certification and countersignature as approved by the Commissioner."

SECTION 3. G.S. 58-47-125 reads as rewritten:

"§ 58-47-125. *Admission and termination of group members.*

(a) Prospective group members shall submit applications for membership to the board. The board, a designated employee of the group, or TPA shall approve an application for membership under the bylaws of the group. Members shall have bona fide offices in this State and members' employees shall be primarily engaged in business activities within this State. Members shall receive certificates of coverage from the board on a form acceptable to the Commissioner.

(b) The group shall make available to the Commissioner properly executed applications and indemnity agreements for all members, on forms prescribed by the Commissioner. If the applications and indemnity agreements are not executed properly and maintained, the Commissioner may order the group to cease writing all new business until all of the agreements are executed properly and obtained.

(c) Members may elect to terminate their participation in a group and may be ~~canceled~~ terminated by the group under ~~G.S. 97-99~~ subsection (d) of this section and the bylaws of the group.

(d) A group may terminate a member's participation in the group on 30 days' written notice to the member. A group may terminate a member's participation in the group for nonpayment of premium on 10 days' written notice to the member. A member may terminate its participation in the group on 10 days' written notice to the group. Notices under this subsection shall be given by certified mail, return receipt requested. No termination by the group is effective until the notice is received by the member."

SECTION 4. Section 1 of this act becomes effective April 1, 2002, and applies to policies issued or renewed on and after that date. Sections 2 and 2.2 of this act become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law upon approval of the Governor at 7:30 p.m. on the 28th day of October, 2001.

H.B. 1006 SESSION LAW 2001-452

AN ACT TO CONSOLIDATE VARIOUS ENVIRONMENTAL REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. REPORTING REQUIREMENTS REPEALED.

SECTION 1.1. Subsections 27.13(b) and (c) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Subsection 27.26(c) (Straight Pipe Elimination Amnesty Program) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Subsection 27.30(b) of Chapter 18 of the Session Laws of the 1996 Second Extra Session, Section 15.2 of S.L. 1997-443, Subsection 15.14(b) of S.L. 1997-443, Section 3.2 of S.L. 1997-458, Section 9.1 of S.L. 1997-483, Section 9.2 of S.L. 1997-483, Subsection 14.14(b) of S.L. 1998-212, Subsections 15.14(a) through (g) of S.L. 1999-237, Section 11.2 of S.L. 1999-329, G.S. 143-359, and G.S. 143-670 through G.S. 143-674 are repealed.

SECTION 1.2. Section 3 of Chapter 603 of the 1989 Session Laws, as amended by Section 222 of Chapter 727 of the 1989 Session Laws and Section 3 of Chapter 990 of the 1991 Session Laws, is repealed.

PART II. REPORTING REQUIREMENTS AMENDED OR CODIFIED.

SECTION 2.1. G.S. 113-182.1(e) reads as rewritten:

"(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Seafood and Aquaculture and the Environmental Review Commission shall concurrently review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on

Seafood and Aquaculture and the Environmental Review Commission may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary."

SECTION 2.2. G.S. 113A-241 reads as rewritten:

"§ 113A-241. *State to Preserve One Million Acres; Annual Report.*

(a) The State of North Carolina shall encourage, facilitate, plan, coordinate, and support appropriate federal, State, local, and private land protection efforts so that an additional one million acres of farmland, open space, and conservation lands in the State are permanently protected by December 31, 2009. These lands shall be protected by acquisition in fee simple or by acquisition of perpetual conservation easements by public conservation organizations or by private entities that are organized to receive and administer lands for conservation purposes.

(b) The Secretary of Environment and Natural Resources shall lead the effort to add one million acres to the State's protected lands and shall plan and coordinate with other public and private organizations and entities that are receiving and administering lands for conservation purposes.

(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission annually beginning on September 1, 2000, on or before 1 September of each year on the State's progress towards attaining the goal established in Section 2 of this Article, this section."

SECTION 2.3. G.S. 130A-310.10 reads as rewritten:

"§ 130A-310.10. *Annual reports.*

(a) The Secretary shall ~~present a report on inactive hazardous sites to the Environmental Review Commission.~~ Commission on or before 1 October of each year. The report shall include at least:

- (1) The Inactive Hazardous Waste Sites Priority List;
- (2) A list of remedial action plans requiring State funding through the Inactive Hazardous Sites Cleanup Fund;
- (3) A comprehensive budget to implement these remedial action plans and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the cost of said plans;
- (4) A prioritized list of sites that are eligible for remedial action under CERCLA/SARA together with recommended remedial action plans and a comprehensive budget to implement such plans. The budget for implementing a remedial action plan under CERCLA/SARA shall include a statement as to any appropriation that may be necessary to pay the State's share of such plan;

- (5) A list of sites and remedial action plans undergoing voluntary cleanup with Departmental approval;
- (6) A list of sites and remedial action plans that may require State funding, a comprehensive budget if implementation of these possible remedial action plans is required, and the adequacy of the Inactive Hazardous Sites Cleanup Fund to fund the possible costs of said plans;
- (7) A list of sites ~~which~~ that pose an imminent hazard;
- (8) A comprehensive budget to develop and implement remedial action plans for sites that pose imminent hazards and that may require State funding, and the adequacy of the Inactive Hazardous Sites Cleanup Fund; and
- (9) Any other information requested by the General Assembly or the Environmental Review Commission.

(b) ~~The report required by this section shall be made by the Secretary on or before 1 November of even numbered years."~~

SECTION 2.4. G.S. 143-215.3A(c) reads as rewritten:

"(c) The Department shall ~~make an annual~~ report to the ~~General Assembly and its Environmental Review Commission and the Fiscal Research Division~~ on the cost of the State's environmental permitting programs contained within ~~such the Department~~. Department on or before 1 November of each year. In addition, the Department shall ~~make an annual~~ report to the ~~General Assembly and its Environmental Review Commission and the Fiscal Research Division~~ on the cost of the Title V ~~program~~. Program on or before 1 November of each year. The reports shall include, but are not limited to, fees set and established under this Article, fees collected under this Article, revenues received from other sources for environmental permitting and compliance programs, changes made in the fee schedule since the last report, anticipated revenues from all other sources, interest earned and any other information requested by the General Assembly."

SECTION 2.5. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.8C. Neuse River Modeling and Monitoring Project reports.

The Primary Investigator or Researcher receiving funding pursuant to Subsection 14.14(a) of S.L. 1998-212 shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, the Scientific Advisory Council on Water Resources and Coastal Fisheries Management, and the Fiscal Research Division on 1 January and 1 July of each year until the project or study is complete. Upon

completion of the project or study, the Primary Investigator or Researcher shall provide a final report to the entities listed above."

SECTION 2.6. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.9B. Systemwide municipal and domestic wastewater collection system permit program report.

The Environmental Management Commission shall develop and implement a permit program for municipal and domestic wastewater collection systems on a systemwide basis. The collection system permit program shall provide for performance standards, minimum design and construction requirements, a capital improvement plan, operation and maintenance requirements, and minimum reporting requirements. In order to ensure an orderly and cost-effective phase-in of the collection system permit program, the Commission shall implement the permit program over a five-year period beginning 1 July 2000. The Commission shall issue permits for approximately twenty percent (20%) of municipal and domestic wastewater collection systems that are in operation on 1 July 2000 during each of the five calendar years beginning 1 July 2000 and shall give priority to those collection systems serving the largest populations, those under a moratorium imposed by the Commission under G.S. 143-215.67, and those for which the Department of Environment and Natural Resources has issued a notice of violation for the discharge of untreated wastewater. The Commission shall report on its progress in developing and implementing the collection system permit program required by this section as a part of each quarterly report the Environmental Management Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."

SECTION 2.7. G.S. 143-355 is amended by adding the following new subsection:

"(n) The Department of Environment and Natural Resources shall report to the Environmental Review Commission on the implementation of this section and the development of the State water supply plan on or before 1 September of each year."

SECTION 2.8. G.S. 143B-279.7(c) reads as rewritten:

"(c) The Department of Environment and Natural Resources shall report annually to the Environmental Review Commission ~~and the Senate Agriculture and Environment Committee~~ no later than December 1 of each year. This report shall include a summary of all fish kill activity within the last year, an overview of any trend analyses, a discussion of any new or modified methodologies or reporting protocols, and any other relevant information."

SECTION 2.9. The Department of Environment and Natural Resources shall report to the Environmental Review Commission and the Fiscal Research Division of the General

Assembly on or before 15 October of each year on the Wastewater Discharge Elimination Program.

PART III. SOLID WASTE AND RECYCLING REPORT CONSOLIDATION.

SECTION 3.1. G.S. 130A-309.06 reads as rewritten:

"§ 130A-309.06. *Additional powers and duties of the Department.*

(a) In addition to other powers and duties set forth in this Part, the Department shall:

- (1) Develop a comprehensive solid waste management plan consistent with this Part. The plan shall be developed in consultation with units of local government and shall be updated at least every three years. In developing the State solid waste management plan, the Department shall hold public hearings around the State and shall give notice of these public hearings to all units of local government and regional planning agencies.
- (2) Provide guidance for the orderly collection, transportation, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the State.
- (3) Encourage coordinated local activity for solid waste management within a common geographical area.
- (4) Provide planning, technical, and financial assistance to units of local government and State agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal.
- (5) Cooperate with appropriate federal agencies, local governments, and private organizations in carrying out the provisions of this Part.
- (6) Promote and assist the development of solid waste reduction, recycling, and resource recovery programs that preserve and enhance the quality of the air, water, and other natural resources of the State.
- (7) Maintain a directory of recycling and resource recovery systems in the State and provide assistance with matching recovered materials with markets.
- (8) Manage a program of grants for programs for recycling and special waste management, and for programs that provide for the safe and proper management of solid waste.
- (9) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper

processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

- (10) Develop descriptive literature to inform units of local government of their solid waste management responsibilities and opportunities.
- (11) Repealed by Session Laws 1995 (Regular Session, 1996), c. 594, s. 10.
- (12) Provide and maintain recycling bins for the collection and recycling of newspaper, aluminum cans, glass containers, and recyclable plastic beverage containers at the North Carolina Zoological Park.
- (13) Identify, based on reports required under G.S. 130A-309.14 and any other relevant information, those materials in the municipal solid waste stream that are marketable in the State or any portion thereof and that should be recovered from the waste stream prior to treatment or disposal.
- (14) Identify and analyze, with assistance from the Department of Commerce pursuant to G.S. 130A-309.14, components of the State's recycling industry and present and potential markets for recyclable materials in this State, other states, and foreign countries.

(b) The Department may refuse to issue a permit to an applicant who by past conduct in this State has repeatedly violated related statutes, rules, orders, or permit terms or conditions relating to any solid waste management facility and who is deemed by the Department to be responsible for the violations. For the purpose of this subdivision, an applicant includes the owner or operator of the facility, or, if the owner or operator is a business entity, the parent of the subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than fifty percent (50%) of the stock of the corporation.

(c) The Department shall ~~prepare by 1 March of each year a report to the Environmental Review Commission on or before 15 January of each year~~ on the status of solid waste management efforts in the State. ~~The scope of the report shall be determined by the resources available to the Department for its preparation and, to the extent possible,~~ shall include:

- (1) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the State projected for the 20-year period beginning on 1 July 1991.
- (2) The total amounts of solid waste recycled and disposed of and the methods of solid waste recycling and disposal

used during the calendar year prior to the year in which the report is published.

- (3) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.
- (4) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in G.S. 130A-309.04.
- (5) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for units of local government and State agencies to implement to meet the requirements of this Part.
- (6) An evaluation of the recycling industry, the markets for recycled ~~materials~~ materials, the recycling of polystyrene, and the success of State, local, and private industry efforts to enhance the markets for these materials.
- (7) Recommendations to the Governor and the Environmental Review Commission to improve the management and recycling of solid waste in the State, including any proposed legislation to implement the recommendations.
- (8) A description of the condition of the Solid Waste Management Trust Fund and the use of all funds allocated from the Solid Waste Management Trust Fund, as required by G.S. 130A-309.12(c).
- (9) A description of the review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products by both the Department of Administration and the Department of Transportation, as required by G.S. 130A-309.14(a1)(3).
- (10) A description of the implementation of the North Carolina Scrap Tire Disposal Act that includes the beginning and ending balances in the Scrap Tire Disposal Account for the reporting period, the amount credited to the Scrap Tire Disposal Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites, as required by G.S. 130A-309.63(e).
- (11) A description of the management of white goods in the State, as required by G.S. 130A-309.85.
- (12) A summary of the report by the Department of Transportation on the amounts and types of recycled

materials that were specified or used in contracts that were entered into by the Department of Transportation during the previous fiscal year, as required by G.S. 136-28.8(g).

- (13) A summary of the reports by each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies detailing the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and the progress toward reaching the goals under G.S. 143-58.3, as required by G.S. 143-58.2(f).

(d) ~~The Department shall prepare a report assessing the recycling industry and recyclable materials markets in the State every two years, and shall submit the report to the Environmental Review Commission on or before 1 March of even numbered years. The report shall include information on progress in recycling polystyrene in the State."~~

SECTION 3.2. G.S. 130A-309.12(c) reads as rewritten:

"(c) The Department shall ~~report annually on or before September 1 to the Environmental Review Commission as to~~ include in the report required by G.S. 130A-309.06(c) a description of the condition of the Solid Waste Management Trust Fund and as to the use of all funds allocated from the Solid Waste Management Trust Fund."

SECTION 3.3. G.S. 130A-309.14(a1) reads as rewritten:

"(a1) The Department of Administration shall review and revise its bid procedures and specifications set forth in Article 3 of Chapter 143 of the General Statutes and the Department of Transportation shall review and revise its bid procedures and specifications set forth in Article 2 of Chapter 136 of the General Statutes to encourage the purchase or use of reusable, refillable, repairable, more durable, and less toxic supplies and products.

- (1) The Department of Administration shall require the procurement of such supplies and products to the extent that the purchase or use is practicable and cost-effective. The Department of Administration shall require the purchase or use of remanufactured toner cartridges for laser printers to the extent practicable.
- (2) The Department of Transportation shall require the purchase or use of such supplies and products in the construction and maintenance of highways and bridges to the extent that the purchase or use is practicable and cost-effective.
- (3) The Department of Administration and the Department of Transportation shall each ~~prepare an annual report by~~

~~October 1 of each year to the Environmental Review Commission provide by 1 October of each year to the Department of Environment and Natural Resources a detailed description of the respective Agency's concerning the review and revision of bid procedures and the purchase and use of reusable, refillable, repairable, more durable, and less toxic supplies and products. The information provided by the Department of Administration and the Department of Transportation to the Department of Environment and Natural Resources shall also be included in the report required by G.S. 130A-309.06(c)."~~

SECTION 3.4. G.S. 130A-309.63(e) reads as rewritten:

~~"(e) Reports/Reporting. – The Department shall report annually on the Scrap Tire Disposal Account to the Environmental Review Commission. The report shall be submitted by 1 October of each year for the fiscal year ending the preceding 30 June. The report shall show include in the report to be delivered to the Environmental Review Commission on or before 15 January of each year pursuant to G.S. 130A-309.06(c) a description of the implementation of the North Carolina Scrap Tire Disposal Act for the fiscal year ending the preceding 30 June. The description of the implementation of the North Carolina Scrap Tire Disposal Act shall include the beginning and ending balances in the Account for the reporting period, the amount credited to the Account during the reporting period, and the amount of revenue used for grants and to clean up nuisance tire collection sites."~~

SECTION 3.5. G.S. 130A-309.85 reads as rewritten:

~~"§ 130A-309.85. Department to submit annual report/Reporting on the management of white goods.~~

~~The Department shall report annually to the Environmental Review Commission and to the Revenue Laws Study Committee concerning the management of white goods. The report shall be submitted by February 1 of each year for the fiscal year ending on the preceding June 30. The report shall include in the report to be delivered to the Environmental Review Commission on or before 15 January of each year pursuant to G.S. 130A-309.06(c) a description of the management of white goods in the State for the fiscal year ending the preceding 30 June. The description of the management of white goods shall include the following information:~~

- ~~(1) The amount of taxes collected and distributed under G.S. 105-187.24 during the period covered by the report.~~
- ~~(2) The cost to each county of managing white goods during the period covered by the report.~~

- (3) The beginning and ending balances of the White Goods Management Account for the period covered by the report and a list of grants made from the Account for the period.
- (4) Any other information the Department considers helpful in understanding the problem of managing white goods.
- (5) A summary of the information concerning the counties' white goods management programs contained in the counties' Annual Financial Information Report."

SECTION 3.6. G.S. 136-28.8 reads as rewritten:

"(g) On or before October 1 of each year, the Department shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources as to the amounts and types of recycled materials that were specified or used in contracts that were entered into during the previous fiscal year. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of this report and submit the summary to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and the Environmental Review Commission. Operations and the Joint Legislative Transportation Oversight Committee. The summary of this report shall also be included in the report required by G.S. 130A-309.06(c)."

SECTION 3.7. G.S. 143-58.2(f) reads as rewritten:

"(f) On or before October 1 of each year, each State department, institution, agency, community college, and local school administrative unit authorized to purchase materials and supplies shall report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources, the amounts and types of materials and supplies with recycled content that were purchased during the previous fiscal year and its progress toward reaching the goals under G.S. 143-58.3. On or before December 1 of each year, the Division of Pollution Prevention and Environmental Assistance shall prepare a summary of these reports and submit the summary to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission. Operations. The summary of these reports shall also be included in the report required by G.S. 130A-309.06(c)."

PART IV. EFFECTIVE DATE.

SECTION 4.1. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law upon approval of the Governor at 7:30 p.m. on the 28th day of October, 2001.

H.B. 1048 SESSION LAW 2001-453

AN ACT TO PROVIDE THAT HEALTH BENEFIT PLANS SHALL NOT MANDATE ADDITIONAL COVERAGE BEYOND WHAT IS REQUIRED AS OF JUNE 30, 2003, WITH CERTAIN EXCEPTION; AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE ISSUE OF HEALTH INSURANCE MANDATES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 50 of Chapter 58 of the General Statutes is amended by adding the following new section to read:
"§ 58-50-63. Additional coverage mandates prohibited; exception.

(a) Notwithstanding any other provision of law to the contrary, except as otherwise provided in this section, an insurer shall not deliver, issue, or renew a health benefit plan after July 1, 2003, that includes any additional coverage requirements beyond those requirements in effect for health benefit plans on June 30, 2003.

(b) Nothing in this section shall be construed to prohibit an employer from electing to expand coverage on any group or individual health benefit plan or policy covering the employer and the employees of the employer.

(c) As used in this section, the terms 'insurer' and 'health benefit plan' have the meaning applied in G.S. 58-3-167."

SECTION 2. The Legislative Research Commission may study the issue of health insurance mandated benefits and the cost to employers and individuals of unfunded health insurance mandates. In conducting the study, the Commission shall consider cost-benefit analysis to determine the cost-efficiency of mandated benefits, including any cost-benefit analysis performed by the Department of Insurance. The Commission shall make a progress report to the 2001 General Assembly upon its reconvening in 2002, and shall make its final report to the 2003 General Assembly. Progress and final reports of the Commission may include recommended legislation.

SECTION 3. This act is effective when it becomes law. Section 1 of this act expires July 1, 2005.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law upon approval of the Governor at 7:31 p.m. on the 28th day of October, 2001.

H.B. 1299 SESSION LAW 2001-454

AN ACT TO APPROPRIATE FUNDS FROM THE
 NONCOMMERCIAL LEAKING PETROLEUM

UNDERGROUND STORAGE TANK CLEANUP FUND TO
SUPPORT THE ADMINISTRATION OF THE PETROLEUM
UNDERGROUND STORAGE TANK PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of four hundred ninety-five thousand dollars (\$495,000) for the 2001-2002 fiscal year and the sum of four hundred ninety-five thousand dollars (\$495,000) for the 2002-2003 fiscal year to implement the provisions of Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

SECTION 2. The Environmental Review Commission shall evaluate the increased funding for implementation of the provisions of Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes authorized by Section 1 of this act. The Commission shall determine whether adjustments should be made to the amounts appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to implement Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes. The Commission shall report its findings and recommendations, if any, to the 2003 General Assembly.

SECTION 3. This act becomes effective 1 July 2001.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law upon approval of the Governor at 7:32 p.m. on the 28th day of October, 2001.

H.B. 1362**SESSION LAW 2001-455**

AN ACT TO ESTABLISH A CENTRAL REGISTRY FOR
ADVANCE HEALTH CARE DIRECTIVES AND TO
AUTHORIZE THE NORTH CAROLINA RESPIRATORY
CARE BOARD TO INCREASE FEES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130A of the General Statutes is amended by adding a new Article to read:

"Article 21.

"Advance Health Care Directive Registry.

"§ 130A-465. Advance Health Care Directive Registry establishment.

The Secretary of State shall establish and maintain a statewide, on-line, central registry for advance health care directives. The registry

shall be accessible over the Internet through a site maintained by the Secretary of State.

"§ 130A-466. Filing requirements.

(a) A person may submit any of the following documents and the revocations of these documents to the Secretary of State for filing in the Advance Health Care Directive Registry established pursuant to this Article:

- (1) A health care power of attorney under Article 3 of Chapter 32A of the General Statutes.
- (2) A declaration of a desire for a natural death under Article 23 of Chapter 90 of the General Statutes.
- (3) An advance instruction for mental health treatment under Part 2 of Article 3 of Chapter 122C of the General Statutes.
- (4) A declaration of an anatomical gift under Part 3 of Article 16 of Chapter 130A of the General Statutes.

(b) Any document and any revocation of a document submitted for filing in the registry shall be notarized regardless of whether notarization is required for its validity.

(c) The document may be submitted for filing only by the person who executed the document.

(d) The person who submits the document shall supply a return address.

(e) The document shall be accompanied by any fee required by this Article.

"§ 130A-467. Validity of unregistered documents.

Failure to register a document with the registry maintained by the Secretary of State pursuant to this Article shall not affect the document's validity. Failure to notify the Secretary of State of the revocation of a document filed with the registry shall not affect the validity of a revocation that meets the statutory requirements for the revocation to be valid.

"§ 130A-468. Filing of documents with the registry.

(a) When the Secretary of State receives a document that may be filed with the registry pursuant to this Article, the Secretary shall create a digital reproduction of that document and enter the reproduced document into the registry database. The Secretary is not required to review a document to ensure that it complies with the particular statutory requirements applicable to the document. Each document entered into the registry database shall be assigned a unique file number and password.

(b) Upon entering the reproduced document into the registry database, the Secretary shall return the original document and a wallet-size card containing the document's file number and password to the person who submitted the document.

(c) When the Secretary of State receives a revocation of a document that is filed with the registry and that document's file number and password, the Secretary shall delete that document from the registry database.

(d) The Secretary of State's entry of a document into the registry database does not do any of the following:

- (1) Affect the validity of the document in whole or in part.
- (2) Relate to the accuracy of information contained in the document.
- (3) Create a presumption regarding the validity of the document, regarding the accuracy of information contained in the document, or that the statutory requirements for the document have been met.

"§ 130A-469. Disclosure of information contained in the registry.

The registry shall be accessible only over the Internet. A document filed in the registry shall be accessible only if a person attempting to access the document enters both the file number and password of the document. Documents filed in the registry, file numbers, passwords, and any other information maintained by the Secretary of State under this Article shall not be subject to disclosure pursuant to Chapter 132 of the General Statutes.

"§ 130A-470. Fees for using the registry; other funds for the registry.

(a) The Secretary of State shall charge a fee of ten dollars (\$10.00) for filing a document, other than a revocation, with the registry. The Secretary of State shall not charge a fee for filing a revocation with the registry. The fee shall be applied to the cost of maintaining the registry and to promoting public education and awareness of the registry.

(b) The Secretary of State, on behalf of the State, may accept gifts, donations, bequests, and other forms of voluntary contributions; may apply for grants from public and private sources; and may expend funds received under this subsection for the purpose of promoting public education and awareness of the registry.

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

"§ 130A-471. Limitation of liability.

The State of North Carolina, the Secretary of State, and any agent or person employed by the Secretary of State shall not be liable for any claims or demands arising out of the administration or operation of the registry authorized by this Article, except for acts of gross negligence, willful misconduct, or intentional wrongdoing."

SECTION 2. G.S. 132-1.2 is amended by adding a new subdivision to read:

"(3) Reveals a document, file number, password, or any other information maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes."

SECTION 3. G.S. 32A-24(a) reads as rewritten:

"(a) Any physician or other health care provider involved in the medical care of the principal may rely upon the authority of the health care agent contained in a signed and acknowledged health care power of attorney in the absence of actual knowledge of revocation of the health care power of attorney. The physician or health care provider may rely upon a copy of the health care power of attorney obtained from the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes to the same extent that the individual may rely upon the original document."

SECTION 4. G.S. 90-321(c) reads as rewritten:

"(c) The attending physician may rely upon a signed, witnessed, dated and proved ~~declaration~~declaration, or a copy of that declaration obtained from the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes:

- (1) Which expresses a desire of the declarant that extraordinary means or artificial nutrition or hydration not be used to prolong his life if his condition is determined to be terminal and incurable, or if the declarant is diagnosed as being in a persistent vegetative state; and
- (2) Which states that the declarant is aware that the declaration authorizes a physician to withhold or discontinue the extraordinary means or artificial nutrition or hydration; and
- (3) Which has been signed by the declarant in the presence of two witnesses who believe the declarant to be of sound mind and who state that they (i) are not related within the third degree to the declarant or to the declarant's spouse, (ii) do not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon his death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provides, (iii) are not the attending physician, or an employee of the attending physician, or an employee of a health facility in which the declarant is a patient, or an employee of a nursing home or any group-care home in which the declarant resides, and (iv) do not have a claim against

any portion of the estate of the declarant at the time of the declaration; and

- (4) Which has been proved before a clerk or assistant clerk of superior court, or a notary public who certifies substantially as set out in subsection (d) below."

SECTION 5. G.S. 122C-74 reads as rewritten:

"(b) The attending physician or other mental health treatment provider may consider valid and rely upon an advance ~~instruction~~ instruction, or a copy of that advance instruction that is obtained from the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes, in the absence of actual knowledge of its revocation or invalidity."

SECTION 6. G.S. 130A-409(c) reads as rewritten:

"(c) A person who acts with due care in accord with the terms of this Part or the anatomical gift laws of another state is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for the act. A person may rely upon a document registered with the Advance Health Care Directive Registry maintained by the Secretary of State pursuant to Article 21 of Chapter 130A of the General Statutes to the same extent as the person can rely upon the original of that document."

SECTION 7. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

- (1) For an initial application, a fee not to exceed twenty-five dollars (\$25.00).
- (2) For examination or reexamination, a fee not to exceed ~~one two hundred fifty~~ two hundred dollars ~~(\$150.00)~~ (\$200.00).
- (3) For issuance of any license, a fee not to exceed one hundred dollars (\$100.00).
- (4) For the renewal of any license, a fee not to exceed fifty dollars (\$50.00).
- (5) For the late renewal of any license, an additional late fee not to exceed fifty dollars (\$50.00).
- (6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars (\$35.00).
- (7) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 8. Sections 1 through 6 of this act become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of October, 2001.

Became law upon approval of the Governor at 4:35 p.m. on the 29th day of October, 2001.

H.B. 1270 SESSION LAW 2001-456

AN ACT TO PROVIDE FULL FAITH AND CREDIT TO JUDGMENTS OF THE EASTERN BAND OF CHEROKEES' TRIBAL COURTS AS THOSE COURTS RECIPROCALLY PROVIDE JUDGMENTS OF NORTH CAROLINA COURTS.

Whereas, the Eastern Band of Cherokees is a federally recognized Indian tribe; and

Whereas, the Eastern Band of Cherokees has established a system of tribal courts to deal with disputes between the parties under their jurisdiction; and

Whereas, the Eastern Band of Cherokees' Tribal Court accords full faith and credit to the judgments, decrees, and orders of the courts of this State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 1E.

"Eastern Band of Cherokee Indians.

"Article 1.

"Full Faith and Credit.

"§ 1E-1. Full faith and credit.

(a) The courts of this State shall give full faith and credit to a judgment, decree, or order signed by a judicial officer of the Eastern Band of Cherokee Indians and filed in the Cherokee Tribal Court to the same extent as is given a judgment, decree, or order of another state, subject to the provisions of subsection (b) of this section; provided that the judgments, decrees, and orders of the courts of this State are given full faith and credit by the Tribal Court of the Eastern Band of Cherokee Indians.

(b) Judgments, decrees, and orders specified in subsection (a) of this section shall be given full faith and credit subject to the provisions of G.S. 1C-1705, G.S. 1C-1708, G.S. 1C-1804, and G.S. 1C-1805 and shall be considered a foreign judgment for purposes of these statutes."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25th day of October, 2001.

Became law upon approval of the Governor at 4:43 p.m. on the 29th day of October, 2001.

H.B. 1471 SESSION LAW 2001-457

AN ACT TO APPROPRIATE FUNDS FROM THE GENERAL FUND AND TO AUTHORIZE THE GOVERNOR TO ACCESS FUNDS FROM THE SAVINGS RESERVE ACCOUNT TO ADDRESS TERRORISM ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Crime Control and Public Safety, Division of Emergency Management, the sum of one million nine hundred thousand dollars (\$1,900,000) for the 2001-2002 fiscal year to implement terrorism defense measures and to address other terrorism issues. These measures may include the following:

- (1) Purchasing materials and equipment.
- (2) Training personnel.
- (3) Developing Operations Plans including use of alternate facilities within State government to protect critical State functions.
- (4) Equipping search and rescue teams.

The Secretary of Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations on the use of funds authorized by this section no later than 30 days after using those funds.

SECTION 2. In compliance with G.S. 143-15.3, the General Assembly approves the use of and the Governor may access up to thirty million dollars (\$30,000,000) from the Savings Reserve Account for the 2001-2002 fiscal year to be used to implement defense measures against all forms of terrorism, including, but not limited to, biological, nuclear, chemical, incendiary, and explosive terrorism and to address other terrorism issues. The Governor shall take steps to repay any monies diverted under this section if funds become available to offset the State's expenditures for its terrorism response efforts. The Governor shall report to the Joint Legislative Commission on Governmental Operations on the status and use of funds authorized by this section no later than 30 days after accessing those funds.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of November, 2001.

Became law upon approval of the Governor at 10:22 a.m. on the 8th day of November, 2001.

S.B. 798**SESSION LAW 2001-458**

AN ACT TO ESTABLISH SENATORIAL DISTRICTS AND TO APPORTION SEATS IN THE SENATE AMONG DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-1 is rewritten to read:

"(a) For the purpose of nominating and electing members of the Senate in 2002 and every two years thereafter, senatorial districts are established and seats in the Senate are apportioned among those districts so that each District elects one Senator, except that Districts 13, 16, 17, and 28 each elects two Senators, and the composition of each district is as follows:

District 1: Camden County, Chowan County, Currituck County, Dare County, Hyde County, Pasquotank County, Perquimans County, Tyrrell County, Washington County, Beaufort County: Precinct HUNTERS BRIDGE, Precinct BELHAVEN, Precinct NORTH CREEK, Precinct OLD FORD, Precinct RIVER ROAD, Precinct TRANTERS CREEK, Precinct WOODARDS POND, Precinct BEAVER DAM, Precinct PANTEGO, Precinct PINETOWN, Precinct SURRY BATH, Precinct WASHINGTON PARK.

District 2: Bertie County, Gates County, Hertford County, Northampton County, Warren County, Granville County: Precinct ANTIOCH, Precinct SALEM, Precinct SASSAFRAS FORK, Precinct WEST OXFORD ELEMENTARY; Halifax County: Precinct BUTTERWOOD, Precinct CONOCONNARA, Precinct HALIFAX, Precinct HOBGOOD, Precinct PALMYRA, Precinct ROSENEATH, Precinct SCOTLAND NECK 1, Precinct SCOTLAND NECK 2, Precinct ENFIELD 1, Precinct ENFIELD 2, Precinct ENFIELD 3, Precinct LITTLETON 1, Precinct LITTLETON 2, Precinct RINGWOOD, Precinct WELDON 1, Precinct WELDON 2, Precinct WELDON 3; Martin County: Precinct JAMESVILLE, Precinct WILLIAMS, Precinct BEARGRASS, Precinct GRIFFINS, Precinct WILLIAMSTON 1, Precinct WILLIAMSTON 2; Vance County: Precinct MIDDLEBURG, Precinct TOWNSVILLE, Precinct WILLIAMSBORO.

District 3: Craven County, Pamlico County, Beaufort County: Precinct BLOUNTS CREEK, Precinct AURORA, Precinct CHOCOWINITY, Precinct EDWARD, Precinct PS JONES WARD 3, Precinct WASHINGTON WARD 1, Precinct WASHINGTON

WARD 2, Precinct WASHINGTON WARD 4, Precinct GILEAD; Carteret County: Precinct ATLANTIC, Precinct BETTIE, Precinct BEAUFORT 1, Precinct BEAUFORT 2, Precinct CEDAR ISLAND, Precinct MERRIMON, Precinct MOREHEAD 1, Precinct NORTH RIVER; Jones County: Precinct POLLOCKSVILLE, Precinct TRENTON, Precinct WHITE OAK; Pitt County: Precinct 11.01, Precinct 15.09, Precinct 11.02A, Precinct 11.02B, Precinct 15.07A: Tract 2: Block Group 2: Block 2013, Block 2014, Block 2015, Block 2016; Block Group 3: Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3021, Block 3022, Block 3023, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032; Precinct 15.07C, Precinct 15.08A, Precinct 15.08B: Tract 1: Block Group 1: Block 1000, Block 1999; Tract 2: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2017, Block 2018, Block 2019; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3019, Block 3020, Block 3024.

District 4: Carteret County: Precinct PINE KNOLL SHORES, Precinct ATLANTIC BEACH, Precinct BOGUE, Precinct BROAD CREEK, Precinct CEDAR POINT, Precinct DAVIS, Precinct EMERALD ISLE, Precinct HARKERS ISLAND, Precinct HARLOWE, Precinct INDIAN BEACH, Precinct MILL CREEK, Precinct MOREHEAD 2, Precinct MOREHEAD 3, Precinct MOREHEAD 4, Precinct NEWPORT 1, Precinct NEWPORT 2, Precinct PELETIER, Precinct SEALEVEL, Precinct SALTER PATH, Precinct STACY, Precinct STELLA, Precinct WILDWOOD, Precinct WILLISTON, Precinct WIREGRASS, Precinct CAPE CARTERET, Precinct MARSHALLBERG, Precinct OTWAY STRAITS CRU, Precinct SMYRNA; New Hanover County: Precinct WRIGHTSVILLE BEACH, Precinct HARNETT 1, Precinct HARNETT 2, Precinct HARNETT 3, Precinct HARNETT 4, Precinct HARNETT 5, Precinct HARNETT 6, Precinct HARNETT 8, Precinct HARNETT 9, Precinct MASONBORO 2, Precinct MASONBORO 4, Precinct MASONBORO 5, Precinct WILMINGTON 11, Precinct WILMINGTON 14, Precinct WILMINGTON 16: Tract 120.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1010, Block 1011, Block 1012, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2000, Block 2001; Block Group 3: Block 3000; Precinct WILMINGTON 17, Precinct WILMINGTON 18, Precinct FEDERAL POINT 1, Precinct FEDERAL POINT 2, Precinct FEDERAL POINT 3, Precinct

FEDERAL POINT 4, Precinct FEDERAL POINT 5; Onslow County: Precinct BEAR CREEK, Precinct FOLKSTONE, Precinct HOLLY RIDGE, Precinct HUBERT, Precinct MORTONS, Precinct SNEADS FERRY, Precinct SWANSBORO, Precinct VERONA, Precinct Voting Districts not defined: Tract 0: Block Group 0: Block 0997, Block 0998; Tract 1.01: Block Group 3: Block 3995, Block 3996, Block 3997, Block 3998; Tract 4: Block Group 1: Block 1992, Block 1993, Block 1995, Block 1997, Block 1999; Block Group 2: Block 2020, Block 2997; Block Group 5: Block 5003, Block 5996, Block 5997, Block 5998; Tract 5: Block Group 1: Block 1001, Block 1002, Block 1006, Block 1007, Block 1008, Block 1011, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1024, Block 1987, Block 1988, Block 1989, Block 1991, Block 1992, Block 1993, Block 1995, Block 1996, Block 1997, Block 1998; Pender County: Precinct LOWER TOPSAIL, Precinct SURF CITY, Precinct SCOTTS HILL, Precinct UPPER TOPSAIL.

District 5: Duplin County, Jones County: Precinct BEAVER CREEK, Precinct CYPRESS CREEK, Precinct CHINQUAPIN, Precinct TUCKAHOE; Lenoir County: Precinct NEUSE, Precinct FALLING CREEK, Precinct SAND HILL, Precinct SOUTHWEST; Onslow County: Precinct BRYNN MARR, Precinct CATHERINES LAKE, Precinct EAST NORTHWOODS, Precinct GUM BRANCH, Precinct HALF MOON, Precinct MILLS, Precinct NINE MILE, Precinct RICHLANDS, Precinct TAR LANDING, Precinct WEST NORTHWOODS, Precinct Voting Districts not defined: Tract 1.03: Block Group 1: Block 1029, Block 1030, Block 1032, Block 1043, Block 1044, Block 1052; Block Group 2: Block 2011, Block 2012; Tract 2: Block Group 6: Block 6001, Block 6003, Block 6006, Block 6007, Block 6009; Pender County: Precinct LOWER UNION, Precinct PENDERLEA, Precinct UPPER UNION; Sampson County: Precinct CENTRAL CLINTON, Precinct EAST CLINTON, Precinct NORTHEAST CLINTON, Precinct SOUTHWEST CLINTON, Precinct WEST CLINTON, Precinct GARLAND, Precinct HARRELLS, Precinct INGOLD, Precinct KEENER, Precinct KITTY FORK, Precinct ROWAN, Precinct SALEMBURG, Precinct TURKEY.

District 6: Wake County: Precinct 01-11, Precinct 01-18, Precinct 01-19, Precinct 01-20, Precinct 01-22, Precinct 01-25, Precinct 01-26, Precinct 01-34, Precinct 01-35, Precinct 01-36, Precinct 01-38, Precinct 01-40, Precinct 01-43, Precinct 01-44, Precinct 01-46, Precinct 01-51, Precinct 09-01, Precinct 09-02, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 13-01, Precinct 13-02: Tract 540.10: Block Group 1: Block 1046, Block 1047, Block 1050, Block 1052, Block 1053, Block 1056, Block 1057,

Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2025, Block 2026, Block 2027, Block 2028; Precinct 13-03, Precinct 16-01, Precinct 17-01, Precinct 17-02, Precinct 17-03, Precinct 17-04, Precinct 17-05, Precinct 17-06, Precinct 17-07.

District 7: New Hanover County: Precinct HARNETT 7, Precinct WILMINGTON 1, Precinct WILMINGTON 2, Precinct WILMINGTON 3, Precinct WILMINGTON 4, Precinct WILMINGTON 6, Precinct WILMINGTON 7, Precinct WILMINGTON 8, Precinct WILMINGTON 9, Precinct WILMINGTON 10, Precinct WILMINGTON 12, Precinct WILMINGTON 13, Precinct WILMINGTON 15, Precinct WILMINGTON 22, Precinct WILMINGTON 23, Precinct WILMINGTON 24, Precinct CAPE FEAR 1, Precinct CAPE FEAR 2, Precinct CAPE FEAR 3; Onslow County: Precinct CROSS ROADS, Precinct HAWS RUN, Precinct JACKSONVILLE, Precinct NORTHEAST, Precinct NEW RIVER, Precinct Voting Districts not defined: Tract 3: Block Group 3: Block 3026, Block 3027; Tract 5: Block Group 1: Block 1012, Block 1013, Block 1994; Tract 6: Block Group 1: Block 1003, Block 1997; Tract 7: Block Group 1: Block 1998; Tract 9: Block Group 1: Block 1003, Block 1995, Block 1996, Block 1997; Tract 10: Block Group 1: Block 1003, Block 1999; Tract 18: Block Group 2: Block 2995; Pender County: Precinct COLUMBIA, Precinct CASWELL, Precinct CANETUCK, Precinct GRADY, Precinct LONG CREEK, Precinct MIDDLE HOLLY, Precinct NORTH BURGAW, Precinct ROCKY POINT, Precinct SOUTH BURGAW, Precinct UPPER HOLLY.

District 8: Greene County, Wayne County, Lenoir County: Precinct INSTITUTE, Precinct VANCE, Precinct WOODINGTON, Precinct KINSTON 3, Precinct KINSTON 4, Precinct KINSTON 5, Precinct KINSTON 9, Precinct MOSELEY HALL, Precinct TRENT 1, Precinct TRENT 2, Precinct PINK HILL 1, Precinct PINK HILL 2.

District 9: Edgecombe County: Precinct 1-1, Precinct 1-2, Precinct 2-1, Precinct 3-1, Precinct 4-1, Precinct 5-1, Precinct 6-1, Precinct 7-1, Precinct 12-1, Precinct 12-2, Precinct 12-4, Precinct 12-5; Lenoir County: Precinct CONTENTNEA, Precinct KINSTON 1, Precinct KINSTON 2, Precinct KINSTON 6, Precinct KINSTON 7, Precinct KINSTON 8; Martin County: Precinct CROSS ROADS,

Precinct GOOSE NEST, Precinct HAMILTON, Precinct HASSELL, Precinct POPLAR POINT, Precinct ROBERSONVILLE 1, Precinct ROBERSONVILLE 2; Nash County: Precinct ROCKY MOUNT 1, Precinct ROCKY MOUNT 2, Precinct ROCKY MOUNT 3, Precinct ROCKY MOUNT 4; Pitt County: Precinct 3.01, Precinct 4.01, Precinct 5.01, Precinct 6.01, Precinct 10.01, Precinct 12.01, Precinct 13.01, Precinct 14.02, Precinct 15.01, Precinct 15.03, Precinct 15.04, Precinct 15.06, Precinct 2.00B, Precinct 15.05A, Precinct 15.05B, Precinct 15.07A: Tract 1: Block Group 3: Block 3049, Block 3068, Block 3069; Tract 4: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018; Precinct 15.07B, Precinct 15.08B: Tract 2: Block Group 2: Block 2000, Block 2001, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2998; Precinct 15.10A, Precinct 15.10B, Precinct 15.11A, Precinct 15.11B, Precinct 15.12B.

District 10: Edgecombe County: Precinct 1-3, Precinct 1-4, Precinct 8-1, Precinct 9-1, Precinct 10-1, Precinct 11-1, Precinct 12-3, Precinct 13-1, Precinct 14-1; Halifax County: Precinct HOLLISTER, Precinct ROANOKE RAPIDS 1, Precinct ROANOKE RAPIDS 2, Precinct ROANOKE RAPIDS 3, Precinct ROANOKE RAPIDS 4, Precinct ROANOKE RAPIDS 5, Precinct ROANOKE RAPIDS 6, Precinct ROANOKE RAPIDS 7, Precinct ROANOKE RAPIDS 8, Precinct ROANOKE RAPIDS 9, Precinct ROANOKE RAPIDS 10, Precinct ROANOKE RAPIDS 11, Precinct FAUCETT; Nash County: Precinct STONY CREEK, Precinct ROCKY MOUNT 5, Precinct ROCKY MOUNT 6, Precinct ROCKY MOUNT 7, Precinct ROCKY MOUNT 8, Precinct ROCKY MOUNT 9, Precinct NASHVILLE, Precinct ROCKY MOUNT 10, Precinct GRIFFINS, Precinct MANNINGS 1, Precinct MANNINGS 2, Precinct SOUTH WHITAKERS, Precinct CASTALIA, Precinct COOPERS, Precinct NORTH WHITAKERS 1, Precinct NORTH WHITAKERS 2, Precinct OAK LEVEL, Precinct RED OAK; Pitt County: Precinct 1.01, Precinct 7.01, Precinct 9.01, Precinct 2.00A, Precinct 8.00A, Precinct 8.00B, Precinct 14.03A, Precinct 14.03B, Precinct 15.12A; Wilson County: Precinct GARDNERS, Precinct SARATOGA, Precinct STANTONSBURG, Precinct TOISNOT, Precinct WILSON A, Precinct WILSON D, Precinct WILSON E, Precinct WILSON F, Precinct WILSON G, Precinct WILSON N.

District 11: Franklin County: Precinct TOWN OF LOUISBURG, Precinct LOUISBURG, Precinct WEST FRANKLINTON, Precinct DUNN, Precinct CYPRESS CREEK, Precinct CEDAR ROCK, Precinct GOLD MINE, Precinct SANDY CREEK, Precinct

HAYESVILLE, Precinct PILOT, Precinct EAST FRANKLINTON; Johnston County: Precinct NORTH BEULAH, Precinct SOUTH BEULAH, Precinct MICRO, Precinct NORTH O'NEALS, Precinct SOUTH O'NEALS, Precinct EAST SELMA, Precinct WEST SELMA, Precinct EAST SMITHFIELD, Precinct NORTH SMITHFIELD, Precinct SOUTH SMITHFIELD, Precinct WILSON'S MILLS; Nash County: Precinct JACKSONS, Precinct BAILEY, Precinct DRYWELLS, Precinct FERRELLS; Vance County: Precinct EAST HENDERSON 1, Precinct EAST HENDERSON 2, Precinct NORTH HENDERSON 1, Precinct NORTH HENDERSON 2, Precinct SOUTH HENDERSON 1, Precinct SOUTH HENDERSON 2, Precinct WEST HENDERSON 1, Precinct WEST HENDERSON 2, Precinct DABNEY, Precinct HILLTOP, Precinct KITTRELL, Precinct SANDY SCREEK, Precinct WATKINS; Wilson County: Precinct BLACK CREEK, Precinct CROSSROADS, Precinct OLD FIELDS, Precinct SPRINGHILL, Precinct TAYLORS, Precinct WILSON B, Precinct WILSON C, Precinct WILSON H, Precinct WILSON I, Precinct WILSON J, Precinct WILSON K, Precinct WILSON L, Precinct WILSON M, Precinct WILSON P, Precinct WILSON Q.

District 12: Alleghany County, Ashe County, Surry County, Watauga County, Avery County: Precinct Banner Elk, Precinct Beech Mountain, Precinct Cranberry, Precinct Elk Park, Precinct Frank, Precinct Heaton, Precinct Hughes, Precinct Linville, Precinct Minneapolis, Precinct Montezuma, Precinct Newland 1, Precinct Newland 2, Precinct Plumtree, Precinct Pyatte, Precinct Roaring Creek.

District 13: Durham County, Granville County: Precinct BEREA, Precinct BRASSFIELD, Precinct BUTNER, Precinct CORINTH, Precinct CREDLE, Precinct CREEDMOOR, Precinct EAST OXFORD, Precinct OAK HILL, Precinct SOUTH OXFORD, Precinct TALLY HO; Wake County: Precinct 03-00, Precinct 04-08, Precinct 04-09, Precinct 04-13, Precinct 04-15, Precinct 04-17, Precinct 06-01, Precinct 12-03, Precinct 20-01, Precinct 20-02, Precinct 20-04, Precinct 20-06, Precinct 20-10.

District 14: Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-03, Precinct 01-04, Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-10, Precinct 01-12, Precinct 01-13, Precinct 01-14, Precinct 01-15, Precinct 01-16, Precinct 01-17, Precinct 01-21, Precinct 01-23, Precinct 01-27, Precinct 01-28, Precinct 01-29, Precinct 01-30, Precinct 01-31, Precinct 01-32, Precinct 01-33, Precinct 01-37, Precinct 01-39, Precinct 01-41, Precinct 01-48, Precinct 01-49, Precinct 04-01, Precinct 04-02, Precinct 04-03, Precinct 04-04, Precinct 04-05, Precinct 04-11, Precinct 04-18, Precinct 07-01, Precinct 07-09,

Precinct 11-01, Precinct 11-02, Precinct 16-02, Precinct 16-03, Precinct 16-04, Precinct 16-06, Precinct 16-07, Precinct 18-01, Precinct 18-06.

District 15: Harnett County: Precinct ANDERSON CREEK, Precinct AVERASBORO 1, Precinct AVERASBORO 2, Precinct AVERASBORO 3, Precinct AVERASBORO 4, Precinct AVERASBORO 5, Precinct BARBECUE, Precinct BLACK RIVER, Precinct DUKE1, Precinct DUKE2, Precinct DUKE3, Precinct GROVE 1, Precinct GROVE 2, Precinct JOHNSONVILLE, Precinct LILLINGTON, Precinct NEILLS CREEK 1, Precinct NEILLS CREEK 2, Precinct STEWARTS CREEK, Precinct UPPER LITTLE RIVER 1, Precinct UPPER LITTLE RIVER 2; Johnston County: Precinct SOUTH BANNER, Precinct WEST BANNER, Precinct BENTONVILLE, Precinct NORTH BOON HILL, Precinct SOUTH BOON HILL, Precinct EAST INGRAMS, Precinct WEST INGRAMS, Precinct NORTH MEADOW, Precinct SOUTH MEADOW, Precinct PINE LEVEL; Lee County: Precinct CAPE FEAR, Precinct DEEP RIVER, Precinct EAST JONESBORO, Precinct WEST JONESBORO, Precinct EAST SANFORD, Precinct WEST SANFORD 1, Precinct WEST SANFORD 2, Precinct WEST SANFORD 3; Sampson County: Precinct GIDDENSVILLE, Precinct NEWTON GROVE, Precinct WESTBROOK.

District 16: Chatham County, Orange County, Alamance County: Precinct MORTON, Precinct FAUCETTE, Precinct PLEASANT GROVE, Precinct HAW RIVER, Precinct BOONE 5, Precinct CENTRAL BOONE, Precinct NORTH BOONE, Precinct WEST BOONE, Precinct GRAHAM 3, Precinct GRAHAM 4, Precinct EAST GRAHAM, Precinct NORTH GRAHAM, Precinct SOUTH GRAHAM, Precinct WEST GRAHAM, Precinct NORTH THOMPSON, Precinct SOUTH THOMPSON, Precinct MELVILLE 3, Precinct NORTH MELVILLE, Precinct SOUTH MELVILLE, Precinct BURLINGTON 4, Precinct BURLINGTON 5, Precinct BURLINGTON 6, Precinct BURLINGTON 7, Precinct BURLINGTON 8, Precinct BURLINGTON 9, Precinct EAST BURLINGTON, Precinct NORTH BURLINGTON, Precinct SOUTH BURLINGTON, Precinct WEST BURLINGTON, Precinct BURLINGTON 10; Lee County: Precinct EAST POCKET, Precinct GREENWOOD, Precinct WEST POCKET, Precinct CUMNOCK; Moore County: Precinct BENSALEM, Precinct CAMERON, Precinct CARTHAGE, Precinct EUREKA, Precinct ROBBINS, Precinct VASS, Precinct WEST MOORE, Precinct D-H-R.

District 17: Anson County, Montgomery County, Richmond County, Scotland County, Hoke County: Precinct ALLENDALE, Precinct BLUE SPRINGS, Precinct BUCHAN, Precinct McCAIN, Precinct RAEFORD 1, Precinct RAEFORD 2, Precinct RAEFORD 3,

Precinct RAEFORD 4, Precinct RAEFORD 5; Moore County: Precinct EAST ABERDEEN, Precinct EASTWOOD, Precinct PINEBLUFF, Precinct PINEDENE, Precinct SEVEN LAKES, Precinct SOUTH SOUTHERN PINES, Precinct TAYLORTOWN, Precinct WEST ABERDEEN, Precinct WEST END; Stanly County: Precinct Albemarle 1, Precinct Albemarle 2, Precinct Albemarle 6, Precinct Albemarle 7, Precinct Albemarle 8, Precinct East Albemarle, Precinct East Center, Precinct North Albemarle, Precinct New London, Precinct South Albemarle, Precinct West Center, Precinct Albemarle 10, Precinct Albemarle 11, Precinct Big Lick 1, Precinct Ridenhour, Precinct Palmerville, Precinct Richfield, Precinct Badin, Precinct Tyson; Union County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 05, Precinct 06, Precinct 07, Precinct 08, Precinct 09, Precinct 10, Precinct 11, Precinct 12, Precinct 13, Precinct 14, Precinct 16, Precinct 21, Precinct 23, Precinct 24, Precinct 25, Precinct 26, Precinct 27, Precinct 29, Precinct 30, Precinct 32, Precinct 34, Precinct 35, Precinct 36, Precinct 38, Precinct 39, Precinct 42, Precinct 43.

District 18: Brunswick County, Columbus County, Bladen County: Precinct ABBOTTS, Precinct BETHEL, Precinct BROWN MARSH, Precinct CARVERS CREEK, Precinct FRENCHES CREEK, Precinct WHITES CREEK, Precinct BLADENBORO 1, Precinct BLADENBORO 2, Precinct ELIZABETHTOWN 1, Precinct ELIZABETHTOWN 2; New Hanover County: Precinct MASONBORO 3, Precinct WILMINGTON 5, Precinct WILMINGTON 16: Tract 120.03: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1027; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2051, Block 2052; Precinct WILMINGTON 19, Precinct WILMINGTON 20, Precinct WILMINGTON 21.

District 19: Davidson County: Precinct ABBOTTS CREEK, Precinct ARCADIA, Precinct GUMTREE, Precinct LEXINGTON 3, Precinct MIDWAY, Precinct NORTH DAVIDSON, Precinct REEDS YADKIN COLLEGE, Precinct REEDY CREEK, Precinct THOMASVILLE 8, Precinct TYRO, Precinct WALLBURG, Precinct WELCOME, Precinct WEST ARCADIA; Forsyth County: Precinct 011, Precinct 012, Precinct 015, Precinct 042, Precinct 043, Precinct 506; Guilford County: Precinct HP, Precinct Center Grove 1, Precinct Center Grove 2, Precinct Friendship 2, Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct Greensboro 27, Precinct Greensboro 30, Precinct Greensboro 32, Precinct Greensboro 33, Precinct Greensboro 34, Precinct Greensboro 39, Precinct

Greensboro 64, Precinct High Point 13, Precinct High Point 14, Precinct High Point 15, Precinct High Point 16, Precinct High Point 21, Precinct High Point 22, Precinct High Point 23, Precinct High Point 24, Precinct High Point 25, Precinct High Point 26, Precinct High Point 27, Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4, Precinct Greensboro 40A, Precinct Greensboro 40B, Precinct North Center Grove, Precinct North Deep River, Precinct South Deep River, Precinct Stokesdale.

District 20: Forsyth County: Precinct 063, Precinct 064, Precinct 065, Precinct 081, Precinct 082, Precinct 083, Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 301, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 306, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505, Precinct 507, Precinct 601, Precinct 603, Precinct 604, Precinct 605, Precinct 606, Precinct 607, Precinct 701, Precinct 702, Precinct 703, Precinct 704, Precinct 705, Precinct 706, Precinct 707, Precinct 803, Precinct 805, Precinct 806, Precinct 807, Precinct 808, Precinct 901, Precinct 902, Precinct 903, Precinct 904, Precinct 905, Precinct 907, Precinct 908.

District 21: Alamance County: Precinct PATTERSON, Precinct COBLE, Precinct ALBRIGHT, Precinct SOUTH BOONE, Precinct NORTH NEWLIN, Precinct SOUTH NEWLIN; Guilford County: Precinct Greene, Precinct Pleasant Garden 2, Precinct Jamestown 5, Precinct Sumner 4, Precinct North Clay, Precinct South Clay; Randolph County: Precinct ARCHDALE 1, Precinct ARCHDALE 2, Precinct ARCHDALE 3, Precinct ASHEBORO ARMORY, Precinct ASHEBORO EASTSIDE, Precinct ASHEBORO LINDLEY PARK, Precinct ASHEBORO LOFLIN, Precinct ASHEBORO McCRARY, Precinct ASHEBORO NORTH 1, Precinct ASHEBORO NORTH 2, Precinct ASHEBORO SOUTHPOINTE, Precinct ASHEBORO WESTSIDE, Precinct BACK CREEK, Precinct BROWER, Precinct CEDAR GROVE EAST, Precinct CEDAR GROVE WEST, Precinct COLERIDGE, Precinct FALLS, Precinct FRANKLINVILLE, Precinct GRANT, Precinct LEVEL CROSS, Precinct LIBERTY, Precinct NEW MARKET NORTH, Precinct NEW MARKET SOUTH, Precinct PLEASANT GROVE, Precinct PROSPECT, Precinct PROVIDENCE 1, Precinct PROVIDENCE 2, Precinct RAMSEUR, Precinct RANDLEMAN EAST, Precinct RANDLEMAN WEST, Precinct RICHLAND, Precinct STALEY, Precinct TABERNACLE, Precinct TRINITY EAST, Precinct TRINITY TABERNACLE, Precinct TRINITY WEST, Precinct UNION.

District 22: Cabarrus County: Precinct 0101, Precinct 0102, Precinct 0103, Precinct 0104, Precinct 0201, Precinct 0202, Precinct 0203, Precinct 0204, Precinct 0205, Precinct 0206, Precinct 0207, Precinct 0300, Precinct 0401, Precinct 0405, Precinct 0406, Precinct 0407, Precinct 0408, Precinct 0409, Precinct 0410, Precinct 1000, Precinct 1101, Precinct 1102, Precinct 1201, Precinct 1202, Precinct 1203, Precinct 1204, Precinct 1205, Precinct 1206, Precinct 1207, Precinct 1208, Precinct 1209, Precinct 1210, Precinct 1211, Precinct 1212; Mecklenburg County: Precinct 127, Precinct 128, Precinct 234, Precinct 235, Precinct 236, Precinct 238, Precinct 239, Precinct 241, Precinct 201, Precinct 202, Precinct 206, Precinct 219, Precinct 221.

District 23: Davidson County: Precinct BOONE, Precinct CENTRAL, Precinct COTTON GROVE, Precinct LEXINGTON 1, Precinct LEXINGTON 2, Precinct LEXINGTON 4, Precinct WARD 1, Precinct WARD 2, Precinct WARD 3, Precinct WARD 4, Precinct WARD 5, Precinct WARD 6, Precinct SILVER HILL, Precinct SOUTHMONT, Precinct THOMASVILLE 2, Precinct THOMASVILLE 3, Precinct THOMASVILLE 7; Iredell County: Precinct Barringer, Precinct Coddle Creek 2, Precinct Chambersburg, Precinct Cool Springs, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 3, Precinct Statesville 4, Precinct Statesville 5, Precinct Statesville 6, Precinct Turnersburg; Rowan County: Precinct Cleveland, Precinct Franklin, Precinct Milford Hills County, Precinct East Spencer, Precinct Scotch Irish, Precinct Spencer, Precinct Unity, Precinct West Ward II, Precinct West Ward I, Precinct South Ward, Precinct North Ward I, Precinct East Ward I, Precinct West Innes, Precinct North Ward II, Precinct Milford Hills City, Precinct West Ward III, Precinct East Ward II.

District 24: Bladen County: Precinct CENTRAL, Precinct COLLY, Precinct CYPRESS CREEK, Precinct HOLLOW, Precinct LAKE CREEK, Precinct TURNBULL, Precinct WHITE OAK; Cumberland County: Precinct CROSS CREEK 1, Precinct CROSS CREEK 2, Precinct CROSS CREEK 7, Precinct CROSS CREEK 8, Precinct CROSS CREEK 9, Precinct CUMBERLAND 2, Precinct CUMBERLAND 3, Precinct HOPE MILLS 2, Precinct PEARCES MILL 2, Precinct PEARCES MILL 3, Precinct PEARCES MILL 4, Precinct ALDERMAN, Precinct ARRAN HILLS, Precinct BEAVER DAM, Precinct CROSS CREEK 10, Precinct CROSS CREEK 11, Precinct CROSS CREEK 12, Precinct CROSS CREEK 14, Precinct CROSS CREEK 15, Precinct CROSS CREEK 18, Precinct CROSS CREEK 20, Precinct CROSS CREEK 21, Precinct CROSS CREEK 22, Precinct CROSS CREEK 24, Precinct CROSS CREEK 26, Precinct CROSS CREEK 29, Precinct CROSS CREEK 30, Precinct CROSS CREEK 31, Precinct CROSS CREEK 34, Precinct CEDAR

CREEK, Precinct EASTOVER, Precinct JUDSON/VANDER, Precinct SHERWOOD, Precinct STEDMAN, Precinct WADE; Robeson County: Precinct PARKTON, Precinct NORTH ST PAULS, Precinct SOUTH ST PAULS; Sampson County: Precinct AUTRYVILLE, Precinct CLEMENT, Precinct HERRING, Precinct LAKEWOOD, Precinct ROSEBORO.

District 25: Cleveland County: Precinct Shelby 4, Precinct Shelby 5, Precinct Shelby 8; Tract 9502: Block Group 3: Block 3041; Tract 9508: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2008, Block 2009, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2039, Block 2040; Tract 9509: Block Group 1: Block 1003, Block 1004; Precinct Waco, Precinct Fallston, Precinct Lawndale; Gaston County: Precinct York Chester, Precinct Victory, Precinct Pleasant Ridge, Precinct Health Center, Precinct Myrtle, Precinct Highland, Precinct Wood Hill, Precinct Grier, Precinct Sherwood, Precinct Armstrong, Precinct Flint Grove, Precinct Ranlo, Precinct Gardner Park, Precinct Robinson 1, Precinct Robinson 2, Precinct Ashbrook, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Lowell, Precinct Tryon, Precinct Landers Chapel, Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville 3, Precinct High Shoals, Precinct Dallas 1, Precinct Dallas 2; Lincoln County: Precinct Boger City, Precinct Crouse, Precinct Daniels/Vale, Precinct Hickory Grove, Precinct Heavners, Precinct Lithia, Precinct Love Memorial, Precinct Lincolnton North, Precinct Lincolnton South, Precinct Long Shoals, Precinct North Brook I/II, Precinct Salem.

District 26: Catawba County, Iredell County: Precinct Fallstown, Precinct Shiloh; Lincoln County: Precinct Asbury, Precinct Buffalo Shoals, Precinct North Brook III, Precinct Pumpkin Center.

District 27: Davie County, Wilkes County, Yadkin County, Iredell County: Precinct Bethany, Precinct Concord, Precinct Eagle Mills, Precinct New Hope, Precinct Olin, Precinct Sharpesburg, Precinct Union Grove.

District 28: Madison County, Yancey County, Buncombe County: Precinct Asheville 1, Precinct Asheville 2, Precinct Asheville 3, Precinct Asheville 4, Precinct Asheville 5, Precinct Asheville 6, Precinct Asheville 7, Precinct Asheville 8, Precinct Asheville 9, Precinct Asheville 10, Precinct Asheville 11, Precinct Asheville 12, Precinct Asheville 13, Precinct Asheville 14, Precinct Asheville 15, Precinct Asheville 16, Precinct Asheville 17, Precinct Asheville 20, Precinct Asheville 21, Precinct Asheville 22, Precinct Asheville 23, Precinct Asheville 24, Precinct Asheville 25, Precinct Averys Creek (30), Precinct Black Mountain 1 (32), Precinct Black Mountain 2 (33), Precinct Black Mountain 3 (34), Precinct Black Mountain 5

(36), Precinct Flat Creek (40), Precinct French Broad (41), Precinct Hazel 1 (42), Precinct Hazel 2 (43), Precinct Lower Hominy 1 (44), Precinct Lower Hominy 2 (45), Precinct Lower Hominy 3 (46), Precinct Upper Hominy 2 (48), Precinct Leicester 1 (52), Precinct Limestone 1 (54), Precinct Limestone 3 (56), Precinct North Buncombe (58), Precinct Reems Creek (59), Precinct Reynolds (60), Precinct Swannanoa 1 (64), Precinct Weaverville (67), Precinct West Buncombe 1 (68, 681), Precinct West Buncombe 2 (69), Precinct Woodfin (70), Precinct Woodland Hills (71), Precinct Asheville 28, Precinct Asheville 27, Precinct Black Mountain 4 (35), Precinct Upper Hominy CRU (47, 49), Precinct Ivy CRU (50, 51), Precinct Leicester Sandy Mush CRU (63, 53), Precinct Riceville Swannanoa CRU 2 (62, 66), Precinct Riceville Swannanoa 2 CRU (61, 65); Burke County: Precinct Drexel 1, Precinct Jonas Ridge, Precinct Linville 1, Precinct Linville 2, Precinct Lower Creek, Precinct Morganton 1, Precinct Morganton 4, Precinct Morganton 5, Precinct Morganton 6, Precinct Morganton 7, Precinct Morganton 8, Precinct Morganton 9, Precinct Morganton 10, Precinct Quaker Meadows 1, Precinct Quaker Meadows 2, Precinct Silver Creek 1, Precinct Silver Creek 2, Precinct Silver Creek 3, Precinct Upper Creek; McDowell County: Precinct Marion 1, Precinct Marion 2, Precinct Marion 3, Precinct Marion 4, Precinct Marion 5, Precinct Pleasant Gardens, Precinct West Marion, Precinct Dysartsville, Precinct Higgins, Precinct Nebo, Precinct Old Fort 1, Precinct Old Fort 2.

District 29: Cherokee County, Graham County, Swain County, Clay County: Precinct Brasstown, Precinct Hayesville 1, Precinct Hayesville Central, Precinct Tusquittee; Haywood County: Precinct Allens Creek, Precinct Big Creek, Precinct Crabtree, Precinct Center Waynesville, Precinct East Fork, Precinct East Waynesville, Precinct Hazelwood, Precinct Iron Duff, Precinct Ivy Hill, Precinct Jonathan Creek, Precinct Lake Junaluska, Precinct Pigeon, Precinct Saunook, Precinct White Oak, Precinct West Waynesville, Precinct Beaverdam 1, Precinct Beaverdam 2, Precinct Beaverdam 3, Precinct Beaverdam 4, Precinct Beaverdam 7, Precinct Center Pigeon, Precinct Fines Creek 1, Precinct Fines Creek 2, Precinct North Clyde, Precinct South Clyde, Precinct South Waynesville 1, Precinct South Waynesville 2, Precinct Beaverdam 5-6; Jackson County: Precinct Barkers Creek, Precinct Canada, Precinct Caney Fork, Precinct Cullowhee, Precinct Dillsboro, Precinct Greens Creek, Precinct Qualla, Precinct River, Precinct Savannah, Precinct Sylva North Ward, Precinct Sylva South Ward, Precinct Webster, Precinct Scotts Creek CRU; Macon County: Precinct North Franklin, Precinct South Franklin: Tract 9703: Block Group 2: Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007,

Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040; Block Group 7: Block 7035, Block 7036, Block 7037, Block 7038, Block 7040; Tract 9706: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003; Tract 9707: Block Group 1: Block 1027; Precinct East Franklin, Precinct Iotla, Precinct Union, Precinct Cowee; Transylvania County: Precinct Brevard 1, Precinct Brevard 2, Precinct Brevard 3, Precinct Brevard 4, Precinct Boyd, Precinct Pisgah Forest.

District 30: Cumberland County: Precinct HOPE MILLS 1, Precinct HOPE MILLS 3, Precinct STONEY POINT; Hoke County: Precinct ANTIOCH, Precinct PUPPY CREEK, Precinct ROCKFISH, Precinct STONEWALL, Precinct Voting Districts not defined; Moore County: Precinct KNOLLWOOD, Precinct LITTLE RIVER, Precinct NORTH SOUTHERN PINES, Precinct PINEHURST A, Precinct PINEHURST B, Precinct PINEHURST C; Robeson County: Precinct ALFORDSVILLE, Precinct BLACK SWAMP, Precinct BRITTS, Precinct BURNT SWAMP, Precinct FAIRMONT 1, Precinct FAIRMONT 2, Precinct GADDY, Precinct EAST HOWELLSVILLE, Precinct WEST HOWELLSVILLE, Precinct LUMBER BRIDGE, Precinct LUMBERTON 1, Precinct LUMBERTON 2, Precinct LUMBERTON 3, Precinct LUMBERTON 4, Precinct LUMBERTON 5, Precinct LUMBERTON 6, Precinct LUMBERTON 7, Precinct LUMBERTON 8, Precinct MAXTON, Precinct ORRUM, Precinct NORTH PEMBROKE, Precinct SOUTH PEMBROKE, Precinct PHILADEPLUS, Precinct RAFT SWAMP, Precinct RED SPRINGS 1, Precinct RED SPRINGS 2, Precinct RENNERT, Precinct ROWLAND, Precinct SADDLETREE, Precinct SHANNON, Precinct OXENDINE, Precinct PROSPECT, Precinct SMYRNA, Precinct STERLINGS, Precinct THOMPSON, Precinct UNION, Precinct WHITEHOUSE, Precinct WISHARTS.

District 31: Guilford County: Precinct Greensboro 3, Precinct Greensboro 4, Precinct Greensboro 5, Precinct Greensboro 6, Precinct Greensboro 46, Precinct Greensboro 52, Precinct Greensboro 53, Precinct Greensboro 54, Precinct Greensboro 55, Precinct Greensboro 65, Precinct Greensboro 66, Precinct Greensboro 67, Precinct Greensboro 68, Precinct Greensboro 69, Precinct Greensboro 70, Precinct Greensboro 71, Precinct Greensboro 72, Precinct Greensboro 73, Precinct Greensboro 74, Precinct Greensboro 75, Precinct

Gibsonville, Precinct High Point 1, Precinct High Point 2, Precinct High Point 3, Precinct High Point 4, Precinct High Point 5, Precinct High Point 6, Precinct High Point 7, Precinct High Point 8, Precinct High Point 9, Precinct High Point 10, Precinct High Point 11, Precinct High Point 18, Precinct Pleasant Garden 1, Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Fentress 1, Precinct Fentress 2, Precinct Jamestown 3, Precinct Jamestown 4, Precinct Jefferson 1, Precinct Jefferson 2, Precinct Jefferson 3, Precinct Jefferson 4, Precinct Monroe 1, Precinct Monroe 3, Precinct North Madison, Precinct South Madison, Precinct Sumner 1, Precinct Sumner 2, Precinct Sumner 3, Precinct North Washington, Precinct South Washington.

District 32: Guilford County: Precinct Center Grove 3, Precinct Friendship 1, Precinct Greensboro 1, Precinct Greensboro 2, Precinct Greensboro 7, Precinct Greensboro 9, Precinct Greensboro 10, Precinct Greensboro 11, Precinct Greensboro 12, Precinct Greensboro 13, Precinct Greensboro 14, Precinct Greensboro 15, Precinct Greensboro 16, Precinct Greensboro 17, Precinct Greensboro 18, Precinct Greensboro 19, Precinct Greensboro 20, Precinct Greensboro 21, Precinct Greensboro 22, Precinct Greensboro 23, Precinct Greensboro 24, Precinct Greensboro 25, Precinct Greensboro 26, Precinct Greensboro 28, Precinct Greensboro 29, Precinct Greensboro 31, Precinct Greensboro 35, Precinct Greensboro 36, Precinct Greensboro 37, Precinct Greensboro 38, Precinct Greensboro 41, Precinct Greensboro 42, Precinct Greensboro 43, Precinct Greensboro 44, Precinct Greensboro 45, Precinct Greensboro 47, Precinct Greensboro 48, Precinct Greensboro 49, Precinct Greensboro 50, Precinct Greensboro 51, Precinct Greensboro 56, Precinct Greensboro 57, Precinct Greensboro 58, Precinct Greensboro 59, Precinct Greensboro 60, Precinct Greensboro 61, Precinct Greensboro 62, Precinct Greensboro 63, Precinct Greensboro 8, Precinct High Point 12, Precinct High Point 17, Precinct High Point 19, Precinct High Point 20, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Monroe 2.

District 33: Mecklenburg County: Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 016, Precinct 022, Precinct 025, Precinct 027, Precinct 031, Precinct 039, Precinct 042, Precinct 050, Precinct 052, Precinct 054, Precinct 055, Precinct 056, Precinct 057, Precinct 058, Precinct 059, Precinct 060, Precinct 073, Precinct 075, Precinct 076, Precinct 077, Precinct 082, Precinct 087, Precinct 088, Precinct 092, Precinct 097, Precinct 098, Precinct 101, Precinct 104, Precinct 111, Precinct 114, Precinct 120, Precinct 225, Precinct 231, Precinct 129, Precinct 210, Precinct 222.

District 34: Mecklenburg County: Precinct 004, Precinct 023, Precinct 024, Precinct 026, Precinct 040, Precinct 041, Precinct 053,

Precinct 078, Precinct 079, Precinct 080, Precinct 081, Precinct 089, Precinct 105, Precinct 107, Precinct 116, Precinct 122, Precinct 123, Precinct 126, Precinct 228, Precinct 229, Precinct 230, Precinct 237, Precinct 243, Precinct 132, Precinct 135, Precinct 138, Precinct 141, Precinct 200, Precinct 203, Precinct 204, Precinct 205, Precinct 209, Precinct 211, Precinct 212, Precinct 213, Precinct 214, Precinct 223, Precinct 224.

District 35: Mecklenburg County: Precinct 008, Precinct 019, Precinct 032, Precinct 048, Precinct 065, Precinct 067, Precinct 068, Precinct 069, Precinct 070, Precinct 071, Precinct 072, Precinct 074, Precinct 085, Precinct 086, Precinct 090, Precinct 091, Precinct 093, Precinct 096, Precinct 100, Precinct 103, Precinct 106, Precinct 110, Precinct 112, Precinct 113, Precinct 118, Precinct 119, Precinct 121, Precinct 226, Precinct 227, Precinct 232, Precinct 233, Precinct 131, Precinct 136, Precinct 137, Precinct 139, Precinct 140, Precinct 144, Precinct 215, Precinct 216, Precinct 217, Precinct 218, Precinct 220; Union County: Precinct 15, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 22, Precinct 28, Precinct 31, Precinct 33, Precinct 37, Precinct 40, Precinct 41.

District 36: Franklin County: Precinct WEST YOUNGSVILLE, Precinct EAST HARRIS, Precinct PEARCES, Precinct EAST YOUNGSVILLE, Precinct WEST HARRIS; Wake County: Precinct 01-42, Precinct 01-45, Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 05-00, Precinct 07-02, Precinct 07-03, Precinct 07-04, Precinct 07-05, Precinct 07-06, Precinct 07-07, Precinct 07-10, Precinct 07-11, Precinct 07-12, Precinct 14-01, Precinct 14-02, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05, Precinct 19-06, Precinct 19-07, Precinct 19-08.

District 37: Rutherford County, Cleveland County: Precinct Shelby 1, Precinct Shelby 2, Precinct Shelby 3, Precinct Shelby 6, Precinct Shelby 7, Precinct Shelby 8; Tract 9508: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032; Tract 9509: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Precinct Kings Mountain 1, Precinct Kings Mountain 2, Precinct Kings Mountain 3, Precinct Kings Mountain 4, Precinct Lattimore, Precinct Boiling Springs, Precinct Mulls, Precinct Oak

Grove, Precinct Rippy, Precinct Bethware, Precinct Grover, Precinct Hot Springs, Precinct Kingstown, Precinct MRB-YO, Precinct Polkville, Precinct Shanghai; Polk County: Precinct Tryon 1, Precinct Tryon 3, Precinct White Oak, Precinct Columbus 1, Precinct Columbus 2, Precinct Green Creek.

District 38: Cabarrus County: Precinct 0402, Precinct 0403, Precinct 0404, Precinct 0500, Precinct 0600, Precinct 0700, Precinct 0800, Precinct 0900; Davidson County: Precinct DENTON, Precinct EMMONS, Precinct HEALING SPRINGS, Precinct HOLLY GROVE, Precinct LIBERTY, Precinct SILVER VALLEY, Precinct SOUTH DAVIDSON, Precinct THOMASVILLE 1, Precinct THOMASVILLE 4, Precinct THOMASVILLE 5, Precinct THOMASVILLE 9, Precinct THOMASVILLE 10; Randolph County: Precinct CONCORD, Precinct NEW HOPE; Rowan County: Precinct Barnhardt Mill, Precinct Blackwelder Park, Precinct Bostian Crossroads, Precinct Bradshaw, Precinct North China Grove, Precinct South China Grove, Precinct South Locke, Precinct East Enochville, Precinct Faith, Precinct Rock Grove, Precinct Granite Quarry, Precinct Hatters Shop, Precinct West Kannapolis, Precinct East Kannapolis, Precinct West Landis, Precinct East Landis, Precinct North Locke, Precinct Morgan I, Precinct Morgan II, Precinct Mount Ulla, Precinct Rockwell, Precinct Gold Knob, Precinct Steele, Precinct Sumner, Precinct Trading Ford, Precinct Bostian School, Precinct West Enochville; Stanly County: Precinct Furr 1, Precinct Furr 2, Precinct Big Lick 2, Precinct Endy, Precinct Almond.

District 39: Gaston County: Precinct Forest Heights, Precinct Gaston Day, Precinct South Gastonia, Precinct Crowders Mountain, Precinct Belmont 1, Precinct Belmont 2, Precinct Belmont 3, Precinct Catawba Heights, Precinct Southpoint, Precinct Cramerton, Precinct New Hope, Precinct McAdenville, Precinct Union, Precinct Alexis, Precinct Lucia, Precinct Stanley 1, Precinct Stanley 2, Precinct Mt Holly 1, Precinct Mt Holly 2; Iredell County: Precinct Coddle Creek 1, Precinct Coddle Creek 3, Precinct Coddle Creek 4, Precinct Davidson 1, Precinct Davidson 2; Lincoln County: Precinct Denver, Precinct Iron Station, Precinct Lowesville, Precinct Triangle, Precinct Westport; Mecklenburg County: Precinct 240, Precinct 242, Precinct 133, Precinct 134, Precinct 142, Precinct 143, Precinct 207, Precinct 208.

District 40: Mecklenburg County: Precinct 001, Precinct 002, Precinct 003, Precinct 005, Precinct 006, Precinct 007, Precinct 009, Precinct 010, Precinct 015, Precinct 017, Precinct 018, Precinct 020, Precinct 021, Precinct 028, Precinct 029, Precinct 030, Precinct 033, Precinct 034, Precinct 035, Precinct 036, Precinct 037, Precinct 038, Precinct 043, Precinct 044, Precinct 045, Precinct 046, Precinct 047, Precinct 049, Precinct 051, Precinct 061, Precinct 062, Precinct 063,

Precinct 064, Precinct 066, Precinct 083, Precinct 084, Precinct 094, Precinct 095, Precinct 099, Precinct 102, Precinct 108, Precinct 109, Precinct 115, Precinct 117, Precinct 124, Precinct 125, Precinct 130.

District 41: Cumberland County: Precinct CROSS CREEK 3, Precinct CROSS CREEK 4, Precinct CROSS CREEK 5, Precinct CROSS CREEK 6, Precinct CUMBERLAND 1, Precinct MORGANTON ROAD, Precinct AUMAN, Precinct BLACK RIVER, Precinct BRENTWOOD, Precinct CROSS CREEK 13, Precinct CROSS CREEK 16, Precinct CROSS CREEK 17, Precinct CROSS CREEK 19, Precinct CROSS CREEK 23, Precinct CROSS CREEK 25, Precinct CROSS CREEK 27, Precinct CROSS CREEK 28, Precinct CROSS CREEK 32, Precinct CROSS CREEK 33, Precinct CLIFFDALE WEST, Precinct LINDEN, Precinct LONG HILL, Precinct LAKE RIM, Precinct MANCHESTER, Precinct MONTIBELLO, Precinct SPRING LAKE, Precinct WEST AREA; Sampson County: Precinct MINGO, Precinct PLAINVIEW.

District 42: Henderson County, Buncombe County: Precinct Asheville 18, Precinct Asheville 19, Precinct Biltmore (31), Precinct Broad River (37), Precinct Fairview 1 (38), Precinct Fairview 2 (39), Precinct Limestone 2 (55), Precinct Limestone 4 (57), Precinct Asheville 29; Clay County: Precinct Hayesville 2, Precinct Hiawasse, Precinct Shooting Creek, Precinct Sweetwater, Precinct Warne; Haywood County: Precinct Cecil; Jackson County: Precinct Cashiers, Precinct Hamburg, Precinct Mountain; McDowell County: Precinct Crooked Creek, Precinct Glenwood, Precinct Montford Cove; Macon County: Precinct South Franklin: Tract 9703: Block Group 6: Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035; Block Group 8: Block 8038, Block 8047, Block 8048; Tract 9707: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1038; Precinct Millshoal, Precinct Ellijay, Precinct Sugarfork, Precinct Highlands, Precinct Flats, Precinct Smithbridge, Precinct Cartoogechaye, Precinct Nantahala, Precinct Burningtown; Polk County: Precinct Tryon 2, Precinct Saluda, Precinct Cooper Gap; Transylvania County: Precinct Catheys Creek, Precinct Cedar Mountain, Precinct Dunns Rock, Precinct Little River, Precinct Williamson Creek, Precinct Hogback CRU, Precinct Gloucester CRU, Precinct Eastatoe CRU.

District 43: Caswell County, Person County, Rockingham County, Stokes County: Precinct EAST WALNUT COVE, Precinct WEST WALNUT COVE, Precinct FREEMAN, Precinct PINE HALL.

District 44: Harnett County: Precinct BUCKHORN, Precinct HECTORS CREEK; Johnston County: Precinct NORTH BANNER, Precinct EAST CLAYTON, Precinct NORTH CLAYTON, Precinct WEST CLAYTON, Precinct NORTH CLEVELAND, Precinct NORTH ELEVATION, Precinct SOUTH ELEVATION, Precinct PLEASANT GROVE, Precinct WILDERS, Precinct SOUTH CLEVELAND, Precinct SOUTH CLAYTON; Wake County: Precinct 04-06, Precinct 04-07, Precinct 04-10, Precinct 04-12, Precinct 04-14, Precinct 04-16, Precinct 04-19, Precinct 06-02, Precinct 06-03, Precinct 12-01, Precinct 12-02, Precinct 12-04, Precinct 12-06, Precinct 15-01, Precinct 15-02, Precinct 16-05, Precinct 18-02, Precinct 18-03, Precinct 18-04, Precinct 18-05, Precinct 18-08, Precinct 20-03, Precinct 20-05.

District 45: Alexander County, Caldwell County, Mitchell County, Avery County: Precinct Altamont, Precinct Carey's Flat, Precinct Ingalls, Precinct Pineola; Burke County: Precinct Drexel 3, Precinct Icard 1, Precinct Icard 2, Precinct Icard 3, Precinct Icard 4, Precinct Icard 5, Precinct Lovelady 1, Precinct Lovelady 2, Precinct Lovelady 4, Precinct Lower Fork, Precinct Smoky Creek, Precinct Upper Fork; Cleveland County: Precinct Casar; McDowell County: Precinct North Cove, Precinct Turkey Cove.

District 46: Forsyth County: Precinct 013, Precinct 014, Precinct 021, Precinct 031, Precinct 032, Precinct 033, Precinct 034, Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 061, Precinct 062, Precinct 066, Precinct 067, Precinct 068, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 091, Precinct 092, Precinct 101, Precinct 111, Precinct 112, Precinct 122, Precinct 123, Precinct 131, Precinct 132, Precinct 133, Precinct 602, Precinct 708, Precinct 709, Precinct 801, Precinct 802, Precinct 804, Precinct 809, Precinct 906, Precinct 909; Stokes County: Precinct DANBURY, Precinct SANDY RIDGE, Precinct LAWSONVILLE, Precinct CHESTNUT GROVE, Precinct FRANCISCO, Precinct FRANS, Precinct REYNOLDS, Precinct FLINTY KNOLL, Precinct PINNACLE, Precinct EAST KING, Precinct WEST KING, Precinct MOUNT OLIVE, Precinct MIZPAH, Precinct WILSONS STORE, Precinct GERMANTON, Precinct MITCHELL.

(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 2000 United States Census. Boundaries are as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services

Office on its computer database as of May 1, 2001, to reflect precincts divided or renamed as outlined in subsection (c) of this section. However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK.

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect precincts divided or renamed by county boards of elections after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in the following counties:

- (1) Buncombe County:
 - a. Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.
 - b. Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.
 - c. Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.
 - d. Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.
 - e. Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.
- (2) Cabarrus County:
 - a. Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.
 - b. Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.
- (3) Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady1 and Lovelady2.
- (4) Chatham County:
 - a. Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.
 - b. Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.
- (5) Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.
- (6) Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.
- (7) Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.
- (8) Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.
- (9) Orange County:

- a. Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.
 - b. Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.
- (10) Rowan County:
- a. Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.
 - b. Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.
- (11) Wake County:
- a. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.
 - b. Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.
 - c. Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.
 - d. Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.
 - e. Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.
 - f. Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.
 - g. Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.
 - h. Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.
 - i. Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.
 - j. Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.
 - k. Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.
 - l. Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.
 - m. Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.
 - n. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.
- (d) If any precinct boundary is changed, that change shall not change the boundary of a senatorial district, which shall remain the same.
- (e) If this section does not specifically assign any area within North Carolina to a district, and the area is:
- (1) Entirely surrounded by a single district, the area shall be deemed to have been assigned to that district.

- (2) Contiguous to two or more districts, the area shall be deemed to have been assigned to that district which contains the least population according to the 2000 United States Census.
- (3) Contiguous to only one district and to another state or the Atlantic Ocean, the area shall be deemed to have been assigned to that district."

SECTION 2. If Senate Bill 35 of the 2001 General Assembly becomes law, then G.S. 120-1(b) as rewritten by Section 1 of this act reads as rewritten:

"(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 2000 United States Census. Boundaries are as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of May 1, 2001, to reflect precincts divided or renamed as outlined in subsection (c) of this section. However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as amended, Section 1 of Session Law 1998-15 as amended prevails to the extent of the conflict."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law on the date it was ratified.

H.B. 1025

SESSION LAW 2001-459

AN ACT TO ESTABLISH HOUSE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-2 is rewritten to read:

"§ 120-2. *House apportionment specified.*

(a) For the purpose of nominating and electing members of the North Carolina House of Representatives in 2002 and periodically thereafter; the State of North Carolina shall be divided into the following districts with each district electing one Representative, except that Districts 17, 28, 52, 73, 92, and 106 each elect two Representatives and except that District 29 elects three Representatives:

District 1: Camden County, Currituck County, Pasquotank County, Gates County: Precinct DISTRICT 4, Precinct DISTRICT 5.

District 2: Chowan County, Dare County, Perquimans County, Tyrrell County, Washington County: Precinct LEES MILL: Tract 9501: Block Group 3: Block 3031; Block Group 4: Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4022, Block 4023, Block 4024, Block 4025, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4997, Block 4998; Block Group 6: Block 6000, Block 6001, Block 6004; Tract 9503: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1026; Precinct SCUPPERNONG, Precinct SKINNERSVILLE.

District 3: Beaufort County: Precinct BLOUNTS CREEK, Precinct AURORA, Precinct CHOCOWINITY, Precinct EDWARD, Precinct WASHINGTON WARD 1, Precinct WASHINGTON WARD 2, Precinct WASHINGTON WARD 4: Tract 9903: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007; Tract 9904: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035; Block Group 4: Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064; Tract 9905: Block Group 5: Block 5021, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5034, Block 5035; Precinct GILEAD; Craven County: Precinct TRENT WOODS, Precinct RHEMS: Tract 9604: Block Group 7: Block 7000, Block 7001, Block 7002, Block 7999; Precinct RIVER BEND, Precinct CLARKS: Tract 9603: Block Group 1: Block 1000, Block 1001,

Block 1002, Block 1003, Block 1998, Block 1999; Tract 9605: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1020, Block 1021, Block 1022, Block 1028, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Block Group 3: Block 3016, Block 3017, Block 3021, Block 3022, Block 3023, Block 3025, Block 3026, Block 3994, Block 3995, Block 3996; Precinct JASPER, Precinct BRIDGETON, Precinct TRUITT, Precinct ERNUL, Precinct VANCEBORO, Precinct EPWORTH, Precinct GRANTHAM, Precinct FAIRFIELD HARBOUR, Precinct BRICES CREEK, Precinct GEORGE STREET: Tract 9604: Block Group 1: Block 1000, Block 1001, Block 1027, Block 1040, Block 1041, Block 1042, Block 1043, Block 1051, Block 1052, Block 1053, Block 1054, Block 1062, Block 1995, Block 1998, Block 1999; Tract 9609: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1994, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2005, Block 2012, Block 2013, Block 2014; Block Group 3: Block 3000, Block 3001, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3997, Block 3998, Block 3999; Precinct GROVER C FIELDS: Tract 9605: Block Group 4: Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4032; Tract 9606: Block Group 2: Block 2000, Block 2005, Block 2006; Block Group 3: Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3026, Block 3039, Block 3040, Block 3041; Block Group 4: Block 4013, Block 4014, Block 4018, Block 4019, Block 4020, Block 4021, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037; Tract 9607: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2023, Block 2024; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020; Precinct GLENBURNIE PARK: Tract 9605: Block Group 3:

Block 3000, Block 3001, Block 3997, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4033, Block 4034, Block 4998, Block 4999; Tract 9606: Block Group 3: Block 3000; Tract 9608: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019; Precinct WEST NEW BERN: Tract 9604: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036; Block Group 3: Block 3000, Block 3001, Block 3002; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6012, Block 6013, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6995, Block 6999; Tract 9606: Block Group 1: Block 1007; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014; Tract 9607: Block Group 3: Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014; Pamlico County: Precinct ALLIANCE, Precinct REELSBORO, Precinct STONEWALL, Precinct BAYBORO.

District 4: Hyde County, Beaufort County: Precinct HUNTERS BRIDGE, Precinct BELHAVEN, Precinct NORTH CREEK, Precinct RIVER ROAD, Precinct WOODARDS POND, Precinct BEAVER DAM, Precinct PANTEGO, Precinct PINETOWN, Precinct PS JONES WARD 3, Precinct SURRY BATH, Precinct WASHINGTON WARD 4: Tract 9904: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006; Precinct WASHINGTON PARK; Carteret County:

Precinct ATLANTIC, Precinct BETTIE, Precinct BEAUFORT 1, Precinct BEAUFORT 2, Precinct CEDAR ISLAND, Precinct DAVIS: Tract 9701: Block Group 4: Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4140, Block 4962, Block 4963, Block 4964; Precinct HARKERS ISLAND: Tract 9701: Block Group 4: Block Group 1: Block 1050, Block 1993; Block Group 2: Block 2027, Block 2996; Tract 9702: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2983, Block 2985, Block 2986, Block 2987; Precinct HARLOWE, Precinct MERRIMON, Precinct MOREHEAD 1, Precinct MOREHEAD 2, Precinct MOREHEAD 4, Precinct NEWPORT 1, Precinct NEWPORT 2: Tract 9707: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2016, Block 2017; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3008; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4013, Block 4014, Block 4043, Block 4044, Block 4051, Block 4052; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029; Tract 9708: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1017; Precinct NORTH RIVER, Precinct SEALEVEL, Precinct WIREGRASS, Precinct MARSHALLBERG, Precinct OTWAY STRAITS CRU; Pamlico County: Precinct ORIENTAL, Precinct HOBUCKEN, Precinct VANDEMERE, Precinct ARAPAHOE: Tract 9501: Block Group 6: Block 6027, Block 6028, Block 6029, Block 6030, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6043, Block 6044, Block 6997; Tract 9502: Block Group 1: Block 1054, Block 1055,

Block 1056, Block 1057, Block 1058, Block 1059, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075; Block Group 3: Block 3992; Block Group 4: Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4997, Block 4998; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5027, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5999; Block Group 6: Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6043, Block 6044, Block 6045, Block 6046, Block 6047, Block 6048, Block 6049, Block 6050, Block 6051, Block 6052, Block 6053, Block 6054, Block 6055, Block 6056, Block 6057, Block 6058, Block 6059, Block 6060, Block 6061, Block 6062, Block 6995, Block 6996, Block 6997, Block 6998, Block 6999.

District 5: Hertford County, Northampton County, Bertie County: Precinct INDIAN WOODS, Precinct MERRY HILL, Precinct SNAKEBITE, Precinct ROXOBEL, Precinct COLERAIN 1, Precinct COLERAIN 2, Precinct MITCHELL 1, Precinct MITCHELL 2, Precinct WINDSOR 2, Precinct WOODVILLE, Precinct WHITES; Gates County: Precinct DISTRICT 1, Precinct DISTRICT 2, Precinct DISTRICT 3.

District 6: Beaufort County: Precinct OLD FORD, Precinct TRANTERS CREEK; Bertie County: Precinct WINDSOR 1; Martin County: Precinct JAMESVILLE, Precinct WILLIAMS, Precinct BEARGRASS, Precinct CROSS ROADS, Precinct GRIFFINS, Precinct POPLAR POINT, Precinct WILLIAMSTON 1, Precinct WILLIAMSTON 2; Pitt County: Precinct 5.01, Precinct 6.01, Precinct 11.01, Precinct 12.01, Precinct 14.02, Precinct 11.02A, Precinct 11.02B, Precinct 15.10B; Washington County: Precinct LEES MILL: Tract 9501: Block Group 4: Block 4044; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009,

Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057; Block Group 6: Block 6002, Block 6003, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6998, Block 6999; Tract 9502: Block Group 1: Block 1000, Block 1002, Block 1999; Tract 9503: Block Group 1: Block 1022, Block 1027, Block 1028, Block 1029, Block 1085, Block 1086, Block 1087, Block 1088, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1119, Block 1120, Block 1121; Block Group 2: Block 2000, Block 2001, Block 2006, Block 2007, Block 2008, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2071, Block 2072, Block 2073, Block 2074; Precinct PLYMOUTH 1, Precinct PLYMOUTH 2, Precinct PLYMOUTH 3.

District 7: Edgecombe County: Precinct 7-1; Halifax County: Precinct BUTTERWOOD, Precinct CONOCONNARA, Precinct HALIFAX, Precinct HOBGOOD, Precinct HOLLISTER, Precinct PALMYRA, Precinct ROSENEATH, Precinct ROANOKE RAPIDS 7, Precinct ROANOKE RAPIDS 8, Precinct ROANOKE RAPIDS 9, Precinct SCOTLAND NECK 1, Precinct SCOTLAND NECK 2, Precinct ENFIELD 1, Precinct ENFIELD 2, Precinct ENFIELD 3, Precinct LITTLETON 1, Precinct RINGWOOD, Precinct WELDON 1, Precinct WELDON 2, Precinct WELDON 3, Precinct FAUCETT; Martin County: Precinct GOOSE NEST; Nash County: Precinct ROCKY MOUNT 1, Precinct ROCKY MOUNT 2, Precinct ROCKY MOUNT 3, Precinct GRIFFINS, Precinct MANNINGS 1, Precinct SOUTH WHITAKERS, Precinct CASTALIA, Precinct NORTH WHITAKERS 1, Precinct NORTH WHITAKERS 2.

District 8: Edgecombe County: Precinct 1-1, Precinct 2-1: Tract 208: Block Group 2: Block 2038, Block 2040, Block 2041, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2057, Block 2058, Block 2059, Block

2060; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3020, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3079, Block 3081, Block 3082, Block 3083, Block 3084; Tract 209: Block Group 2: Block 2015; Block Group 3: Block 3037; Precinct 3-1, Precinct 4-1; Greene County: Precinct SNOW HILL 1, Precinct ARBA: Tract 9502: Block Group 3: Block 3021, Block 3022, Block 3025, Block 3026, Block 3027, Block 3028, Block 3050, Block 3051; Tract 9503: Block Group 2: Block 2037, Block 2044, Block 2045, Block 2046, Block 2047, Block 2999; Block Group 3: Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3053, Block 3054, Block 3055, Block 3056, Block 3999; Precinct BEAR GARDENS, Precinct BULL HEAD, Precinct CASTORIA, Precinct HOOKERTON, Precinct MAURY: Tract 9501: Block Group 4: Block 4021, Block 4022; Block Group 5: Block 5000, Block 5006, Block 5007, Block 5008, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5018, Block 5019, Block 5020, Block 5021; Block Group 6: Block 6002, Block 6003, Block 6004, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033; Block Group 7: Block 7004; Precinct SHINE: Tract 9502: Block Group 2: Block 2000, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3023, Block 3024, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3045, Block 3996, Block 3997, Block 3998, Block 3999; Tract 9503: Block Group 2:

Block 2042, Block 2043; Precinct SUGG, Precinct WALSTONBURG; Martin County: Precinct HAMILTON, Precinct HASSELL, Precinct ROBERSONVILLE 1, Precinct ROBERSONVILLE 2; Pitt County: Precinct 3.01, Precinct 4.01, Precinct 7.01, Precinct 9.01, Precinct 15.01, Precinct 15.03, Precinct 15.04, Precinct 8.00A, Precinct 8.00B, Precinct 15.05B.

District 9: Greene County: Precinct MAURY: Tract 9501: Block Group 5: Block 5009, Block 5010, Block 5011, Block 5017; Block Group 6: Block 6000, Block 6001, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6019; Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7005, Block 7006, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7020, Block 7021, Block 7022, Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036; Pitt County: Precinct 1.01, Precinct 10.01, Precinct 13.01, Precinct 15.06, Precinct 15.09, Precinct 2.00A, Precinct 2.00B, Precinct 14.03A, Precinct 14.03B, Precinct 15.05A, Precinct 15.07A, Precinct 15.07B, Precinct 15.07C, Precinct 15.08A, Precinct 15.08B, Precinct 15.10A, Precinct 15.11A, Precinct 15.11B, Precinct 15.12A, Precinct 15.12B.

District 10: Duplin County: Precinct ALBERTSON, Precinct BEULAVILLE, Precinct CYPRESS CREEK, Precinct CEDAR FORK, Precinct CHARITY, Precinct CHINQUAPIN: Tract 9906: Block Group 1: Block 1015, Block 1016, Block 1017; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2014, Block 2015; Precinct FAISON: Tract 9902: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3008, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036; Precinct GLISSON, Precinct HALLSVILLE, Precinct KENANSVILLE: Tract 9901: Block Group 2: Block 2049; Tract 9904: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2011, Block 2012, Block 2013, Block 2019; Precinct LOCKLIN, Precinct ROSE HILL, Precinct SMITH CABIN, Precinct WALLACE, Precinct WOLFSCRAPE; Jones County: Precinct BEAVER CREEK, Precinct CYPRESS CREEK, Precinct CHINQUAPIN, Precinct TUCKAHOE; Lenoir County: Precinct PINK HILL 1, Precinct PINK HILL 2; Onslow County: Precinct EAST NORTHWOODS: Tract 1.03: Block Group 1: Block 1050,

Block 1051; Tract 13: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012, Block 2013, Block 2018, Block 2019; Precinct GUM BRANCH: Tract 1.03: Block Group 1: Block 1031; Tract 2: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006; Block Group 2: Block 2000, Block 2001, Block 2002; Block Group 3: Block 3002, Block 3003, Block 3004; Block Group 6: Block 6002, Block 6004, Block 6005, Block 6008, Block 6010, Block 6011, Block 6030, Block 6031, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6040, Block 6041, Block 6042; Tract 12: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1016, Block 1017; Precinct MILLS, Precinct MORTONS, Precinct NORTHEAST, Precinct RICHLANDS, Precinct Voting Districts not defined: Tract 1.03: Block Group 1: Block 1029, Block 1030, Block 1032, Block 1043, Block 1044, Block 1052; Block Group 2: Block 2011, Block 2012; Tract 2: Block Group 6: Block 6001, Block 6003, Block 6006, Block 6007, Block 6009.

District 11: Lenoir County: Precinct MOSELEY HALL, Precinct TRENT 1, Precinct TRENT 2; Wayne County: Precinct Precinct 6: Tract 3.01: Block Group 3: Block 3013, Block 3014, Block 3015, Block 3017; Tract 13: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1044, Block 1045; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003; Precinct Precinct 11: Tract 12: Block Group 1: Block 1001, Block 1002, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1055, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1065, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1082; Tract 18: Block Group 1: Block 1000; Tract 19: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1047, Block 1049, Block 1050;

Block Group 2: Block 2001; Precinct Precinct 12, Precinct Precinct 13, Precinct Precinct 14, Precinct Precinct 15, Precinct Precinct 16, Precinct Precinct 19: Tract 5: Block Group 1: Block 1002; Tract 14: Block Group 5: Block 5000, Block 5001; Precinct Precinct 20, Precinct Precinct 21, Precinct Precinct 22, Precinct Precinct 23, Precinct Precinct 24, Precinct Precinct 25, Precinct Precinct 28, Precinct Precinct 29, Precinct Precinct 30: Tract 7: Block Group 3: Block 3022; Tract 8: Block Group 1: Block 1000, Block 1001; Block Group 3: Block 3026.

District 12: Craven County: Precinct RHEMS: Tract 9604: Block Group 5: Block 5010, Block 5012, Block 5051, Block 5052, Block 5053, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5075, Block 5076; Block Group 6: Block 6014, Block 6015, Block 6021, Block 6022, Block 6023; Block Group 7: Block 7048, Block 7049, Block 7051, Block 7052, Block 7053, Block 7054, Block 7992; Precinct CLARKS: Tract 9604: Block Group 7: Block Group 5: Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062; Tract 9605: Block Group 1: Block 1018, Block 1019, Block 1023, Block 1024, Block 1025, Block 1026; Precinct COVE CITY, Precinct DOVER, Precinct FORT BARNWELL, Precinct CROATAN, Precinct WEST HAVELOCK: Tract 9611: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1996; Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2020, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3002, Block 3003; Tract 9612: Block Group 1: Block 1000, Block 1001, Block 1012, Block 1013, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1992, Block 1993, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Tract 9613: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1999; Block Group 4: Block 4023, Block 4024; Precinct HARLOWE, Precinct GEORGE STREET: Tract 9607: Block Group 1: Block 1000; Tract 9608: Block Group 3: Block 3023, Block 3024, Block 3025, Block 3026, Block 3051; Block

Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004; Block Group 6: Block 6000, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016; Tract 9609: Block Group 1: Block 1005, Block 1006, Block 1008, Block 1040, Block 1041, Block 1042; Block Group 2: Block 2001, Block 2002, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018; Precinct FORT TOTTEN, Precinct GROVER C FIELDS: Tract 9606: Block Group 3: Block 3024, Block 3025, Block 3027, Block 3028, Block 3029; Block Group 4: Block 4001, Block 4015, Block 4016, Block 4017; Precinct H J McDONALD, Precinct GLENBURNIE PARK: Tract 9606: Block Group 4: Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4022, Block 4023, Block 4024, Block 4025; Tract 9608: Block Group 2: Block 2010, Block 2011, Block 2013, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3048; Block Group 6: Block 6001, Block 6002; Precinct WEST NEW BERN: Tract 9604: Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023; Block Group 5: Block 5011, Block 5013, Block 5014, Block 5015, Block 5016, Block 5032, Block 5033, Block 5034, Block 5035; Jones County: Precinct POLLOCKSVILLE, Precinct TRENTON, Precinct WHITE OAK; Lenoir County: Precinct CONTENTNEA, Precinct VANCE, Precinct KINSTON 1, Precinct KINSTON 2, Precinct KINSTON 3: Tract 106: Block Group 2: Block 2030, Block 2031; Block Group 4: Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026; Tract 107: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block

1017, Block 1018, Block 1019, Block 1020, Block 1021; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2047, Block 2048, Block 2049, Block 2056, Block 2996; Precinct KINSTON 5, Precinct KINSTON 6, Precinct KINSTON 7, Precinct KINSTON 8; Pamlico County: Precinct ARAPAHOE: Tract 9502: Block Group 5: Block 5007, Block 5008, Block 5014, Block 5015, Block 5016, Block 5023, Block 5024, Block 5025, Block 5026, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5998.

District 13: Carteret County: Precinct PINE KNOLL SHORES, Precinct ATLANTIC BEACH, Precinct BOGUE, Precinct BROAD CREEK, Precinct CEDAR POINT, Precinct DAVIS: Tract 0: Block Group 0: Block 0995; Tract 9701: Block Group 4: Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4077, Block 4078, Block 4079, Block 4080, Block 4092, Block 4093, Block 4094, Block 4101, Block 4102, Block 4103, Block 4104, Block 4105, Block 4106, Block 4107, Block 4108, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4122, Block 4124, Block 4129, Block 4130, Block 4966, Block 4971, Block 4972; Tract 9702: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2990, Block 2992, Block 2993, Block 2996; Precinct EMERALD ISLE, Precinct HARKERS ISLAND: Tract 0: Block Group 0: Block 0993; Tract 9702: Block Group 2: Block 2014, Block 2015, Block 2018, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2069, Block 2070, Block 2072, Block 2977, Block 2979, Block 2981, Block 2982; Precinct INDIAN BEACH, Precinct MILL CREEK, Precinct MOREHEAD 3, Precinct NEWPORT 2: Tract 9707: Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2020, Block 2998; Block Group 5: Block 5021, Block 5030, Block 5031, Block 5032, Block 5033, Block 5036; Block Group 6: Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6035; Tract 9708: Block Group 1: Block

1010, Block 1011, Block 1012, Block 1013; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3004, Block 3005; Precinct PELETIER, Precinct SALTER PATH, Precinct STACY, Precinct STELLA, Precinct WILDWOOD, Precinct WILLISTON, Precinct CAPE CARTERET, Precinct SMYRNA; Craven County: Precinct WEST HAVELOCK: Tract 9611: Block Group 2: Block 2021, Block 2029, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2073, Block 2074, Block 2075, Block 2086, Block 2087, Block 2088; Block Group 3: Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3998, Block 3999; Tract 9613: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1027, Block 1028; Block Group 4: Block 4001; Block Group 5: Block 5015, Block 5016, Block 5017; Block Group 6: Block 6047, Block 6048, Block 6049, Block 6050; Precinct EAST HAVELOCK; Onslow County: Precinct BEAR CREEK, Precinct FOLKSTONE, Precinct SNEADS FERRY, Precinct SWANSBORO, Precinct Voting Districts not defined: Tract 0: Block Group 0: Block 0997, Block 0998; Tract 1.01: Block Group 3: Block 3995, Block 3996, Block 3997, Block 3998; Tract 4: Block Group 1: Block 1992, Block 1993, Block 1995, Block 1997, Block 1999; Block Group 5: Block 5003, Block 5996, Block 5997, Block 5998; Tract 5: Block Group 1: Block 1007, Block 1008, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1024, Block 1987, Block 1988, Block 1989, Block 1995, Block 1996, Block 1997, Block 1998; Pender County: Precinct LOWER TOPSAIL: Tract 0: Block Group 0: Block 0998; Tract 9801: Block Group 1: Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1992, Block 1993, Block 1994; Tract 9802: Block Group 5: Block 5008, Block 5009, Block 5010, Block 5011, Block 5013, Block 5014, Block 5015, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051,

Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5996, Block 5997, Block 5998; Precinct SURF CITY, Precinct UPPER TOPSAIL: Tract 9801: Block Group 1: Block 1078, Block 1996; Block Group 2: Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2091, Block 2092, Block 2093, Block 2994, Block 2995; Tract 9802: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5016, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5999.

District 14: Onslow County: Precinct BRYNN MARR, Precinct EAST NORTHWOODS: Tract 13: Block Group 2: Block 2010, Block 2011, Block 2014, Block 2015, Block 2016, Block 2017; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026; Tract 14: Block Group 1: Block 1007; Tract 15: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2009, Block 2010, Block 2011; Tract 17: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2022, Block 2023; Precinct JACKSONVILLE: Tract 5: Block Group 1: Block 1003, Block 1004, Block 1005; Tract 6: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1998, Block 1999; Tract 7: Block

Group 1: Block 1000, Block 1001, Block 1002, Block 1994, Block 1995, Block 1996, Block 1997, Block 1999; Tract 8: Block Group 1: Block 1003, Block 1004; Tract 9: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1993, Block 1994, Block 1998, Block 1999; Tract 10: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1004, Block 1997, Block 1998; Tract 11: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2996, Block 2998, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014; Tract 17: Block Group 2: Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2999; Tract 18: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1999; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2039, Block 2040, Block 2041, Block 2042, Block 2996, Block 2997, Block 2998, Block 2999; Tract 19: Block Group 2: Block 2011, Block 2012; Tract 24: Block Group 4: Block 4995; Precinct NEW RIVER, Precinct Voting Districts not defined: Tract 5: Block Group 1: Block 1994; Tract 6: Block Group 1: Block 1003, Block 1997; Tract 7: Block Group 1: Block 1998; Tract 9: Block Group 1: Block 1996, Block 1997.

District 15: Duplin County: Precinct CHINQUAPIN: Tract 9906: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1999; New Hanover County: Precinct HARNETT 2, Precinct HARNETT 5, Precinct HARNETT 7: Tract 116.04: Block Group 2: Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block

2024, Block 2025, Block 2028, Block 2029, Block 2030, Block 2032, Block 2033, Block 2036, Block 2037; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3007, Block 3008, Block 3038, Block 3039, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065; Precinct HARNETT 8, Precinct HARNETT 9; Onslow County: Precinct CATHERINES LAKE, Precinct CROSS ROADS, Precinct GUM BRANCH: Tract 2: Block Group 1: Block 1000, Block 1007; Block Group 2: Block 2009, Block 2010; Tract 12: Block Group 1: Block 1018, Block 1019; Precinct HALF MOON, Precinct HAWS RUN, Precinct HOLLY RIDGE, Precinct HUBERT, Precinct JACKSONVILLE: Tract 18: Block Group 1: Block 1028; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2994; Precinct NINE MILE, Precinct TAR LANDING, Precinct VERONA, Precinct WEST NORTHWOODS, Precinct Voting Districts not defined: Tract 3: Block Group 3: Block 3026, Block 3027; Tract 4: Block Group 2: Block 2020, Block 2997; Tract 5: Block Group 1: Block 1001, Block 1002, Block 1006, Block 1011, Block 1012, Block 1013, Block 1014, Block 1991, Block 1992, Block 1993; Tract 9: Block Group 1: Block 1003, Block 1995; Tract 10: Block Group 1: Block 1003, Block 1999; Tract 18: Block Group 2: Block 2995; Pender County: Precinct LOWER TOPSAIL: Tract 9802: Block Group 2: Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3035, Block 3036, Block 3996; Precinct SCOTTS HILL, Precinct UPPER TOPSAIL: Tract 9802: Block Group 3: Block Group 1: Block 1073; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2047, Block 2049, Block 2050, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2114.

District 16: New Hanover County: Precinct WRIGHTSVILLE BEACH, Precinct HARNETT 3, Precinct HARNETT 4: Tract 119.01: Block Group 1: Block 1017, Block 1018, Block 1019, Block

1024, Block 1025; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008; Block Group 3: Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015; Block Group 4: Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013; Tract 119.02: Block Group 1: Block 1003, Block 1004, Block 1005; Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2015, Block 2016, Block 2017, Block 2018; Precinct MASONBORO 2, Precinct MASONBORO 3, Precinct MASONBORO 4, Precinct MASONBORO 5, Precinct WILMINGTON 11, Precinct WILMINGTON 12, Precinct WILMINGTON 14, Precinct WILMINGTON 16, Precinct WILMINGTON 17, Precinct WILMINGTON 18, Precinct WILMINGTON 21, Precinct WILMINGTON 22, Precinct WILMINGTON 23, Precinct WILMINGTON 24, Precinct FEDERAL POINT 4, Precinct FEDERAL POINT 5.

District 17: Brunswick County: Precinct FRYING PAN, Precinct GRISSETTOWN, Precinct HOODS CREEK: Tract 201: Block Group 7: Block 7020, Block 7021, Block 7022, Block 7030, Block 7039, Block 7040, Block 7042; Tract 206: Block Group 5: Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5076, Block 5088, Block 5089, Block 5090, Block 5091, Block 5092, Block 5093, Block 5094, Block 5095, Block 5096, Block 5099, Block 5100, Block 5194, Block 5195; Precinct TOWN CREEK, Precinct WOODBURN: Tract 201: Block Group 3: Block 3997, Block 3998; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4036, Block 4997, Block 4998, Block 4999; Precinct BELVILLE, Precinct BOLIVIA, Precinct BOILING SPRING LAKES, Precinct LELAND: Tract 201: Block Group 4: Block Group 1: Block 1049, Block 1050, Block 1052; Block Group 2: Block 2006, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034; Block Group 5:

Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6008, Block 6009; Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7004, Block 7005, Block 7006, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7017, Block 7018, Block 7019, Block 7023, Block 7024, Block 7025, Block 7026, Block 7027, Block 7028, Block 7029; Tract 206: Block Group 5: Block 5097, Block 5098; Precinct LONGWOOD, Precinct MOSQUITO, Precinct OAK ISLAND 1, Precinct OAK ISLAND 2, Precinct OAK ISLAND 3, Precinct SOUTHPORT 1, Precinct SOUTHPORT 2, Precinct SHINGLETREE 1, Precinct SHINGLETREE 2, Precinct SUPPLY, Precinct WACCAMAW, Precinct SECESSION 1, Precinct SECESSION 2, Precinct SHALLOTTE; Columbus County: Precinct CERRO GORDO, Precinct FAIR BLUFF, Precinct NORTH WHITEVILLE, Precinct SOUTH WHITEVILLE: Tract 9910: Block Group 1: Block 1000, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1051, Block 1052, Block 1053, Block 1054, Block 1056, Block 1057, Block 1058, Block 1999; Block Group 2: Block 2000, Block 2007, Block 2008, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2033, Block 2034, Block 2035, Block 2039; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3999; Precinct SOUTH WILLIAMS, Precinct WACCAMAW: Tract 9903: Block Group 2: Block 2000, Block 2001, Block 2024; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022,

Block 3023, Block 3024, Block 3999; Precinct WHITEVILLE 1, Precinct WILLIAMS 1, Precinct WILLIAMS2, Precinct WEST WHITEVILLE: Tract 9907: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1996, Block 1997, Block 1998, Block 1999; Tract 9908: Block Group 2: Block 2000, Block 2001, Block 2024, Block 2025; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3029; Block Group 4: Block 4002, Block 4003, Block 4004, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016; Tract 9909: Block Group 3: Block 3007, Block 3008, Block 3022, Block 3023, Block 3024; Block Group 4: Block 4026; Block Group 5: Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5018, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5035, Block 5036, Block 5037, Block 5038, Block 5999; Precinct BUG HILL 1, Precinct BUG HILL 2, Precinct BUG HILL 3, Precinct CHADBOURN, Precinct CHERRY GROVE, Precinct BOGUE, Precinct EAST LEES, Precinct NORTH LEES, Precinct SOUTH LEES, Precinct WEST LEES; New Hanover County: Precinct WILMINGTON 4, Precinct WILMINGTON 5, Precinct WILMINGTON 19, Precinct WILMINGTON 20, Precinct FEDERAL POINT 1, Precinct FEDERAL POINT 2, Precinct FEDERAL POINT 3.

District 18: Brunswick County: Precinct HOODS CREEK: Tract 201: Block Group 1: Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1996; Block Group 7: Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7037, Block 7038, Block 7041; Tract 206: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027; Precinct WOODBURN: Tract 201: Block Group 1: Block 1998; Block Group 3: Block 3000, Block 3001, Block 3002, Block

3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3028, Block 3029, Block 3988, Block 3989, Block 3990, Block 3992, Block 3993, Block 3994, Block 3995, Block 3996, Block 3999; Precinct LELAND: Tract 201: Block Group 3: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1051, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1995, Block 1997, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2007, Block 2018, Block 2019, Block 2023, Block 2024, Block 2025, Block 2026; Block Group 3: Block 3991; Block Group 7: Block 7014, Block 7015, Block 7016; Columbus County: Precinct BOLTON, Precinct RANSOM, Precinct SOUTH WHITEVILLE: Tract 9909: Block Group 1: Block 1000; Precinct WACCAMAW: Tract 9903: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1039, Block 1040, Block 1041, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1095, Block 1096, Block 1097, Block 1098, Block 1997, Block 1998, Block 1999; Tract 9904: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2007, Block 2008; Precinct WHITEVILLE 2, Precinct WEST WHITEVILLE: Tract 9908: Block Group 2: Block 2006; Precinct WESTERN PRONG, Precinct TATUM, Precinct WELCHES CREEK; New Hanover County: Precinct HARNETT 1, Precinct HARNETT 4: Tract 119.01: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3016, Block 3017, Block 3018, Block

3019, Block 3020, Block 3021; Precinct HARNETT 6, Precinct HARNETT 7: Tract 116.04: Block Group 3: Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3034, Block 3035, Block 3036, Block 3037, Block 3040, Block 3041, Block 3042, Block 3043; Precinct WILMINGTON 1, Precinct WILMINGTON 2, Precinct WILMINGTON 3, Precinct WILMINGTON 6, Precinct WILMINGTON 7, Precinct WILMINGTON 8, Precinct WILMINGTON 9, Precinct WILMINGTON 10, Precinct WILMINGTON 13, Precinct WILMINGTON 15, Precinct CAPE FEAR 1: Tract 115: Block Group 1: Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1995, Block 1996; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4998, Block 4999; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5059, Block 5060, Block 5061, Block 5062, Block 5063, Block 5064, Block 5065, Block 5066, Block 5067, Block 5068, Block 5069, Block 5070, Block 5071, Block 5072, Block 5073, Block 5074, Block 5075, Block 5076, Block 5986, Block 5987, Block 5988, Block 5992, Block 5993, Block 5996, Block 5997, Block 5998, Block 5999; Precinct CAPE FEAR 3: Tract 103: Block Group 2: Block 2002; Tract 114: Block Group 1: Block 1000; Tract 116.03: Block Group 3: Block 3003, Block 3004, Block 3005, Block 3007, Block 3009, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025; Tract 116.04: Block Group 3: Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Pender County: Precinct CASWELL: Tract 9805: Block Group 2: Block 2078, Block 2079, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block

2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2110; Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3043, Block 3044, Block 3051, Block 3052, Block 3053, Block 3996, Block 3997; Precinct CANETUCK, Precinct GRADY: Tract 9805: Block Group 3: Block 3024, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035; Block Group 4: Block 4004, Block 4007, Block 4008, Block 4009, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4082, Block 4083, Block 4084, Block 4085, Block 4086, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4094, Block 4095, Block 4096, Block 4097, Block 4098, Block 4099, Block 4100, Block 4101, Block 4994, Block 4995, Block 4997.

District 19: Bladen County, Cumberland County: Precinct ALDERMAN, Precinct BEAVER DAM; New Hanover County: Precinct CAPE FEAR 1: Tract 115: Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019; Precinct CAPE FEAR 2, Precinct CAPE FEAR 3: Tract 116.03: Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3006, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block

4012, Block 4013, Block 4014, Block 4015, Block 4016; Tract 116.04: Block Group 2: Block 2006, Block 2007, Block 2026, Block 2027, Block 2031, Block 2034, Block 2035; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3027, Block 3028; Pender County: Precinct CASWELL: Tract 9805: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2997, Block 2998; Block Group 3: Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3012; Precinct GRADY: Tract 9805: Block Group 3: Block Group 1: Block 1069, Block 1070, Block 1071, Block 1072, Block 1073; Block Group 3: Block 3000, Block 3025; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4005, Block 4006, Block 4010, Block 4011, Block 4999; Tract 9806: Block Group 3: Block 3034, Block 3996, Block 3997, Block 3998; Precinct LONG CREEK; Sampson County: Precinct AUTRYVILLE, Precinct CLEMENT, Precinct MINGO, Precinct ROSEBORO.

District 20: Johnston County: Precinct BENTONVILLE, Precinct EAST INGRAMS: Tract 412: Block Group 4: Block 4003; Block Group 5: Block 5001, Block 5003, Block 5004, Block 5005, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5027, Block 5028, Block 5029, Block 5032, Block 5033, Block 5034, Block 5035, Block 5997, Block 5998, Block 5999; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6031, Block 6055, Block 6056, Block 6057, Block 6058, Block 6064, Block 6065, Block 6066; Tract 413: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1026, Block

1027, Block 1033, Block 1034, Block 1035, Block 1999; Precinct WEST INGRAMS, Precinct EAST SELMA, Precinct WEST SELMA, Precinct EAST SMITHFIELD; Pender County: Precinct COLUMBIA, Precinct LOWER UNION, Precinct MIDDLE HOLLY, Precinct NORTH BURGAW, Precinct PENDERLEA, Precinct ROCKY POINT, Precinct SOUTH BURGAW, Precinct UPPER HOLLY, Precinct UPPER UNION; Sampson County: Precinct EAST CLINTON: Tract 9707: Block Group 1: Block 1007, Block 1008, Block 1017, Block 1018, Block 1023; Block Group 5: Block 5010; Precinct NORTHEAST CLINTON: Tract 9707: Block Group 5: Block Group 1: Block 1009, Block 1010, Block 1012; Precinct WEST CLINTON: Tract 9705: Block Group 1: Block 1018, Block 1019, Block 1020, Block 1021, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1041; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016; Tract 9706: Block Group 1: Block 1021, Block 1022, Block 1023, Block 1047, Block 1048; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041; Tract 9708: Block Group 2: Block 2016; Block Group 3: Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3999; Tract 9709: Block Group 1: Block 1000, Block 1012, Block 1013, Block 1014; Precinct GARLAND, Precinct HARRELLS: Tract 9709: Block Group 1: Block Group 3: Block 3050, Block 3051; Tract 9710: Block Group 4: Block 4001, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4998; Precinct HERRING, Precinct INGOLD: Tract 9708: Block Group 3: Block 3026, Block 3027, Block 3028; Block Group 4: Block 4014, Block 4015, Block 4016, Block 4017; Tract 9709: Block Group 1: Block 1016, Block 1017, Block 1018, Block 1019, Block 1033, Block 1034, Block 1035; Block Group 3: Block 3000, Block 3045, Block 3046, Block 3047, Block 3048; Tract 9710: Block Group 1: Block 1025, Block 1026, Block 1027; Block Group 2: Block 2013, Block 2018, Block 2019, Block 2024, Block 2025, Block 2029, Block 2030,

Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066; Block Group 3: Block 3020, Block 3021, Block 3022, Block 3023; Precinct KEENER: Tract 9701: Block Group 5: Block 5008, Block 5009, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5998, Block 5999; Block Group 6: Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6999; Tract 9706: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003; Precinct KITTY FORK, Precinct LAKEWOOD, Precinct NEWTON GROVE, Precinct SALEMBURG, Precinct WESTBROOK.

District 21: Duplin County: Precinct CALYPSO, Precinct FAISON: Tract 9902: Block Group 1: Block 1012; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2999; Block Group 3: Block 3005, Block 3006, Block 3007, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3998; Precinct KENANSVILLE: Tract 9904: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030,

Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038; Block Group 2: Block 2010, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4006, Block 4012, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4037, Block 4038, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4999; Precinct MAGNOLIA, Precinct ROCKFISH, Precinct WARSAW; Sampson County: Precinct CENTRAL CLINTON, Precinct EAST CLINTON: Tract 9701: Block Group 6: Block 6014, Block 6015, Block 6016, Block 6017; Tract 9707: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1011, Block 1016, Block 1019, Block 1020, Block 1021, Block 1022, Block 1024, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1999; Block Group 2: Block 2000, Block 2999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4011, Block 4012, Block 4013, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5030, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037; Tract 9708: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1042; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2008, Block 2009, Block 2010, Block 2030; Block Group 5: Block 5000, Block 5019, Block 5021;

Precinct NORTHEAST CLINTON: Tract 9706: Block Group 1: Block 1012, Block 1013, Block 1014, Block 1015, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4026, Block 4027, Block 4028; Tract 9707: Block Group 1: Block 1013, Block 1014, Block 1015, Block 1025, Block 1026; Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4003, Block 4004, Block 4005, Block 4006, Block 4014; Precinct SOUTHWEST CLINTON, Precinct WEST CLINTON: Tract 9706: Block Group 2: Block 2020, Block 2021, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2032; Tract 9708: Block Group 2: Block 2017, Block 2034, Block 2035, Block 2036, Block 2037; Block Group 3: Block 3010; Precinct GIDDENSVILLE, Precinct HARRELLS: Tract 9709: Block Group 3: Block 3049; Tract 9710: Block Group 1: Block 1031, Block 1032, Block 1033; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3999; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4050, Block 4999;

Precinct INGOLD: Tract 9710: Block Group 4: Block Group 1: Block 1016, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1028, Block 1029; Block Group 2: Block 2011, Block 2012, Block 2014, Block 2015, Block 2016, Block 2017, Block 2020, Block 2021, Block 2022, Block 2023, Block 2026, Block 2027; Precinct KEENER: Tract 9701: Block Group 3: Block 3004, Block 3005; Block Group 4: Block 4042, Block 4043; Block Group 5: Block 5011, Block 5012, Block 5024; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6012, Block 6013, Block 6018, Block 6019, Block 6020; Tract 9707: Block Group 1: Block 1000, Block 1001; Precinct ROWAN, Precinct TURKEY; Wayne County: Precinct Precinct 9: Tract 11: Block Group 4: Block 4030, Block 4032, Block 4033, Block 4034, Block 4035; Block Group 5: Block 5000, Block 5006, Block 5007, Block 5008, Block 5999; Precinct Precinct 10, Precinct Precinct 17, Precinct Precinct 18, Precinct Precinct 19: Tract 14: Block Group 5: Block 5002, Block 5003, Block 5004, Block 5005; Tract 15: Block Group 1: Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2037; Precinct Precinct 26, Precinct Precinct 27, Precinct Precinct 30: Tract 7: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048; Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block

3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3034, Block 3035, Block 3036; Tract 8: Block Group 3: Block 3025, Block 3027, Block 3048, Block 3049, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070.

District 22: Greene County: Precinct ARBA: Tract 9502: Block Group 3: Block 3039, Block 3040, Block 3049; Precinct SHINE: Tract 9502: Block Group 3: Block 3037, Block 3038, Block 3041, Block 3042, Block 3043, Block 3044, Block 3046, Block 3047, Block 3048; Johnston County: Precinct NORTH BOON HILL, Precinct SOUTH BOON HILL, Precinct PINE LEVEL; Lenoir County: Precinct INSTITUTE, Precinct NEUSE, Precinct WOODINGTON, Precinct FALLING CREEK, Precinct KINSTON 3: Tract 106: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2032, Block 2033, Block 2034; Tract 107: Block Group 2: Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046; Precinct KINSTON 4, Precinct KINSTON 9, Precinct SAND HILL, Precinct SOUTHWEST; Wayne County: Precinct Precinct 1, Precinct Precinct 2, Precinct Precinct 3, Precinct Precinct 4, Precinct Precinct 5, Precinct Precinct 6: Tract 3.01: Block Group 3: Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3016, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027; Tract 3.02: Block Group 1: Block 1001, Block 1002; Precinct Precinct 7, Precinct Precinct 8, Precinct Precinct 9: Tract 11: Block Group 1: Block 1000, Block 1001, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block

4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4031; Block Group 5: Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5009, Block 5010, Block 5011, Block 5012, Block 5021, Block 5997, Block 5998; Precinct Precinct 11: Tract 12: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1054, Block 1056, Block 1064, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070; Tract 19: Block Group 1: Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006.

District 23: Edgecombe County: Precinct 1-2, Precinct 1-3, Precinct 1-4, Precinct 2-1: Tract 208: Block Group 3: Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3056, Block 3057, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3080, Block 3085, Block 3086, Block 3087, Block 3088, Block 3089, Block 3090, Block 3091, Block 3092, Block 3093, Block 3094, Block 3095, Block 3096, Block 3097, Block 3098, Block 3099, Block 3100, Block 3101, Block 3102, Block 3103, Block 3998, Block 3999; Tract 209: Block Group 2: Block 2010, Block 2011, Block 2012, Block 2013, Block 2996; Precinct 5-1, Precinct 6-1, Precinct 8-1, Precinct 9-1, Precinct 10-1, Precinct 11-1, Precinct 13-1; Nash County: Precinct DRYWELLS; Wilson County: Precinct BLACK CREEK, Precinct CROSSROADS, Precinct GARDNERS, Precinct OLD FIELDS, Precinct SARATOGA, Precinct SPRINGHILL, Precinct STANTONSBURG, Precinct TAYLORS, Precinct TOISNOT: Tract 13: Block Group 2: Block 2005, Block 2006; Block Group 4: Block 4004, Block 4005, Block 4013, Block 4014, Block 4015, Block 4016; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5024, Block 5025, Block 5028, Block 5030, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052; Precinct WILSON E, Precinct WILSON I, Precinct WILSON J.

District 24: Edgecombe County: Precinct 12-1, Precinct 12-2, Precinct 12-3, Precinct 12-4, Precinct 12-5, Precinct 14-1; Nash County: Precinct ROCKY MOUNT 4; Wilson County: Precinct TOISNOT: Tract 12: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008; Tract 13: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block

1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3048, Block 3049, Block 3050; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4017; Block Group 5: Block 5022, Block 5023, Block 5026, Block 5027, Block 5029, Block 5031, Block 5032, Block 5033, Block 5034, Block 5035, Block 5036, Block 5037, Block 5038, Block 5039, Block 5040, Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5053, Block 5054; Precinct WILSON A, Precinct WILSON B, Precinct WILSON C, Precinct WILSON D, Precinct WILSON F, Precinct WILSON G, Precinct WILSON H, Precinct WILSON K, Precinct WILSON L, Precinct WILSON M, Precinct WILSON N, Precinct WILSON P, Precinct WILSON Q.

District 25: Franklin County: Precinct DUNN, Precinct CYPRESS CREEK, Precinct PILOT; Nash County: Precinct STONY CREEK, Precinct ROCKY MOUNT 5, Precinct ROCKY MOUNT 6, Precinct ROCKY MOUNT 7, Precinct ROCKY MOUNT 8, Precinct ROCKY MOUNT 9, Precinct NASHVILLE, Precinct ROCKY MOUNT 10, Precinct JACKSONS, Precinct MANNINGS 2, Precinct BAILEY, Precinct COOPERS, Precinct FERRELLS, Precinct OAK LEVEL, Precinct RED OAK.

District 26: Johnston County: Precinct NORTH BANNER, Precinct SOUTH BANNER, Precinct WEST BANNER, Precinct NORTH BEULAH, Precinct SOUTH BEULAH, Precinct NORTH CLAYTON, Precinct NORTH ELEVATION, Precinct SOUTH ELEVATION, Precinct EAST INGRAMS: Tract 412: Block Group 2: Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block

2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2994, Block 2995, Block 2996, Block 2997; Block Group 3: Block 3000, Block 3026, Block 3027, Block 3028, Block 3029; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4999; Precinct NORTH MEADOW, Precinct SOUTH MEADOW, Precinct MICRO, Precinct NORTH O'NEALS, Precinct SOUTH O'NEALS, Precinct PLEASANT GROVE, Precinct NORTH SMITHFIELD, Precinct SOUTH SMITHFIELD, Precinct WILDERS, Precinct WILSON'S MILLS; Sampson County: Precinct PLAINVIEW.

District 27: Granville County: Precinct ANTIOCH, Precinct BERA, Precinct EAST OXFORD, Precinct OAK HILL, Precinct SALEM, Precinct SASSAFRAS FORK, Precinct SOUTH OXFORD, Precinct WEST OXFORD ELEMENTARY; Vance County: Precinct EAST HENDERSON 1, Precinct EAST HENDERSON 2, Precinct NORTH HENDERSON 1, Precinct NORTH HENDERSON 2, Precinct SOUTH HENDERSON 1, Precinct SOUTH HENDERSON 2, Precinct WEST HENDERSON 2, Precinct DABNEY, Precinct MIDDLEBURG, Precinct SANDY SCREEK, Precinct TOWNSVILLE, Precinct WILLIAMSBORO; Warren County: Precinct SIX POUND, Precinct HAWTREE, Precinct SMITH CREEK, Precinct NUTBUSH, Precinct SANDY CREEK, Precinct SHOCCO, Precinct WEST WARRETON, Precinct NORLINA, Precinct EAST WARRETON.

District 28: Person County, Franklin County: Precinct TOWN OF LOUISBURG, Precinct LOUISBURG, Precinct WEST FRANKLINTON, Precinct WEST YOUNGSVILLE, Precinct EAST HARRIS, Precinct PEARCES, Precinct CEDAR ROCK, Precinct GOLD MINE, Precinct SANDY CREEK, Precinct HAYESVILLE, Precinct EAST YOUNGSVILLE, Precinct EAST FRANKLINTON, Precinct WEST HARRIS; Granville County: Precinct BRASSFIELD, Precinct BUTNER, Precinct CORINTH, Precinct CREDLE, Precinct CREEDMOOR, Precinct TALLY HO; Halifax County: Precinct ROANOKE RAPIDS 1, Precinct ROANOKE RAPIDS 2, Precinct ROANOKE RAPIDS 3, Precinct ROANOKE RAPIDS 4, Precinct ROANOKE RAPIDS 5, Precinct ROANOKE RAPIDS 6, Precinct LITTLETON 2, Precinct ROANOKE RAPIDS 10, Precinct ROANOKE RAPIDS 11; Vance County: Precinct WEST HENDERSON 1, Precinct HILLTOP, Precinct KITTRELL,

Precinct WATKINS; Warren County: Precinct RIVER, Precinct FISHING CREEK, Precinct JUDKINS, Precinct FORK, Precinct ROANOKE.

District 29: Durham County: Precinct 2, Precinct 3, Precinct 4, Precinct 5, Precinct 6, Precinct 7, Precinct 8, Precinct 9, Precinct 10, Precinct 11, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 16, Precinct 17, Precinct 18, Precinct 21, Precinct 22, Precinct 23, Precinct 24, Precinct 25, Precinct 26, Precinct 27, Precinct 28, Precinct 29: Tract 17.09: Block Group 1: Block 1000, Block 1010, Block 1011, Block 1012, Block 1013, Block 1019; Block Group 3: Block 3000, Block 3002; Tract 18.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3032, Block 3033, Block 3034, Block 3035, Block 3046, Block 3047; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5995, Block 5996, Block 5997, Block 5998, Block 5999; Tract 18.04: Block Group 1: Block 1000, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1997, Block 1998, Block 1999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3013; Tract 19: Block Group 2: Block 2996; Precinct 31: Tract 10.01: Block Group 3: Block 3034, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041; Tract 18.02: Block Group 3: Block 3005; Tract 18.04: Block Group 4: Block 4038; Tract 18.05: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038; Block Group 2: Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014,

Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020; Block Group 3: Block 3027, Block 3028; Tract 20.14: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1028, Block 1029; Precinct 34, Precinct 36, Precinct 37, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42, Precinct 43, Precinct 44, Precinct 45, Precinct 46, Precinct 47, Precinct 48, Precinct 49, Precinct 50, Precinct 51, Precinct 52, Precinct 53; Tract 20.12: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1998, Block 1999; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2035, Block 2043, Block 2044, Block 2045, Block 2046; Block Group 4: Block 4012, Block 4013, Block 4037, Block 4038; Precinct 54.

District 30: Durham County: Precinct 1, Precinct 19, Precinct 20, Precinct 29; Tract 18.04: Block Group 3: Block 3004, Block 3005, Block 3007; Precinct 30, Precinct 31; Tract 18.05: Block Group 2: Block 2002, Block 2003, Block 2013; Precinct 32, Precinct 33, Precinct 35, Precinct 53; Tract 20.12: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042; Block Group 4: Block 4010, Block 4011, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4022; Wake County: Precinct 01-39, Precinct 01-45, Precinct 01-51, Precinct 07-04, Precinct 07-07, Precinct 07-11, Precinct 08-03; Tract 537.03: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1033, Block

1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040; Precinct 08-04, Precinct 08-05, Precinct 08-06.

District 31: Wake County: Precinct 01-42, Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 07-05, Precinct 07-06, Precinct 13-02; Tract 540.09: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2079, Block 2080, Block 2081, Block 2999; Tract 540.10: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1048, Block 1049, Block 1051, Block 1054, Block 1055, Block 1058, Block 1059; Tract 542.01: Block Group 5: Block 5999; Precinct 14-01, Precinct 14-02, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-05, Precinct 19-06, Precinct 19-07.

District 32: Wake County: Precinct 09-01, Precinct 09-02, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 15-01; Tract 528.01: Block Group 1: Block 1999; Tract 528.05: Block Group 1: Block 1998; Tract 529: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1999; Block Group 3: Block 3001, Block 3014; Precinct 15-02: Tract 529: Block Group 3: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2027, Block 2031, Block 2032,

Block 2033; Tract 530.02: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021; Tract 531.03: Block Group 1: Block 1000, Block 1021, Block 1022, Block 1023; Precinct 16-01, Precinct 16-04, Precinct 17-02, Precinct 17-04, Precinct 17-06, Precinct 19-04, Precinct 19-08.

District 33: Wake County: Precinct 01-18, Precinct 01-19, Precinct 01-20, Precinct 01-22, Precinct 01-26, Precinct 01-34, Precinct 01-38, Precinct 01-40, Precinct 13-01, Precinct 17-01, Precinct 17-03, Precinct 17-05, Precinct 17-07.

District 34: Wake County: Precinct 01-03, Precinct 01-04, Precinct 01-10, Precinct 01-11, Precinct 01-12, Precinct 01-13, Precinct 01-15, Precinct 01-16, Precinct 01-17, Precinct 01-28, Precinct 01-29, Precinct 01-30, Precinct 01-33, Precinct 01-36, Precinct 01-37, Precinct 01-43, Precinct 01-44, Precinct 01-46, Precinct 07-01, Precinct 07-09, Precinct 13-02: Tract 540.10: Block Group 1: Block 1046, Block 1047, Block 1050, Block 1052, Block 1053, Block 1056, Block 1057, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2025, Block 2026, Block 2027, Block 2028; Precinct 13-03.

District 35: Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-23, Precinct 01-31, Precinct 01-32, Precinct 01-41, Precinct 01-48, Precinct 01-49, Precinct 04-01, Precinct 04-02, Precinct 04-05, Precinct 04-11, Precinct 04-17, Precinct 04-18, Precinct 11-01, Precinct 11-02.

District 36: Wake County: Precinct 04-04, Precinct 04-08, Precinct 04-09, Precinct 04-14, Precinct 04-15, Precinct 04-16, Precinct 05-00, Precinct 07-02, Precinct 07-03, Precinct 07-10, Precinct 07-12, Precinct 08-01, Precinct 08-02, Precinct 08-03: Tract 537.03: Block Group 1: Block 1032, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block

1100, Block 1101, Block 1102, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107; Precinct 08-08, Precinct 20-02: Tract 534.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2054, Block 2055, Block 2056, Block 2057; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4011; Tract 536: Block Group 2: Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150, Block 2151, Block 2161, Block 2162, Block 2164, Block 2165, Block 2166, Block 2167, Block 2202, Block 2221, Block 2222, Block 2223, Block 2224, Block 2225, Block 2226, Block 2227, Block 2228, Block 2229, Block 2230, Block 2231, Block 2232, Block 2233; Precinct 20-10.

District 37: Wake County: Precinct 03-00, Precinct 04-06, Precinct 04-07, Precinct 04-10, Precinct 04-13, Precinct 04-19, Precinct 06-01, Precinct 06-02, Precinct 12-02, Precinct 12-03, Precinct 12-06, Precinct 20-01, Precinct 20-02: Tract 534.03: Block Group 4: Block 4010; Precinct 20-03, Precinct 20-04, Precinct 20-06.

District 38: Wake County: Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-14, Precinct 01-21, Precinct 01-25, Precinct 01-27, Precinct 01-35, Precinct 04-03, Precinct 04-12, Precinct 16-02, Precinct 16-03, Precinct 16-05, Precinct 16-06, Precinct 16-07, Precinct 18-01, Precinct 18-03, Precinct 18-04, Precinct 18-06, Precinct 18-08.

District 39: Johnston County: Precinct EAST CLAYTON, Precinct WEST CLAYTON, Precinct NORTH CLEVELAND, Precinct SOUTH CLEVELAND, Precinct SOUTH CLAYTON; Wake County: Precinct 06-03, Precinct 12-01, Precinct 12-04, Precinct 15-01: Tract 529: Block Group 3: Block 3000, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block

3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4008, Block 4999; Precinct 15-02: Tract 529: Block Group 4: Block Group 2: Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2028, Block 2029, Block 2030, Block 2034, Block 2035, Block 2036, Block 2037; Block Group 4: Block 4006, Block 4007, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028; Precinct 18-02, Precinct 18-05, Precinct 20-05.

District 40: Harnett County: Precinct AVERASBORO 1, Precinct AVERASBORO 2, Precinct AVERASBORO 3, Precinct AVERASBORO 4, Precinct AVERASBORO 5, Precinct BARBECUE: Tract 712: Block Group 4: Block 4001, Block 4002, Block 4003, Block 4004; Tract 713: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2024, Block 2025, Block 2026, Block 2027, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2043, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2992, Block 2993, Block 2994, Block 2995, Block

2996, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3997, Block 3998, Block 3999; Precinct BLACK RIVER, Precinct BUCKHORN, Precinct DUKE1, Precinct DUKE2, Precinct DUKE3, Precinct GROVE 1, Precinct GROVE 2, Precinct HECTORS CREEK, Precinct NEILLS CREEK 1, Precinct NEILLS CREEK 2, Precinct UPPER LITTLE RIVER 1, Precinct UPPER LITTLE RIVER 2.

District 41: Cumberland County: Precinct CROSS CREEK 2: Tract 14: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1034, Block 1037; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3023, Block 3024; Block Group 5: Block 5024, Block 5025, Block 5026, Block 5027, Block 5030, Block 5031, Block 5050, Block 5051, Block 5052, Block 5053, Block 5994; Tract 26: Block Group 2: Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2992; Precinct CROSS CREEK 4, Precinct CROSS CREEK 6, Precinct CROSS CREEK 7, Precinct CROSS CREEK 8, Precinct PEARCES MILL 3: Tract 2: Block Group 3: Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3054, Block 3055, Block 3060, Block 3061, Block 3062, Block 3063, Block 3066; Tract 5: Block

Group 1: Block 1007, Block 1009, Block 1011, Block 1012, Block 1013, Block 1014, Block 1029, Block 1030, Block 1032, Block 1034, Block 1035, Block 1043; Tract 15: Block Group 1: Block 1000, Block 1001, Block 1003, Block 1013, Block 1999; Precinct CROSS CREEK 10, Precinct CROSS CREEK 11, Precinct CROSS CREEK 14, Precinct CROSS CREEK 15, Precinct CROSS CREEK 18: Tract 4: Block Group 1: Block 1037, Block 1038, Block 1039, Block 1040, Block 1043; Tract 7: Block Group 2: Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2023, Block 2025, Block 2026; Precinct CROSS CREEK 22, Precinct CROSS CREEK 23: Tract 25.02: Block Group 2: Block 2001, Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2998; Tract 25.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2033, Block 2999; Tract 25.04: Block Group 1: Block 1003, Block 1004, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2029, Block 2996, Block 2997, Block 2998, Block 2999; Tract 37: Block Group 1: Block 1096; Precinct EASTOVER, Precinct LINDEN, Precinct LONG HILL: Tract 25.02: Block Group 1: Block 1001; Block Group 2: Block 2000, Block 2003, Block 2004, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2999; Block Group 3: Block 3014, Block 3999; Tract 25.04: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1005, Block 1006, Block 1012, Block 1013, Block 1014, Block 1015, Block 1999; Block Group 2: Block 2001, Block 2030; Tract 37: Block Group 1: Block 1086, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1996, Block 1997; Block Group 2: Block 2004, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019,

Block 2020, Block 2024, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2040, Block 2041, Block 2042, Block 2993, Block 2994, Block 2996, Block 2997; Harnett County: Precinct ANDERSON CREEK: Tract 706: Block Group 1: Block 1002, Block 1008, Block 1009, Block 1034, Block 1035, Block 1038, Block 1053, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1996, Block 1997; Tract 712: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1026, Block 1027, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2024, Block 2025, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3999; Block Group 4: Block 4000, Block 4008, Block 4016, Block 4018, Block 4019, Block 4020; Precinct LILLINGTON, Precinct STEWARTS CREEK.

District 42: Cumberland County: Precinct AUMAN: Tract 33.02: Block Group 1: Block 1011, Block 1012, Block 1998; Tract 33.07: Block Group 1: Block 1004; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2026, Block 2027; Precinct BRENTWOOD: Tract 32.03: Block Group 1: Block 1003,

Block 1004, Block 1005, Block 1006, Block 1007, Block 1011, Block 1012, Block 1013, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1034, Block 1049, Block 1050, Block 1998; Tract 32.04: Block Group 1: Block 1000, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1999; Precinct CROSS CREEK 17, Precinct CROSS CREEK 27: Tract 33.07: Block Group 2: Block 2000; Tract 33.08: Block Group 2: Block 2015, Block 2016, Block 2017; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3014; Precinct CROSS CREEK 28, Precinct CROSS CREEK 32, Precinct CLIFFDALE WEST, Precinct LAKE RIM, Precinct MANCHESTER: Tract 34: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2017, Block 2018, Block 2020, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2074, Block 2087, Block 2088, Block 2089, Block 2090, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2997, Block 2998, Block 2999; Tract 35: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1009, Block 1013; Block Group 2: Block 2000, Block 2007, Block 2008, Block 2009; Tract 36: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1030, Block 1031, Block 1032, Block 1993, Block 1994, Block 1995, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2012, Block 2013, Block 2017, Block 2031, Block 2037, Block 2038, Block 2047, Block 2048, Block 2049, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2995, Block 2996, Block 2998, Block 2999; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block

4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4037, Block 4039, Block 4043, Block 4044, Block 4045, Block 4046, Block 4998; Tract 37: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2025, Block 2026, Block 2043, Block 2995; Precinct SPRING LAKE, Precinct WEST AREA: Tract 24: Block Group 1: Block 1008, Block 1009, Block 1015, Block 1999; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010; Block Group 4: Block 4014, Block 4015, Block 4016, Block 4017; Harnett County: Precinct ANDERSON CREEK: Tract 712: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025, Block 1028, Block 1029, Block 1998; Block Group 4: Block 4005, Block 4006, Block 4007, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4017, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4999; Tract 713: Block Group 2: Block 2023; Tract 714: Block Group 2: Block 2071, Block 2072, Block 2073; Precinct BARBECUE: Tract 713: Block Group 2: Block 2022, Block 2028, Block 2044, Block 2049, Block 2050; Precinct JOHNSONVILLE.

District 43: Cumberland County: Precinct CROSS CREEK 1, Precinct CROSS CREEK 3: Tract 22: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2023, Block 2024; Tract 23: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020; Block Group 9: Block 9001, Block 9002, Block 9003, Block 9998; Precinct CROSS CREEK 5, Precinct CROSS CREEK 9, Precinct CROSS CREEK 13, Precinct CROSS CREEK 16, Precinct CROSS CREEK 19, Precinct CROSS CREEK 21, Precinct CROSS CREEK 23: Tract 25.01: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1011; Block Group 9: Block 9074, Block 9075; Precinct CROSS CREEK 26: Tract 33.04: Block Group 2: Block 2000, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012; Block Group 3: Block 3000, Block 3001,

Block 3002, Block 3003, Block 3010; Precinct CROSS CREEK 33, Precinct LONG HILL: Tract 25.04: Block Group 2: Block 2002, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028; Precinct MANCHESTER: Tract 34: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2051, Block 2052, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2091; Precinct WEST AREA: Tract 24: Block Group 1: Block 1007; Block Group 2: Block 2000, Block 2001; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4018, Block 4019; Block Group 5: Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5011; Tract 25.01: Block Group 1: Block 1000, Block 1001, Block 1008, Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034; Block Group 9: Block 9000, Block 9001, Block 9002, Block 9003, Block 9004, Block 9006, Block 9010, Block 9011, Block 9016, Block 9017, Block 9018, Block 9019, Block 9020, Block 9024, Block 9044, Block 9076, Block 9077; Tract 25.02: Block Group 1: Block 1008, Block 1010, Block 1011, Block 1012, Block 1013, Block 1015, Block 1016, Block 1017, Block 1019, Block 1022, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1034, Block 1035, Block 1036, Block 1997; Block Group 3: Block 3007, Block 3010, Block 3011, Block 3012, Block 3997; Tract 25.03: Block Group 2: Block 2027, Block 2028, Block 2029, Block 2030; Tract 25.04: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023.

District 44: Cumberland County: Precinct CROSS CREEK 3: Tract 20: Block Group 1: Block 1001, Block 1002, Block 1003; Tract 22: Block Group 2: Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Precinct CUMBERLAND 2, Precinct MORGANTON ROAD, Precinct ARRAN HILLS, Precinct AUMAN: Tract 32.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block

1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1027, Block 1029, Block 1030, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1997; Tract 32.05: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009; Block Group 2: Block 2002, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3999; Precinct BRENTWOOD: Tract 32.03: Block Group 1: Block 1016, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1999; Precinct CROSS CREEK 12, Precinct CROSS CREEK 18: Tract 7: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2019, Block 2020, Block 2021, Block 2022, Block 2024; Block Group 3: Block 3035, Block 3036; Block Group 4: Block 4007, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4023, Block 4035, Block 4036, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048; Precinct CROSS CREEK 20, Precinct CROSS CREEK 24, Precinct CROSS CREEK 25, Precinct CROSS CREEK 26: Tract 20: Block Group 2: Block 2997, Block 2998, Block 2999; Tract 33.04: Block Group 3: Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3999; Tract 33.09: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1999; Block Group 2: Block 2999; Precinct CROSS CREEK 27: Tract 20: Block Group 2: Block 2996; Tract 33.08: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2018, Block 2019, Block

2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043; Tract 33.09: Block Group 2: Block 2998; Precinct CROSS CREEK 29, Precinct CROSS CREEK 30, Precinct CROSS CREEK 31, Precinct CROSS CREEK 34, Precinct MONTIBELLO, Precinct STONEY POINT.

District 45: Cumberland County: Precinct CROSS CREEK 2: Tract 14: Block Group 1: Block 1033; Block Group 4: Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4035, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043; Block Group 5: Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5022, Block 5023, Block 5038, Block 5039, Block 5040; Precinct CUMBERLAND 1, Precinct CUMBERLAND 3, Precinct HOPE MILLS 1, Precinct HOPE MILLS 2, Precinct HOPE MILLS 3, Precinct PEARCES MILL 2, Precinct PEARCES MILL 3: Tract 15: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1016, Block 1017, Block 1018, Block 1019, Block 1025, Block 1026, Block 1027, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1988, Block 1989, Block 1990, Block 1991, Block 1992, Block 1993, Block 1994, Block 1995, Block 1996, Block 1997, Block 1998; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2030, Block 2031, Block 2033, Block 2034; Precinct PEARCES MILL 4, Precinct BLACK RIVER, Precinct

CEDAR CREEK, Precinct JUDSON/VANDER, Precinct SHERWOOD, Precinct STEDMAN, Precinct WADE.

District 46: Hoke County: Precinct BUCHAN, Precinct McCAIN: Tract 9701: Block Group 5: Block 5003, Block 5004, Block 5005; Tract 9702: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1045, Block 1994; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2045, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2101, Block 2102, Block 2103, Block 2104, Block 2105, Block 2106, Block 2107, Block 2108, Block 2109, Block 2110, Block 2111, Block 2112, Block 2113, Block 2114, Block 2115, Block 2116, Block 2117, Block 2118, Block 2119, Block 2120, Block 2121, Block 2122, Block 2123, Block 2124, Block 2125, Block 2126, Block 2127, Block 2128, Block 2129, Block 2130, Block 2131, Block 2132, Block 2133, Block 2134, Block 2135, Block 2136, Block 2137, Block 2138, Block 2139, Block 2140, Block 2141, Block 2142, Block 2143, Block 2144, Block 2145, Block 2146, Block 2147, Block 2148, Block 2149, Block 2150; Block Group 3: Block 3002, Block 3003, Block 3004, Block 3005, Block 3047, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057; Precinct PUPPY CREEK, Precinct ROCKFISH, Precinct STONEWALL: Tract 9704: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1030, Block 1034, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1095, Block 1998, Block 1999; Precinct Voting Districts not defined; Robeson County: Precinct EAST HOWELLSVILLE, Precinct WEST HOWELLSVILLE, Precinct LUMBERTON 3, Precinct LUMBERTON 4, Precinct PARKTON, Precinct NORTH ST PAULS, Precinct SOUTH ST PAULS: Tract 9601: Block Group 1:

Block 1031, Block 1033, Block 1034; Block Group 3: Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3027, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076, Block 3077, Block 3078, Block 3079, Block 3080, Block 3081, Block 3082, Block 3083, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4065, Block 4066; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029, Block 5031, Block 5032, Block 5033, Block 5041; Tract 9602: Block Group 3: Block 3062, Block 3063, Block 3066, Block 3067, Block 3068; Block Group 5: Block 5999; Tract 9614: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009; Precinct WISHARTS; Scotland County: Precinct 3, Precinct 4, Precinct 5, Precinct 6: Tract 103: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1020, Block 1021, Block 1022, Block 1024, Block 1025, Block 1026, Block 1027; Block Group 2: Block 2000, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2040; Tract 104: Block Group 1: Block 1044, Block 1045, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1074, Block 1075, Block 1078, Block 1997, Block 1998, Block 1999; Precinct 8, Precinct 9, Precinct 10.

District 47: Hoke County: Precinct ANTIOCH, Precinct STONEWALL: Tract 9704: Block Group 1: Block 1023, Block 1024, Block 1026, Block 1027, Block 1028, Block 1029, Block 1031,

Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1997; Block Group 2: Block 2000; Robeson County: Precinct BLACK SWAMP: Tract 9605: Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5040; Tract 9608: Block Group 1: Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1999; Block Group 4: Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4087, Block 4088, Block 4089, Block 4090, Block 4091; Tract 9618: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2014, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2998, Block 2999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4049, Block 4050, Block 4051; Precinct BURNT SWAMP, Precinct FAIRMONT 2: Tract 9617: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2009, Block 2010, Block 2030, Block 2036, Block 2037, Block 2038, Block 2039, Block 2057, Block 2058, Block 2060, Block 2061, Block 2062, Block 2063, Block 2065; Block Group 3: Block 3047, Block 3048; Precinct LUMBER BRIDGE, Precinct LUMBERTON 1, Precinct LUMBERTON 2, Precinct LUMBERTON 7, Precinct LUMBERTON 8, Precinct NORTH PEMBROKE, Precinct SOUTH PEMBROKE, Precinct PHILADEPLUS, Precinct RAFT SWAMP, Precinct RENNERT, Precinct SADDLETREE, Precinct SOUTH ST PAULS: Tract 9601:

Block Group 5: Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5030, Block 5034, Block 5035, Block 5036, Block 5042, Block 5043, Block 5044, Block 5045, Block 5046, Block 5047, Block 5048, Block 5049; Tract 9602: Block Group 5: Block 5000, Block 5001, Block 5029, Block 5031; Precinct SHANNON, Precinct OXENDINE, Precinct PROSPECT, Precinct SMYRNA: Tract 9616: Block Group 1: Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012; Block Group 2: Block 2010; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Precinct THOMPSON, Precinct UNION.

District 48: Hoke County: Precinct ALLENDALE, Precinct BLUE SPRINGS, Precinct McCAIN: Tract 9702: Block Group 3: Block 3001, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062; Precinct RAEFORD 1, Precinct RAEFORD 2, Precinct RAEFORD 3, Precinct RAEFORD 4, Precinct RAEFORD 5; Robeson County: Precinct ALFORDSVILLE, Precinct BLACK SWAMP: Tract 9618: Block Group 2: Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2015; Precinct BRITTS, Precinct FAIRMONT 1, Precinct FAIRMONT 2: Tract 9617: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1999; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2064, Block 2066, Block 2067; Precinct GADDY, Precinct LUMBERTON 5, Precinct

LUMBERTON 6, Precinct MAXTON, Precinct ORRUM, Precinct RED SPRINGS 1, Precinct RED SPRINGS 2, Precinct ROWLAND, Precinct SMYRNA: Tract 9608: Block Group 4: Block 4051, Block 4052, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072; Tract 9616: Block Group 1: Block 1006; Block Group 2: Block 2011; Block Group 3: Block 3020, Block 3035, Block 3036, Block 3037, Block 3038; Precinct STERLINGS, Precinct WHITEHOUSE; Scotland County: Precinct 1, Precinct 2, Precinct 6: Tract 103: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2041; Tract 104: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1046, Block 1047, Block 1048, Block 1049, Block 1061, Block 1062, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1101, Block 1102, Block 1107, Block 1111, Block 1112, Block 1121, Block 1122, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1134, Block 1135, Block 1136, Block 1137; Precinct 7.

District 49: Richmond County, Moore County: Precinct EAST ABERDEEN, Precinct PINEBLUFF, Precinct PINEDENE, Precinct SOUTH SOUTHERN PINES, Precinct TAYLORTOWN, Precinct WEST ABERDEEN, Precinct WEST END.

District 50: Chatham County: Precinct BENNETT, Precinct HARPER'S CROSSROADS; Moore County: Precinct BENSALEM, Precinct CAMERON, Precinct CARTHAGE, Precinct EUREKA, Precinct EASTWOOD, Precinct KNOLLWOOD, Precinct LITTLE RIVER, Precinct NORTH SOUTHERN PINES, Precinct ROBBINS, Precinct SEVEN LAKES, Precinct VASS, Precinct WEST MOORE, Precinct PINEHURST A, Precinct PINEHURST B, Precinct PINEHURST C, Precinct D-H-R; Randolph County: Precinct BROWER, Precinct COLERIDGE, Precinct GRANT, Precinct PLEASANT GROVE, Precinct RICHLAND.

District 51: Lee County, Chatham County: Precinct BONLEE, Precinct GOLDSTON, Precinct THREE RIVERS, Precinct OAKLAND, Precinct EAST SILER CITY, Precinct CENTRAL SILER CITY, Precinct WEST SILER CITY.

District 52: Chatham County: Precinct ALBRIGHT, Precinct BYNUM, Precinct HADLEY, Precinct HICKORY MOUNTAIN, Precinct EAST MANNS CHAPEL, Precinct WEST MANNS CHAPEL, Precinct NEW HOPE, Precinct WEST PITTSBORO, Precinct EAST PITTSBORO, Precinct EAST WILLIAMS, Precinct NORTH WILLIAMS, Precinct WEST WILLIAMS, Precinct NORTH WILLIAMS 2, Precinct EAST WILLIAMS 2; Orange County: Precinct CARRBORO, Precinct ENO, Precinct HILLSBOROUGH, Precinct BOOKER CREEK, Precinct BATTLE PARK, Precinct COUNTRY CLUB, Precinct CEDAR FALLS, Precinct COKER HILLS, Precinct COLONIAL HEIGHTS, Precinct CAMERON PARK, Precinct COLES STORE, Precinct CHEEKS, Precinct DOGWOOD ACRES, Precinct EAST FRANKLIN, Precinct EFLAND, Precinct ESTES HILLS, Precinct EASTSIDE, Precinct GRADY BROWN, Precinct GLENWOOD, Precinct GREENWOOD, Precinct KINGS MILL, Precinct LIONS CLUB, Precinct LINCOLN, Precinct MASON FARM, Precinct NORTH CARRBORO, Precinct NORTHSIDE, Precinct ORANGE GROVE, Precinct OWASA, Precinct PATTERSON, Precinct RIDGEFIELD, Precinct ST. JOHNS, Precinct ST. MARYS, Precinct TOWN HALL, Precinct WHITE CROSS, Precinct WEAVER DAIRY, Precinct WEST HILLSBOROUGH, Precinct WESTWOOD, Precinct DAMASCUS 1, Precinct DAMASCUS 2, Precinct WEAVER DAIRY.

District 53: Alamance County: Precinct PATTERSON, Precinct COBLE, Precinct MORTON, Precinct FAUCETTE, Precinct ALBRIGHT, Precinct BOONE 5, Precinct CENTRAL BOONE, Precinct NORTH BOONE, Precinct SOUTH BOONE, Precinct WEST BOONE, Precinct GRAHAM 4, Precinct SOUTH GRAHAM, Precinct NORTH NEWLIN, Precinct SOUTH NEWLIN, Precinct NORTH THOMPSON, Precinct SOUTH THOMPSON, Precinct MELVILLE 3, Precinct BURLINGTON 6, Precinct BURLINGTON 9.

District 54: Alamance County: Precinct PLEASANT GROVE, Precinct HAW RIVER, Precinct GRAHAM 3, Precinct EAST GRAHAM, Precinct NORTH GRAHAM, Precinct WEST GRAHAM, Precinct NORTH MELVILLE, Precinct SOUTH MELVILLE, Precinct BURLINGTON 4, Precinct BURLINGTON 5, Precinct BURLINGTON 7, Precinct BURLINGTON 8, Precinct EAST BURLINGTON, Precinct NORTH BURLINGTON, Precinct SOUTH BURLINGTON, Precinct WEST BURLINGTON, Precinct BURLINGTON 10.

District 55: Caswell County, Orange County: Precinct CEDAR GROVE, Precinct CALDWELL, Precinct TOLARS, Precinct CARR; Rockingham County: Precinct HOGANS, Precinct IRONWORKS, Precinct MAYFIELD, Precinct NEW BETHEL, Precinct RUFFIN, Precinct SIMPSONVILLE, Precinct WILLIAMSBURG, Precinct REIDSVILLE 1, Precinct REIDSVILLE 2, Precinct REIDSVILLE 5, Precinct REIDSVILLE 6.

District 56: Rockingham County: Precinct BETHLEHEM, Precinct CENTRAL AREA, Precinct DRAPER, Precinct DAN VALLEY, Precinct HUNTSVILLE, Precinct MAYODAN, Precinct MARTINS, Precinct OREGON HILL, Precinct PRICE, Precinct SHILOH, Precinct STONEVILLE, Precinct WENTWORTH, Precinct LEAKSVILLE 1, Precinct LEAKSVILLE 2, Precinct LEAKSVILLE 3, Precinct MADISON 1, Precinct MADISON 2, Precinct REIDSVILLE 3, Precinct REIDSVILLE 4, Precinct SPRAY 1; Stokes County: Precinct EAST WALNUT COVE, Precinct FREEMAN, Precinct PINE HALL.

District 57: Guilford County: Precinct Greene, Precinct Center Grove 2, Precinct Center Grove 3, Precinct Greensboro 16, Precinct Greensboro 27, Precinct Greensboro 28, Precinct Greensboro 29, Precinct Greensboro 30, Precinct Greensboro 31, Precinct Greensboro 32, Precinct Greensboro 33, Precinct Greensboro 34, Precinct Greensboro 35, Precinct Greensboro 36, Precinct Gibsonville, Precinct Rock Creek 1: Tract 152: Block Group 2: Block 2009, Block 2010; Block Group 3: Block 3016, Block 3017, Block 3024, Block 3025, Block 3026, Block 3033, Block 3034, Block 3035; Block Group 4: Block 4010, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022; Tract 153: Block Group 1: Block 1009, Block 1010, Block 1011, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055; Precinct Rock Creek 2, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4, Precinct Fentress 2, Precinct Monroe 3, Precinct North Center Grove, Precinct North Madison, Precinct North Clay, Precinct North Washington, Precinct South Clay, Precinct South Washington.

District 58: Guilford County: Precinct Greensboro 1, Precinct Greensboro 2, Precinct Greensboro 3, Precinct Greensboro 4, Precinct Greensboro 5, Precinct Greensboro 6, Precinct Greensboro 7, Precinct Greensboro 10, Precinct Greensboro 21, Precinct Greensboro 67, Precinct Greensboro 68, Precinct Greensboro 70, Precinct Greensboro 71, Precinct Greensboro 72, Precinct Greensboro 74, Precinct Greensboro 8, Precinct Rock Creek 1: Tract 153: Block Group 1:

Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048; Block Group 3: Block 3002, Block 3003, Block 3005, Block 3009, Block 3010, Block 3011, Block 3012; Precinct Jefferson 1, Precinct Jefferson 2, Precinct Jefferson 3, Precinct Jefferson 4, Precinct Monroe 1, Precinct South Madison.

District 59: Guilford County: Precinct Greensboro 9, Precinct Greensboro 11, Precinct Greensboro 12, Precinct Greensboro 13, Precinct Greensboro 14, Precinct Greensboro 15, Precinct Greensboro 17, Precinct Greensboro 18, Precinct Greensboro 19, Precinct Greensboro 20, Precinct Greensboro 22, Precinct Greensboro 23, Precinct Greensboro 24, Precinct Greensboro 25, Precinct Greensboro 26, Precinct Greensboro 37, Precinct Greensboro 38, Precinct Greensboro 39, Precinct Greensboro 44, Precinct Greensboro 45, Precinct Greensboro 47, Precinct Greensboro 48, Precinct Greensboro 49, Precinct Greensboro 51, Precinct Greensboro 63, Precinct Monroe 2.

District 60: Guilford County: Precinct Greensboro 46, Precinct Greensboro 52, Precinct Greensboro 53, Precinct Greensboro 55, Precinct Greensboro 69, Precinct Greensboro 73, Precinct Greensboro 75, Precinct High Point 4, Precinct High Point 5, Precinct High Point 6, Precinct High Point 7, Precinct High Point 8, Precinct High Point 9, Precinct High Point 10, Precinct High Point 11, Precinct Fentress 1, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Jamestown 3, Precinct Sumner 1, Precinct Sumner 2.

District 61: Guilford County: Precinct HP: Tract 162.02: Block Group 1: Block 1041, Block 1042, Block 1043, Block 1045; Tract 163.02: Block Group 2: Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2014, Block 2015, Block 2016, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2054, Block 2055, Block 2056, Block 2057, Block 2997, Block 2998, Block 2999; Tract 164.02: Block Group 1: Block 1077, Block 1078, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089; Tract 164.03: Block Group 1: Block 1013, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1030, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block

1049, Block 1062, Block 1063, Block 1064, Block 1073, Block 1074, Block 1075, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096, Block 1998, Block 1999; Tract 164.04: Block Group 1: Block 1032, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1067; Precinct Center Grove 1, Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct Greensboro 41, Precinct Greensboro 42, Precinct Greensboro 43, Precinct Greensboro 64, Precinct High Point 2, Precinct High Point 14, Precinct High Point 15, Precinct High Point 16, Precinct High Point 21, Precinct High Point 22, Precinct High Point 23, Precinct High Point 24, Precinct High Point 25, Precinct High Point 26, Precinct High Point 27, Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Greensboro 40A, Precinct Greensboro 40B, Precinct North Deep River, Precinct South Deep River, Precinct Stokesdale.

District 62: Guilford County: Precinct HP: Tract 164.02: Block Group 1: Block 1022, Block 1024, Block 1025, Block 1026, Block 1061, Block 1062, Block 1063, Block 1069, Block 1070, Block 1071, Block 1072, Block 1075, Block 1076, Block 1079, Block 1999; Tract 164.03: Block Group 1: Block 1009, Block 1031, Block 1050, Block 1051, Block 1052, Block 1058, Block 1059, Block 1060, Block 1061, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1076, Block 1077; Tract 164.04: Block Group 1: Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1033, Block 1066, Block 1068, Block 1098, Block 1099, Block 1100, Block 1101, Block 1102, Block 1103, Block 1104, Block 1106, Block 1999; Precinct Friendship 1, Precinct Friendship 2, Precinct Greensboro 50, Precinct Greensboro 54, Precinct Greensboro 56, Precinct Greensboro 57, Precinct Greensboro 58, Precinct Greensboro 59, Precinct Greensboro 60, Precinct Greensboro 61, Precinct Greensboro 62, Precinct Greensboro 65, Precinct Greensboro 66, Precinct High Point 1, Precinct High Point 3, Precinct High Point 12, Precinct High Point 13, Precinct High Point 17, Precinct High Point 18, Precinct High Point 19, Precinct High Point 20.

District 63: Guilford County: Precinct Pleasant Garden 1, Precinct Pleasant Garden 2, Precinct Jamestown 4, Precinct Jamestown 5, Precinct Sumner 3, Precinct Sumner 4; Randolph County: Precinct

ASHEBORO ARMORY, Precinct ASHEBORO EASTSIDE, Precinct ASHEBORO LINDLEY PARK, Precinct ASHEBORO McCRARY, Precinct ASHEBORO NORTH 1, Precinct ASHEBORO NORTH 2, Precinct FALLS, Precinct FRANKLINVILLE, Precinct LEVEL CROSS, Precinct LIBERTY, Precinct PROVIDENCE 1, Precinct PROVIDENCE 2, Precinct RAMSEUR, Precinct STALEY.

District 64: Randolph County: Precinct ARCHDALE 1, Precinct ARCHDALE 2, Precinct ARCHDALE 3, Precinct ASHEBORO LOFLIN, Precinct ASHEBORO SOUTHPOINTE, Precinct ASHEBORO WESTSIDE, Precinct BACK CREEK, Precinct CEDAR GROVE EAST, Precinct CEDAR GROVE WEST, Precinct CONCORD, Precinct NEW HOPE, Precinct NEW MARKET NORTH, Precinct NEW MARKET SOUTH, Precinct PROSPECT, Precinct RANDLEMAN EAST, Precinct RANDLEMAN WEST, Precinct TABERNACLE, Precinct TRINITY EAST, Precinct TRINITY TABERNACLE, Precinct TRINITY WEST, Precinct UNION.

District 65: Montgomery County, Anson County: Precinct Morven/McFarlan, Precinct Wadesboro 1, Precinct Wadesboro 2, Precinct Wadesboro 3, Precinct White Store, Precinct Ansonville, Precinct Gulledege, Precinct Lilesville, Precinct Peachland, Precinct Polkton; Stanly County: Precinct East Albemarle, Precinct East Center, Precinct New London, Precinct West Center: Tract 9911: Block Group 5: Block 5041, Block 5042, Block 5043, Block 5044, Block 5045, Block 5048, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5997; Precinct Palmerville, Precinct Badin; Union County: Precinct 26, Precinct 27.

District 66: Anson County: Precinct Burnsville; Stanly County: Precinct Albemarle 1, Precinct Albemarle 6, Precinct Albemarle 7, Precinct Albemarle 8, Precinct South Albemarle: Tract 9910: Block Group 1: Block 1021, Block 1022, Block 1024, Block 1025, Block 1027, Block 1028, Block 1031, Block 1045, Block 1049; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027; Tract 9911: Block Group 1: Block 1003; Precinct West Center: Tract 9911: Block Group 1: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040,

Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039; Block Group 5: Block 5046, Block 5047; Precinct Tyson; Union County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 06, Precinct 07, Precinct 08, Precinct 09, Precinct 10, Precinct 19, Precinct 21, Precinct 23, Precinct 24, Precinct 25, Precinct 30; Tract 204.02: Block Group 5: Block 5002, Block 5012; Precinct 34, Precinct 36, Precinct 43.

District 67: Stanly County: Precinct Furr 1, Precinct Furr 2, Precinct Big Lick 1, Precinct Big Lick 2; Union County: Precinct 05, Precinct 11, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 16, Precinct 17, Precinct 18, Precinct 29, Precinct 30; Tract 203.02: Block Group 1: Block 1083, Block 1085, Block 1086, Block 1089, Block 1091, Block 1092, Block 1093, Block 1094, Block 1095, Block 1096; Tract 204.01: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018; Tract 204.02: Block Group 5: Block 5003, Block 5005; Precinct 31, Precinct 32, Precinct 35, Precinct 37, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42.

District 68: Cabarrus County: Precinct 0500, Precinct 0600, Precinct 0700, Precinct 0800, Precinct 0900, Precinct 1102; Davidson County: Precinct DENTON, Precinct EMMONS, Precinct HEALING SPRINGS, Precinct HOLLY GROVE, Precinct LIBERTY, Precinct SILVER VALLEY, Precinct SOUTH DAVIDSON, Precinct THOMASVILLE 9, Precinct THOMASVILLE 10; Rowan County: Precinct Morgan I, Precinct Morgan II, Precinct Gold Knob; Stanly County: Precinct Albemarle 2, Precinct North Albemarle, Precinct South Albemarle; Tract 9906: Block Group 4: Block 4040, Block 4041, Block 4042; Block Group 5: Block 5021, Block 5026, Block 5037; Block Group 6: Block 6000, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6012, Block 6013, Block 6020, Block 6021, Block 6027, Block 6028, Block 6029, Block 6030,

Block 6031, Block 6032, Block 6034, Block 6999; Tract 9910: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010; Block Group 3: Block 3009, Block 3010, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023; Precinct Albemarle 10, Precinct Albemarle 11, Precinct Ridenhour, Precinct Endy, Precinct Richfield, Precinct Almond.

District 69: Davidson County: Precinct BOONE, Precinct CENTRAL, Precinct COTTON GROVE, Precinct LEXINGTON 1, Precinct LEXINGTON 2, Precinct LEXINGTON 4, Precinct WARD 1, Precinct WARD 2, Precinct WARD 3, Precinct WARD 4, Precinct WARD 5, Precinct WARD 6, Precinct SILVER HILL, Precinct SOUTHMONT, Precinct THOMASVILLE 2, Precinct THOMASVILLE 3, Precinct THOMASVILLE 4, Precinct THOMASVILLE 5, Precinct THOMASVILLE 7, Precinct TYRO.

District 70: Davidson County: Precinct ABBOTTS CREEK, Precinct THOMASVILLE 1, Precinct THOMASVILLE 8, Precinct WALLBURG; Forsyth County: Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 015, Precinct 021, Precinct 043: Tract 34.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2021, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2035; Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 111, Precinct 112.

District 71: Forsyth County: Precinct 031: Tract 28.07: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2024, Block 2025; Precinct 033: Tract 27.02: Block Group 1: Block 1000, Block 1001, Block 1012; Tract 28.05: Block Group 2: Block 2027, Block 2028; Tract 28.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2008, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024; Tract 28.07: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021; Tract 29.01: Block Group 2: Block 2005, Block 2006, Block 2009, Block 2010, Block 2011, Block

2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2022, Block 2023, Block 2024, Block 2029, Block 2030, Block 2031, Block 2033; Precinct 043: Tract 33.03: Block Group 3: Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039; Tract 34.01: Block Group 1: Block 1000, Block 1001, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1033, Block 1034, Block 1035, Block 1036, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1056, Block 1057, Block 1058; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Tract 34.02: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026; Block Group 2: Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2022, Block 2032, Block 2033, Block 2034, Block 2036, Block 2037; Precinct 081, Precinct 082, Precinct 083, Precinct 301, Precinct 306, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505; Tract 19.01: Block Group 1: Block 1042, Block 1043, Block 1044, Block 1045; Tract 20.01: Block Group 1: Block 1023, Block 1024, Block 1025, Block 1034, Block 1035, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042; Tract 35: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1015, Block 1016, Block 1017; Block Group 2: Block 2000, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3007, Block 3008, Block 3009; Precinct 507, Precinct 606: Tract 20.01: Block Group 1: Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033; Block Group 2: Block 2000, Block 2001, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010,

Block 2011, Block 2012, Block 2013; Tract 20.02: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2000, Block 2005, Block 2006, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015.

District 72: Forsyth County: Precinct 101: Tract 28.04: Block Group 3: Block 3013, Block 3014, Block 3015, Block 3016, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Precinct 122: Tract 37: Block Group 4: Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4082, Block 4083, Block 4087; Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 601, Precinct 603, Precinct 604, Precinct 605, Precinct 606: Tract 20.01: Block Group 2: Block 2002; Tract 20.02: Block Group 1: Block 1000, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007; Block Group 2: Block 2001; Precinct 701: Tract 11: Block Group 3: Block 3006, Block 3007, Block 3008, Block 3012, Block 3013, Block 3014; Precinct 703, Precinct 704, Precinct 901, Precinct 902, Precinct 903, Precinct 904, Precinct 905.

District 73: Forsyth County: Precinct 031: Tract 28.07: Block Group 1: Block 1000, Block 1001, Block 1011, Block 1012, Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2026, Block 2027, Block 2028, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3012, Block 3013, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027; Precinct 032, Precinct 033: Tract 28.06: Block Group 2: Block 2005, Block 2006, Block 2007, Block 2009, Block 2010, Block 2011; Precinct 034, Precinct 042, Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 091, Precinct 092, Precinct 101: Tract 28.01: Block Group 3: Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3061, Block 3062, Block 3063; Tract 28.04: Block Group 1: Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1999; Block Group 2: Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005,

Block 3006, Block 3007, Block 3011, Block 3017, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030; Tract 28.05: Block Group 3: Block 3063; Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4019; Precinct 122: Tract 37: Block Group 2: Block 2041, Block 2042, Block 2043; Block Group 4: Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4070, Block 4071, Block 4072, Block 4073, Block 4074, Block 4075, Block 4076, Block 4077, Block 4078, Block 4079, Block 4080, Block 4081, Block 4084, Block 4085, Block 4086, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4093, Block 4094, Block 4095, Block 4096, Block 4097, Block 4098, Block 4099, Block 4100, Block 4101, Block 4102, Block 4103, Block 4104, Block 4105, Block 4106, Block 4107, Block 4108, Block 4109, Block 4110, Block 4111, Block 4112, Block 4113, Block 4114, Block 4115, Block 4116, Block 4117, Block 4118, Block 4119, Block 4120, Block 4121, Block 4997, Block 4998, Block 4999; Tract 38.03: Block Group 2: Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Precinct 123, Precinct 131, Precinct 132, Precinct 133, Precinct 505: Tract 35: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1014; Block Group 3: Block 3004, Block 3005, Block 3006, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023; Precinct 506, Precinct 602, Precinct 607, Precinct 701: Tract 22: Block Group 2: Block 2000, Block 2002, Block 2003, Block 2004, Block 2005, Block 2013; Block Group 5: Block 5000, Block 5001, Block 5002; Tract 25.01: Block Group 3: Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3033, Block 3034, Block 3035; Tract 25.02: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020; Precinct 702,

Precinct 705, Precinct 706, Precinct 707, Precinct 708, Precinct 709, Precinct 801, Precinct 802, Precinct 803, Precinct 804, Precinct 805, Precinct 806, Precinct 807, Precinct 808, Precinct 809, Precinct 906, Precinct 907, Precinct 908, Precinct 909; Stokes County: Precinct CHESTNUT GROVE, Precinct PINNACLE, Precinct EAST KING, Precinct WEST KING.

District 74: Stokes County: Precinct DANBURY, Precinct SANDY RIDGE, Precinct LAWSONVILLE, Precinct FRANCISCO, Precinct FRANS, Precinct REYNOLDS, Precinct FLINTY KNOLL, Precinct MOUNT OLIVE, Precinct MIZPAH, Precinct WILSONS STORE, Precinct GERMANTON, Precinct WEST WALNUT COVE, Precinct MITCHELL; Surry County: Precinct Eldora, Precinct Long Hill, Precinct Mount Airy 1, Precinct Mount Airy 2, Precinct Mount Airy 4, Precinct Mount Airy 5, Precinct Mount Airy 6, Precinct Mount Airy 7, Precinct Mount Airy 8, Precinct Mount Airy 9, Precinct Pilot 1, Precinct Pilot 2, Precinct Rockford, Precinct Shoals, Precinct Siloam, Precinct North Westfield, Precinct South Westfield, Precinct Mount Airy 3.

District 75: Swain County, Haywood County: Precinct Allens Creek, Precinct Ivy Hill, Precinct Lake Junaluska; Jackson County: Precinct Barkers Creek, Precinct Canada, Precinct Caney Fork, Precinct Cullowhee, Precinct Dillsboro, Precinct Greens Creek, Precinct Hamburg, Precinct Mountain, Precinct Qualla, Precinct River, Precinct Savannah, Precinct Sylva North Ward, Precinct Sylva South Ward, Precinct Webster, Precinct Scotts Creek CRU; Macon County: Precinct North Franklin, Precinct South Franklin, Precinct East Franklin, Precinct Iotla, Precinct Cowee.

District 76: Davie County, Davidson County: Precinct ARCADIA, Precinct GUMTREE, Precinct LEXINGTON 3, Precinct MIDWAY, Precinct NORTH DAVIDSON, Precinct REEDS YADKIN COLLEGE, Precinct REEDY CREEK, Precinct WELCOME, Precinct WEST ARCADIA.

District 77: Iredell County: Precinct Chambersburg, Precinct Statesville 3, Precinct Statesville 6; Rowan County: Precinct Cleveland, Precinct Franklin, Precinct Milford Hills County, Precinct East Spencer, Precinct Scotch Irish, Precinct Spencer, Precinct Steele, Precinct Unity, Precinct West Ward II, Precinct West Ward I, Precinct South Ward, Precinct North Ward I, Precinct East Ward I, Precinct West Innes, Precinct North Ward II, Precinct Milford Hills City, Precinct West Ward III, Precinct East Ward II.

District 78: Rowan County: Precinct Barnhardt Mill, Precinct Blackwelder Park, Precinct Bostian Crossroads, Precinct North China Grove, Precinct South China Grove, Precinct South Locke, Precinct East Enochville, Precinct Faith, Precinct Rock Grove, Precinct Granite Quarry, Precinct Hatters Shop, Precinct West Kannapolis,

Precinct East Kannapolis, Precinct West Landis, Precinct East Landis, Precinct North Locke, Precinct Rockwell, Precinct Sumner, Precinct Trading Ford, Precinct Bostian School, Precinct West Enochville.

District 79: Cabarrus County: Precinct 0300, Precinct 0401, Precinct 0402, Precinct 0403, Precinct 0404, Precinct 0405, Precinct 0406, Precinct 0407, Precinct 0409, Precinct 1101, Precinct 1201, Precinct 1202, Precinct 1203, Precinct 1204, Precinct 1205, Precinct 1206, Precinct 1207, Precinct 1208, Precinct 1210; Mecklenburg County: Precinct 127, Precinct 206.

District 80: Cabarrus County: Precinct 0101, Precinct 0102, Precinct 0103, Precinct 0104, Precinct 0201, Precinct 0202, Precinct 0203, Precinct 0204, Precinct 0205, Precinct 0206, Precinct 0207, Precinct 0408, Precinct 0410, Precinct 1000, Precinct 1209, Precinct 1211, Precinct 1212; Mecklenburg County: Precinct 128, Precinct 239.

District 81: Mecklenburg County: Precinct 091, Precinct 113, Precinct 115, Precinct 227, Precinct 233, Precinct 234, Precinct 235, Precinct 236, Precinct 136, Precinct 137; Tract 58.21: Block Group 1: Block 1000, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2024, Block 2025, Block 2026, Block 2027; Precinct 201, Precinct 203, Precinct 205, Precinct 215, Precinct 216, Precinct 218, Precinct 219, Precinct 220, Precinct 221.

District 82: Mecklenburg County: Precinct 006, Precinct 007, Precinct 017, Precinct 033, Precinct 034, Precinct 035, Precinct 045, Precinct 062, Precinct 063, Precinct 064, Precinct 083, Precinct 084, Precinct 094, Precinct 099, Precinct 102, Precinct 117, Precinct 125, Precinct 130, Precinct 217.

District 83: Mecklenburg County: Precinct 036, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 069, Precinct 085, Precinct 090, Precinct 096, Precinct 100, Precinct 103, Precinct 106, Precinct 112, Precinct 118, Precinct 119, Precinct 121, Precinct 232, Precinct 131, Precinct 137; Tract 58.21: Block Group 2: Block 2022, Block 2023; Precinct 139, Precinct 144; Union County: Precinct 20, Precinct 22, Precinct 28, Precinct 33.

District 84: Mecklenburg County: Precinct 008: Tract 27: Block Group 4: Block 4005, Block 4006, Block 4007, Block 4008, Block 4009; Block Group 5: Block 5013, Block 5014; Precinct 018, Precinct 019, Precinct 047, Precinct 048, Precinct 049, Precinct 050, Precinct 057, Precinct 058, Precinct 059, Precinct 070, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 076,

Precinct 086, Precinct 087, Precinct 092, Precinct 093, Precinct 101, Precinct 110, Precinct 111, Precinct 114, Precinct 129.

District 85: Mecklenburg County: Precinct 002: Tract 24: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2008, Block 2009; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3011, Block 3012, Block 3013; Tract 25: Block Group 2: Block 2013, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035; Tract 26: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006; Precinct 008: Tract 27: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006; Block Group 3: Block 3000, Block 3001, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3015; Block Group 4: Block 4000; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011; Precinct 009, Precinct 010, Precinct 015, Precinct 020, Precinct 021, Precinct 022, Precinct 032, Precinct 037, Precinct 038, Precinct 044, Precinct 051, Precinct 052, Precinct 077: Tract 38.04: Block Group 1: Block 1022; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012; Tract 58.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1068, Block 1069, Block 1071, Block 1072, Block 1073, Block 1074, Block 1077, Block 1079, Block 1999; Tract 59.05: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046; Precinct 097, Precinct 098, Precinct 109, Precinct 120, Precinct 228, Precinct 138.

District 86: Mecklenburg County: Precinct 001, Precinct 002: Tract 24: Block Group 1: Block 1013, Block 1014, Block 1016;

Block Group 2: Block 2000, Block 2001, Block 2005, Block 2006, Block 2007; Precinct 003, Precinct 004, Precinct 005, Precinct 013, Precinct 014, Precinct 028, Precinct 029, Precinct 030, Precinct 043, Precinct 046, Precinct 061, Precinct 095, Precinct 104, Precinct 108, Precinct 116, Precinct 123, Precinct 124.

District 87: Mecklenburg County: Precinct 060, Precinct 082, Precinct 105, Precinct 107, Precinct 126, Precinct 237, Precinct 238, Precinct 241, Precinct 132, Precinct 141, Precinct 204, Precinct 207, Precinct 212, Precinct 214.

District 88: Mecklenburg County: Precinct 011, Precinct 012, Precinct 024, Precinct 026, Precinct 027, Precinct 042, Precinct 054, Precinct 055, Precinct 056, Precinct 240, Precinct 242, Precinct 134, Precinct 135, Precinct 143, Precinct 209, Precinct 211, Precinct 213.

District 89: Mecklenburg County: Precinct 016, Precinct 023, Precinct 025, Precinct 031, Precinct 039, Precinct 040, Precinct 041, Precinct 053, Precinct 078, Precinct 079, Precinct 080, Precinct 081, Precinct 089, Precinct 210, Precinct 222, Precinct 223.

District 90: Catawba County: Precinct Balls Creek, Precinct Catawba, Precinct Claremont, Precinct East Maiden, Precinct Monogram, Precinct Mt Olive, Precinct Sherrills Ford, Precinct Lake Norman; Iredell County: Precinct Coddle Creek 1, Precinct Coddle Creek 2, Precinct Coddle Creek 4; Tract 614: Block Group 8: Block 8029, Block 8030, Block 8031, Block 8032, Block 8033, Block 8034, Block 8035, Block 8038, Block 8039, Block 8044, Block 8045, Block 8046, Block 8047, Block 8048, Block 8049, Block 8050, Block 8051, Block 8052, Block 8053, Block 8054, Block 8055, Block 8056, Block 8057, Block 8061; Tract 616: Block Group 5: Block 5007, Block 5008, Block 5010, Block 5011, Block 5013, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5025, Block 5031, Block 5032, Block 5033; Precinct Davidson 1: Tract 612: Block Group 8: Block 8008, Block 8011, Block 8012, Block 8013, Block 8014, Block 8015, Block 8016, Block 8017, Block 8018, Block 8019, Block 8020, Block 8021, Block 8022, Block 8023, Block 8024, Block 8025, Block 8026, Block 8027, Block 8028, Block 8029, Block 8030, Block 8031, Block 8032, Block 8033, Block 8034, Block 8035, Block 8036, Block 8037, Block 8038, Block 8039, Block 8040, Block 8041, Block 8042, Block 8043, Block 8044, Block 8045, Block 8046, Block 8047, Block 8050, Block 8051, Block 8052, Block 8055, Block 8056, Block 8057, Block 8058, Block 8059, Block 8060, Block 8061, Block 8062, Block 8063, Block 8064, Block 8995, Block 8997, Block 8998; Block Group 9: Block 9015, Block 9016, Block 9017, Block 9018, Block 9019, Block 9020, Block 9021, Block 9022, Block 9023, Block 9024, Block 9025, Block 9026, Block 9027, Block 9028, Block 9029, Block 9030, Block 9037, Block 9038, Block 9039, Block 9040, Block 9041, Block 9042, Block 9043, Block 9044, Block 9045, Block 9046, Block

9047, Block 9048, Block 9049, Block 9050, Block 9052, Block 9054, Block 9997, Block 9998, Block 9999; Tract 613: Block Group 1: Block 1009, Block 1010, Block 1011, Block 1012, Block 1015, Block 1016, Block 1053, Block 1054, Block 1059, Block 1060, Block 1062, Block 1079, Block 1998, Block 1999; Block Group 2: Block 2013, Block 2015, Block 2017, Block 2018; Tract 614: Block Group 1: Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1996, Block 1997, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2999; Block Group 3: Block 3000, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3997, Block 3998, Block 3999; Block Group 5: Block 5010, Block 5011, Block 5012, Block 5013, Block 5015, Block 5016, Block 5038, Block 5039, Block 5043; Precinct Davidson 2: Tract 614: Block Group 5: Block Group 7: Block 7000, Block 7001, Block 7002, Block 7003, Block 7004, Block 7005, Block 7006, Block 7007, Block 7008, Block 7009, Block 7010, Block 7011, Block 7012, Block 7013, Block 7014, Block 7015, Block 7016, Block 7017, Block 7018, Block 7019, Block 7020, Block 7021, Block 7022, Block 7023, Block 7024, Block 7025, Block

7026, Block 7027, Block 7028, Block 7029, Block 7030, Block 7031, Block 7032, Block 7033, Block 7034, Block 7035, Block 7036, Block 7037, Block 7038, Block 7997, Block 7998, Block 7999; Block Group 8: Block 8058, Block 8059, Block 8060, Block 8062, Block 8063, Block 8064, Block 8065, Block 8066; Tract 616: Block Group 5: Block 5021, Block 5022, Block 5023, Block 5024, Block 5026, Block 5027, Block 5028; Mecklenburg County: Precinct 133, Precinct 142, Precinct 202, Precinct 208.

District 91: Iredell County: Precinct Barringer, Precinct Bethany, Precinct Coddle Creek 3, Precinct Coddle Creek 4: Tract 616: Block Group 1: Block 1012, Block 1049, Block 1051, Block 1052; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2015, Block 2016; Block Group 3: Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4030, Block 4031, Block 4999; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036; Precinct Concord, Precinct Davidson 1: Tract 614: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1042, Block 1043; Block Group 4: Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4998; Precinct Davidson 2: Tract 614: Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4031, Block 4032, Block 4033, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4999; Block Group 5: Block 5022, Block 5023, Block 5024, Block 5027, Block 5028, Block 5029, Block

5031, Block 5034, Block 5035, Block 5036, Block 5037, Block 5040, Block 5041, Block 5044, Block 5045, Block 5049, Block 5050, Block 5051, Block 5052, Block 5053, Block 5054, Block 5055, Block 5056, Block 5057, Block 5058, Block 5071, Block 5074, Block 5075, Block 5079, Block 5080, Block 5996, Block 5997; Block Group 6: Block 6000, Block 6001, Block 6002, Block 6003, Block 6004, Block 6005, Block 6006, Block 6007, Block 6008, Block 6009, Block 6010, Block 6011, Block 6012, Block 6013, Block 6014, Block 6015, Block 6016, Block 6017, Block 6018, Block 6019, Block 6020, Block 6021, Block 6022, Block 6023, Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6031, Block 6032, Block 6033, Block 6034, Block 6035, Block 6036, Block 6037, Block 6038, Block 6039, Block 6040, Block 6041, Block 6042, Block 6996, Block 6997, Block 6998, Block 6999; Tract 616: Block Group 6: Block 6024, Block 6025, Block 6026, Block 6027, Block 6028, Block 6029, Block 6030, Block 6037, Block 6038, Block 6039; Precinct Fallstown, Precinct Olin, Precinct Shiloh, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 4, Precinct Statesville 5; Rowan County: Precinct Bradshaw, Precinct Mount Ulla.

District 92: Yadkin County, Iredell County: Precinct Cool Springs, Precinct Eagle Mills, Precinct New Hope, Precinct Sharpesburg, Precinct Turnersburg, Precinct Union Grove; Surry County: Precinct Bryan, Precinct Dobson 1, Precinct Dobson 2, Precinct Dobson 3, Precinct Elkin 1, Precinct Elkin 2, Precinct Elkin 3, Precinct Franklin, Precinct Marsh, Precinct Stewarts Creek 1, Precinct Stewarts Creek 2; Wilkes County: Precinct Antioch, Precinct Brushy Mountain, Precinct Cricket, Precinct Edwards 1, Precinct Edwards 2, Precinct Edwards 3, Precinct Fairplains, Precinct Millers Creek, Precinct Moravian Falls, Precinct Mulberry 1, Precinct Mulberry 2, Precinct Mulberry 3, Precinct New Castle, Precinct North Wilkesboro, Precinct Reddies River, Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Somers, Precinct Traphill 1, Precinct Traphill 2, Precinct Walnut Grove, Precinct Wilkesboro 1, Precinct Wilkesboro 2, Precinct Wilkesboro 3.

District 93: Cherokee County, Clay County, Graham County, Jackson County: Precinct Cashiers; Macon County: Precinct Union, Precinct Millshoal, Precinct Ellijay, Precinct Sugarfork, Precinct Highlands, Precinct Flats, Precinct Smithbridge, Precinct Cartoogechaye, Precinct Nantahala, Precinct Burningtown; Transylvania County: Precinct Hogback CRU, Precinct Eastatooe CRU.

District 94: Alleghany County, Ashe County, Watauga County: Precinct Bald Mtn, Precinct Beaverdam, Precinct Boone1, Precinct Boone2, Precinct Brushy Fork, Precinct Cove Creek, Precinct Laurel Creek, Precinct Meat Camp, Precinct Boone3, Precinct New

River 1, Precinct New River 2, Precinct New River 3, Precinct North Fork, Precinct Shawneehaw, Precinct Watauga, Precinct Beech Mtn.

District 95: Alexander County: Precinct Ellendale, Precinct Millers, Precinct Gwaltney 1, Precinct Gwaltney 2, Precinct Little River, Precinct Sharpes 1, Precinct Sharpes 2, Precinct Sugar Loaf, Precinct Taylorsville 1, Precinct Taylorsville 2, Precinct Taylorsville 3, Precinct Taylorsville 4; Caldwell County: Precinct Kings Creek, Precinct Little River, Precinct Lower Creek 3, Precinct Yadkin Valley, Precinct Lovelady 1, Precinct Lovelady 2; Catawba County: Precinct Oakland Heights, Precinct Viewmont 1, Precinct Falling Creek, Precinct Northwest; Watauga County: Precinct Blowing Rock, Precinct Blue Ridge, Precinct Elk, Precinct Stony Fork; Wilkes County: Precinct Boomer, Precinct Jobs Cabin, Precinct Union, Precinct Mt Pleasant Ferguson CRU.

District 96: Alexander County: Precinct Wittenburg, Precinct Bethlehem 1, Precinct Bethlehem 2, Precinct Taylorsville 5; Catawba County: Precinct Conover West, Precinct Conover East, Precinct College Park, Precinct Kenworth, Precinct Greenmont, Precinct Oakwood, Precinct Ridgeview, Precinct Highlands, Precinct Oxford, Precinct St Stephens 1, Precinct St Stephens 2, Precinct Sandy Ridge, Precinct Springs, Precinct Sweetwater, Precinct Viewmont 2.

District 97: Catawba County: Precinct Banoak, Precinct Blackburn, Precinct East Newton, Precinct Maiden, Precinct North Newton, Precinct South Newton, Precinct Startown, Precinct West Newton; Lincoln County: Precinct Asbury, Precinct Buffalo Shoals, Precinct Denver, Precinct Daniels/Vale, Precinct Hickory Grove, Precinct Iron Station, Precinct Lowesville, Precinct North Brook III, Precinct Pumpkin Center, Precinct Salem, Precinct Triangle, Precinct Westport.

District 98: Gaston County: Precinct Victory, Precinct Pleasant Ridge, Precinct Health Center, Precinct Myrtle, Precinct Highland, Precinct Wood Hill, Precinct Landers Chapel, Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville 3, Precinct High Shoals, Precinct Dallas 1; Lincoln County: Precinct Boger City, Precinct Crouse, Precinct Heavners, Precinct Lithia, Precinct Love Memorial, Precinct Lincolnton North, Precinct Lincolnton South, Precinct Long Shoals, Precinct North Brook I/II.

District 99: Gaston County: Precinct York Chester, Precinct Grier, Precinct Armstrong, Precinct Flint Grove, Precinct Ranlo, Precinct Gardner Park, Precinct Belmont 2, Precinct Belmont 3, Precinct Catawba Heights, Precinct Cramerton: Tract 322: Block Group 4: Block 4999; Tract 323.01: Block Group 1: Block 1017, Block 1018, Block 1997; Block Group 2: Block 2004, Block 2005,

Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2013, Block 2997, Block 2998, Block 2999; Tract 324: Block Group 1: Block 1016; Block Group 4: Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4029, Block 4999; Precinct McAdenville, Precinct Lowell, Precinct Alexis, Precinct Dallas 2, Precinct Lucia, Precinct Stanley 1, Precinct Stanley 2, Precinct Mt Holly 1, Precinct Mt Holly 2.

District 100: Gaston County: Precinct Robinson 1, Precinct Gaston Day, Precinct Belmont 1, Precinct Southpoint, Precinct Cramerton: Tract 322: Block Group 2: Block 2000, Block 2023, Block 2024, Block 2025; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3998, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4998; Tract 325.04: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3011, Block 3012, Block 3014, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3036, Block 3996, Block 3997, Block 3998, Block 3999; Precinct New Hope, Precinct Union; Mecklenburg County: Precinct 077: Tract 59.05: Block Group 2: Block 2040, Block 2047, Block 2048, Block 2049, Block 2050; Precinct 088, Precinct 122, Precinct 225, Precinct 226, Precinct 229, Precinct 230, Precinct 231, Precinct 243, Precinct 140, Precinct 200, Precinct 224.

District 101: Cleveland County: Precinct Waco, Precinct Casar, Precinct Mulls, Precinct Oak Grove, Precinct Bethware, Precinct Fallston; Gaston County: Precinct Forest Heights, Precinct Sherwood, Precinct Robinson 2, Precinct Ashbrook, Precinct South Gastonia, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Crowders Mountain, Precinct Tryon.

District 102: Cleveland County: Precinct Shelby 1, Precinct Shelby 2, Precinct Shelby 3, Precinct Shelby 5, Precinct Shelby 6, Precinct Shelby 7, Precinct Shelby 8, Precinct Kings Mountain 1, Precinct Kings Mountain 2, Precinct Kings Mountain 3, Precinct Kings Mountain 4, Precinct Boiling Springs, Precinct Rippy, Precinct Grover, Precinct Lawndale, Precinct Polkville, Precinct Shanghai.

District 103: Cleveland County: Precinct Shelby 4, Precinct Lattimore, Precinct Hot Springs, Precinct Kingstown, Precinct MRB-YO; Rutherford County: Precinct Bostic, Precinct Caroleen, Precinct

Chimney Rock 1, Precinct Chimney Rock 2, Precinct Cliffside, Precinct Danielstown, Precinct Ellenboro, Precinct Forest City 1, Precinct Forest City 2, Precinct Gilkey, Precinct Green Hill, Precinct Haynes, Precinct Rutherfordton 1, Precinct Rutherfordton 2, Precinct Sandy Mush, Precinct Spindale, Precinct Sulpher Springs, Precinct Union.

District 104: McDowell County, Burke County: Precinct Linville 1, Precinct Lower Fork, Precinct Upper Fork; Catawba County: Precinct Brookford, Precinct Longview North, Precinct Longview South, Precinct Mtn View 1, Precinct Mtn View 2; Rutherford County: Precinct Camp Creek, Precinct Duncans Creek, Precinct Golden Valley, Precinct Morgan, Precinct Mount Vernon, Precinct Sunshine.

District 105: Burke County: Precinct Drexel 1, Precinct Linville 2, Precinct Lovelady 1, Precinct Lovelady 2, Precinct Lovelady 4, Precinct Lower Creek, Precinct Morganton 1, Precinct Morganton 4, Precinct Morganton 5, Precinct Morganton 6, Precinct Morganton 7, Precinct Morganton 8, Precinct Morganton 9, Precinct Morganton 10, Precinct Quaker Meadows 1, Precinct Quaker Meadows 2, Precinct Silver Creek 1, Precinct Silver Creek 2, Precinct Silver Creek 3, Precinct Upper Creek.

District 106: Avery County, Mitchell County, Yancey County, Burke County: Precinct Drexel 3, Precinct Icard 1, Precinct Icard 2, Precinct Icard 3, Precinct Icard 4, Precinct Icard 5, Precinct Jonas Ridge, Precinct Smoky Creek; Caldwell County: Precinct Gamewell 1, Precinct Gamewell 2, Precinct Hudson 1, Precinct Hudson 2, Precinct Globe Johns River, Precinct Lenoir 1, Precinct Lenoir 2, Precinct Lenoir 3, Precinct Lenoir 4, Precinct Lovelady Rhodiss, Precinct Lower Creek 1, Precinct Lower Creek 2, Precinct Lower Creek 4, Precinct Mulberry, Precinct Patterson, Precinct Wilson Creek, Precinct North Catawba 1, Precinct North Catawba 2, Precinct Sawmills 1, Precinct Sawmills 2.

District 107: Buncombe County: Precinct Asheville 2, Precinct Asheville 3, Precinct Asheville 4, Precinct Asheville 6, Precinct Asheville 10, Precinct Asheville 11, Precinct Asheville 12, Precinct Asheville 13, Precinct Asheville 14, Precinct Asheville 15, Precinct Asheville 16, Precinct Asheville 21, Precinct Asheville 22, Precinct Asheville 23, Precinct Asheville 24, Precinct Flat Creek (40), Precinct Hazel 1 (42), Precinct Hazel 2 (43), Precinct North Buncombe (58), Precinct Reems Creek (59), Precinct Weaverville (67), Precinct Woodland Hills (71), Precinct Asheville 28, Precinct Asheville 27, Precinct Ivy CRU (50, 51).

District 108: Buncombe County: Precinct Asheville 1, Precinct Asheville 7, Precinct Asheville 8, Precinct Asheville 9, Precinct Asheville 17, Precinct Asheville 18, Precinct Asheville 19, Precinct

Asheville 20, Precinct Asheville 25, Precinct Black Mountain 1 (32), Precinct Black Mountain 2 (33), Precinct Black Mountain 3 (34), Precinct Black Mountain 5 (36), Precinct Broad River (37), Precinct Fairview 1 (38), Precinct Fairview 2 (39), Precinct Limestone 4 (57), Precinct Reynolds (60), Precinct Swannanoa 1 (64), Precinct Black Mountain 4 (35), Precinct Asheville 29, Precinct Riceville Swannanoa CRU 2 (62, 66), Precinct Riceville Swannanoa 2 CRU (61, 65).

District 109: Buncombe County: Precinct Asheville 5, Precinct Averys Creek (30), Precinct Biltmore (31), Precinct French Broad (41), Precinct Lower Hominy 1 (44), Precinct Lower Hominy 2 (45), Precinct Lower Hominy 3 (46), Precinct Upper Hominy 2 (48), Precinct Leicester 1 (52), Precinct Limestone 1 (54), Precinct Limestone 2 (55), Precinct Limestone 3 (56), Precinct West Buncombe 1 (68, 681), Precinct West Buncombe 2 (69), Precinct Woodfin (70), Precinct Upper Hominy CRU (47, 49), Precinct Leicester Sandy Mush CRU (63, 53).

District 110: Henderson County: Precinct Armory, Precinct Atkinson, Precinct Bat Cave, Precinct Crab Creek, Precinct Clear Creek, Precinct Edneyville, Precinct East Flat Rock, Precinct Etowah South, Precinct Etowah Valley, Precinct Fletcher, Precinct Flat Rock, Precinct Hoopers Creek, Precinct Horseshoe, Precinct Long John Mountain, Precinct Laurel Park, Precinct Moores Grove, Precinct North Blue Ridge, Precinct Northeast, Precinct Park Ridge, Precinct Pisgah View, Precinct South Blue Ridge, Precinct Southeast, Precinct South Mills River, Precinct Southwest.

District 111: Polk County, Henderson County: Precinct Brickton, Precinct Grimesdale, Precinct Green River, Precinct North Mills River, Precinct Northwest, Precinct Rugby, Precinct Raven Rock, Precinct Hendersonville 1, Precinct Hendersonville 2, Precinct Hendersonville 3; Transylvania County: Precinct Brevard 1, Precinct Brevard 2, Precinct Brevard 3, Precinct Brevard 4, Precinct Boyd, Precinct Catheys Creek, Precinct Cedar Mountain, Precinct Dunns Rock, Precinct Little River, Precinct Pisgah Forest, Precinct Williamson Creek, Precinct Gloucester CRU.

District 112: Madison County, Haywood County: Precinct Big Creek, Precinct Cecil, Precinct Crabtree, Precinct Center Waynesville, Precinct East Fork, Precinct East Waynesville, Precinct Hazelwood, Precinct Iron Duff, Precinct Jonathan Creek, Precinct Pigeon, Precinct Saunook, Precinct White Oak, Precinct West Waynesville, Precinct Beaverdam 1, Precinct Beaverdam 2, Precinct Beaverdam 3, Precinct Beaverdam 4, Precinct Beaverdam 7, Precinct Center Pigeon, Precinct Fines Creek 1, Precinct Fines Creek 2, Precinct North Clyde, Precinct South Clyde, Precinct South

Waynesville 1, Precinct South Waynesville 2, Precinct Beaverdam 5-6.

(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 2000 United States Census. Boundaries are as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of May 1, 2001, to reflect precincts divided or renamed as outlined in subsection (c) of this section. However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429, Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429 prevails to the extent of the conflict.

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect precincts divided or renamed by county boards of elections after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in the following counties:

- (1) Buncombe County:
 - a. Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.
 - b. Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.
 - c. Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.
 - d. Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.
 - e. Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.
- (2) Cabarrus County:
 - a. Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.
 - b. Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.
- (3) Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady 1 and Lovelady 2.
- (4) Chatham County:
 - a. Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.

- b. Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.
- (5) Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.
- (6) Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.
- (7) Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.
- (8) Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.
- (9) Orange County:
 - a. Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.
 - b. Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.
- (10) Rowan County:
 - a. Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.
 - b. Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.
- (11) Wake County:
 - a. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.
 - b. Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.
 - c. Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.
 - d. Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.
 - e. Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.
 - f. Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.
 - g. Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.
 - h. Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.
 - i. Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.
 - j. Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.
 - k. Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.

- l. Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.
- m. Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.
- n. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.

(d) If any precinct boundary is changed, that change shall not change the boundary of a senatorial district, which shall remain the same.

(e) If this section does not specifically assign any area within North Carolina to a district, and the area is:

- (1) Entirely surrounded by a single district, the area shall be deemed to have been assigned to that district.
- (2) Contiguous to two or more districts, the area shall be deemed to have been assigned to that district which contains the least population according to the 2000 United States Census.
- (3) Contiguous to only one district and to another state or the Atlantic Ocean, the area shall be deemed to have been assigned to that district."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law on the date it was ratified.

S.B. 17

SESSION LAW 2001-460

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

SECTION 3. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 13A.

"Voting.

"Part 1. Definitions.

"§ 163-165. Definitions.

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

- (1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.
- (2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.
- (3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot containing only those district ballot items one individual voter may vote are the county's different ballot styles.
- (4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.
- (5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.
- (6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.
- (7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.
- (8) 'Voting booth' means the private space in which a voter is to mark an official ballot.

- (9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.
- (10) 'Voting place' means the building that contains the voting enclosure.
- (11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"§ 163-165.1. Scope and general rules.

(a) Scope. – This Article shall apply to all elections in this State.

(b) Requirements of Official Ballots in Voting. – In any election conducted under this Article:

(1) All voting shall be by official ballot.

(2) Only votes cast on an official ballot shall be counted.

(c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.

(d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"§ 163-165.2. Sample ballots.

(a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.

(b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"§ 163-165.3. Responsibilities for preparing official ballots.

(a) State Board to Certify Official Ballots and Instructions to Voters. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during

that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.

- (2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

(b) County Board to Prepare and Produce Official Ballots and Instructions. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official

ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

"§ 163-165.4. Standards for official ballots.

The State Board of Elections shall seek to ensure that official ballots throughout the State have all the following characteristics:

- (1) Are readily understandable by voters.
- (2) Present all candidates and questions in a fair and nondiscriminatory manner.
- (3) Allow every voter to cast a vote in every ballot item without difficulty.
- (4) Facilitate an accurate vote count.
- (5) Are uniform in content and format, subject to varied presentations required or made desirable by different voting systems.

"§ 163-165.5. Contents of official ballots.

Each official ballot shall contain all the following elements:

- (1) The heading prescribed by the State Board of Elections. The heading shall include the term 'Official Ballot'.
- (2) The title of each office to be voted on and the number of seats to be filled in each ballot item.
- (3) The names of the candidates as they appear on their notice of candidacy filed pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in accordance with G.S. 163-122. No title, appendage, or appellation indicating rank, status, or position shall be printed on the official ballot in connection with the candidate's name. Candidates, however, may use the title Mr., Mrs., Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the notice of candidacy or qualifying petition, but the nickname shall appear according to standards adopted by the State Board of Elections. Those standards shall allow the presentation of legitimate nicknames in ways that do not mislead the voter or unduly advertise the candidacy. In the case of candidates for presidential elector, the official ballot shall not contain the names of the candidates for elector but instead shall contain the nominees for President and Vice President which the candidates for elector represent.
- (4) Party designations in partisan ballot items.
- (5) A means by which the voter may cast write-in votes, as provided in G.S. 163-123.
- (6) Instructions to voters, unless the State Board of Elections allows instructions to be placed elsewhere than on the official ballot.

(7) The printed title and facsimile signature of the chair of the county board of elections.

"§ 163-165.6. Arrangement of official ballots.

(a) Order of Precedence Generally. – Candidate ballot items shall be arranged on the official ballot before referenda.

(b) Order of Precedence for Candidate Ballot Items. – The State Board of Elections shall promulgate rules prescribing the order of offices to be voted on the official ballot. Those rules shall adhere to the following guidelines:

(1) Federal offices shall be listed before State and local offices. Member of the United States House of Representatives shall be listed immediately after United States Senator.

(2) State and local offices shall be listed according to the size of the electorate.

(3) Partisan offices shall be listed before nonpartisan offices.

(4) When offices are in the same class, they shall be listed in alphabetical order by office name, or in numerical or alphabetical order by district name. Governor and Lieutenant Governor, in that order, shall be listed before other Council of State offices. Mayor shall be listed before other citywide offices. Chair of a board, where elected separately, shall be listed before other board seats having the same electorate. Chief Justice shall be listed before Associate Justices.

(5) Ballot items for full terms of an office shall be listed before ballot items for partial terms of the same office.

(c) Order of Candidates on Primary Official Ballots. – The order in which candidates shall appear on a county's official ballots in any primary ballot item shall be determined by the county board of elections using a process designed by the State Board of Elections for random selection.

(d) Order of Party Candidates on General Election Official Ballot. – Candidates in any ballot item on a general election official ballot shall appear in the following order:

(1) Nominees of political parties that reflect at least five percent (5%) of statewide voter registration, according to the most recent statistical report published by the State Board of Elections, in alphabetical order by party and in alphabetical order within the party.

(2) Nominees of other political parties, in alphabetical order by party and in alphabetical order within the party.

(3) Unaffiliated candidates, in alphabetical order.

(e) Straight-Party Voting. – Each official ballot shall be arranged so that the voter may cast one vote for a party's nominees for all

offices except President and Vice President. A vote for President and Vice President shall be cast separately from a straight-party vote. The official ballot shall be prepared so that a voter may cast a straight-party vote, but then make an exception to that straight-party vote by voting for a candidate not nominated by that party or by voting for fewer than all the candidates nominated by that party. Instructions for general election ballots shall clearly advise voters of the rules in this subsection and of the statutes providing for the counting of ballots.

(f) Write-In Voting. – Each official ballot shall be so arranged so that voters may cast write-in votes for candidates except where prohibited by G.S. 163-123 or other statutes governing write-in votes. Instructions for general election ballots shall clearly advise voters of the rules of this subsection and of the statutes governing write-in voting.

(g) Order of Precedence for Referenda. – The referendum questions to be voted on shall be arranged on the official ballot in the following order:

- (1) Proposed amendments to the North Carolina Constitution, in the chronological order in which the proposals were approved by the General Assembly.
- (2) Other referenda to be voted on by all voters in the State, in the chronological order in which the proposals were approved by the General Assembly.
- (3) Referenda to be voted on by fewer than all the voters in the State, in the chronological order of the acts by which the referenda were properly authorized.

"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.

The State Board of Elections shall have authority to approve types, makes, and models of voting systems for use in elections and referenda held in this State. Only voting systems that have been approved by the State Board shall be used to conduct elections under this Chapter, and the approved systems shall be valid in any election or referendum held in any county or municipality. The State Board may, upon request of a local board of elections, authorize the use of a voting system not approved for general use. The State Board may also, upon notice and hearing, disapprove types, makes, and models of voting systems. Upon disapproving a type, make, or model of voting system, the State Board shall determine the process by which the disapproved system is discontinued in any county. If a county makes a showing that discontinuance would impose a financial hardship upon it, the county shall be given up to four years from the time of State Board disapproval to replace the system. A county may appeal a decision by the State Board concerning discontinuance of a voting system to the superior court in that county or to the Superior

Court of Wake County. The county has 30 days from the time of the State Board's decision on discontinuance to make that appeal.

Subject to the provisions of this Chapter, the State Board of Elections shall prescribe rules for the adoption, handling, operation, and honest use of voting systems, including, but not limited to, the following:

- (1) Types, makes, and models of voting systems approved for use in this State.
- (2) Form of official ballot labels to be used on voting systems.
- (3) Operation and manner of voting on voting systems.
- (4) Instruction of precinct officials in the use of voting systems.
- (5) Instruction of voters in the use of voting systems.
- (6) Assistance to voters using voting systems.
- (7) Duties of custodians of voting systems.
- (8) Examination of voting systems before use in an election.

"§ 163-165.8. Voting systems: powers and duties of board of county commissioners.

The board of county commissioners, with the approval of the county board of elections, may adopt and purchase or lease a voting system of a type, make, and model approved by the State Board of Elections for use in some or all voting places in the county at some or all elections.

The board of county commissioners may decline to adopt and purchase or lease any voting system recommended by the county board of elections but may not adopt and purchase or lease any voting system that has not been approved by the county board of elections.

"§ 163-165.9. Voting systems: powers and duties of county board of elections.

Before approving the adoption and purchase or lease of any voting system by the board of county commissioners, the county board of elections shall do all of the following:

- (1) Obtain a current financial statement from the proposed vendor or lessor of the voting system and send copies of the statement to the county attorney and the chief county financial officer.
- (2) Witness a demonstration, in that county or at a site designated by the State Board of Elections, of the voting system by the proposed vendor or lessor and also witness a demonstration of at least one other type of voting system approved by the State Board of Elections.
- (3) Test, during an election, the proposed voting system in at least one precinct in the county where the system would be used if adopted.

"§ 163-165.10. Adequacy of voting system for each precinct.

The county board of elections shall make available for each precinct voting place an adequate quantity of official ballots or equipment so that all voters qualified to vote at the precinct may do so. When the board of county commissioners has decided to adopt and purchase or lease a voting system for voting places under the provisions of G.S. 165-165.8, the board of county commissioners shall, as soon as practical, provide for each of those voting places sufficient equipment of the approved voting system in complete working order. If it is impractical to furnish each voting place with the equipment of the approved voting system, that which has been obtained may be placed in voting places chosen by the county board of elections. In that case, the county board of elections shall choose the voting places and allocate the equipment in a way that as nearly as practicable provides equal access to the voting system for each voter. The county board of elections shall appoint as many voting system custodians as may be necessary for the proper preparation of the system for each election and for its maintenance, storage, and care.

"Part 3. Procedures at the Voting Place.

"§ 163-166. Hours for voting.

In every election, the voting place shall be open at 6:30 A.M. and shall be closed at 7:30 P.M. In extraordinary circumstances, the county board of elections may direct that the polls remain open until 8:30 P.M. If any voter is in line to vote at the time the polls are closed, that voter shall be permitted to vote. No voter shall be permitted to vote who arrives at the voting place after the closing of the polls.

"§ 163-166.1. Duties of county board of elections.

The county board of elections shall:

- (1) Provide for the timely delivery to each voting place of the supplies, records, and equipment necessary for the conduct of the election.
- (2) Ensure that adequate procedures are in place at each voting place for a safe, secure, fair, and honest election.
- (3) Respond to precinct officials' questions and problems where necessary.

"§ 163-166.2. Arrangement of the voting enclosure.

Each voting enclosure shall contain at a minimum:

- (1) A sufficient number of private spaces for all voters to mark their official ballots in secrecy.
- (2) Adequate space and furniture for the separate functions of:
 - a. The checking of voter registration records.
 - b. The distribution of official ballots.

c. Private discussion with voters concerning irregular situations.

(3) A telephone or some facility for communication with the county board of elections.

The equipment and furniture in the voting enclosure shall be arranged so that it can be generally seen from the public space of the enclosure.

"§ 163-166.3. Limited access to the voting enclosure.

During the time allowed for voting in the voting place, only the following persons may enter the voting enclosure:

(1) An election official.

(2) An observer appointed pursuant to G.S. 163-45.

(3) A person seeking to vote in that voting place on that day but only while in the process of voting or seeking to vote.

(4) A voter in that precinct while entering or explaining a challenge pursuant to G.S. 163-87 or G.S. 163-88.

(5) A person authorized under G.S. 163-166.8 to assist a voter but, except as provided in subdivision (6) of this section, only while assisting that voter.

(6) Minor children of the voter under the age of 18, or minor children under the age of 18 in the care of the voter, but only while accompanying the voter and while under the control of the voter.

(7) Persons conducting or participating in a simulated election within the voting place or voting enclosure, if that simulated election is approved by the county board of elections.

(8) Any other person determined by election officials to have an urgent need to enter the voting enclosure but only to the extent necessary to address that need.

"§ 163-166.4. Limitation on activity in the voting place and in a buffer zone around it.

No person or group of persons shall hinder access, harass others, distribute campaign literature, place political advertising, solicit votes, or otherwise engage in election-related activity in the voting place or in a buffer zone which shall be prescribed by the county board of elections around the voting place. In determining the dimensions of that buffer zone for each voting place, the county board of elections shall, where practical, set the limit at 50 feet from the door of entrance to the voting place, measured when that door is closed, but in no event shall it set the limit at less than 25 feet. The county board of elections shall also, where practical, provide an area adjacent to the buffer zone for each voting place in which persons or groups of persons may distribute campaign literature, place political

advertising, solicit votes, or otherwise engage in election-related activity. No later than 30 days before each election, the county board of elections shall make available to the public the following information concerning each voting place:

- (1) The door from which the buffer zone is measured.
- (2) The distance the buffer zone extends from that door.
- (3) Any available information concerning political activity, including sign placement, that is permitted beyond the buffer zone.

"§ 163-166.5. Procedures at voting place before voting begins.

The State Board of Elections shall promulgate rules for precinct officials to set up the voting place before voting begins. Those rules shall emphasize:

- (1) Continual participation or monitoring by officials of more than one party.
- (2) Security of official ballots, records, and equipment.
- (3) The appearance as well as the reality of care, efficiency, impartiality, and honest election administration.

The county boards of elections and precinct officials shall adhere to those procedures.

"§ 163-166.6. Designation of tasks.

The State Board of Elections shall promulgate rules for the delegation of tasks among the election officials at each precinct. Those rules shall emphasize:

- (1) The need to place primary managerial responsibility upon the chief judge.
- (2) The need to have maximum multiparty participation in all duties where questions of partisan partiality might be raised.
- (3) The need to provide flexibility of management to the county board of elections and to the chief judge, in consideration of different abilities of officials, the different availability of officials, and the different needs of voters precinct by precinct.

"§ 163-166.7. Voting procedures.

(a) Checking Registration. – A person seeking to vote shall enter the voting enclosure through the appropriate entrance. A precinct official assigned to check registration shall at once ask the voter to state current name and residence address. The voter shall answer by stating current name and residence address. In a primary election, that voter shall also be asked to state, and shall state, the political party with which the voter is affiliated or, if unaffiliated, the authorizing party in which the voter wishes to vote. After examination, that official shall state whether that voter is duly registered to vote in that

precinct and shall direct that voter to the voting equipment or to the official assigned to distribute official ballots.

(b) Distribution of Official Ballots. – If the voter is found to be duly registered and has not been successfully challenged, the official assigned to distribute the official ballots shall hand the voter the official ballot that voter is entitled to vote, or that voter shall be directed to the voting equipment that contains the official ballot. No voter in a primary shall be permitted to vote in more than one party's primary. The precinct officials shall provide the voter with any information the voter requests to enable that voter to vote as that voter desires.

(c) The State Board of Elections shall promulgate rules for the process of voting. Those rules shall emphasize the appearance as well as the reality of dignity, good order, impartiality, and the convenience and privacy of the voter. Those rules, at a minimum, shall include procedures to ensure that all the following occur:

- (1) The voting system remains secure throughout the period voting is being conducted.
- (2) Only properly voted official ballots are introduced into the voting system.
- (3) Except as provided by G.S. 163-166.9, no official ballots leave the voting enclosure during the time voting is being conducted there.
- (4) All improperly voted official ballots are returned to the precinct officials and marked as spoiled.
- (5) Voters leave the voting place promptly after voting.
- (6) Voters not clearly eligible to vote in the precinct but who seek to vote there are given proper assistance in voting a provisional official ballot or guidance to another voting place where they are eligible to vote.
- (7) Information gleaned through the voting process that would be helpful to the accurate maintenance of the voter registration records is recorded and delivered to the county board of elections.
- (8) The registration records are kept secure.
- (9) Party observers are given access as provided by G.S. 163-45 to current information about which voters have voted.

"§ 163-166.8. Assistance to voters.

(a) Any registered voter qualified to vote in the election shall be entitled to assistance with entering and exiting the voting booth and in preparing ballots in accordance with the following rules:

- (1) Any voter is entitled to assistance from the voter's spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-

law, son-in-law, stepparent, or stepchild, as chosen by the voter.

- (2) A voter in any of the following four categories is entitled to assistance from a person of the voter's choice, other than the voter's employer or agent of that employer or an officer or agent of the voter's union:
- a. A voter who, on account of physical disability, is unable to enter the voting booth without assistance.
 - b. A voter who, on account of physical disability, is unable to mark a ballot without assistance.
 - c. A voter who, on account of illiteracy, is unable to mark a ballot without assistance.
 - d. A voter who, on account of blindness, is unable to enter the voting booth or mark a ballot without assistance.

(b) A qualified voter seeking assistance in an election shall, upon arriving at the voting place, request permission from the chief judge to have assistance, stating the reasons. If the chief judge determines that such assistance is appropriate, the chief judge shall ask the voter to point out and identify the person the voter desires to provide such assistance. If the identified person meets the criteria in subsection (a) of this section, the chief judge shall request the person indicated to render the assistance. The chief judge, one of the judges, or one of the assistants may provide aid to the voter if so requested, if the election official is not prohibited by subdivision (a)(2) of this section. Under no circumstances shall any precinct official be assigned to assist a voter qualified for assistance, who was not specified by the voter.

(c) A person rendering assistance to a voter in an election shall be admitted to the voting booth with the voter being assisted. The State Board of Elections shall promulgate rules governing voter assistance, and those rules shall adhere to the following guidelines:

- (1) The person rendering assistance shall not in any manner seek to persuade or induce any voter to cast any vote in any particular way.
- (2) The person rendering assistance shall not make or keep any memorandum of anything which occurs within the voting booth.
- (3) The person rendering assistance shall not, directly or indirectly, reveal to any person how the assisted voter marked ballots, unless the person rendering assistance is called upon to testify in a judicial proceeding for a violation of the election laws.

"§ 163-166.9. Curbside voting.

In any election or referendum, if any qualified voter is able to travel to the voting place, but because of age or physical disability

and physical barriers encountered at the voting place is unable to enter the voting enclosure to vote in person without physical assistance, that voter shall be allowed to vote either in the vehicle conveying that voter or in the immediate proximity of the voting place. The State Board of Elections shall promulgate rules for the administration of this section.

"§ 163-166.10. Procedures after the close of voting.

The State Board of Elections shall promulgate rules for closing the voting place and delivering voting information to the county board of elections for counting, canvassing, and record maintenance. Those rules shall emphasize the need for the appearance as well as the reality of security, accuracy, participation by representatives of more than one political party, openness of the process to public inspection, and honesty. The rules, at a minimum, shall include procedures to ensure all of the following:

- (1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of Articles 15 and 16 of this Chapter.
- (2) The certification of ballots and voter-authorization documents by precinct officials of more than one political party.
- (3) The delivery to the county board of elections of registration documents and information gleaned through the voting process that would be helpful in the accurate maintenance of the voter registration records.
- (4) The return to the county board of all issued equipment.
- (5) The restoration of the voting place to the condition in which it was found."

SECTION 3.1. If Senate Bill 14, 2001 Session, becomes law, then G.S. 163-166.10(1) as enacted by Section 3 of this act reads as rewritten:

- "(1) The return and accurate accounting of all official ballots, regular, provisional, voted, unvoted, and spoiled, according to the provisions of ~~Articles 15 and 16~~ Article 15A of this Chapter."

SECTION 4. G.S. 163-114 reads as rewritten:

"§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position Any elective State office United States Senator	Vacancy is to be filled by appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi- county senatorial district Member of State House of Representatives in a multi- county representative district State Senator in a single- county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	Appropriate district executive committee of political party in which vacancy occurs County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of ~~G.S. 163-139~~ G.S. 163-165.3(c) shall apply. If any person nominated as a candidate of a political party vacates such nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

SECTION 5. G.S. 163-209 reads as rewritten:

"§ 163-209. *Names of presidential electors not printed on ballots.*

The names of candidates for electors of President and Vice-President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, ~~in accordance with the provisions of G.S. 163-140~~ there shall be printed on the ballot the names of the candidates for President and Vice-President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice-President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State."

SECTION 6. G.S. 163-294(b) reads as rewritten:

"(b) In the primary, the two candidates for a single office receiving the highest number of votes, and those candidates for a group of offices receiving the highest number of votes, equal to twice the number of positions to be filled, shall be declared nominated. In both the primary and election, a voter should not mark more names

for any office than there are positions to be filled by ~~election, as provided in G.S. 163-135(e) and G.S. 163-151(2):~~ election. If two or more candidates receiving the highest number of votes each received the same number of votes, the board of elections shall determine their relative ranking by lot, and shall declare the nominees accordingly. The canvass of the primary shall be held on the third day (Sunday excepted) following the primary. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5."

SECTION 7. G.S. 163-299(b) reads as rewritten:

"(b) The form of municipal ballots to be used in partisan municipal elections shall be the same as the form prescribed in this Chapter for the county ballot. ~~A nonpartisan municipal ballot shall be divided into sections according to the offices to be filled. Within each section the names of the candidates for that office shall be printed. At the left of each name shall be printed a voting square, and all voting squares on the ballot shall be arranged in a perpendicular line. On the face of the ballot, above the list of candidates and below the title of the ballot shall be printed in heavy black type the following instructions: "If you tear or deface or wrongly mark this ballot, return it and get another."~~

SECTION 8. G.S. 163-299(d) reads as rewritten:

"(d) The provisions of ~~G.S. 163-151(1), (2) and (3)~~ Articles 13A and 15A of this Chapter shall apply to ballots used in municipal primaries and elections in the same manner as it is applied to county ballots provided, however, the exceptions contained in ~~G.S. 163-151 shall be adhered to if applicable.~~ ballots."

SECTION 9. G.S. 163-332(a) reads as rewritten:

"(a) General. – In elections there shall be official ballots. The ballots shall be printed to conform to the requirement of ~~G.S. 163-140(e)~~ G.S. 163-165.6(c) and to show the name of each person who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy with the proper board of elections, and who have paid the required filing fee or qualified by petition, shall have their names printed on the official primary ballots. Only those candidates properly nominated shall have their names appear on the official general election ballots."

SECTION 10. Article 25 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-327.1. Rules when vacancies for superior court judge are to be voted on.

If a vacancy occurs in a judicial district for any offices of superior court judge, and on account of the occurrence of such vacancy, there

is to be an election for one or more terms in that district to fill the vacancy or vacancies, at that same election in accordance with G.S. 163-9 and Article IV, Section 19 of the North Carolina Constitution, the nomination and election shall be determined by the following special rules in addition to any other provisions of law:

- (1) If the vacancy occurs prior to the opening of the filing period under G.S. 163-323(b), nominations shall be made by primary election as provided by this Article, without designation as to the vacancy.
- (2) If the vacancy occurs beginning on opening of the filing period under G.S. 163-323(b), and ending on the sixtieth day before the general election, candidate filing shall be as provided by G.S. 163-329 without designation as to the vacancy.
- (3) The general election ballot shall contain, without designation as to vacancy, spaces for the election to fill the vacancy where nominations were made or candidates filed under subdivision (1) or (2) of this section. The persons receiving the highest numbers of votes equal to the term or terms to be filled shall be elected to the term or terms."

SECTION 11. Sections 9 and 10 of S.L. 2001-403 are repealed.

SECTION 12. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 11:18 a.m. on the 14th day of November, 2001.

S.B. 833

SESSION LAW 2001-461

AN ACT TO MAKE POSSESSION OR MANUFACTURE OF FRAUDULENT FORMS OF IDENTIFICATION AN OFFENSE, TO MAKE IT ILLEGAL TO POSSESS FRAUDULENT IDENTIFICATION WHILE ATTEMPTING TO ENTER THE PREMISES OF AN ALCOHOL PERMITTEE OR OBTAIN ALCOHOLIC BEVERAGES, AND TO AUTHORIZE THE DRIVERS LICENSE TECHNOLOGY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-100.1. Possession or manufacture of certain fraudulent forms of identification.

(a) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly possess or manufacture a false or fraudulent form of identification as defined in this section for the purpose of deception, fraud, or other criminal conduct.

(b) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly obtain a form of identification by the use of false, fictitious, or fraudulent information.

(c) Possession of a form of identification obtained in violation of subsection (b) of this section shall constitute a violation of subsection (a) of this section.

(d) For purposes of this section, a "form of identification" means any of the following or any replica thereof:

(1) An identification card containing a picture, issued by any department, agency, or subdivision of the State of North Carolina, the federal government, or any other state.

(2) A military identification card containing a picture.

(3) A passport.

(4) An alien registration card containing a picture.

(c) A violation of this section shall be punished as a Class 1 misdemeanor."

SECTION 1.1. G.S. 20-30(5) reads as rewritten:

"§ 20-30. *Violations of license or learner's permit provisions.*

It shall be unlawful for any person to commit any of the following acts:

...

(5) To use a false or fictitious name or give a false or fictitious address in any application for a driver's license or learner's permit, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application, or for any person to procure, or knowingly permit or allow another to commit any of the foregoing acts. Any license or learner's permit procured as aforesaid shall be void from the issuance thereof, and any moneys paid therefor shall be forfeited to the State. Any person violating the provisions of this subdivision shall be guilty of a Class 1 misdemeanor."

SECTION 2. G.S. 18B-302(e) reads as rewritten:

"(e) Fraudulent Use of Identification. – It shall be unlawful for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages—beverages, or to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection

(b) of this ~~section~~section, by using or attempting to ~~use~~use any of the following:

- (1) A fraudulent or altered ~~driver's license~~drivers license.
- (2) A fraudulent or altered identification document other than a ~~driver's license~~drivers license.
- (3) A ~~driver's~~drivers license issued to another ~~person~~person.
- (4) An identification document other than a ~~driver's~~drivers license issued to another person.
- (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section."

SECTION 3. G.S. 18B-302(f) reads as rewritten:

"(f) Allowing Use of Identification. – It shall be unlawful for any person to permit the use of ~~his driver's~~the person's drivers license or any other form of identification document of any kind issued or given to the person, by any other person who violates or attempts to violate subsection (b) of this section."

SECTION 4. Article 2 of Chapter 20 is amended by adding the following new sections to read:

"§ 20-37.01. Drivers license technology fund.

The Drivers License Technology Fund is established in the Department of Transportation as a nonreverting, interest-bearing special revenue account. The revenue in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be credited to the Fund annually. All money collected by the Commissioner pursuant to G.S. 20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held in the Fund shall be used to supplement funds otherwise available to the Division for information technology and office automation needs. The Commissioner shall report by February 1 and August 1 of each year to the Joint Legislative Commission on Governmental Operations, the chairs of the Senate and House of Representatives Appropriation Committees, and the chairs of the Senate and House of Representatives Appropriations Subcommittee on Transportation on all money collected and deposited in the Fund and on the proposed expenditure of funds collected during the preceding six months.

"§ 20-37.02. Verification of drivers license information.

(a) The Commissioner shall establish and operate an electronic system that can be used to verify drivers licenses and identification cards issued by the Division and the dates of birth on these documents in order to facilitate access to drivers license information by retailers and persons holding ABC permits to prevent the utilization of

fictitious identification for the purpose of underage purchases of certain age-restricted products or to commit certain crimes.

(b) The electronic system established and operated by the Commissioner pursuant to subsection (a) of this section shall allow a retailer, as defined in G.S. 105-164.3(14), a person who holds an ABC permit, as defined in G.S. 18B-101(2), or an agent of the retailer or a person holding an ABC permit, to verify the validity of a drivers license or identification card issued by the Division and the date of birth of the person issued the drivers license or identification card. The Commissioner shall make drivers license and identification card information available in a read-only format, and the information to be made available shall not exceed the information contained on the face of the drivers license. The Division shall not keep a record of the inquiry. The retailer or a person holding an ABC permit may retain such information as is necessary to provide evidence that the person's drivers license or identification card was validated or that the person's age was verified. A retailer or permittee shall agree to comply with the requirements of this section prior to using the system.

(c) Except for purposes allowed in this section, a person using the electronic system established in accordance with subsection (a) of this section shall not collect or retain any information obtained through the use of the electronic system, nor transfer or make accessible to a third party any information obtained through an inquiry permitted under this section. A violation of the provisions of this subsection shall be punished as a Class 2 misdemeanor.

(d) A retailer or permittee using the electronic system established pursuant to this section shall be responsible for the costs of the equipment and communication lines approved by the Division needed by the retailer or permittee to access the system.

(e) The establishment and operation of an electronic system pursuant to this section may be funded through grants received from the State, the federal government, a private entity, or any other funding source made available to the Drivers License Technology Fund. All funds obtained through grants to the Fund shall be remitted to the State Treasurer to be held in the Drivers License Technology Fund established in G.S. 20-37.01."

SECTION 5. G.S. 14-313(b) reads as rewritten:

"(b) Sale or distribution to persons under the age of 18 years. – If any person shall distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette wrapping papers to any person under the age of 18 years, or if any person shall purchase tobacco products or cigarette wrapping papers on behalf of a person, less than 18 years, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful to distribute tobacco products or cigarette wrapping papers to an

employee when required in the performance of the employee's duties. Retail distributors of tobacco products shall prominently display near the point of sale a sign in letters at least five-eighths of an inch high which states the following:

N.C. LAW STRICTLY PROHIBITS

THE PURCHASE OF TOBACCO PRODUCTS

BY PERSONS UNDER THE AGE OF 18.

PROOF OF AGE REQUIRED.

Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding offense.

A person engaged in the sale of tobacco products shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer, or any other documentary or written evidence of age in the case of a nonretailer, or that the defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02, shall be a defense to any action brought under this subsection. Retail distributors of tobacco products shall train their sales employees in the requirements of this law."

SECTION 6. The electronic system to be established pursuant to Section 4 of this act shall not be operated by the Commissioner until such time as the Drivers License Technology Fund contains sufficient funds to meet the purposes of Section 4 of this act and only for so long as adequate funds are available to operate the electronic system. Sections 1 through 3 of this act become effective December 1, 2001, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 11:38 a.m. on the 14th day of November, 2001.

S.B. 139

SESSION LAW 2001-462

AN ACT TO PERMIT LOCAL FLEXIBILITY WITH REGARD TO THE REHIRING OF TEACHERS WHO LEAVE PUBLIC SCHOOLS TO TEACH IN CHARTER SCHOOLS, AND TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.29F(e)(3) reads as rewritten:

"(e) Employees. –

...

- (3) If a teacher employed by a local school administrative unit makes a written request for ~~an extended~~ a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave. ~~The local school administrative unit shall grant a leave for any number of years requested by the teacher, shall extend the leave for any number of years requested by the teacher, and shall extend the leave at the teacher's request.~~ leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence ~~or extension of leave~~ be made up to 45 days before the teacher would otherwise have to report for duty. ~~For subsequent years,~~ After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence ~~or extension of leave~~ be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has career status under G.S. 115C-325 prior to receiving an ~~extended~~ a leave of absence to teach at a charter school may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers and that

teacher shall have priority on all positions for which that teacher is qualified in accordance with G.S. 115C-325(e)(2)."

SECTION 2. Notwithstanding the time limitation contained in G.S. 135-5.3(b), the board of directors of any charter school that received State Board of Education approval under G.S. 115C-238.29D on or after January 1, 2001, may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes. The election authorized by this section must be made no later than 30 days after the effective date of this Act, and in accordance with all other requirements of G.S. 135-5.3.

SECTION 3. Section 1 of this act is effective when it becomes law and applies to requests under G.S. 115C-238.29F(e)(3) that are made on and after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 11:50 a.m. on the 16th day of November, 2001.

S.B. 968

SESSION LAW 2001-463

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 and Section 5 of this act, are as follows:

- | | | |
|----|---|--|
| 1. | Appalachian State University
Student Recreation Complex
Renovation and Addition to Miles
Annas Student Support Facility | \$19,530,000

1,977,000 |
| 2. | East Carolina University
Baseball Stadium | \$8,700,000 |
| 3. | North Carolina A&T State University
Student Union Renovation
and Modernization
Stadium Track and Field Upgrade
Reid Greenhouse | \$3,600,000
2,065,000
2,500,000 |
| 4. | North Carolina Central University
Shepard House Restoration | \$685,000 |
| 5. | North Carolina State University
Alumni Center
Carter Finley Stadium Improvements
Center for Educational Innovation
Greek Housing Renovations
Upgrade Baseball and Tennis Facilities
Welcome and Visitor Center
Residence Halls Fire Safety Improvements
Support Services Center - Supplement | \$12,500,000
50,000,000
9,000,000
8,000,000
4,000,000
4,960,000
1,300,000
2,000,000 |
| 6. | The University of North Carolina at Chapel Hill
Ramshead Complex for Parking and
Student Support
Renovations to Connor, Winston,
and Alexander Residence Halls | \$44,000,000

10,000,000 |
| 7. | The University of North Carolina at Charlotte
Recreation Field Lighting | \$930,100 |
| 8. | The University of North Carolina at Greensboro
Parking Deck - Supplement
Renovations to Residence Halls | \$2,500,000
4,950,000 |
| 9. | Western Carolina University
Improvements to Athletic and
Student Recreation Facilities | \$8,192,100 |

10.	Winston-Salem State University Renovations to Residence Halls	\$3,100,000
	TOTAL	\$204,489,200

SECTION 3. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 4. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Section 2 of this act plus six million three hundred thousand dollars (\$6,300,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

SECTION 5. With respect to two capital projects at North Carolina State University, the Alumni Center and the Carter Finley Stadium improvements listed in Section 2 of this act, the institution may accomplish construction and financing through lease arrangements to and from nonprofit corporations, as follows:

- (1) Alumni Center through lease with The North Carolina State University Alumni Association, Inc.
- (2) Carter Finley Stadium improvements through lease with The North Carolina State University Student Aid Association, Inc.

The financing of these projects shall not constitute a debt or liability of the State or any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. Any lease or other obligation for these projects shall not be paid from funds appropriated to the Board of Governors or any constituent institution from the General Fund by the General Assembly from funds derived from general tax and other revenues of the State.

SECTION 6. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of November, 2001.

Became law upon approval of the Governor at 11:52 a.m. on the 16th day of November, 2001.

H.B. 108 SESSION LAW 2001-464

AN ACT TO AUTHORIZE ALLEGHANY, ANSON, BEAUFORT, CABARRUS, CAMDEN, CHEROKEE, CHOWAN, CURRITUCK, FORSYTH, GRAHAM, GRANVILLE, HARNETT, HAYWOOD, JACKSON, LEE, MADISON, MONTGOMERY, PASQUOTANK, PERQUIMANS, PITT, STANLY, SWAIN, VANCE, WARREN, AND YADKIN COUNTIES TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 161 of the General Statutes is amended by adding a new section to read:

"§ 161-31. Tax certification.

(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Cabarrus, Camden, Cherokee, Chowan, Currituck, Forsyth, Graham, Granville, Harnett, Haywood, Jackson, Lee, Madison, Montgomery, Pasquotank, Perquimans, Pitt, Stanly, Swain, Vance, Warren, and Yadkin Counties."

SECTION 2. G.S. 161-14(a) reads as rewritten:

"(a) ~~The~~ Except as provided in G.S. 161-31, the register of deeds shall immediately register all written instruments presented to him for registration. When an instrument is presented for registration, the register of deeds shall endorse upon it the day and hour on which it was presented. This endorsement forms a part of the registration of the instrument. All instruments shall be registered in the precise order in which they were presented for registration. Immediately after endorsing the day and hour of presentation upon an instrument, the register of deeds shall index and cross-index it in its proper sequence. He shall then proceed to register it on the day that it is presented unless a temporary index has been established.

The register of deeds may, in his discretion, establish a temporary index in which all instruments presented for registration shall be indexed until they are registered and entered in the permanent indexes. A temporary index shall operate in all respects as the permanent index. All instruments presented for registration shall be registered and indexed and cross-indexed on the permanent indexes not later than 30 days after the date of presentation."

SECTION 3. This act is effective when it becomes law. Section 2 of this act is repealed July 1, 2002.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 1:50 p.m. on the 16th day of November, 2001.

S.B. 826**SESSION LAW 2001-465**

AN ACT TO SUSPEND THE REQUIREMENT FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK FOR CERTAIN APPLICANTS FOR CERTAIN POSITIONS IN CERTAIN LONG-TERM CARE FACILITIES BECAUSE OF FEDERAL REQUIREMENTS LIMITING DISTRIBUTION OF RECORD CHECK RESULTS UNTIL JANUARY 1, 2003, AND TO AUTHORIZE THE LEGISLATIVE RESEARCH COMMISSION TO STUDY CRIMINAL HISTORY RECORD CHECKS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Notwithstanding G.S. 131E-265, the requirements of that statute for nursing homes and home care agencies to conduct national criminal history record checks shall apply only to nursing home and home care agency employment positions involving direct patient care, and the national checks shall be conducted in accordance with Public Law 105-277.

SECTION 1.(b) This section expires January 1, 2003.

SECTION 2.(a) The requirements of G.S. 131E-265(a1) for contract agencies of nursing homes and home care agencies, G.S. 131D-40 for adult care homes and contract agencies of adult care homes, and of G.S. 122C-80 for area mental health, developmental disabilities, and substance abuse services authorities, to conduct national criminal history record checks are suspended until January 1, 2003.

SECTION 2.(b) The requirements of G.S. 131E-265(a) for nursing homes and home care agencies to conduct national criminal history record checks for employment positions other than those involving direct patient care are suspended until January 1, 2003.

SECTION 3.(a) The Legislative Research Commission may study how federal law affects the distribution of national criminal history record check information requested for nursing homes, home care agencies, adult care homes, assisted living facilities, and area mental health, developmental disabilities, and substance abuse services authorities, and the problems federal restrictions pose for effective and efficient implementation of State-required criminal record checks. The study may include the following:

- (1) Ways in which national record checks may be obtained and reviewed for these facilities to effectuate State policy and protections of facility residents, and the advantages, disadvantages, and costs of various approaches to implementation.
- (2) A review of ways in which national record checks are obtained by the Division of Child Development, Department of Health and Human Services, and other State agencies, and related costs to the State.
- (3) Solutions adopted by other states to effectively and efficiently implement criminal record check requirements, including costs to the State in implementing these solutions.
- (4) Other issues relevant to State requirements for criminal history record checks in long-term care facilities.

The Legislative Research Commission may make its findings and recommendations in a final report to the 2002 Regular Session of the 2001 General Assembly.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 1:51 p.m. on the 16th day of November, 2001.

H.B. 1046

SESSION LAW 2001-466

AN ACT TO PROVIDE FOR POSTPONING THE FILING PERIOD FOR CANDIDATES IN 2002 PRIMARY ELECTIONS AND FOR POSTPONING THE 2002 PRIMARY ELECTIONS IF NECESSARY; TO PERMANENTLY CHANGE FILING PERIODS BEGINNING AFTER 2002; TO IMPROVE THE ACCURACY AND UNDERSTANDABILITY OF PRECINCT DATA; AND TO MAKE DEFINITIONAL AND TECHNICAL CHANGES TO THE ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The filing of notices of candidacy for 2002 only shall be postponed for primary elections for all offices and for elections for all other offices conducted on the day of the primary. The filing period for those offices shall begin at noon on February 18, 2002, and end at noon March 1, 2002.

SECTION 1.(b) If by 10:00 A.M. on February 18, 2002, an act to redistrict the State House of Representatives, the State Senate, or North Carolina's districts for electing members of the United States House of Representatives has not been approved under section 5 of the Voting Rights Act of 1965, the State Board of Elections shall postpone the primary election for all offices until a date the State Board determines to be fair to all parties, potential candidates, and voters. The State Board shall make its decision as soon as practical, taking into account the likelihood of receiving a final approval of any pending redistricting plan.

SECTION 1.(c) If the filing period or primary election or both are postponed under this section, the State Board of Elections shall adopt rules for the implementation of the primary election schedule. Adoption of those rules is not subject to Chapter 150B of the General Statutes. Those rules shall include a postponed filing period and other necessary parts of the election schedule. The rules shall include reset dates for absentee balloting that shall as nearly as practical provide the same amount of time for voters and election officials set forth in Article 20 of Chapter 163 of the General Statutes. The State Board shall, as soon as practical, distribute its rules, including a Revised Primary Timetable, to county boards of elections.

SECTION 1.(d) The State Board of Elections shall be governed by the following limitations:

- (1) Any postponement of the candidate filing period or the primary shall apply to all offices whose primary elections are regularly scheduled on primary day, so that there is one candidate filing period for all those offices and one primary election for all those offices. The State Board shall not set a separate filing period or election date for any election that regularly set on the date of the primary. The postponement shall also apply to any elections to office held on that date (such as elections for boards of education under G.S. 115C-37) and the filing period for those offices.
- (2) The State Board of Elections does not have the authority to dispense with a second primary. The State Board shall provide for a second primary in its schedule to any candidate entitled to call for a second primary under the provisions of G.S. 163-111.

- (3) The State Board shall set a filing period no shorter than 10 business days.
- (4) Before making its decision to postpone a filing period or primary election under this section, the State Board of Elections shall consult with the President Pro Tem of the Senate, the Speaker of the House, and the Majority and Minority Leaders of the House and Senate.

SECTION 1.(e) If the primary election is postponed under subsection (b) of this section, any local act for election of a board of education elected at the primary which provides that persons elected shall take office in July of the year of the election is modified for the 2002 election only to provide that the persons elected shall take office in September of the year of the election.

SECTION 1.(f) For the 2002 primary election only, G.S. 163-112 shall be applied by substituting "10 days" for "30 days" wherever it appears.

SECTION 1.(g) The provisions of this section apply during the 2002 election year only.

SECTION 2. Article 12A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-132.5G. Voting data maintained by precinct.

To the extent that it can do so without compromising the secrecy of an individual's ballot, each county board of elections shall maintain voting data by precinct so that precinct returns for each item on the ballot shall include the votes cast by residents of the precinct who voted by absentee ballot, both mail and one-stop. The county board shall not be required to report absentee voting data by precinct until 60 days after the election. The State Board of Elections shall adopt rules for the enforcement of this section with the goal that all voting data shall be reported by precinct by the 2006 election. Those rules shall provide for exemptions where the expense of compliance would place a financial hardship on a county."

SECTION 3.(a) If Senate Bill 17 of the 2001 General Assembly becomes law, then G.S. 163-165(9) as enacted by that bill reads as rewritten:

"(9) 'Voting enclosure' means the room ~~or connected rooms~~ within the voting place that is used for voting."

SECTION 3.(b) If Senate Bill 17 of the 2001 General Assembly becomes law, then G.S. 163-165(10) as enacted by that bill reads as rewritten:

"(10) 'Voting place' means the building or area of the building that contains the voting enclosure."

SECTION 4.(a) G.S. 163-245(b)(1) reads as rewritten:

"(1) ~~Persons serving in the armed forces of the United States, including (but not limited to) the army, the~~

~~navy, the air force, the marine corps, the coast guard, the Army Nurse Corps, the Navy Nurse Corps, the Women's Navy Reserve, the Marine Corps Women's Reserve, the Women's Army Corps, the Merchant Marine, and members of the national guard and military reserve who on the day of a primary or general election are absent on active duty. Individuals serving in the armed forces of the United States, including, but not limited to, the army, the navy, the air force, the marine corps, the coast guard, the Merchant Marine, the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, and members of the national guard and military reserve."~~

SECTION 4.(b) G.S. 163-246 reads as rewritten:

"§ 163-246. *Provisions of Article 20 applicable except as otherwise provided; State Board of Elections to adopt regulations.*

Except as otherwise provided in this Article, registration by mail and absentee voting by individuals to whom this Article is applicable shall be governed by the provisions of Article 20 of this Chapter. By way of illustration rather than limitation, the provisions of this paragraph shall apply to the form of absentee ballots, certificates and container-return envelopes; the manner of depositing and voting military absentee ballots; the counting and certifying of results; the hearing of challenges; and the preservation of container- return envelopes in which executed military absentee ballots are transmitted. The intent of this Article is that each uniformed services voter receives the utmost consideration and cooperation when voting, that each valid ballot cast by that voter is duly counted, and that all qualified uniformed and overseas voters have equal opportunity to cast a vote and have it counted if it conforms with the law. For purposes of this Article, 'uniformed services voter' means those individuals set forth as such in The Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA).

The State Board of Elections is authorized to adopt and promulgate whatever rules and regulations (not in conflict with other provisions of this Chapter) it may deem necessary to carry out the true intent and purpose of this Article."

SECTION 4.(c) G.S. 163-247(1) reads as rewritten:

"(1) Federal Postcard Application Form. – At any time prior to the statewide primary or general election in which he seeks to vote, the applicant may make and sign a written application to the County Board of Election[s] in County of Voter's Residence for absentee ballots on the postcard form specified in or promulgated by regulation under 42 U.S.C. 1973ee-14. The Uniformed

and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA),

42 U.S.C. § 1973ff(b) and § 1973ff-3."

SECTION 4.(d) G.S. 163-247(3) reads as rewritten:

"(3) ~~Notwithstanding subdivisions (1) and (2) of this section, if the application under either of those subdivisions so requests, it shall constitute an application for more than one or for all of the primaries and elections held during the calendar year when the application is received. If a single application from an absentee uniformed voter is received by an election official, it shall be considered a valid absentee ballot request with respect to all general, primary, and runoff elections for federal, State, county, or those municipal offices in which absentee ballots are allowed under the provisions of G.S. 163-302, held during the calendar year the application was received. This subdivision does not apply to a special election not involving the election of candidates, unless that special election is being held on the same day as a general or primary election.~~"

SECTION 4.(e) G.S. 163-253 reads as rewritten:

"§ 163-253. *Article inapplicable to persons after change of status; reregistration not required.*

Upon discharge from the armed forces of the United States or termination of any other status qualifying ~~him~~ the voter to register and vote by absentee ballot under the provisions of this Article, the voter shall not be entitled to vote by military absentee ballot, ~~and but if he the voter was registered under the provisions of this Article his that voter's registration shall become void and he shall be required to register under the provisions of Article 7A before being entitled to vote in any primary or election, remain valid for the remainder of the calendar year that voter registered, and that voter shall be entitled to vote in any primary or election for the remainder of the calendar year without having to reregister. If requested by election officials, the voter shall present proof of military status at the time of registration. This section does not entitle a person to vote in North Carolina if that person has become disqualified because of change of permanent residence to another State or because of conviction of a felony.~~"

SECTION 5.1.(a) Effective January 1, 2003, G.S. 163-106(c) as rewritten by Section 3 of S.L. 2001-403 reads as rewritten:

"(c) Time for Filing Notice of Candidacy. – Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than

12:00 noon on the ~~first Monday in January~~ second Monday in February and no later than 12:00 noon on the ~~first Monday~~ last business day in February preceding the primary:

Governor

Lieutenant Governor

All State executive officers

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

United States Senators

Members of the House of Representatives of the United States

District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the ~~first Monday in January~~ second Monday in February and no later than 12:00 noon on the ~~first Monday~~ last business day in February preceding the primary:

State Senators

Members of the State House of Representatives

All county offices."

SECTION 5.1.(b) Effective January 1, 2003, G.S. 163-323(b) as rewritten by Section 1 of S.L. 2001-403 reads as rewritten:

"(b) Time for Filing Notice of Candidacy. – Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ second Monday in February and no later than 12:00 noon on the ~~first Monday~~ last business day in February preceding the election:

Judges of the superior courts.

Judges of the district courts."

SECTION 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of November, 2001.

Became law upon approval of the Governor at 4:40 p.m. on the 16th day of November, 2001.

H.B. 898

SESSION LAW 2001-467

AN ACT TO ENACT THE STATE EMPLOYEE FEDERAL REMEDY RESTORATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new Article to read:

"Article 31D.

"State Employee Federal Remedy Restoration Act.

"§ 143-300.35. State Employee Federal Remedy Restoration Act.

(a) The sovereign immunity of the State is waived for the limited purpose of allowing State employees, except for those in exempt policy-making positions designated pursuant to G.S. 126-5(d), to maintain lawsuits in State and federal courts and obtain and satisfy judgments against the State or any of its departments, institutions, or agencies under:

- (1) The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- (2) The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
- (3) The Family and Medical Leave Act, 29 U.S.C. § 2601, et seq.
- (4) The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.

(b) The amount of monetary relief a State employee receives under subsection (a) of this section shall not exceed the amounts authorized under G.S. 143-299.2 or the amounts authorized under the applicable federal law under this section, whichever is less."

SECTION 2. G.S. 126-34.1(a) is amended by adding a new subdivision to read:

- "(11) Violation of any of the following federal statutes as applied to the employee:
- a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
 - b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.
 - c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
 - d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq."

SECTION 3. This act becomes effective October 1, 2001, and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 13th day of November, 2001.

Became law upon approval of the Governor at 7:34 p.m. on the 19th day of November, 2001.

H.B. 883

SESSION LAW 2001-468

AN ACT TO AUTHORIZE TYRRELL COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Tyrrell occupancy tax. (a) Authorization and Scope. – The Tyrrell County Board of Commissioners may levy a

room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by private, nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Use of Tax Revenue. – Tyrrell County shall on a quarterly basis, remit the net proceeds of the occupancy tax to the Tyrrell Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Tyrrell County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2. Tyrrell Tourism Development Authority. –

- (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The

resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Tyrrell County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 3. County Administrative Provisions. – G.S. 153A-155(g) is amended by adding "Tyrrell," immediately after "Transylvania."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 27th day of November, 2001.

Became law on the date it was ratified.

H.B. 1472**SESSION LAW 2001-469**

AN ACT DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A BIOLOGICAL AGENTS REGISTRY, AND IMPOSING CIVIL PENALTIES FOR VIOLATION OF REGISTRY REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 6 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"§ 130A-149. *Biological agents registry; rules; penalties.*

(a) The Department shall establish and administer a program for the registration of biological agents. The biological agents registry

shall identify the biological agents possessed and maintained by any person in this State and shall contain other information required under rules adopted by the Commission.

(b) The following definitions apply in this section:

(1) 'Biological agent' means:

- a. Any select agent that is a microorganism, virus, bacterium, fungus, rickettsia, or toxin listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations.
- b. Any genetically modified microorganisms or genetic elements from an organism on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, shown to produce or encode for a factor associated with a disease.
- c. Any genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, or their toxic submits.

(2) 'Person' means any association, business, corporation, facility, firm, individual, institution of higher education, organization, partnership, society, State agency, or other legal entity.

(c) The Commission shall adopt rules for the implementation of the registry program, as follows:

- (1) Determining and listing the biological agents required to be reported under this section.
- (2) Designating persons required to make reports and specific information required to be reported including time limits for reporting, form of reports, and to whom reports shall be submitted.
- (3) Providing for the release of information in the registry to State and federal law enforcement agencies and the United States Centers for Disease Control and Prevention pursuant to a communicable disease investigation commenced or conducted by the Department, the Commission, or other state or federal law enforcement agency having investigatory authority, or in connection with any investigation involving release, theft, or loss of biological agents.
- (4) Establishing a system of safeguards that requires persons possessing and maintaining biological agents subject to this section to comply with the same federal standards that apply to persons registered to possess the same agents under federal law.

(5) Establishing a process for persons that possess and maintain biological agents to alert appropriate authorities of unauthorized possession or attempted possession of biological agents. The rules shall designate appropriate authorities for receipt of alerts from these persons.

(d) Any person that possesses and maintains any biological agent required to be reported under this section shall report to the Department the information required by the Commission for inclusion in the biological agent registry.

(e) Except as otherwise provided in this section, information prepared for or maintained in the registry under this section shall be confidential and shall not be a public record under G.S. 132-1. The Department may, in accordance with rules adopted by the Commission, release information contained in the biological agent registry for the purpose of conducting or aiding in a communicable disease investigation. The Department shall cooperate with and may share information contained in the biological agent registry with the United States Centers for Disease Control and Prevention, and state and federal law enforcement agencies in any investigation involving the release, theft, or loss of a biological agent required to be reported under this section. Release of information from the registry as authorized under this subsection shall not render the information released a public record under G.S. 132-1. Release of information from the registry as authorized under this subsection also shall not render the information prepared for or maintained in the registry a public record under G.S. 132-1.

(f) The Department shall impose a civil penalty for a willful or knowing violation of this section in the amount of up to one thousand dollars (\$1,000). Each day of a continuing violation shall be a separate offense. Any person wishing to contest a penalty shall be entitled to an administrative hearing in accordance with Chapter 150B of the General Statutes."

SECTION 2. G.S. 130A-29(c) is amended by adding the following subdivision to read:

"(10) Pertaining to the biological agents registry in accordance with G.S. 130A-149."

SECTION 3. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Became law upon approval of the Governor at 11:14 a.m. on the 28th day of November, 2001.

H.B. 1468**SESSION LAW 2001-470**

AN ACT TO PROVIDE CRIMINAL PENALTIES FOR THE KNOWING MANUFACTURE, ASSEMBLY, POSSESSION, STORAGE, TRANSPORTATION, SALE, PURCHASE, DELIVERY, OR ACQUISITION OF NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPONS OF MASS DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES FOR THE USE OR ATTEMPTED USE OF NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPONS OF MASS DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES FOR THE FALSE REPORTING OF A NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPON OF MASS DESTRUCTION, TO PROVIDE CRIMINAL PENALTIES FOR THE PERPETRATION OF A HOAX BY THE USE OF A FALSE NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPON OF MASS DESTRUCTION, AND TO PROVIDE THAT MURDER BY MEANS OF A NUCLEAR, BIOLOGICAL, OR CHEMICAL WEAPON IS FIRST DEGREE MURDER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a new Article to read:

"Article 36B.

"Nuclear, Biological, or Chemical Weapons of Mass Destruction.

"§ 14-288.21. Unlawful manufacture, assembly, possession, storage, transportation, sale, purchase, delivery, or acquisition of a nuclear, biological, or chemical weapon of mass destruction; exceptions; punishment.

(a) Except as otherwise provided in this section, it is unlawful for any person to knowingly manufacture, assemble, possess, store, transport, sell, offer to sell, purchase, offer to purchase, deliver or give to another, or acquire a nuclear, biological, or chemical weapon of mass destruction.

(b) This section does not apply to:

- (1) Persons listed in G.S. 14-269(b) with respect to any activities lawfully engaged in while carrying out their duties.
- (2) Persons under contract with, or working under the direction of, the United States, the State of North Carolina, or any agency of either government, with respect to any activities lawfully engaged in under their contracts or pursuant to lawful direction.
- (3) Persons lawfully engaged in the development, production, manufacture, assembly, possession,

transport, sale, purchase, delivery or acquisition of any biological agent, disease organism, toxic or poisonous chemical, radioactive substance or their immediate precursors, for preventive, protective, or other peaceful purposes.

(4) Persons lawfully engaged in accepted agricultural, horticultural, or forestry practices; aquatic weed control; or structural pest and rodent control, in a manner approved by the federal, State, county, or local agency charged with authority over such activities.

(c) The term 'nuclear, biological, or chemical weapon of mass destruction', as used in this Article, means any of the following:

(1) Any weapon, device, or method that is designed or has the capability to cause death or serious injury through the release, dissemination, or impact of:

- a. Radiation or radioactivity;
- b. A disease organism; or
- c. Toxic or poisonous chemicals or their immediate precursors.

(2) Any substance that is designed or has the capability to cause death or serious injury and:

- a. Contains radiation or radioactivity;
- b. Is or contains toxic or poisonous chemicals or their immediate precursors; or
- c. Is or contains one or more of the following:

1. Any select agent that is a microorganism, virus, bacterium, fungus, rickettsia, or toxin listed in Appendix A of Part 72 of Title 42 of the Code of Federal Regulations.

2. Any genetically modified microorganisms or genetic elements from an organism on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, shown to produce or encode for a factor associated with a disease.

3. Any genetically modified microorganisms or genetic elements that contain nucleic acid sequences coding for any of the toxins listed on Appendix A of Part 72 of Title 42 of the Code of Federal Regulations, or their toxic submits.

The term 'nuclear, biological, or chemical weapon of mass destruction' also includes any combination of parts or substances either designed or intended for use in converting any device or substance into any nuclear, biological, or chemical weapon of mass

destruction or from which a nuclear, biological, or chemical weapon of mass destruction may be readily assembled or created.

(d) Any person who violates any provision of this section is guilty of a Class B1 felony.

"§ 14-288.22. Unlawful use of a nuclear, biological, or chemical weapon of mass destruction; punishment.

(a) Any person who unlawfully and willfully injures another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class A felony and shall be sentenced to life imprisonment without parole.

(b) Any person who attempts, solicits another, or conspires to injure another by the use of a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class B1 felony.

(c) Any person who for the purpose of violating any provision of this Article, deposits for delivery or attempts to have delivered, a nuclear, biological, or chemical weapon of mass destruction by the United States Postal Service or other public or private business engaged in the delivery of mail, packages, or parcels is guilty of a Class B1 felony.

"§ 14-288.23. Making a false report concerning a nuclear, biological, or chemical weapon of mass destruction; punishment; restitution.

(a) Any person who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that causes any person to reasonably believe that there is located at any place or structure whatsoever any nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony.

(b) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes.

(c) For purposes of this section, the term 'report' shall include making accessible to another person by computer.

"§ 14-288.24. Perpetrating hoax by use of false nuclear, biological, or chemical weapon of mass destruction; punishment; restitution.

(a) Any person who, with intent to perpetrate a hoax, conceals, places, or displays any device, object, machine, instrument, or artifact, so as to cause any person reasonably to believe the same to be a nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony.

(b) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting

from disruption of the normal activity that would have otherwise occurred but for the hoax, pursuant to Article 81C of Chapter 15A of the General Statutes."

SECTION 2. G.S. 14-17 reads as rewritten:

"§ 14-17. *Murder in the first and second degree defined; punishment.*

A murder which shall be perpetrated by means of a nuclear, biological, or chemical weapon of mass destruction as defined in G.S. 14-288.21, poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon shall be deemed to be murder in the first degree, a Class A felony, and any person who commits such murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000, except that any such person who was under 17 years of age at the time of the murder shall be punished with imprisonment in the State's prison for life without parole. Provided, however, any person under the age of 17 who commits murder in the first degree while serving a prison sentence imposed for a prior murder or while on escape from a prison sentence imposed for a prior murder shall be punished with death or imprisonment in the State's prison for life without parole as the court shall determine pursuant to G.S. 15A-2000. All other kinds of murder, including that which shall be proximately caused by the unlawful distribution of opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or cocaine or other substance described in G.S. 90-90(1)d., when the ingestion of such substance causes the death of the user, shall be deemed murder in the second degree, and any person who commits such murder shall be punished as a Class B2 felon."

SECTION 3. G.S. 14-288.8(c) reads as rewritten:

"(c) The term 'weapon of mass death and destruction' includes:

- (1) Any ~~explosive, incendiary, poison gas or radioactive material~~ explosive or incendiary:
 - a. Bomb; or
 - b. Grenade; or
 - c. Rocket having a propellant charge of more than four ounces; or
 - d. Missile having an explosive or incendiary charge of more than one-quarter ounce; or
 - e. Mine; or
 - f. Device similar to any of the devices described above; or

- (2) Any type of weapon (other than a shotgun or a shotgun shell of a type particularly suitable for sporting purposes) which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; or
- (3) Any firearm capable of fully automatic fire, any shotgun with a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches, any rifle with a barrel or barrels of less than 16 inches in length or an overall length of less than 26 inches, any muffler or silencer for any firearm, whether or not such firearm is included within this definition. For the purposes of this section, rifle is defined as a weapon designed or redesigned, made or remade, and intended to be fired from the ~~shoulder~~shoulder; or
- (4) Any combination of parts either designed or intended for use in converting any device into any weapon described above and from which a weapon of mass death and destruction may readily be ~~assembled~~assembled.
- (5) ~~Radioactive material, which means any solid, liquid or gas which emits or may emit ionizing radiation spontaneously or which becomes capable of producing radiation or nuclear particles when controls or triggering mechanisms of any associated device are operable.~~

The term 'weapon of mass death and destruction' does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of Title 10 of the United States Code; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes, in accordance with Chapter 44 of Title 18 of the United States Code."

SECTION 4. G.S. 143-34.1(a1) as enacted by S.L. 2001-424, Section 32.19A.(a) reads as rewritten:

"(a1) A department, institution, or other agency of State government may establish new receipt-supported positions only after prior consultation with the Joint Legislative Commission on Governmental Operations. This subsection shall not apply to work-order funded positions in the Department of Transportation that are created for the purpose of ~~highway construction or~~construction, to positions at The University of North Carolina or its constituent

institutions, institutions, or to positions established by the Governor to expand the State's capabilities in dealing with the threat of terrorism in the event of an emergency or other exigent circumstances."

SECTION 5. This act is effective when it becomes law and applies to offenses committed on or after that date. Prosecutions for offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

In the General Assembly read three times and ratified this the 27th day of November, 2001.

Became law upon approval of the Governor at 11:20 a.m. on the 28th day of November, 2001.

H.B. 1477**SESSION LAW 2001-471**

AN ACT TO DIVIDE NORTH CAROLINA INTO THIRTEEN CONGRESSIONAL DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-201 is rewritten to read:
"§ 163-201. *Congressional districts specified.*

(a) For purposes of nominating and electing members of the House of Representatives of the Congress of the United States in 2002 and every two years thereafter; the State of North Carolina shall be divided into 13 districts as follows:

District 1: Bertie County, Chowan County, Edgecombe County, Gates County, Greene County, Halifax County, Hertford County, Martin County, Northampton County, Pasquotank County, Perquimans County, Warren County, Washington County, Beaufort County: Precinct BLOUNTS CREEK, Precinct AURORA, Precinct CHOCOWINITY, Precinct EDWARD, Precinct PS JONES WARD 3, Precinct WASHINGTON WARD 1, Precinct WASHINGTON WARD 2; Craven County: Precinct RHEMS, Precinct CLARKS, Precinct JASPER, Precinct COVE CITY, Precinct DOVER, Precinct FORT BARNWELL, Precinct WEST HAVELOCK: Tract 9611: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1996; Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2062, Block 2063,

Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3998, Block 3999; Tract 9612: Block Group 1: Block 1000, Block 1001, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1992, Block 1993, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Tract 9613: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1999; Block Group 6: Block 6047, Block 6048, Block 6049; Precinct GEORGE STREET, Precinct FORT TOTTEN, Precinct H J McDONALD, Precinct GLENBURNIE PARK; Granville County: Precinct CREDLE, Precinct EAST OXFORD, Precinct SALEM, Precinct SOUTH OXFORD, Precinct WEST OXFORD ELEMENTARY; Jones County: Precinct POLLOCKSVILLE: Tract 9801: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1997, Block 1998; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005,

Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002; Tract 9802: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2000, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2036, Block 2037, Block 2038, Block 2039, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2054; Precinct TRENTON, Precinct WHITE OAK; Lenoir County: Precinct CONTENTNEA, Precinct VANCE, Precinct KINSTON 1, Precinct KINSTON 2, Precinct KINSTON 3, Precinct KINSTON 5, Precinct KINSTON 6, Precinct KINSTON 7, Precinct KINSTON 8, Precinct MOSELEY HALL, Precinct SAND HILL; Nash County: Precinct ROCKY MOUNT 1, Precinct ROCKY MOUNT 2, Precinct ROCKY MOUNT 3, Precinct ROCKY MOUNT 4; Pitt County: Precinct 3.01, Precinct 4.01, Precinct 5.01, Precinct 10.01, Precinct 12.01, Precinct 15.01, Precinct 15.03, Precinct 15.04, Precinct 15.06, Precinct 2.00B, Precinct 8.00A, Precinct 8.00B, Precinct 15.05A, Precinct 15.05B; Vance County: Precinct EAST HENDERSON 1, Precinct NORTH HENDERSON 1, Precinct NORTH HENDERSON 2, Precinct SOUTH HENDERSON 1, Precinct WEST HENDERSON 1, Precinct WEST HENDERSON 2, Precinct DABNEY, Precinct MIDDLEBURG, Precinct TOWNSVILLE, Precinct WATKINS, Precinct WILLIAMSBORO; Wayne County: Precinct Precinct 7, Precinct Precinct 10, Precinct Precinct 11, Precinct Precinct 12, Precinct Precinct 13, Precinct Precinct 17, Precinct Precinct 18, Precinct Precinct 19, Precinct Precinct 20, Precinct Precinct 21, Precinct Precinct 22, Precinct Precinct 23, Precinct Precinct 26, Precinct Precinct 27, Precinct Precinct 29; Wilson County: Precinct GARDNERS, Precinct SARATOGA, Precinct TOISNOT, Precinct WILSON A, Precinct WILSON B, Precinct WILSON C, Precinct WILSON E, Precinct WILSON F, Precinct WILSON G, Precinct WILSON H, Precinct WILSON I, Precinct WILSON N, Precinct WILSON Q.

District 2: Franklin County, Harnett County, Johnston County, Lee County, Chatham County: Precinct ALBRIGHT, Precinct BENNETT, Precinct BONLEE, Precinct GOLDSTON, Precinct THREE RIVERS, Precinct HADLEY, Precinct HARPER'S CROSSROADS, Precinct HICKORY MOUNTAIN, Precinct OAKLAND, Precinct WEST PITTSBORO, Precinct EAST PITTSBORO, Precinct EAST SILER CITY, Precinct CENTRAL

SILER CITY, Precinct WEST SILER CITY; Cumberland County: Precinct CROSS CREEK 3, Precinct CROSS CREEK 5, Precinct CROSS CREEK 9, Precinct CROSS CREEK 13, Precinct CROSS CREEK 16, Precinct CROSS CREEK 17, Precinct CROSS CREEK 19, Precinct CROSS CREEK 21, Precinct CROSS CREEK 22, Precinct CROSS CREEK 26, Precinct CROSS CREEK 32, Precinct CROSS CREEK 33, Precinct CLIFFDALE WEST, Precinct MANCHESTER: Tract 34: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2009, Block 2011, Block 2012, Block 2017, Block 2018, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2997, Block 2998; Tract 35: Block Group 2: Block 2000, Block 2007, Block 2008, Block 2009; Tract 36: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1030, Block 1993, Block 1994, Block 1995, Block 1997, Block 1998; Block Group 2: Block 2003, Block 2004, Block 2012, Block 2013, Block 2017, Block 2031, Block 2995, Block 2996, Block 2998; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4037, Block 4039, Block 4043, Block 4044, Block 4045, Block 4046, Block 4998; Precinct SPRING LAKE, Precinct WEST AREA; Nash County: Precinct ROCKY MOUNT 8, Precinct NASHVILLE, Precinct ROCKY MOUNT 10, Precinct GRIFFINS, Precinct JACKSONS, Precinct MANNINGS 1, Precinct MANNINGS 2, Precinct SOUTH WHITAKERS, Precinct

BAILEY, Precinct CASTALIA, Precinct DRYWELLS, Precinct FERRELLS, Precinct NORTH WHITAKERS 1, Precinct NORTH WHITAKERS 2; Sampson County: Precinct CENTRAL CLINTON, Precinct EAST CLINTON, Precinct SOUTHWEST CLINTON, Precinct GARLAND, Precinct GIDDENSVILLE, Precinct HARRELLS, Precinct INGOLD, Precinct KEENER, Precinct LAKEWOOD, Precinct NEWTON GROVE, Precinct ROWAN, Precinct TURKEY; Vance County: Precinct EAST HENDERSON 2, Precinct SOUTH HENDERSON 2, Precinct HILLTOP, Precinct KITTRELL, Precinct SANDY SCREEK; Wake County: Precinct 01-19, Precinct 01-20, Precinct 01-21, Precinct 01-22, Precinct 01-23, Precinct 01-26, Precinct 01-27; Tract 501: Block Group 1: Block 1070; Precinct 01-35, Precinct 16-01, Precinct 16-02, Precinct 16-03, Precinct 16-04, Precinct 16-05, Precinct 16-06, Precinct 16-07, Precinct 18-01, Precinct 18-06.

District 3: Camden County, Carteret County, Currituck County, Dare County, Hyde County, Onslow County, Pamlico County, Tyrrell County, Beaufort County: Precinct HUNTERS BRIDGE, Precinct BELHAVEN, Precinct NORTH CREEK, Precinct OLD FORD, Precinct RIVER ROAD, Precinct TRANTERS CREEK, Precinct WOODARDS POND, Precinct BEAVER DAM, Precinct PANTEGO, Precinct PINETOWN, Precinct SURRY BATH, Precinct WASHINGTON WARD 4, Precinct WASHINGTON PARK, Precinct GILEAD; Craven County: Precinct TRENT WOODS, Precinct RIVER BEND, Precinct BRIDGETON, Precinct TRUITT, Precinct ERNUL, Precinct VANCEBORO, Precinct EPWORTH, Precinct GRANTHAM, Precinct CROATAN, Precinct WEST HAVELOCK; Tract 9611: Block Group 2: Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061; Tract 9612: Block Group 1: Block 1012, Block 1013; Tract 9613: Block Group 4: Block 4001, Block 4023, Block 4024; Block Group 5: Block 5015, Block 5016, Block 5017; Block Group 6: Block 6050; Precinct HARLOWE, Precinct FAIRFIELD HARBOUR, Precinct BRICES CREEK, Precinct EAST HAVELOCK, Precinct GROVER C FIELDS, Precinct WEST NEW BERN; Duplin County: Precinct ALBERTSON, Precinct BEULAVILLE; Tract 9905: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053; Block Group 3: Block

3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060; Block Group 5: Block 5000, Block 5023, Block 5024; Precinct CALYPSO, Precinct CEDAR FORK, Precinct CHINQUAPIN, Precinct GLISSON, Precinct WOLFSCRAPE; Jones County: Precinct BEAVER CREEK, Precinct CYPRESS CREEK, Precinct CHINQUAPIN, Precinct POLLOCKSVILLE; Tract 9801: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1008, Block 1009, Block 1010, Block 1011, Block 1015, Block 1999; Precinct TUCKAHOE; Lenoir County: Precinct INSTITUTE, Precinct NEUSE, Precinct WOODINGTON, Precinct FALLING CREEK, Precinct KINSTON 4, Precinct KINSTON 9, Precinct SOUTHWEST, Precinct TRENT 1, Precinct TRENT 2, Precinct PINK HILL 1, Precinct PINK HILL 2; Nash County: Precinct STONY CREEK, Precinct ROCKY MOUNT 5, Precinct ROCKY MOUNT 6, Precinct ROCKY MOUNT 7, Precinct ROCKY MOUNT 9, Precinct COOPERS, Precinct OAK LEVEL, Precinct RED OAK; Pitt County: Precinct 1.01, Precinct 6.01, Precinct 7.01, Precinct 9.01, Precinct 11.01, Precinct 13.01, Precinct 14.02, Precinct 15.09, Precinct 2.00A, Precinct 11.02A, Precinct 11.02B, Precinct 14.03A, Precinct 14.03B, Precinct 15.07A, Precinct 15.07B, Precinct 15.07C, Precinct 15.08A, Precinct 15.08B, Precinct 15.10A, Precinct 15.10B, Precinct 15.11A, Precinct 15.11B, Precinct 15.12A, Precinct 15.12B; Wayne County: Precinct Precinct 1, Precinct Precinct 2,

Precinct Precinct 3, Precinct Precinct 4, Precinct Precinct 5, Precinct Precinct 6, Precinct Precinct 8, Precinct Precinct 9, Precinct Precinct 14, Precinct Precinct 15, Precinct Precinct 16, Precinct Precinct 24, Precinct Precinct 25, Precinct Precinct 28, Precinct Precinct 30; Wilson County: Precinct BLACK CREEK, Precinct CROSSROADS, Precinct OLD FIELDS, Precinct SPRINGHILL, Precinct STANTONSBURG, Precinct TAYLORS, Precinct WILSON D, Precinct WILSON J, Precinct WILSON K, Precinct WILSON L, Precinct WILSON M, Precinct WILSON P.

District 4: Durham County, Orange County, Chatham County: Precinct BYNUM, Precinct EAST MANN'S CHAPEL, Precinct WEST MANN'S CHAPEL, Precinct NEW HOPE, Precinct EAST WILLIAMS, Precinct NORTH WILLIAMS, Precinct WEST WILLIAMS, Precinct NORTH WILLIAMS 2, Precinct EAST WILLIAMS 2; Wake County: Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 03-00, Precinct 04-01, Precinct 04-03, Precinct 04-05, Precinct 04-06, Precinct 04-07, Precinct 04-08, Precinct 04-09, Precinct 04-10, Precinct 04-11, Precinct 04-12, Precinct 04-13, Precinct 04-14, Precinct 04-15, Precinct 04-17, Precinct 04-18, Precinct 04-19, Precinct 05-00, Precinct 06-01, Precinct 06-02, Precinct 06-03, Precinct 07-03, Precinct 07-06, Precinct 07-07, Precinct 07-11, Precinct 08-01, Precinct 08-02, Precinct 08-03, Precinct 08-04, Precinct 08-05, Precinct 08-06, Precinct 08-08, Precinct 11-01, Precinct 11-02, Precinct 12-01, Precinct 12-02, Precinct 12-03, Precinct 12-04, Precinct 12-06, Precinct 15-01, Precinct 15-02, Precinct 18-02, Precinct 18-03, Precinct 18-04, Precinct 18-05, Precinct 18-08, Precinct 20-01, Precinct 20-02, Precinct 20-03, Precinct 20-04, Precinct 20-05, Precinct 20-06, Precinct 20-10.

District 5: Alexander County, Alleghany County, Ashe County, Davie County, Stokes County, Surry County, Watauga County, Wilkes County, Yadkin County, Forsyth County: Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 015, Precinct 021, Precinct 031, Precinct 032, Precinct 034, Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 091, Precinct 092, Precinct 111, Precinct 112, Precinct 122, Precinct 123, Precinct 131, Precinct 132, Precinct 133, Precinct 602, Precinct 607, Precinct 701, Precinct 702, Precinct 703, Precinct 704, Precinct 705, Precinct 706, Precinct 707, Precinct 708, Precinct 709, Precinct 801, Precinct 802, Precinct 803, Precinct 804, Precinct 805, Precinct 806, Precinct 807, Precinct 808, Precinct 809, Precinct 901, Precinct 906, Precinct 907, Precinct 908, Precinct 909;

Iredell County: Precinct Barringer, Precinct Bethany, Precinct Concord, Precinct Chambersburg, Precinct Cool Springs, Precinct Eagle Mills, Precinct New Hope, Precinct Olin, Precinct Sharpesburg, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 3, Precinct Statesville 4, Precinct Statesville 5, Precinct Statesville 6, Precinct Turnersburg, Precinct Union Grove; Rockingham County: Precinct HOGANS, Precinct HUNTSVILLE, Precinct NEW BETHEL.

District 6: Moore County, Randolph County, Alamance County: Precinct PATTERSON, Precinct COBLE, Precinct MORTON, Precinct FAUCETTE, Precinct ALBRIGHT, Precinct BOONE 5, Precinct CENTRAL BOONE, Precinct NORTH BOONE, Precinct SOUTH BOONE, Precinct WEST BOONE, Precinct GRAHAM 4, Precinct EAST GRAHAM, Precinct SOUTH GRAHAM, Precinct WEST GRAHAM, Precinct NORTH NEWLIN, Precinct SOUTH NEWLIN, Precinct NORTH THOMPSON, Precinct SOUTH THOMPSON, Precinct MELVILLE 3, Precinct NORTH MELVILLE, Precinct SOUTH MELVILLE, Precinct BURLINGTON 4, Precinct BURLINGTON 5, Precinct BURLINGTON 6, Precinct BURLINGTON 9, Precinct WEST BURLINGTON, Precinct BURLINGTON 10; Davidson County: Precinct COTTON GROVE, Precinct DENTON, Precinct EMMONS, Precinct HEALING SPRINGS, Precinct HOLLY GROVE, Precinct LEXINGTON 1, Precinct LEXINGTON 2, Precinct LEXINGTON 3, Precinct LIBERTY, Precinct MIDWAY, Precinct NORTH DAVIDSON, Precinct SILVER HILL, Precinct SILVER VALLEY, Precinct SOUTH DAVIDSON, Precinct SOUTHMONT, Precinct THOMASVILLE 1, Precinct THOMASVILLE 4, Precinct THOMASVILLE 5, Precinct THOMASVILLE 7, Precinct THOMASVILLE 9, Precinct THOMASVILLE 10, Precinct WELCOME; Guilford County: Precinct Greene, Precinct Center Grove 1, Precinct Center Grove 2, Precinct Friendship 1, Precinct Friendship 2, Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct Greensboro 16, Precinct Greensboro 18, Precinct Greensboro 19, Precinct Greensboro 20, Precinct Greensboro 21, Precinct Greensboro 22, Precinct Greensboro 27, Precinct Greensboro 30, Precinct Greensboro 31, Precinct Greensboro 32, Precinct Greensboro 33, Precinct Greensboro 34, Precinct Greensboro 35, Precinct Greensboro 41, Precinct Greensboro 42, Precinct Greensboro 43, Precinct Greensboro 63, Precinct Greensboro 64; Tract 160.04: Block Group 4: Block 4048, Block 4049, Block 4050, Block 4051, Block 4052; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016; Tract 164.03: Block Group 1: Block 1000, Block 1001, Block 1002,

Block 1006; Tract 165.03: Block Group 1: Block 1000, Block 1001, Block 1010; Precinct Gibsonville, Precinct High Point 4, Precinct High Point 14, Precinct High Point 15, Precinct High Point 16, Precinct High Point 20, Precinct High Point 21, Precinct High Point 22, Precinct High Point 23, Precinct High Point 24, Precinct High Point 25, Precinct High Point 26, Precinct High Point 27, Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Pleasant Garden 1, Precinct Pleasant Garden 2, Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4, Precinct Fentress 2, Precinct Greensboro 40A, Precinct Greensboro 40B, Precinct Jamestown 4, Precinct Jamestown 5, Precinct Jefferson 1, Precinct Jefferson 4, Precinct Monroe 1, Precinct Monroe 3, Precinct North Center Grove, Precinct North Deep River, Precinct South Deep River, Precinct South Madison, Precinct Stokesdale, Precinct Sumner 3, Precinct Sumner 4, Precinct North Clay, Precinct North Washington, Precinct South Clay, Precinct South Washington; Rowan County: Precinct Barnhardt Mill, Precinct Blackwelder Park, Precinct Bostian Crossroads, Precinct North China Grove, Precinct South China Grove, Precinct South Locke, Precinct Faith, Precinct Rock Grove, Precinct Granite Quarry, Precinct Hatters Shop, Precinct West Kannapolis, Precinct East Kannapolis, Precinct West Landis, Precinct East Landis, Precinct North Locke, Precinct Morgan I, Precinct Morgan II, Precinct Rockwell, Precinct Gold Knob, Precinct Steele, Precinct Sumner, Precinct Trading Ford, Precinct Bostian School.

District 7: Bladen County, Brunswick County, Columbus County, New Hanover County, Pender County, Robeson County, Cumberland County: Precinct CROSS CREEK 1, Precinct CROSS CREEK 2, Precinct HOPE MILLS 2, Precinct PEARCES MILL 3, Precinct ALDERMAN, Precinct BEAVER DAM, Precinct BLACK RIVER, Precinct CROSS CREEK 11, Precinct CROSS CREEK 15, Precinct CROSS CREEK 23, Precinct CEDAR CREEK, Precinct EASTOVER, Precinct JUDSON/VANDER, Precinct LINDEN, Precinct LONG HILL, Precinct MANCHESTER: Tract 34: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2010, Block 2013, Block 2999; Tract 35: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1009, Block 1013; Tract 36: Block Group 1: Block 1000, Block 1001, Block 1008, Block 1009, Block 1031, Block 1032, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2037, Block 2038, Block 2047, Block 2048, Block 2049, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2999; Tract 37: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2025, Block 2026, Block 2043, Block 2995; Precinct

SHERWOOD, Precinct STEDMAN, Precinct WADE; Duplin County: Precinct BEULAVILLE: Tract 9905: Block Group 5: Block 5001, Block 5002, Block 5003, Block 5021, Block 5022; Precinct CYPRESS CREEK, Precinct CHARITY, Precinct FAISON, Precinct HALLSVILLE, Precinct KENANSVILLE, Precinct LOCKLIN, Precinct MAGNOLIA, Precinct ROCKFISH, Precinct ROSE HILL, Precinct SMITH CABIN, Precinct WALLACE, Precinct WARSAW; Sampson County: Precinct AUTRYVILLE, Precinct CLEMENT, Precinct NORTHEAST CLINTON, Precinct WEST CLINTON, Precinct HERRING, Precinct KITTY FORK, Precinct MINGO, Precinct PLAINVIEW, Precinct ROSEBORO, Precinct SALEMBURG, Precinct WESTBROOK; Scotland County: Precinct 2: Tract 104: Block Group 1: Block 1103, Block 1106, Block 1108, Block 1109, Block 1110, Block 1113; Precinct 6: Tract 104: Block Group 1: Block 1094, Block 1095, Block 1101, Block 1102, Block 1107, Block 1111, Block 1112, Block 1121, Block 1122.

District 8: Anson County, Hoke County, Montgomery County, Richmond County, Stanly County, Cabarrus County: Precinct 0101, Precinct 0102, Precinct 0103, Precinct 0104, Precinct 0201, Precinct 0202, Precinct 0203, Precinct 0205, Precinct 0206, Precinct 0207, Precinct 0401, Precinct 0402, Precinct 0403, Precinct 0404, Precinct 0405, Precinct 0406, Precinct 0407, Precinct 0408, Precinct 0409, Precinct 0410, Precinct 0500, Precinct 0600, Precinct 0700, Precinct 0800, Precinct 0900, Precinct 1000, Precinct 1101, Precinct 1102, Precinct 1201, Precinct 1202, Precinct 1203, Precinct 1204, Precinct 1205, Precinct 1206, Precinct 1207, Precinct 1208, Precinct 1209, Precinct 1210, Precinct 1211, Precinct 1212; Cumberland County: Precinct CROSS CREEK 4, Precinct CROSS CREEK 6, Precinct CROSS CREEK 7, Precinct CROSS CREEK 8, Precinct CUMBERLAND 1, Precinct CUMBERLAND 2, Precinct CUMBERLAND 3, Precinct HOPE MILLS 1, Precinct HOPE MILLS 3, Precinct MORGANTON ROAD, Precinct PEARCES MILL 2, Precinct PEARCES MILL 4, Precinct ARRAN HILLS, Precinct AUMAN, Precinct BRENTWOOD, Precinct CROSS CREEK 10, Precinct CROSS CREEK 12, Precinct CROSS CREEK 14, Precinct CROSS CREEK 18, Precinct CROSS CREEK 20, Precinct CROSS CREEK 24, Precinct CROSS CREEK 25, Precinct CROSS CREEK 27, Precinct CROSS CREEK 28, Precinct CROSS CREEK 29, Precinct CROSS CREEK 30, Precinct CROSS CREEK 31, Precinct CROSS CREEK 34, Precinct LAKE RIM, Precinct MONTIBELLO, Precinct STONEY POINT; Mecklenburg County: Precinct 002, Precinct 004, Precinct 005, Precinct 006, Precinct 007, Precinct 015, Precinct 017, Precinct 029, Precinct 033, Precinct 034, Precinct 045, Precinct 046, Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 084, Precinct 095, Precinct 108, Precinct 109,

Precinct 117, Precinct 123, Precinct 124, Precinct 237, Precinct 130, Precinct 141, Precinct 204, Precinct 205; Scotland County: Precinct 1, Precinct 2: Tract 103: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1023, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1100, Block 1999; Block Group 2: Block 2037, Block 2038, Block 2039; Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029; Tract 104: Block Group 1: Block 1072, Block 1073, Block 1076, Block 1077, Block 1104, Block 1105, Block 1114, Block 1115, Block 1116, Block 1117, Block 1118, Block 1119, Block 1120, Block 1996; Precinct 3, Precinct 4, Precinct 5, Precinct 6: Tract 103: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1020, Block 1021, Block 1022, Block 1024, Block 1025, Block 1026, Block 1027; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035,

Block 2036, Block 2040, Block 2041; Tract 104: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1074, Block 1075, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1134, Block 1135, Block 1136, Block 1137, Block 1997, Block 1998, Block 1999; Precinct 7, Precinct 8, Precinct 9, Precinct 10; Union County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 08, Precinct 09, Precinct 10, Precinct 11, Precinct 25, Precinct 26, Precinct 27, Precinct 36, Precinct 43.

District 9: Gaston County: Precinct York Chester, Precinct Victory, Precinct Pleasant Ridge, Precinct Health Center, Precinct Myrtle, Precinct Highland, Precinct Wood Hill, Precinct Grier, Precinct Sherwood, Precinct Armstrong, Precinct Flint Grove, Precinct Ranlo, Precinct Gardner Park, Precinct Robinson 1, Precinct Gaston Day, Precinct Robinson 2, Precinct Ashbrook, Precinct South Gastonia, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Belmont 1, Precinct Belmont 2, Precinct Belmont 3, Precinct Catawba Heights, Precinct Southpoint, Precinct Cramerton, Precinct New Hope, Precinct McAdenville, Precinct Union, Precinct Lowell, Precinct Landers Chapel, Precinct High Shoals, Precinct Alexis, Precinct Dallas 1, Precinct Dallas 2, Precinct Lucia, Precinct Stanley 1, Precinct Stanley 2, Precinct Mt Holly 1, Precinct Mt Holly 2; Mecklenburg County: Precinct 001, Precinct 008, Precinct 009, Precinct 010, Precinct 018, Precinct 019, Precinct 020, Precinct 021, Precinct 032, Precinct 035, Precinct 036, Precinct 037, Precinct 038, Precinct 047, Precinct 048, Precinct 049, Precinct 050, Precinct 051, Precinct 057, Precinct 058, Precinct 059, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 069, Precinct 070, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 076,

Precinct 077: Tract 59.05: Block Group 2: Block 2008, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050; Precinct 083, Precinct 085, Precinct 086, Precinct 087, Precinct 088, Precinct 089, Precinct 090, Precinct 091, Precinct 092, Precinct 093, Precinct 094, Precinct 096, Precinct 097, Precinct 099, Precinct 100, Precinct 101, Precinct 102, Precinct 103, Precinct 106, Precinct 110, Precinct 111, Precinct 112, Precinct 113, Precinct 114, Precinct 115, Precinct 116, Precinct 118, Precinct 119, Precinct 120, Precinct 121, Precinct 122, Precinct 125, Precinct 128, Precinct 225, Precinct 226, Precinct 227, Precinct 229, Precinct 230, Precinct 231, Precinct 232, Precinct 233, Precinct 234, Precinct 235, Precinct 236, Precinct 238, Precinct 240, Precinct 241, Precinct 242, Precinct 243, Precinct 129, Precinct 131, Precinct 133, Precinct 134, Precinct 136, Precinct 137, Precinct 139, Precinct 140, Precinct 142, Precinct 143, Precinct 144, Precinct 201, Precinct 202, Precinct 203, Precinct 207, Precinct 208, Precinct 209, Precinct 214, Precinct 215, Precinct 216, Precinct 217, Precinct 218, Precinct 219, Precinct 220, Precinct 221, Precinct 222, Precinct 223, Precinct 224; Union County: Precinct 05, Precinct 06, Precinct 07, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 16, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22, Precinct 23, Precinct 24, Precinct 28, Precinct 29, Precinct 30, Precinct 31, Precinct 32, Precinct 33, Precinct 34, Precinct 35, Precinct 37, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42.

District 10: Avery County, Burke County, Caldwell County, Catawba County, Cleveland County, Lincoln County, Mitchell County, Gaston County: Precinct Forest Heights, Precinct Crowders Mountain, Precinct Tryon, Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville 3; Iredell County: Precinct Coddle Creek 1, Precinct Coddle Creek 2, Precinct Coddle Creek 3, Precinct Coddle Creek 4, Precinct Davidson 1, Precinct Davidson 2, Precinct Fallstown, Precinct Shiloh; Rutherford County: Precinct Bostic, Precinct Camp Creek, Precinct Caroleen, Precinct Chimney Rock 1, Precinct Chimney Rock 2, Precinct Cliffside, Precinct Duncans Creek, Precinct Ellenboro, Precinct Forest City 2, Precinct Gilkey, Precinct Golden Valley, Precinct Green Hill, Precinct Haynes, Precinct Morgan, Precinct Mount Vernon, Precinct Sandy Mush, Precinct Sunshine.

District 11: Buncombe County, Cherokee County, Clay County, Graham County, Haywood County, Henderson County, Jackson County, McDowell County, Macon County, Madison County, Polk County, Swain County, Transylvania County, Yancey County, Rutherford County: Precinct Danielstown, Precinct Forest City 1,

Precinct Rutherfordton 1, Precinct Rutherfordton 2, Precinct Spindale, Precinct Sulpher Springs, Precinct Union.

District 12: Cabarrus County: Precinct 0204, Precinct 0300; Davidson County: Precinct ABBOTTS CREEK, Precinct ARCADIA, Precinct BOONE, Precinct CENTRAL, Precinct GUMTREE, Precinct LEXINGTON 4, Precinct WARD 1, Precinct WARD 2, Precinct WARD 3, Precinct WARD 4, Precinct WARD 5, Precinct WARD 6, Precinct REEDS YADKIN COLLEGE, Precinct REEDY CREEK, Precinct THOMASVILLE 2, Precinct THOMASVILLE 3, Precinct THOMASVILLE 8, Precinct TYRO, Precinct WALLBURG, Precinct WEST ARCADIA; Forsyth County: Precinct 033, Precinct 042, Precinct 043, Precinct 081, Precinct 082, Precinct 083, Precinct 101, Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 301, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 306, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505, Precinct 506, Precinct 507, Precinct 601, Precinct 603, Precinct 604, Precinct 605, Precinct 606, Precinct 902, Precinct 903, Precinct 904, Precinct 905; Guilford County: Precinct HP, Precinct Greensboro 4, Precinct Greensboro 46, Precinct Greensboro 52, Precinct Greensboro 53, Precinct Greensboro 54, Precinct Greensboro 55, Precinct Greensboro 57, Precinct Greensboro 61, Precinct Greensboro 62, Precinct Greensboro 64: Tract 160.04: Block Group 4: Block 4038, Block 4044, Block 4045, Block 4046, Block 4047, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4071; Tract 162.01: Block Group 2: Block 2043, Block 2058, Block 2059, Block 2060, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2077, Block 2078; Tract 162.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1133, Block 1147, Block 1148; Tract 164.03: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1010, Block 1011, Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1029; Precinct Greensboro 65, Precinct Greensboro 66, Precinct Greensboro 67, Precinct Greensboro 68, Precinct Greensboro 69, Precinct Greensboro 70, Precinct Greensboro 71, Precinct Greensboro 73, Precinct Greensboro 74, Precinct Greensboro 75, Precinct High Point 1, Precinct High Point 2, Precinct High Point 3, Precinct High Point 5, Precinct High Point 6, Precinct High Point 7, Precinct High Point 8, Precinct High Point 9, Precinct High Point 10, Precinct High Point 11, Precinct High Point 12, Precinct High Point 13, Precinct High

Point 17, Precinct High Point 18, Precinct High Point 19, Precinct Fentress 1, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Jamestown 3, Precinct Jefferson 3, Precinct Sumner 1, Precinct Sumner 2; Mecklenburg County: Precinct 003, Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 016, Precinct 022, Precinct 023, Precinct 024, Precinct 025, Precinct 026, Precinct 027, Precinct 028, Precinct 030, Precinct 031, Precinct 039, Precinct 040, Precinct 041, Precinct 042, Precinct 043, Precinct 044, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 056, Precinct 060, Precinct 077; Tract 38.04: Block Group 1: Block 1022; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012; Tract 58.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1068, Block 1069, Block 1071, Block 1072, Block 1073, Block 1074, Block 1077, Block 1079, Block 1999; Tract 59.05: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007; Precinct 078, Precinct 079, Precinct 080, Precinct 081, Precinct 082, Precinct 098, Precinct 104, Precinct 105, Precinct 107, Precinct 126, Precinct 127, Precinct 228, Precinct 239, Precinct 132, Precinct 135, Precinct 138, Precinct 200, Precinct 206, Precinct 210, Precinct 211, Precinct 212, Precinct 213; Rowan County: Precinct Bradshaw, Precinct Cleveland, Precinct East Enochville, Precinct Franklin, Precinct Milford Hills County, Precinct East Spencer, Precinct Mount Ulla, Precinct Scotch Irish, Precinct Spencer, Precinct Unity, Precinct West Ward II, Precinct West Ward I, Precinct South Ward, Precinct North Ward I, Precinct East Ward I, Precinct West Innes, Precinct North Ward II, Precinct Milford Hills City, Precinct West Ward III, Precinct East Ward II, Precinct West Enochville.

District 13: Caswell County, Person County, Alamance County: Precinct PLEASANT GROVE, Precinct HAW RIVER, Precinct GRAHAM 3, Precinct NORTH GRAHAM, Precinct BURLINGTON 7, Precinct BURLINGTON 8, Precinct EAST BURLINGTON, Precinct NORTH BURLINGTON, Precinct SOUTH BURLINGTON; Granville County: Precinct ANTIOCH, Precinct BEREAS, Precinct BRASSFIELD, Precinct BUTNER, Precinct CORINTH, Precinct CREEDMOOR, Precinct OAK HILL, Precinct SASSAFRAS FORK, Precinct TALLY HO; Guilford County: Precinct Center Grove 3, Precinct Greensboro 1, Precinct Greensboro 2, Precinct Greensboro 3, Precinct Greensboro 5, Precinct Greensboro 6, Precinct Greensboro 7, Precinct Greensboro 9, Precinct Greensboro 10, Precinct Greensboro 11, Precinct Greensboro 12, Precinct Greensboro 13, Precinct

Greensboro 14, Precinct Greensboro 15, Precinct Greensboro 17, Precinct Greensboro 23, Precinct Greensboro 24, Precinct Greensboro 25, Precinct Greensboro 26, Precinct Greensboro 28, Precinct Greensboro 29, Precinct Greensboro 36, Precinct Greensboro 37, Precinct Greensboro 38, Precinct Greensboro 39, Precinct Greensboro 44, Precinct Greensboro 45, Precinct Greensboro 47, Precinct Greensboro 48, Precinct Greensboro 49, Precinct Greensboro 50, Precinct Greensboro 51, Precinct Greensboro 56, Precinct Greensboro 58, Precinct Greensboro 59, Precinct Greensboro 60, Precinct Greensboro 72, Precinct Greensboro 8, Precinct Jefferson 2, Precinct Monroe 2, Precinct North Madison; Rockingham County: Precinct BETHLEHEM, Precinct CENTRAL AREA, Precinct DRAPER, Precinct DAN VALLEY, Precinct IRONWORKS, Precinct MAYFIELD, Precinct MAYODAN, Precinct MARTINS, Precinct OREGON HILL, Precinct PRICE, Precinct RUFFIN, Precinct SHILOH, Precinct SIMPSONVILLE, Precinct STONEVILLE, Precinct WENTWORTH, Precinct WILLIAMSBURG, Precinct LEAKSVILLE 1, Precinct LEAKSVILLE 2, Precinct LEAKSVILLE 3, Precinct MADISON 1, Precinct MADISON 2, Precinct REIDSVILLE 1, Precinct REIDSVILLE 2, Precinct REIDSVILLE 3, Precinct REIDSVILLE 4, Precinct REIDSVILLE 5, Precinct REIDSVILLE 6, Precinct SPRAY 1; Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-03, Precinct 01-04, Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-10, Precinct 01-11, Precinct 01-12, Precinct 01-13, Precinct 01-14, Precinct 01-15, Precinct 01-16, Precinct 01-17, Precinct 01-18, Precinct 01-25, Precinct 01-27; Tract 501: Block Group 1: Block 1067, Block 1068, Block 1069, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1118, Block 1119, Block 1120; Tract 510: Block Group 1: Block 1000, Block 1001; Block Group 2: Block 2000, Block 2001, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042; Tract 522.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1022; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block

2014; Tract 522.02: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Tract 523.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1027, Block 1028, Block 1029; Precinct 01-28, Precinct 01-29, Precinct 01-30, Precinct 01-31, Precinct 01-32, Precinct 01-33, Precinct 01-34, Precinct 01-36, Precinct 01-37, Precinct 01-38, Precinct 01-39, Precinct 01-40, Precinct 01-41, Precinct 01-42, Precinct 01-43, Precinct 01-44, Precinct 01-45, Precinct 01-46, Precinct 01-48, Precinct 01-49, Precinct 01-51, Precinct 04-02, Precinct 04-04, Precinct 04-16, Precinct 07-01, Precinct 07-02, Precinct 07-04, Precinct 07-05, Precinct 07-09, Precinct 07-10, Precinct 07-12, Precinct 09-01, Precinct 09-02, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 13-01, Precinct 13-02, Precinct 13-03, Precinct 14-01, Precinct 14-02, Precinct 17-01, Precinct 17-02, Precinct 17-03, Precinct 17-04, Precinct 17-05, Precinct 17-06, Precinct 17-07, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05, Precinct 19-06, Precinct 19-07, Precinct 19-08.

(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 2000 United States Census. Boundaries are as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of May 1, 2001, to reflect precincts divided or renamed as outlined in subsection (c) of this section. However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429, Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429 prevails to the extent of the conflict.

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect precincts divided or renamed by county boards of elections after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in the following counties:

(1) Buncombe County:

- a. Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.

- b. Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.
 - c. Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.
 - d. Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.
 - e. Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.
- (2) Cabarrus County:
- a. Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.
 - b. Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.
- (3) Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady 1 and Lovelady 2.
- (4) Chatham County:
- a. Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.
 - b. Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.
- (5) Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.
- (6) Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.
- (7) Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.
- (8) Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.
- (9) Orange County:
- a. Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.
 - b. Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.
- (10) Rowan County:
- a. Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.
 - b. Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.
- (11) Wake County:
- a. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.
 - b. Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.

- c. Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.
- d. Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.
- e. Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.
- f. Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.
- g. Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.
- h. Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.
- i. Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.
- j. Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.
- k. Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.
- l. Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.
- m. Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.
- n. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.

(d) If any precinct boundary is changed, that change shall not change the boundary of a congressional district, which shall remain the same.

(e) If this section does not specifically assign any area within North Carolina to a district, and the area is:

- (1) Entirely surrounded by a single district, the area shall be deemed to have been assigned to that district.
- (2) Contiguous to two or more districts, the area shall be deemed to have been assigned to that district which contains the least population according to the 2000 United States Census.
- (3) Contiguous to only one district and to another state or the Atlantic Ocean, the area shall be deemed to have been assigned to that district."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of November, 2001.

Became law on the date it was ratified.

H.B. 250**SESSION LAW 2001-472**

AN ACT MAKING A NONCONTIGUOUS ANNEXATION TO THE TOWN OF MIDLAND IN CABARRUS COUNTY AND VALIDATING ACTIONS OF THE TOWN OF LINDEN IN CUMBERLAND COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The following described property is added to the corporate limits of the Town of Midland:

All those two certain tracts of land containing two and sixty-four hundredths (2.64) acres, known as Lot Nos. 2 and 3 of Pine Bluff Estates in number 10 township, Cabarrus County, North Carolina, on the corner of Pine Bluff Road and Bluffton Lane as shown on a plat made by Harold W. Boles dated August 27, 1989 showing metes and bounds as follows:

Beginning at an iron pin on the northeast corner of Pine Bluff Road and Bluffton Lane and runs thence with Pine Bluff Road N. 00-12-01 W., 49.32 feet to an iron pin on the eastern edge of Pine Bluff Road; thence with Pine Bluff Road N. 02-12-14 E., 106.46 feet to an iron pin on the eastern edge of Pine Bluff Road, corner of Vernon Allen; thence with his line N. 78-59-57 E. 333.49 feet to an iron pin in the line of Lot No. 4; thence with the line of Lot No. 4, S. 02-55-22 W., 478.50 feet to an iron pin in the line of Lot No. 19, a corner of Lot Nos. 1 and 2; thence with the line dividing Lot Nos. 1 and 2 N. 80-56-38 W., 309.02 feet to an iron pin on the east side of Pine Bluff Road; thence with Pine Bluff Road N. 00-33-09 W., 210 feet to the point of beginning.

SECTION 1.(b) Real property and personal property in the territory annexed pursuant to subsection (a) of this section is subject to municipal taxes as provided in G.S. 160A-58.10. The corporate limits of the area annexed by subsection (a) of this section:

- (1) Shall be considered satellite corporate limits within the meaning of Part 4 of Article 4A of Chapter 160A of the General Statutes.
- (2) Are not external boundaries for the purposes of Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes until they are contiguous to the municipality.

SECTION 2.(a) All actions taken by the Town of Linden between January 1, 1989, and the effective date of this section are ratified, validated, and confirmed.

SECTION 2.(b) Any and all official acts, actions, expenditures, and levies of taxes or assessments by the Town of Linden since January 1, 1989, are ratified, validated, and confirmed.

SECTION 2.(c) The elections for municipal officers of the Town of Linden since January 1, 1989, are validated.

SECTION 2.(d) The first sentence of Section 3 of the Charter of the Town of Linden, being Chapter 398 of the Private Laws of 1913, as rewritten by Chapter 332 of the 1953 Session Laws, is rewritten to read:

"The officers of said corporation shall consist of a mayor and five commissioners."

SECTION 2.(e) This section does not affect pending litigation.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of November, 2001.

Became law on the date it was ratified.

S.B. 774**SESSION LAW 2001-473**

AN ACT TO PROVIDE FOR THE PRIVACY OF BILLING INFORMATION OF CUSTOMERS OF PUBLIC ENTERPRISES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 132-1.1 reads as rewritten:

"§ 132-1.1. *Confidential communications by legal counsel to public board or agency; State tax ~~information~~; information; public enterprise billing information.*

(a) Confidential Communications. – Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.

(b) State and Local Tax Information. – Tax information may not be disclosed except as provided in G.S. 105-259. As used in this subsection, "tax information" has the same meaning as in G.S. 105-259. Local tax records that contain information about a taxpayer's income or receipts may not be disclosed except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.

(c) Public Enterprise Billing Information. – Billing information compiled and maintained by a city or county or other public entity providing utility services in connection with the ownership or operation of a public enterprise is not a public record as defined in G.S. 132-1. Nothing contained herein is intended to limit public disclosure by a city or county of billing information:

- (i) that the city or county determines will be useful or necessary to assist bond counsel, bond underwriters, underwriters' counsel, rating agencies or investors or potential investors in making informed decisions regarding bonds or other obligations incurred or to be incurred with respect to the public enterprise;
- (ii) that is necessary to assist the city, county, State, or public enterprise to maintain the integrity and quality of services it provides; or
- (iii) that is necessary to assist law enforcement, public safety, fire protection, rescue, emergency management, or judicial officers in the performance of their duties.

As used herein, "billing information" means any record or information, in whatever form, compiled or maintained with respect to individual customers by any owner or operator of a public enterprise, as defined in G.S. 160A-311 and G.S. 153A-274, or other public entity providing utility services, relating to services it provides or will provide to the customer."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Became law upon approval of the Governor at 10:05 p.m. on the 29th day of November, 2001.

S.B. 920

SESSION LAW 2001-474

AN ACT TO REPEAL OBSOLETE STATUTES AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, PUBLIC HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 130B of the General Statutes is repealed.

SECTION 2. G.S. 104E-7(b) reads as rewritten:

"(b) No license for a low-level radioactive waste facility ~~which that~~ would accept low-level radioactive waste from the public, or from another person for a fee, shall be issued other than for a facility ~~to be operated pursuant to Chapter 104G of the General Statutes authorized by the General Assembly.~~"

SECTION 3. G.S. 104E-9(a)(9) reads as rewritten:

"(9) To enter upon any lands and structures upon lands to make surveys, borings, soundings, and examinations as may be necessary to determine the suitability of a site for a low-level radioactive waste facility or low-level radioactive disposal facility. The Department shall give 30 days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to such land or structures caused by such activities. ~~This authority shall also apply to the North Carolina Low Level Radioactive Waste Management Authority.~~"

SECTION 4. G.S. 104E-18(c) is repealed.

SECTION 5. G.S. 104E-19(a) reads as rewritten:

"(a) In order to meet the anticipated costs of administering the educational and training programs in G.S. 104E-11(c), of enforcing and carrying out the inspection provisions in G.S. 104E-7(a)(7) and ~~104E-11(a),~~ G.S. 104E-11(a), and of administering the licensing program in G.S. 104E-10.3, ~~and of licensing low level radioactive waste facilities operated pursuant to Chapter 104G of the General Statutes,~~ the Department is authorized to charge and collect such reasonable fees as it may by rule ~~or regulation~~ establish."

SECTION 6. G.S. 104E-27 reads as rewritten:

"§ 104E-27. *Volume reduction required.*

(a) The Commission shall develop and adopt rules ~~which that~~ require generators of low-level radioactive waste to implement best management practices, including prevention, minimization, reduction, segregation, and hold-for-decay storage, as a condition of access to ~~the any~~ low-level radioactive waste disposal facility-facility located in this State.

~~(b) No license for access to the disposal facility operated pursuant to Chapter 104G of the General Statutes shall be issued unless the Commission certifies to the Low Level Radioactive Waste~~

Management Authority that the generator is reducing waste volume to the extent technologically and economically feasible.

(c) The Department shall periodically review the State's comprehensive low-level radioactive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; and minimize the amount of low-level radioactive waste ~~which~~that must be disposed of."

SECTION 7. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

- ...
- (18) ~~The North Carolina Low Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes.~~
 - (19) ~~The North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes.~~

...."

SECTION 8. G.S. 105-275, as amended by S.L. 2001-84 and S.L. 2001-427, reads as rewritten:

"§ 105-275. *Property classified and excluded from the tax base.*

The following classes of property are hereby designated special classes under authority of Article V, Sec. 2(2), of the North Carolina Constitution and shall not be listed, appraised, assessed, or taxed:

- ...
- (36) ~~Real and personal property belonging to the North Carolina Low Level Radioactive Waste Management Authority created under Chapter 104G of the General Statutes.~~

(37) Poultry and livestock and feed used in the production of poultry and livestock.

~~(38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes.~~

...."

SECTION 9. The caption of Article 1 of Subchapter I of Chapter 113 of the General Statutes reads as rewritten:

"Powers and Duties of Department of ~~Environment, Health, Environment~~ and Natural Resources Generally."

SECTION 10. G.S. 113-145.5(g) reads as rewritten:

"(g) Meeting Facilities. – The Secretary of ~~the Department of~~ Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair."

SECTION 11. G.S. 113-145.8 reads as rewritten:

"§ 113-145.8. *Clean Water Management Trust Fund: Advisory Council.*

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

- (1) Commissioner of Agriculture.
- (2) Chair of the Wildlife Resources Commission.
- (3) Secretary of ~~the Department of~~ Environment and Natural Resources.
- (4) Secretary of the Department of Commerce."

SECTION 12. G.S. 120-70.33(2), 120-70.33(4), 120-70.43(c)(8), and 120-70.43(c)(9) are repealed.

SECTION 13. G.S. 120-123 reads as rewritten:

"§ 120-123. *Service by members of the General Assembly on certain boards and commissions.*

No member of the General Assembly may serve on any of the following boards or commissions:

...

~~(54) The North Carolina Low Level Radioactive Waste Management Authority, as established by G.S. 104G-5.~~

(55) Repealed by Session Laws 1998-217, s. 45.

~~(56) The North Carolina Hazardous Waste Management Commission, as established by G.S. 130B-6.~~

...."

SECTION 14. G.S. 120-150 reads as rewritten:

"§ 120-150. *Creation; appointment of members.*

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North

Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor;
- (2) Three appointed by the President Pro Tempore of the Senate;
- (3) Three appointed by the Speaker of the House;
- (4) The chairman of the House Agriculture Committee;
- (5) The chairman of the Senate Agriculture Committee;
- (6) The Commissioner of Agriculture or ~~his~~ the Commissioner's designee;
- (7) A member of the Board of Agriculture designated by the chairman of the Board of Agriculture;
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or ~~his~~ the President's designee;
- (9) The Master of the North Carolina State Grange or ~~his~~ the Master's designee;
- (10) The Secretary of ~~the Department of Environment and Natural Resources~~ or ~~his~~ the Secretary's designee; and
- (11) The President of the North Carolina Forestry Association, Inc., or ~~his~~ the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively."

SECTION 15. G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(12) ~~Employees of the North Carolina Low Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).~~

(13) ~~Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).~~

...."

SECTION 16. G.S. 104E-6.2 reads as rewritten:

"§ 104E-6.2. *Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to preempt local ordinance.*

(a) It is the intent of the General Assembly to maintain a uniform system for the management of low-level radioactive waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of low-level radioactive waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or

otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances (including ordinances, including~~ but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land ~~use)~~, use, any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility ~~which—that~~ the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed ~~which:that:~~

- (1) Prohibit the transportation, treatment, storage, or disposal of low-level radioactive waste within any county, city, or other political ~~subdivision;~~subdivision.
- (2) Prohibit the siting of a low-level radioactive waste facility within any county, city, or other political ~~subdivision;~~subdivision.
- (3) Place any restriction or condition not placed by this ~~Chapter or Chapter 104G of the General Statutes~~ upon the transportation, treatment, storage, or disposal of low-level radioactive waste, or upon the siting of a low-level radioactive waste facility within any county, city, or other political ~~subdivision;~~ or subdivision.
- (4) In any manner are in conflict or inconsistent with the provisions of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter.

(a1) No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this ~~Chapter or Chapter 104G of the General Statutes~~ unless it expressly provides for such by specific references to the appropriate section of this ~~Chapter or Chapter 104G of the General Statutes.~~Chapter. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, municipal, or other local ~~ordinance(s); ordinance,~~ the operator of the proposed facility ~~or the North Carolina Low Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (hereinafter "the Authority")~~ may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in

subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. ~~Such~~The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested ~~such~~ notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address ~~which~~that appears on the mailing list maintained by the Secretary, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the Secretary for ~~its~~the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The Secretary shall determine whether or to what extent to preempt local ~~ordinance(s)~~ordinances so as to allow ~~for~~ the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if ~~it~~the Secretary makes all five of the following findings:

- (1) That there is a local ordinance ~~which~~that would prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste ~~facility;~~facility.
- (2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected low-level radioactive waste management needs of this State or to comply with the terms of any interstate agreement for the management of low-level radioactive waste to which the State is a party and therefore serves

- the interests of the citizens of the State as a ~~whole;~~whole.
- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the ~~local ordinance(s);~~ ordinance.
 - (4) That local citizens and elected officials have had adequate opportunity to participate in the siting ~~process;~~ and process.
 - (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator ~~or the Authority~~ has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~any~~ applicable local ~~ordinance(s);~~ ordinances.

(d1) If the Secretary does not make all five findings set out above, the Secretary shall not preempt the challenged local ~~ordinance(s);~~ ordinance. The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action ~~shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section,~~ files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of ~~such~~ the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;

- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for ~~such the~~ reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply."

SECTION 17. G.S. 130A-293 reads as rewritten:

"§ 130A-293. *Local ordinances prohibiting hazardous waste facilities invalid; petition to preempt local ordinance.*

(a) It is the intent of the General Assembly to maintain a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances (including ordinances,~~ including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land ~~use), use,~~ any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility ~~which that~~ the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this ~~Chapter or Chapter 130B of the General Statutes.~~ Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed ~~which that:~~

- (1) Prohibit the transportation, treatment, storage, or disposal of hazardous waste within any county, city, or other political ~~subdivision;~~ subdivision.
- (2) Prohibit the siting of a hazardous waste facility within any county, city, or other political ~~subdivision;~~ subdivision.
- (3) Place any restriction or condition not placed by Article 9 of Chapter 130A ~~or Chapter 130B~~ of the General Statutes upon the transportation, treatment, storage, or disposal of hazardous waste, or upon the siting of a hazardous waste facility within any county, city, or other political ~~subdivision;~~ or subdivision.
- (4) In any manner are in conflict or inconsistent with the provisions of Article 9 of Chapter 130A ~~or Chapter 130B~~ of the General Statutes.

(a) No special, local, or private acts or resolutions enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of Article 9 of Chapter 130A or ~~Chapter 130B~~ of the General Statutes unless it expressly provides for such by specific references to the appropriate section of this Part. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility are invalidated to the extent preempted by the Secretary pursuant to this Section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ~~ordinance(s), ordinance,~~ the operator of the proposed facility ~~or the North Carolina Hazardous Waste Management Commission established pursuant to Chapter 130B of the General Statutes (hereinafter "the Commission")~~ may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. ~~Such~~ The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested ~~such~~ notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address ~~which~~ that appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the

Secretary for ~~its~~ the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) The Secretary shall determine whether or to what extent to preempt local ~~ordinance(s)-ordinances~~ so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if ~~it~~ the Secretary makes all five of the following findings:

- (1) That there is a local ordinance ~~which~~ that would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste ~~facility;~~ facility.
- (2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interests of the citizens of the State as a ~~whole;~~ whole.
- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ~~ordinance(s);~~ ordinance.
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting ~~process;~~ and process.
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator ~~or the Commission~~ has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~any applicable local ordinance(s)-ordinances.~~

(d1) If the Secretary does not make all five findings set out above, the Secretary shall not preempt the challenged local ~~ordinance(s)-ordinance.~~ The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action ~~shall, pursuant to Article 4 of Chapter 150B of the General Statutes as modified by G.S. 7A-29 and this section,~~ files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of

~~such the~~ decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions; ~~or~~
- (2) In excess of the statutory authority or jurisdiction of the agency; ~~or~~
- (3) Made upon unlawful procedure; ~~or~~
- (4) Affected by other error of law; ~~or~~
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for ~~such the~~ reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

(g) Repealed by Session Laws 1989, c. 168, s. 13."

SECTION 18. G.S. 130A-4(d) reads as rewritten:

"(d) When requested by the Secretary of ~~the Department of~~ Environment and Natural Resources, a local health department shall enforce the rules of the Commission under the supervision of the Department of Environment and Natural Resources. The local health department shall utilize local staff authorized by the Department of Environment and Natural Resources to enforce the specific rules."

SECTION 19. G.S. 130A-17(b) reads as rewritten:

"(b) The Secretary of ~~the Department of~~ Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

SECTION 20. G.S. 130A-18(b) reads as rewritten:

"(b) The Secretary of ~~the Department of~~ Environment and Natural Resources and a local health director shall have the same rights enumerated in subsection (a) of this section to enforce the provisions of Articles 8, 9, 10, 11, and 12 of this Chapter."

SECTION 21. G.S. 130A-22(d) reads as rewritten:

"(d) In determining the amount of the penalty in subsections (a), (b) and (c), the Secretary and the Secretary of ~~the Department of~~ Environment and Natural Resources shall consider the degree and extent of the harm caused by the violation and the cost of rectifying the damage."

SECTION 22. G.S. 130A-294(a), as amended by S.L. 2001-357, reads as rewritten:

"(a) The Department is authorized and directed to engage in research, conduct investigations and surveys, make inspections and establish a statewide solid waste management program. In establishing a program, the Department shall have authority to:

- ...
- (4) a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the ~~Commission for Health Services, Commission,~~ except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges ~~which~~ that are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S.

130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration, unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans ~~which that~~ will be required for the applicant to obtain a permit.

...."

SECTION 23. G.S. 130A-294(h) reads as rewritten:

"(h) Rules adopted by the Commission shall be subject to the following requirements:

...

- (5) ~~No hazardous waste disposal facility operated pursuant to Chapter 130B of the General Statutes shall be located within 25 miles of a polychlorinated biphenyl landfill facility.~~

...."

SECTION 24. G.S. 130A-294(r) reads as rewritten:

"(r) The Commission ~~for Health Services~~ shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates ~~which that~~ localities may apply to waste management facilities in their jurisdiction."

SECTION 25. G.S. 130A-294(s) reads as rewritten:

"(s) The Department is authorized to enter upon any lands and structures upon lands to make surveys, borings, soundings, and examinations as may be necessary to determine the suitability of a site for a hazardous waste facility or hazardous waste disposal facility. The Department shall give 30 ~~days'~~ days' notice of the intended entry authorized by this section in the manner prescribed for service of process by G.S. 1A-1, Rule 4. Entry under this section shall not be deemed a trespass or taking; provided, however, that the Department shall make reimbursement for any damage to ~~such land~~ land or structures caused by ~~such these~~ activities. ~~This authority shall also apply to the North Carolina Hazardous Waste Management Commission.~~"

SECTION 26. Effective 1 July 2003, G.S. 143-15.3B(a) reads as rewritten:

"(a) The Clean Water Management Trust Fund is established in G.S. 113-145.3. The General Assembly finds that, due to the critical

need in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted, it is imperative that the State provide a minimum of one hundred million dollars (\$100,000,000) each calendar year to the Clean Water Management ~~Management~~-Trust Fund; therefore, there is annually appropriated from the General Fund to the Clean Water Management Trust Fund the sum of one hundred million dollars (\$100,000,000)."

SECTION 27. G.S. 143-215.3A(b1) reads as rewritten:

"(b1) The I & M Air Pollution Control Account is established as a nonreverting account within the Department. Fees transferred to the Division of Air Quality of the Department pursuant to ~~G.S. 20-183.7(e)(2)~~G.S. 20-183.7(c) shall be credited to the I & M Air Pollution Control Account and shall be applied to the costs of developing and implementing an air pollution control program for mobile sources."

SECTION 28. G.S. 143-215.22I(j) reads as rewritten:

"(j) In the case of water supply problems caused by drought, a pollution incident, temporary failure of a water plant, or any other temporary condition in which the public health requires a transfer of water, the Secretary of ~~the Department of Environment and Natural Resources~~ may grant approval for a temporary transfer. Prior to approving a temporary transfer, the Secretary of ~~the Department of Environment and Natural Resources~~ shall consult with those parties listed in G.S. 143-215.22I(d)(3) that are likely to be affected by the proposed transfer. However, the Secretary of ~~the Department of Environment and Natural Resources~~ shall not be required to satisfy the public notice requirements of this section or make written findings of fact and conclusions in approving a temporary transfer under this subsection. If the Secretary of ~~the Department of Environment and Natural Resources~~ approves a temporary transfer under this subsection, the Secretary shall specify conditions to protect other water users. A temporary transfer shall not exceed six months in duration, but the approval may be renewed for a period of six months by the Secretary of ~~the Department of Environment and Natural Resources~~ based on demonstrated need as set forth in this subsection."

SECTION 29. G.S. 143-215.22J(b) reads as rewritten:

"(b) The Council shall have eight members, including the Secretary of ~~the Department of Environment and Natural Resources~~, who shall chair the Council, and the Dean of the ~~School College~~ of Agriculture and Life Sciences of North Carolina State University. The members of the Council shall elect a vice-chair from among the Council membership. The Chair of the Council shall solicit three recommendations from the scientific community including private scientists representing industrial and environmental concerns, as well

as the academic community for each of the six appointees and shall select members from among those recommendations. Members shall have the following qualifications:

- (1) One member with expertise and training in water quality;
- (2) One member with expertise and training in coastal or marine fisheries;
- (3) One member with expertise and training in resource economics;
- (4) One member with expertise and training in physical modeling;
- (5) One member with expertise and training in wetlands; and
- (6) One member with expertise and training in the social sciences.

The members shall be appointed for staggered two-year terms and may be reappointed for subsequent terms. Members shall serve at the pleasure of the Secretary."

SECTION 30. G.S. 143B-279.7(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of ~~Environmental Management~~, Water Quality, Division of Marine Fisheries, Department of Health and Human Services, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department of Environment and Natural Resources shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

- (1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
- (2) Responding to fish kills within 24 hours.
- (3) Investigating and collecting data relating to fish kill events.
- (4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties."

SECTION 31. G.S. 143B-279.7(b) reads as rewritten:

"(b) The Secretary of ~~the Department of~~ Environment and Natural Resources shall take all necessary and appropriate steps to effectively carry out the purposes of this Part including:

- (1) Providing adequate training for fish kill investigators.
- (2) Taking immediate action to protect public health and the environment.

- (3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill."

SECTION 32. G.S. 143B-289.52(f) reads as rewritten:

"(f) The Commission shall adopt rules as provided in this Chapter. All rules adopted by the Commission shall be enforced by the Department of ~~Environment, Health, Environment~~ and Natural Resources."

SECTION 33. G.S. 143B-318(a) reads as rewritten:

"(a) The Air Quality Compliance Advisory Panel of the Department of Environment and Natural Resources shall consist of two members who are not owners or representatives of owners of small business stationary sources, appointed by the Governor to represent the general public; two members appointed one each by the Speaker and the minority leader of the House of Representatives, and who are owners, or who represent owners, of small business stationary sources; two members appointed one each by the President Pro Tempore and the minority leader of the Senate, who are owners, or who represent owners, of small business stationary sources; and one member appointed by the Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 34. G.S. 150B-1(d), as amended by S.L. 2001-299, S.L. 2001-395, and S.L. 2001-424, reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.
- (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- (3) ~~The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14.~~
- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.
- (7) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in administering

the provisions of Parts 2 and 3 of Article 3 of Chapter 135 of the General Statutes.

- (8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan.
- (9) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program.
- (10) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program."

SECTION 35. G.S. 150B-1(e), as amended by S.L. 2001-192, reads as rewritten:

"(e) Exemptions From Contested Case Provisions. – The contested case provisions of this Chapter apply to all agencies and all proceedings not expressly exempted from the Chapter. The contested case provisions of this Chapter do not apply to the following:

- (1) The Department of Health and Human Services and the Department of Environment and Natural Resources in complying with the procedural safeguards mandated by Section 680 of Part H of Public Law 99-457 as amended (Education of the Handicapped Act Amendments of 1986).
- (2) Repealed by Session Laws 1993, c. 501, s. 29.
- (3) ~~The North Carolina Low Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.~~
- (4) ~~The North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.~~
- (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public Law 93-122), as amended and federal regulations promulgated thereunder. G.S. 150B-51(a) is considered a contested case hearing provision that does not apply to these hearings.
- (6) The Department of Revenue.
- (7) The Department of Correction.
- (8) The Department of Transportation, except as provided in G.S. 136-29.
- (9) The Occupational Safety and Health Review Board.
- (10) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or

use, including fees or charges, of any portion of a cargo airport complex.

- (11) Hearings that are provided by the Department of Health and Human Services regarding the eligibility and provision of services for eligible assaultive and violent children, as defined in G.S. 122C-3(13a), shall be conducted pursuant to the provisions outlined in G.S. 122C, Article 4, Part 7.
- (12) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan with respect to disputes involving the performance, terms, or conditions of a contract between the Plan and an entity under contract with the Plan."

SECTION 36. G.S. 159-81(3), as amended by S.L. 2001-414, reads as rewritten:

- "(3) 'Revenue bond project' means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the revenue-producing utility or public service enterprise facilities or systems listed in this subdivision, to be financed through the issuance of revenue bonds, thereby providing funds to pay the costs of the undertaking or to reimburse funds loaned or advanced by or on the behalf of either the State or a municipality to pay the costs of the undertaking.

A revenue bond project shall be (i) owned or leased as lessee by the issuing unit or (ii) owned by one or more of the municipalities participating in an undertaking established pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes. If the revenue bond project is owned by one or more municipalities as provided in (ii) of this subdivision, any one or more of the participating municipalities may each be an issuing unit consistent with their agreement to establish a joint undertaking. In addition, any joint agency established by participating municipalities pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes may be an issuing unit without owning the revenue bond project or leasing it as lessee.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with the undertaking; the cost of demolishing or moving

structures from land acquired and the cost of acquiring any lands to which ~~such~~the structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project.

The following facilities or systems may be revenue bond projects under this subdivision:

- a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.
- b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
- c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.
- d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.
- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackage, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.
- i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers.
- k. Recreational facilities.

- l. ~~In addition to the foregoing, in the case of the State of North Carolina, low level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.~~
- m. Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to provide employment opportunities for citizens of the municipality.
- n. Facilities for the use of any agency or agencies of the government of the United States of America.
- o. Structural and natural stormwater and drainage systems of all types."

SECTION 37. G.S. 159-81(4) reads as rewritten:

"(4) 'Revenues' include all moneys received by the State or a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the State or a municipality) moneys received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the State or a municipality, as the case may be, pertaining to the project. ~~'Revenues' also include all moneys received by, or on behalf of, the North Carolina Low Level Radioactive Waste Management Authority in connection with its financing of a low level radioactive waste facility and all money received by, or on behalf of, the North Carolina Hazardous Waste Management Commission in connection with its financing of a hazardous waste facility.~~"

SECTION 38. G.S. 159-83(a)(5) reads as rewritten:

"(5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or

a municipality may be created in any manner. Notwithstanding the foregoing, the North Carolina Low-Level Radioactive Waste Management Authority may create an encumbrance, mortgage, or other pledge of real property of the Authority in connection with its financing of a low level radioactive waste facility and the North Carolina Hazardous Waste Management Commission may create an encumbrance, mortgage, or other pledge of real property of the Commission in connection with its financing of a hazardous waste facility."

SECTION 39. G.S. 159-83(e), 159-85(d), 159-88(d), 159-94(b), and 159-96(c) are repealed.

SECTION 40. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of November, 2001.

Became law upon approval of the Governor at 10:05 p.m. on the 29th day of November, 2001.

S.B. 970**SESSION LAW 2001-475**

AN ACT TO INCREASE THE AMOUNT OF WINE TAX PROCEEDS EARMARKED ANNUALLY FOR THE GRAPE GROWERS COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.81A reads as rewritten:
 "§ 105-113.81A. *Distribution of part of wine taxes attributable to North Carolina wine.*

The Secretary shall on a quarterly basis credit to the Department of Agriculture and Consumer Services ~~ninety four percent (94%)~~ of the net proceeds of the excise tax collected on unfortified wine bottled in North Carolina during the previous quarter and ~~ninety five percent (95%)~~ of the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the amount credited to the Department of Agriculture and Consumer Services under this section shall not exceed ~~one hundred seventy five thousand dollars (\$175,000)~~ three hundred fifty thousand dollars (\$350,000) per fiscal year. The Department of Agriculture and Consumer Services shall allocate the funds received under this section to the North Carolina Grape Growers Council to be used to promote the North Carolina grape and wine industry and to contract for research and development services to improve viticultural and enological practices in North Carolina. Any funds credited to the

Department of Agriculture and Consumer Services under this section that are not expended by June 30 of any fiscal year may not revert to the General Fund, but shall remain available to the Department for the uses set forth in this section."

SECTION 2. This act becomes effective October 1, 2001, and applies to distributions made on or after that date.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Became law upon approval of the Governor at 10:05 p.m. on the 29th day of November, 2001.

S.B. 748**SESSION LAW 2001-476**

AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT; TO APPLY A GRADUATED TAX RATE TO SALES OF ELECTRICITY TO MANUFACTURERS BASED ON ANNUAL VOLUME OF ELECTRICITY USED; TO APPLY DEFINITIONS FROM THE STREAMLINED SALES TAX PROJECT TO THE SALES TAX HOLIDAY; AND TO PROVIDE A FOUR-YEAR EXTENSION ON THE EXEMPTION FROM BIDDING LAW REQUIREMENTS FOR THE PIEDMONT TRIAD INTERNATIONAL AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-129.2 reads as rewritten:

"§ 105-129.2. *Definitions.*

The following definitions apply in this Article:

- (1) Air courier services. – A person-taxpayer is engaged in the air courier services business if the person's taxpayer's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.
- (2) Central office or aircraft facility. – Any of the following:
 - a. A corporate, subsidiary, or regional managing office, as defined by NAICS.
 - b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub.
 - c. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in aircraft maintenance and repair services or aircraft rebuilding as defined by NAICS.

- (3) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).
- (3a) Customer service center. – An auxiliary subdivision of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a subdivision is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.
- (4) Data processing. – A taxpayer is engaged in data processing if the taxpayer's primary business is any ~~Any~~ of the following industries, as defined by NAICS:
 - a. Computer systems design and related services.
 - b. Software publishers.
 - c. Software reproducing.
 - d. Data processing services.
 - e. On-line information services.
- (5) Development zone. – An area designated as a development zone pursuant to G.S. 105-129.3A.
- (5a) Electronic mail order house. – A taxpayer is engaged in business as an electronic mail order house if the taxpayer's primary business is an ~~An~~ electronic shopping and mail order house, as defined by NAICS.
- (6) Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3.
- (7) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.
- (8) Hub. – Defined in G.S. 105-164.3.
- (8a) Interstate passenger air carrier. – Defined in G.S. 105-164.3.
- (9) Large investment. – Defined in G.S. 105-129.4(b1).
- (10) Machinery and equipment. – Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.

- (11) Manufacturing. – A taxpayer is engaged in manufacturing if the taxpayer's primary business is an industry ~~Industries~~ in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.
- (11a) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and Budget.
- (12) Purchase. – Defined in section 179 of the Code.
- (13) Warehousing. – A taxpayer is engaged in warehousing if the taxpayer's primary business is an industry ~~Industries~~ in warehousing and storage subsector 493 as defined by NAICS.
- (14) Wholesale trade. – A taxpayer is engaged in wholesale trade if the taxpayer's primary business is an industry ~~Industries~~ in wholesale trade sector 42 as defined by NAICS."

SECTION 1.(b) G.S. 105-129.2, as amended by Section 1(a) of this act, reads as rewritten:
 "§ 105-129.2. *Definitions.*

The following definitions apply in this Article:

- (1) ~~Air courier services. – A taxpayer is engaged in the air courier services business if the taxpayer's primary business is~~ The furnishing of air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.
- (2) Central office or aircraft facility. – Any of the following:
 - a. A corporate, subsidiary, or regional managing office, as defined by NAICS.
 - b. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in centralized training for the carrier at its hub.
 - c. An auxiliary subdivision of an interstate passenger air carrier engaged primarily in aircraft maintenance and repair services or aircraft rebuilding as defined by NAICS.
- (3) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).
- (4) Computer services. – Any of the following industries or industry groups, as defined by NAICS, if the taxpayer provides the services primarily to persons who are not related entities with respect to the taxpayer:

- a. Computer systems design and related services.
 - b. Software publishing.
 - c. Software reproducing.
 - d. On-line information services.
- (3a)(5) ~~Customer service center.~~ – An ~~auxiliary subdivision~~ establishment of a telecommunications or financial services company, as defined by NAICS, that is primarily engaged in providing support services to the company's customers by telephone to support products or services of the company. For the purpose of this definition, a ~~subdivision~~ an establishment is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming.
- (4) ~~Data processing.~~ – A taxpayer is engaged in data processing if the taxpayer's primary business is any of the following industries, as defined by NAICS:
- a. ~~Computer systems design and related services.~~
 - b. ~~Software publishers.~~
 - e. ~~Software reproducing.~~
 - d. ~~Data processing services.~~
 - e. ~~On line information services.~~
- (6) Data processing. – Any combination of the services listed in this subdivision, if the taxpayer provides the services primarily to persons who are not related entities with respect to the taxpayer. The term does not include payroll services, text processing, desktop publishing, or financial transaction processing.
- a. Data entry and preparation.
 - b. Database creation, conversion, and management, including warehousing, retrieval, and utilization of data in databases.
 - c. Data capture and imaging, including optical scanning and microfilm recording and imaging.
 - d. Computer processing time rental.
 - e. Data storage media conversion.
 - f. Data file format conversion.
- (5) (7) Development zone. – An area designated as a development zone pursuant to G.S. 105-129.3A.
- (5a)(8) ~~Electronic mail order house.~~ – A taxpayer is engaged in business as an ~~electronic mail order house~~ if the taxpayer's primary business is an An electronic shopping and mail order house, as defined by NAICS.
- (6) (9) Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3.
- (10) Establishment. – Defined by NAICS.

- (7) (11) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year. A full-time employee is an employee who holds a full-time job.
- (8) (12) Hub. – Defined in G.S. 105-164.3.
- (8a)(13) Interstate passenger air carrier. – Defined in G.S. 105-164.3.
- (9) (14) Large investment. – Defined in G.S. 105-129.4(b1).
- (10)(15) Machinery and equipment. – Engines, machinery, equipment, tools, and implements used or designed to be used in the business for which the credit is claimed. The term does not include real property as defined in G.S. 105-273 or rolling stock as defined in G.S. 105-333.
- (11)(16) Manufacturing. – ~~A taxpayer is engaged in manufacturing if the taxpayer's primary business is an An~~ industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.
- (11a)(17) NAICS. – The North American Industry Classification System adopted by the United States Office of Management and ~~Budget.~~ Budget as of December 31, 1997.
- (12)(18) Purchase. – Defined in section 179 of the Code.
- (19) Related entity. – Defined in G.S. 105-130.7A.
- (13)(20) Warehousing. – ~~A taxpayer is engaged in warehousing if the taxpayer's primary business is an An~~ industry in warehousing and storage subsector 493 as defined by NAICS.
- (14)(21) Wholesale trade. – ~~A taxpayer is engaged in wholesale trade if the taxpayer's primary business is an An~~ industry in wholesale trade sector 42 as defined by NAICS."

SECTION 1.(c) Subsection (a) of this section is effective when it becomes law. The General Assembly finds that the amendments to G.S. 105-129.2 made by subsection (a) of this section clarify the intent of the existing law and do not represent a change in the law. Subsection (b) of this section is effective for taxable years beginning on or after January 1, 2001.

SECTION 2.(a) G.S. 105-129.2A reads as rewritten:

"§ 105-129.2A. *Sunset; studies.*

(a) Sunset. – This Article is repealed effective for ~~applications for credits filed under G.S. 105-129.6~~ business activities that occur on or after January 1, 2006.

(b) Equity Study. – The Department of Commerce shall study the effect of the tax incentives provided in this Article on tax equity. This study shall include the following:

- (1) Reexamining the formula in G.S. 105-129.3(b) used to define enterprise tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.
- (2) Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 in population.
- (3) Compiling any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-State businesses that locate to North Carolina.

(c) Impact Study. – The Department of Commerce shall study the effectiveness of the tax incentives provided in this Article. This study shall include:

- (1) Study of the distribution of tax incentives across new and expanding industries.
- (2) Examination of data on economic recruitment for the period from 1994 through 2000 ~~the most recent year for which data are available~~ by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and expansions before and after the enactment of the William S. Lee Act incentives.
- (3) Measuring the direct costs and benefits of the tax incentives.
- (4) Compiling available information on the current use of incentives by other states and whether that use is increasing or declining.

(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the ~~2001~~ General Assembly biennially with the first report due by April 1, 2001."

SECTION 2.(b) This section is effective when it becomes law.

SECTION 3.(a) G.S. 105-129.3(b) and (e) read as rewritten:

"(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

- (1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding three years.
- (2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.
- (3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. ~~provide this information to the Secretary of Revenue.~~ An enterprise tier designation is effective only for the calendar year following the designation.

...
 (e) Exceptions for Certain Small Counties. – The following exceptions to the provisions of this section apply to small counties:

- (1) A county that meets both of the conditions set out below is designated an enterprise tier one area:
 - a. Its population is less than ~~40,000~~12,000.
 - b. More than sixteen percent (16%) of its population is below the federal poverty level according to the most recent federal decennial census.
- (2) A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:
 - a. Its population is less than 50,000.
 - b. More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.
- (3) A county that has a population of less than ~~25,000~~35,000 and that would otherwise be designated an enterprise tier four or five area under this section must be designated an enterprise tier three area."

SECTION 3.(b) This section is effective when it becomes law and applies to tier designations made on or after that date.

SECTION 4.(a) G.S. 105-129.3A(b) reads as rewritten:

"(b) Designation. – Upon request of a taxpayer or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a taxpayer, it must notify each city in which part of the zone is located. A development zone designation is effective for 24 months following the designation. The Department of Commerce must publish annually a list of all development zones with a description of their boundaries."

SECTION 4.(b) This section is effective when it becomes law.

SECTION 5.(a) G.S. 105-129.4(b4) reads as rewritten:

"(b4) Safety and Health Programs. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as of the time the taxpayer applies for the credit, at the business location with respect to which the credit is claimed, the taxpayer has no

~~outstanding citations under the Occupational Safety and Health Act and has had no serious violation as defined in G.S. 95-127 within the last three years that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127.~~ The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue of any taxpayer certifications it determines are not accurate."

SECTION 5.(b) This section is effective for taxable years beginning on or after January 1, 2000.

SECTION 6.(a) G.S. 105-129.4, as amended by this act and by S.L. 2001-414, reads as rewritten:

"§ 105-129.4. *Eligibility; forfeiture.*

(a) Type of Business. – The following conditions apply in determining a taxpayer's eligibility for the credits in this Article:

- (1) Central office or aircraft facility. – A taxpayer is eligible for a credit allowed by G.S. 105-129.12 the credits allowed by this Article if it operates if the real property for which the credit is claimed is used for a central office or aircraft facility that creates at least 40 new jobs. jobs and the jobs, investment, and activity with respect to which a credit is claimed are used in that office or facility.
- (2) Single business. – A taxpayer is eligible for the other credits allowed by this Article other than by G.S. 105-129.12 if the primary business of the taxpayer engages in is one of the following types of businesses and the jobs with respect to which a credit is claimed are created in that business, the machinery and equipment with respect to which a credit is claimed are used in that business, and the research and development for which a credit is claimed are carried out as part of jobs, investment, and activity with respect to which a credit is claimed are used in that business:
 - ~~(1)a.~~ Air courier services.
 - ~~(2)~~ Central office or aircraft facility that creates at least 40 new jobs.
 - ~~(2a)~~ Customer service center located in an enterprise tier one or two area.
 - ~~(3)b.~~ Data processing.
- (3) Multiple business. – A taxpayer is eligible for the credits allowed by this Article other than by G.S. 105-129.12 if

the primary business of the taxpayer is one of the following types of businesses and the jobs, investment, and activity with respect to which a credit is claimed are used in any of the following types of businesses:

~~(3a) Electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one or two area.~~

~~(4)a. Manufacturing.~~

~~(5)b. Warehousing.~~

~~(6)c. Wholesale trade.~~

(4) Single establishment. – A taxpayer is eligible for the credits allowed by this Article other than by G.S. 105-129.12 if the primary business of the taxpayer or the primary activity of an establishment of the taxpayer is one of the following types of businesses and the jobs, investment, and activity with respect to which a credit is claimed are used in that business:

a. Computer services.

b. An electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one, two, or three area.

(5) Customer service center. – A taxpayer is eligible for the credits allowed by this Article other than by G.S. 105-129.12 if all of the following conditions are met:

a. The taxpayer's primary business is as a telecommunications or financial services company, as defined by NAICS.

b. The primary activity of an establishment of the taxpayer is a customer service center located in an enterprise tier one, two, or three area.

c. The jobs, investment, and activity with respect to which a credit is claimed are used in that activity.

(6) Warehousing. – A taxpayer is eligible for the credits allowed by this Article other than by G.S. 105-129.12 if all of the following conditions are met:

a. The primary activity of an establishment of the taxpayer is in warehousing.

b. The warehousing establishment is located in an enterprise tier one, two, or three area and serves 25 or more establishments of the taxpayer in at least five different counties in one or more states.

c. The jobs, investment, and activity with respect to which a credit is claimed are used in the warehousing establishment.

(a1) New Jobs Defined. – A central office or aircraft facility creates at least 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new positions at the office either ~~in the year~~ (i) within 12 months immediately following the date the taxpayer first uses the property as a central office or aircraft facility or ~~in~~ (ii) within a 36-month period that includes the preceding 24 months that immediately precede and the 12 months that immediately follow the first use of the property as a central office or aircraft facility property when the taxpayer uses ~~while using~~ temporary space for the central office or aircraft facility functions during completion of the central office or aircraft facility property. Other property creates at least 200 new jobs if the taxpayer hires at least 200 additional full-time employees to fill new positions at the location in a two-year period beginning when the property is first used in an eligible business. An electronic mail order house creates at least 250 new jobs if the taxpayer hires at least 250 additional full-time employees to fill new positions at the house in the two-year period ending on the last day of the taxable year the taxpayer first claims a credit under this Article. Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this subsection.

(a2) Expiration. – If, during the period that installments of a credit under this Article accrue, the taxpayer is no longer engaged in one of the types of business described in subsection (a) of this section, the credit expires. expires and the taxpayer may not take any remaining installments of the credit. The If, during the period that installments of a credit under this Article accrue, the number of jobs of an eligible business falls below the minimum number required under subsection (a) of this section, any credit associated with that business expires. When a credit expires, the taxpayer may not take any remaining installments of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5. A change in the enterprise tier designation of the location of an establishment does not result in expiration of a credit under this Article.

(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the credit for worker training if-if, for the calendar year the jobs are created or the worker training is provided, the average wage of the jobs for which the credit is claimed meet-meets the wage standard at the time the taxpayer applies for the credit, and the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, ~~or~~ the credit for investing in real property

for a central office or aircraft facility ~~if the~~ facility, or the credit for substantial investment in other property if, for the calendar year the taxpayer engages in the activity that qualifies for the credit, the average wage of all jobs at the location with respect to which the credit is claimed ~~meet-meets~~ the wage standard. standard at the time the taxpayer applies for the credit. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the ~~immediately preceding taxable year~~ calendar year the taxpayer engages in the activity that qualifies for the credit even if ~~they~~ those positions are not filled at the time the taxpayer ~~applies for~~ claims the credit.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable percentage for jobs located in an enterprise tier one area is one hundred percent (100%). The applicable percentage for all other jobs is one hundred ten percent (110%). The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State. The Department of Commerce must annually publish the wage standard for each county.

(b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce ~~certifies~~ makes a written determination that the taxpayer ~~will~~ is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. If the taxpayer fails to make the required level of investment ~~certified~~ within this two-year period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section.

(b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed ~~at the time the taxpayer applies for~~ each year it claims an installment or carryforward of the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed ~~at the time the taxpayer applies for~~ each year it claims an installment or carryforward of the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

(b3) Environmental Impact. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, at the time the taxpayer ~~applies for~~ first claims the credit, the taxpayer has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). ~~The Secretary of Commerce will provide the Department of Environment and Natural Resources a list of all taxpayers making this certification. The Department of Environment and Natural Resources may conduct random audit checks to verify taxpayers' certifications. The Department of Environment and Natural Resources must notify the Department of Revenue annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within this last five years. of any taxpayer certifications it determines are not accurate.~~

(b4) Safety and Health Programs. – A taxpayer is eligible for a credit allowed under this Article only if the taxpayer certifies that, as

of the time the taxpayer ~~applies for~~ first claims the credit, at the business location with respect to which the credit is claimed, the taxpayer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127. ~~The Secretary of Commerce will provide the Department of Labor a list of all taxpayers making this certification. The Department of Labor may conduct random audit checks to verify taxpayers' certifications. The Department of Labor must notify the Department of Revenue annually of all employers who have had these citations become final orders within the past three years. of any taxpayer certifications it determines are not accurate.~~

(b5) Substantial Investment in Other Property. – A taxpayer is eligible for the credit for substantial investment in other property under G.S. 105-129.12A with respect to a location only if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease and use in an eligible business at that location within a three-year period at least ten million dollars (\$10,000,000) of real property and that the location that is the subject of the credit will create at least 200 new jobs within two years of the time that the property is first used in an eligible business. If the taxpayer fails to timely make the required level of investment or fails to timely create the required number of new jobs, the taxpayer forfeits the credit as provided in subsection (d) of this section.

(c) Repealed by Session Laws 1998-55, s. 1, effective for taxable years beginning on or after January 1, 1999.

(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit at the time the taxpayer applied for the credit for the calendar year in which the taxpayer engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to timely make the required level of investment certified by the Secretary of Commerce under subsection (b1) of this section within the required two year period. A taxpayer forfeits the credit for substantial investment in other property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the number of required new jobs or to timely make the required level of investment under subsection (b5) of this section. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and

fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed.

(e) Change in Ownership of Business. – As used in this subsection, the term "business" means a taxpayer or an establishment. The sale, merger, consolidation, conversion, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

- (1) The business closed before it was acquired.
- (2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.
- (3) The business was acquired by its employees directly or indirectly through an acquisition company under an employee stock option transaction or another similar mechanism. For the purpose of this subdivision, "acquired" means that as part of the initial purchase of a business by the employees, the purchase included an agreement for the employees through the employee stock option transaction or another similar mechanism to obtain one of the following:

- a. Ownership of more than fifty percent (50%) of the business.
- b. Ownership of not less than forty percent (40%) of the business within seven years if the business has tangible assets with a net book value in excess of one hundred million dollars (\$100,000,000) and has the majority of its operations located in an enterprise tier one, two, or three area.

(f) Development Zone Project Credit. – Subsections (a) through (b4) of this section do not apply to the credit for development zone projects provided in G.S. 105-129.13.

(g) Advisory Ruling. – A taxpayer may request in writing from the Secretary of Revenue specific advice regarding eligibility for a credit under this Article. G.S. 105-264 governs the effect of this advice."

SECTION 6.(b) The amendments to G.S. 105-129.4(a2) in this section and the enactment of G.S. 105-129.4(g) in this section are effective when this act becomes law. The amendments to G.S. 105-129.4(a) in this section are effective for taxable years beginning on or after January 1, 2001. The remainder of this section is effective for taxable years beginning on or after January 1, 2002.

SECTION 7.(a) The General Assembly finds that the purpose of Article 3A of Chapter 105 of the General Statutes is to encourage the creation of new quality jobs and to encourage new investment in machinery and equipment, research and development, and real property. The General Assembly further finds that allowing taxpayers to file amended returns and retroactively claim credits under that Article does not further this purpose of encouraging job creation and new investment.

SECTION 7.(b) G.S. 105-129.5 reads as rewritten:

"§ 105-129.5. *Tax election; cap; ~~carryforwards~~carryforwards; limitations.*

(a) Tax Election. – The credits provided in this Article are allowed against the franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this Chapter, and the gross premiums tax levied in Article 8B of this Chapter. The taxpayer may divide the technology commercialization credit allowed in G.S. 105-129.9A between the taxes against which it is allowed. The taxpayer shall elect the percentage of the credit that will be taken against each tax when filing the return on which the credit is first taken. This election is binding. The percentage of the credit elected to be taken against each tax may be carried forward only against the same tax.

The taxpayer must take any other credit allowed in this Article against only one of the taxes against which it is allowed. The taxpayer

shall elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of the credit must be claimed against the same tax.

(b) Cap. – The credits allowed under this Article may not exceed fifty percent (50%) of the tax against which they are claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year.

(c) Carryforward. – Any unused portion of a credit with respect to a large ~~investment or~~ investment, with respect to the technology commercialization credit allowed in G.S. ~~105-129.9A~~ 105-129.9A, or with respect to substantial investment in other property under G.S. 105-129.12A may be carried forward for the succeeding 20 years. Any unused portion of a credit with respect to research and development activities under G.S. 105-129.10 may be carried forward for the succeeding 15 years. Any unused portion of a credit may be carried forward for the succeeding 10 years ~~if-if, before the taxpayer claims the credit,~~ the Secretary of Commerce certifies when an application for the credit is first made makes a written determination that the taxpayer will-is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least fifty million dollars (\$50,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. If the taxpayer fails to make the required level of investment certified within this two-year period, the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other credit may be carried forward for the succeeding five years.

(d) Statute of Limitations. – Notwithstanding Article 9 of this Chapter, a taxpayer must claim a credit under this Article within six months after the date set by statute for the filing of the return, including any extensions of that date."

SECTION 7.(c) The amendments to G.S. 105-129.5(c) in this section are effective for taxable years beginning on or after January 1, 2002, and apply to credits that are first claimed on or after that date. The remainder of this section is effective for taxable years beginning on or after January 1, 2001.

SECTION 8.(a) G.S. 105-129.6 reads as rewritten:
"§ 105-129.6. ~~Application; Fees and reports.~~

(a) ~~Application. — To claim the credits allowed by this Article, the taxpayer must provide with the tax return the certification of the Secretary of Commerce that the taxpayer meets all of the eligibility~~

requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to each credit. A taxpayer shall apply to the Secretary of Commerce for certification of eligibility. The application must be on a form provided by the Secretary of Commerce and must contain any information necessary for the Secretary of Commerce to determine whether the taxpayer meets the eligibility requirements. In addition, the application must state the number of full-time jobs to be created that are located within a development zone, the number of full-time jobs to be created that are expected to be filled by employees residing within the development zone, and the number of full-time jobs to be created that are expected to be filled by employees residing within a census tract or census block group that has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

If the Secretary of Commerce determines that the taxpayer meets all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary shall issue a certificate describing the location with respect to which the credit is claimed, outlining the eligibility requirements for the credit, and stating that the taxpayer meets the eligibility requirements. If the Secretary of Commerce determines that the taxpayer does not meet all of the eligibility requirements of G.S. 105-129.4 or G.S. 105-129.13, as applicable, with respect to a credit, the Secretary must advise the taxpayer in writing of the eligibility requirements the taxpayer fails to meet. The Secretary of Commerce may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary of Commerce's responsibilities under this section.

(a1) Fee. – When filing an application for certification a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit under this section, Article, the taxpayer must pay the Department of ~~Commerce~~ Revenue a fee of five hundred dollars (\$500.00) for each credit the taxpayer claims or intends to claim with respect to a location that is in an enterprise tier three, four, or five area, subject to a maximum fee of one thousand five hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to any credit the taxpayer claims or intends to claim with respect to a location that is in a development zone as defined in G.S. 105-129.3A. ~~If the taxpayer applies for certification for~~ claims or intends to claim a credit that relates to locations in more than one enterprise tier area, the fee is based on the highest-numbered enterprise tier area.

The fee is due at the time the return is due for the taxable year in which the taxpayer engaged in the activity for which the taxpayer is eligible for a credit. No credit is allowed under this Article for a taxable year until all outstanding fees have been paid.

The Secretary of ~~Commer~~Revenue shall retain ~~one-fourth~~three-fourths of the proceeds of the fee imposed in this section for the costs of administering this section. ~~The Secretary of Commerce shall credit the remaining proceeds of the fee imposed in this section to the Department of Revenue for the costs of administering and auditing the credits allowed in this Article. The Secretary of Revenue shall credit the remaining proceeds of the fee imposed in this section to the Department of Commerce for the costs of administering this Article.~~ The proceeds of the fee are receipts of the Department to which they are credited.

(b) Reports. – The Department of ~~Commer~~Revenue shall report to the Department of Revenue and to the Fiscal Research Division of the General Assembly ~~publish~~publish by ~~May~~March 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding ~~April 1~~December 31:

- (1) The number of ~~applications~~claims for each credit allowed in this Article.
- (2) The number and enterprise tier area of new jobs with respect to which credits were ~~applied for~~generated and to which credits were claimed.
- (3) The cost and enterprise tier area of machinery and equipment with respect to which credits were ~~applied for~~generated and to which credits were claimed.
- (4) The number of new jobs created by businesses located in ~~within~~ development zones, and the percentage of ~~those~~ jobs at those locations that were filled by residents of the zones.
- (5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.
- (6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.
- (7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed."

SECTION 8.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(27) To publish the information required under G.S. 105-129.6."

SECTION 8.(c) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 9.(a) G.S. 105-129.7 reads as rewritten:

"§ 105-129.7. *Substantiation.*

(a) To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue. Every taxpayer claiming a credit under this Article shall maintain and make available for inspection by the Secretary of Revenue any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and the amount of the credit shall rest upon the taxpayer, and no credit shall be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(b) Each taxpayer must provide with the tax return qualifying information for each credit claimed under this Article for the first taxable year the credit is claimed and for every year in which a subsequent installment or a carryforward of that credit is claimed. The qualifying information must be in the form prescribed by the Secretary, must cover each taxable year beginning with the first taxable year the credit is claimed, and must be signed and affirmed by the individual who signs the taxpayer's tax return. The information required by this subsection is information demonstrating that the taxpayer has met the conditions for qualifying for an initial credit and any installments and carryforwards, and includes the following:

- (1) The physical location of the jobs and investment with respect to which the credit is claimed, including the enterprise tier designation of the location and whether it is in a development zone. In addition, for each individual who fills a job at a location with respect to which a credit is claimed, the place where the individual resided before taking the job, including any enterprise tier ~~or development zone~~ designation of that place. In addition, for jobs that are located in a development zone, the number of those jobs that are filled by residents of the development zone.
- (2) The type of business with respect to which the credit is claimed, as required by G.S. 105-129.4(a), and wage information described in G.S. 105-129.4(b).
- (3) If the credit is claimed with respect to a large investment ~~certified under G.S. 105-129.4(b1) or 105-129.4(b1)~~, is a credit with a carryforward period of 10 years under G.S. 105-129.5(c), or is a credit claimed under G.S.

105-129.12A, the amount of the investment requirement under those subsections that has been met to date.

- (4) Qualifying information required for the credit for creating jobs allowed under G.S. 105-129.8, the credit for investing in machinery and equipment allowed under G.S. 105-129.9, the credit for worker training allowed under G.S. 105-129.11, the credit for investing in central office or aircraft facility property allowed in G.S. 105-129.12, the credit for substantial investment in other property under G.S. 105-129.12A, and any other credits allowed under this Article."

SECTION 9.(b) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 10.(a) G.S. 105-129.9 reads as rewritten:
"§ 105-129.9. *Credit for investing in machinery and equipment.*

(a) General Credit. – If a taxpayer that has purchased or leased eligible machinery and equipment places them in service in this State during the taxable year, the taxpayer is allowed a credit equal to seven percent (7%) of the excess of the eligible investment amount over the applicable threshold. Machinery and equipment are eligible if they are capitalized by the taxpayer for tax purposes under the Code and not leased to another party. In addition, in the case of a large investment, machinery and equipment that are not capitalized by the taxpayer are eligible if the taxpayer leases them from another party. The credit may not be taken for the taxable year in which the machinery and equipment are placed in service but shall be taken in equal installments over the seven years following the taxable year in which they are placed in service.

(a1) Technology Commercialization Credit. – If a taxpayer is eligible for the credit allowed in this section with respect to eligible machinery and equipment and qualifies for one of the credits allowed in G.S. 105-129.9A with respect to the same machinery and equipment, the taxpayer may choose to take one of those credits instead of the credit allowed in this section. A taxpayer may take the credit allowed in this section or one of the credits allowed in G.S. 105-129.9A during a taxable year with respect to eligible machinery and equipment, but may not take more than one of these credits with respect to the same machinery and equipment.

(b) Eligible Investment Amount. – The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the amount by which the cost of all of the taxpayer's eligible machinery and equipment that are in service in this State on the last day of the taxable year exceeds the cost of all of the taxpayer's eligible machinery and equipment that were in service in this State on the last day of the base year. The base year is that year,

of the three immediately preceding taxable years, in which the taxpayer had the most eligible machinery and equipment in service in this State. ~~A taxpayer that claims a credit under this section must include with the application for certification required under G.S. 105-129.6(a) specific documentation supporting the taxpayer's calculation of the eligible investment amount under this subsection.~~

(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the enterprise tier ~~of the area~~ where the eligible machinery and equipment are placed in service during the taxable year. If the taxpayer places eligible machinery and equipment in service ~~in~~ at more than one ~~area~~ establishment in an enterprise tier during the taxable year, the threshold applies separately to the eligible machinery and equipment placed in service ~~in~~ at each ~~area~~ establishment. If the taxpayer places eligible machinery and equipment in service ~~in an area~~ at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is reduced by the eligible investment amount for the previous taxable year.

Area Enterprise Tier	Threshold
Tier One	\$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

(d) Expiration. – If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, taken out of service, or moved out of State, the credit expires and the taxpayer may not take any remaining installment of the credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty percent (20%) or less of the cost of the machinery and equipment that were disposed of, or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In

determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved.

(e) **Planned Expansion.** – A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the two-year period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the two-year period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

SECTION 10.(b) This section is effective for taxable years beginning on or after January 1, 2002, and applies to machinery and equipment first placed into service on or after that date.

SECTION 11.(a) G.S. 105-129.9A(c), (d), and (e) read as rewritten:

"(c) Documentation. – If the taxpayer claims the exception provided in subdivision (b)(2) of this section, ~~the Secretary of Commerce must obtain an opinion of the Attorney General that the taxpayer meets all of the conditions of subdivision (b)(2) before the Secretary certifies the application under G.S. 105-129.6(a).~~ the taxpayer must first request a ruling by the Department of Revenue as to whether the taxpayer meets all of the conditions of subdivision (b)(2) of this section.

(d) Twenty Percent Credit. – A taxpayer qualifies for a twenty percent (20%) credit under this section if it meets all of the following conditions:

- (1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university or are used to produce resources essential to the taxpayer's production based on technology developed by and licensed from a research university.
- (2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.
- (3) The eligible investment amount is at least ten million dollars (\$10,000,000) for the taxable year.
- (4) The Secretary of Commerce has ~~certified~~ made a written determination that the taxpayer ~~will~~ is expected to invest at least one hundred fifty million dollars (\$150,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.
- (5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location.

(e) Fifteen Percent Credit. – A taxpayer qualifies for a fifteen percent (15%) credit under this section if it meets all of the following conditions:

- (1) The eligible machinery and equipment are directly related to production based on technology developed by and licensed from a research university, or are used to produce resources essential to the taxpayer's production

based on technology developed by and licensed from a research university.

- (2) The eligible machinery and equipment are placed in service in a tier one, two, or three enterprise area.
- (3) The eligible investment amount is at least ten million dollars (\$10,000,000) for the taxable year.
- (4) The Secretary of Commerce has ~~certified~~ made a written determination that the taxpayer ~~will~~ is expected to invest at least one hundred million dollars (\$100,000,000) in eligible machinery and equipment in a tier one, two, or three enterprise area by the end of the fourth year after the year in which the taxpayer first places eligible machinery and equipment in service in the enterprise area.
- (5) No more than nine years have passed since the first taxable year the taxpayer claimed a credit under this section with respect to the same location."

SECTION 11.(b) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 12.(a) G.S. 105-129.12(c) reads as rewritten:

"(c) Expiration. – If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used as a central office or aircraft facility, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used as a central office or aircraft facility, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. ~~If, in one of the seven years in which the installment of a credit accrues, the total number of employees the taxpayer employs at all of its central office or aircraft facilities in this State drops by 40 or more, the credit expires and the taxpayer may not take any remaining installment of the credit.~~

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5."

SECTION 12.(b) This section is effective for taxable years beginning on or after January 1, 2001.

SECTION 13.(a) Article 3A of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-129.12A. Credit for substantial investment in other property.

(a) Credit. – If a taxpayer that has purchased or leased real property in an enterprise tier one or two area begins to use the property in an eligible business during the taxable year, the taxpayer

is allowed a credit equal to thirty percent (30%) of the eligible investment amount if all of the eligibility requirements of G.S. 105-129.4 are met. For the purposes of this section, property is located in an enterprise tier one or two area if the area the property is located in was an enterprise tier one or two area at the time the taxpayer applied for the certification required under G.S. 105-129.4(b5). The eligible investment amount is the lesser of (i) the cost of the property and (ii) the amount by which the cost of all of the real property the taxpayer is using in this State in an eligible business on the last day of the taxable year exceeds the cost of all of the real property the taxpayer was using in this State in an eligible business on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most real property in this State in an eligible business. In the case of property that is leased, the cost of the property is not determined as provided in G.S. 105-129.2 but is considered to be the taxpayer's lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used by the taxpayer if the expenditures are not reimbursed or credited by the lessor. The entire credit may not be taken for the taxable year in which the property is first used in an eligible business but shall be taken in equal installments over the seven years following the taxable year in which the property is first used in an eligible business. When part of the property is first used in an eligible business in one year and part is first used in an eligible business in a later year, separate credits may be claimed for the amount of property first used in an eligible business in each year. The basis in any real property for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Mixed Use Property. – If the taxpayer uses only part of the property in an eligible business, the amount of the credit allowed under this section is reduced by multiplying it by a fraction, the numerator of which is the square footage of the property used in an eligible business and the denominator of which is the total square footage of the property.

(c) Expiration. – If, in one of the seven years in which the installment of a credit accrues, the property with respect to which the credit was claimed is no longer used in an eligible business, the credit expires and the taxpayer may not take any remaining installment of the credit. If, in one of the seven years in which the installment of a credit accrues, part of the property with respect to which the credit was claimed is no longer used in an eligible business, the remaining installments of the credit shall be reduced by multiplying it by the fraction described in subsection (b) of this section. If, in one of the years in which the installment of a credit accrues and by which the

taxpayer is required to have created 200 new jobs at the property, the total number of employees the taxpayer employs at the property with respect to which the credit is claimed is less than 200, the credit expires and the taxpayer may not take any remaining installment of the credit.

In each of these cases, the taxpayer may nonetheless take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

(d) No Double Credit. – A taxpayer may not claim a credit under this section with respect to real property for which a credit is claimed under G.S. 105-129.12."

SECTION 13.(b) This section is effective for taxable years beginning on or after January 1, 2002, and applies to property that is first used in an eligible business on or after that date.

SECTION 14.(a) G.S. 105-129.13(e) reads as rewritten:

"(e) Application. – To be eligible for the tax credit provided in this section, ~~in addition to the application required under G.S. 105-129.6,~~ the taxpayer must file an application for the credit with the Secretary of Revenue on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require. If a contribution for which a credit is applied for was of property rather than cash, the taxpayer must include with the application a certified appraisal of the value of the property contributed. There is no fee for an application under this section."

SECTION 14.(b) This section is effective for taxable years beginning on or after January 1, 2002.

SECTION 15.(a) As part of its ongoing review of business tax incentives, including those under Article 3A of Chapter 105 of the General Statutes, the Revenue Laws Study Committee shall study the tax rate structure relating to sales of electricity to manufacturers. This study shall include a thorough review of the legal and fiscal effects of exempting all electricity sold to manufacturers from the sales and use tax, of exempting electricity used by a manufacturer in certain processes or furnaces from the sales and use tax, and of creating a graduated tax rate structure for sales of electricity to manufacturers. The Revenue Laws Study Committee shall make an interim report of its findings and recommendations to the 2002 Regular Session of the

2001 General Assembly and shall make a final report of its findings and recommendations to the 2003 General Assembly.

SECTION 15.(b) This section is effective when it becomes law.

SECTION 15.(c) As part of its ongoing review of business tax incentives, including those under Article 3A of Chapter 105 of the General Statutes, the Revenue Laws Study Committee shall study the tax rate structure relating to sales of piped natural gas to manufacturers. This study shall include a thorough review of the legal and fiscal effects of exempting all piped natural gas received by a manufacturer from the piped natural gas excise tax, and of exempting piped natural gas that is used by a manufacturer in certain processes or furnaces from the piped natural gas excise tax. The Revenue Laws Study Committee shall make an interim report of its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly and shall make a final report of its findings and recommendations to the 2003 General Assembly.

SECTION 16.(a) Section 22 of S.L. 1998-55 reads as rewritten:

"Section 22. Section 10 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2001. Section 11 of this act becomes effective January 1, 1999, and expires January 1, ~~2004~~2008. The remainder of Part III of this act becomes effective January 1, 2001, and applies to sales made on or after that date."

SECTION 16.(b) This section is effective when it becomes law.

SECTION 17.(a) Reserved.

SECTION 17.(b) G.S. 105-164.4(a)(1f)b. is repealed.

SECTION 17.(c) G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1g) Electricity Sold to Manufacturers.

a. General. – Qualified electricity is taxable as provided in this subdivision. Qualified electricity is electricity that is measured by a separate meter or another separate measuring device and is sold to a manufacturing industry or manufacturing plant for use in connection with the operation of the industry or plant.

b. Rates. – A single tax rate applies to all of the qualified electricity received by an industry or a plant in each fiscal year beginning July 1. That tax rate is determined based on the megawatt-hour volume of qualified electricity received by the industry or plant during the previous calendar year, in accordance with the following table. The rates set

based on the table are subject to adjustment as provided in sub-subdivision f. of this subdivision.

<u>Previous Year's Megawatt-Hours Received</u>	<u>Rate for Fiscal Year</u>
<u>1,200,000 or Less</u>	<u>2.83%</u>
<u>Over 1,200,000</u>	<u>0.17%</u>

- c. Multiple Meters. – If the industry or plant receives qualified electricity that is metered through two or more separate measuring devices, the tax is calculated separately on the volume metered through each device rather than on the total volume metered through all measuring devices, unless the devices are located on the same premises and are part of the same billing account. In that circumstance, the tax is calculated on the total volume metered through the two or more separate measuring devices.
- d. Procedure. – During the first five months of each calendar year, each retailer of qualified electricity must determine the annual volume of electricity it sold during the previous calendar year to each manufacturing industry and manufacturing plant. Based on this volume, the retailer must determine the tax rate that will apply to each industry and plant. If the applicable rate is different from the rate in effect for the previous fiscal year, the retailer must notify the taxpayer of the new rate on or before June 1 before it goes into effect.
- e. New Manufacturers. – If a manufacturer begins business using qualified electricity, the retailer must establish a rate at the time the manufacturer first purchases qualified electricity. In this case, and in the case of a manufacturer that was not in business for the entire calendar year preceding the rate determination, the retailer must estimate the expected annual volume of qualified electricity it will sell to the plant or industry during its first twelve months of business and determine the applicable tax rate based on this estimate.
- f. Adjustment. – If the actual volume of qualified electricity received by an industry or a plant during a fiscal year dictates a different tax rate from the rate charged for that fiscal year, the manufacturer is eligible for a refund of any excess or is liable for

payment of any deficiency. A manufacturer who is eligible for a refund may apply to the Department and a manufacturer who is liable for a deficiency must report the liability to the Department."

SECTION 17.(d) G.S. 105-164.4(a)(1d) reads as rewritten:

"(1d) The rate of one percent (1%) applies to the sales price of the articles listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00) per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term 'accessories' does not include electricity."

SECTION 17.(e) G.S. 105-164.13(8) reads as rewritten:

"§ 105-164.13. *Retail sales and use tax.*

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

- ...
- (8) Sales to a manufacturer of tangible personal property ~~to a manufacturer which that~~ enters into or becomes an ingredient or component part of tangible personal property ~~which that~~ is manufactured. This exemption does not apply to sales of electricity."

SECTION 17.(f) G.S. 105-164.4(a)(1g)b., as enacted by subsection (c) of this section, reads as rewritten:

"b. Rates. – A single tax rate applies to all of the qualified electricity received by an industry or a plant in each fiscal year beginning July 1. That tax rate is determined based on the megawatt hour volume of qualified electricity received by the industry or plant during the previous calendar year, in accordance with the following table. The rates set based on the table are subject to adjustment as provided in sub-subdivision f. of this subdivision.

Previous Year's Megawatt Hours Received	Rate for Fiscal Year
<u>1,200,000-5,000</u> or Less	2.83%
<u>Over 5,000 up to 250,000</u>	<u>2.25%</u>
<u>Over 250,000 up to 1,200,000</u>	<u>2%</u>
Over 1,200,000	0.17%"

SECTION 17.(g) Subsections (b) and (c) of this section become effective July 1, 2002, and apply to sales made on or after that date. Subsection (f) of this section becomes effective July 1, 2005, and applies to sales made on or after that date. The remainder of this section is effective when it becomes law.

SECTION 18.(a) G.S. 105-164.3, as amended by S.L. 2001-347, S.L. 2001-414, S.L. 2001-424, and S.L. 2001-420, is amended by adding the following new subdivisions in the correct alphabetical order:

"§ 105-164.3. *Definitions.*

The following definitions apply in this Article:

...
 (2b) Clothing. – All human wearing apparel suitable for general use including coats, jackets, hats, hosiery, scarves, and shoes.

(2c) Clothing accessories or equipment. – Incidental items worn on the person or in conjunction with clothing including jewelry, cosmetics, eyewear, wallets, and watches.

...
 (11d) Protective equipment. – Items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use including breathing masks, face shields, hard hats, and tool belts.

...
 (16e) Sport or recreational equipment. – Items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use including ballet shoes, cleated athletic shoes, shin guards, and ski boots."

SECTION 18.(b) G.S. 105-164.13C, as enacted by S.L. 2001-424, reads as rewritten:

"§ 105-164.13C. *Sales and use tax holiday.*

(a) The taxes imposed by this Article do not apply to the following items of tangible personal property if sold between 12:01A.M. on the first Friday of August and 11:59 P.M. the following Sunday:

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- ~~(2) Clothing accessories, such as hats, scarves, hosiery, and handbags, with a sales price of one hundred dollars (\$100.00) or less per item.~~
- ~~(3) Footwear with a sales price of one hundred dollars (\$100.00) or less per item.~~
- (4) (2) School supplies, such as pens, pencils, paper, binders, notebooks, textbooks, reference books, book bags, lunchboxes, and calculators, with a sales price of one hundred dollars (\$100.00) or less per item.

~~(5)~~ (3) Computers, printers and printer supplies, and educational computer software, with a sales price of three thousand five hundred dollars (\$3,500) or less per item.

(4) Sport or recreational equipment with a sales price of fifty dollars (\$50.00) or less per item.

(b) The exemption allowed by this section does not apply to the following:

(1) ~~Sales of jewelry, cosmetics, eyewear, wallets, or watches.~~ Sales of clothing accessories or equipment.

(2) Sales of protective equipment.

~~(2)~~ (3) Sales of furniture.

~~(3)~~ (4) Sales involving a layaway contract or a similar deferred payment and delivery plan.

~~(4)~~ (5) Sales of an item for use in a trade or business.

~~(5)~~ (6) Rentals.

(c) For the purpose of this section, 'computer' means a central processing unit for personal use and any peripherals sold with it and any computer software installed at the time of purchase."

SECTION 18.(c) This section becomes effective January 1, 2002, and applies to sales made on or after that date. The Codifier is authorized to modify G.S. 105-164.3 to change the format of the existing definitions to match the format of the new definitions enacted during 2001, but not to change the format of the new definitions enacted in 2001 to match the format of the existing definitions. The Codifier is authorized to renumber these definitions as necessary to maintain their alphabetical order.

SECTION 19.(a) Section 9 of S.L. 1999-389 reads as rewritten:

"Section 9. Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, ~~2002~~, 2004, for property placed in service on or after that date. Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 19.(b) This section is effective when it becomes law.

SECTION 20. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Became law upon approval of the Governor at 10:06 p.m. on the 29th day of November, 2001.

AN ACT TO PROVIDE THAT AGREEMENTS, ORDERS, AND FINAL AWARDS UNDER THE WORKERS' COMPENSATION ACT MAY BE ENTERED AS JUDGMENTS BY THE CLERK OF SUPERIOR COURT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-87 reads as rewritten:

~~"§ 97-87. *Filing agreements approved by Commission or awards; judgment in accordance therewith; discharge or restoration of lien.*~~

Any party in interest may file in the superior court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the Commission, or of an order or decision of the Commission, or of an award of the Commission unappealed from or of an award of the Commission affirmed upon appeal, whereupon said court shall render judgment in accordance therewith, and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by said court: Provided, if the judgment debtor shall file a certificate duly issued by the Industrial Commission showing compliance with G.S. 97-83 with the clerk of the superior court in the county or counties where such judgment is docketed, then such clerk shall make upon the judgment roll an entry showing the filing of such certificate which shall operate as a discharge of the lien of the said judgment, and no execution shall be issued thereon; provided, further, that if at any time there is default in the payment of any installment due under the award set forth in said judgment the court may, upon application for cause and after 10 days' notice to judgment debtor, order the lien of such judgment restored, and execution may be immediately issued thereon for past due installments and for future installments as they may become due.

§ 97-87. *Judgments on awards.*

(a) As used in this section, 'award' includes the following:

- (1) A form filed, or an award arising, under G.S. 97-18(b), 97-18(d), or 97-82(b).
- (2) A memorandum of agreement approved by the Commission.
- (3) An order or decision of the Commission.
- (4) An award of the Commission from which there has been no appeal.
- (5) An award of the Commission affirmed on appeal.

(b) When an award or portion of an award provides for a sum certain or for a sum that can by computation be made certain, and that sum is due and payable as of the date of the award, a judgment may be docketed as provided in subsection (d) of this section, in an amount equal to that sum.

(c) When an award or portion of an award provides for periodic payments to be made on or after the date of the award, a judgment may be docketed as provided in subsection (d) of this section, in an amount equal to the sum stated in any Certificate of Accrued Arrearages that is issued by the Commission under this subsection. If any payment that has accrued after the date of the award, or after the date specified in the most recent Certificate of Accrued Arrearages issued under this subsection, is not received by the claimant when due, the following procedure is available for obtaining a Certificate of Accrued Arrearages:

- (1) The claimant may file with the Commission a Statement of Accrued Arrearages, on a form approved by the Commission, and shall serve a copy on all parties against whom judgment is sought and their attorney of record.
- (2) Any party against whom judgment is sought may, within 15 days of the date of service of a Statement of Accrued Arrearages, file with the Commission proof of any payments that have been made or other responsive pleadings.
- (3) If no proof or other responsive pleading is filed within 15 days of the date of service of the Statement, the Commission shall immediately issue a Certificate of Accrued Arrearages.
- (4) If proof of payment or other responsive pleading is filed, the Commission shall, within seven days, either issue a Certificate of Accrued Arrearages that shall state the sum of payments due or decline to issue a Certificate of Accrued Arrearages. The Commission shall notify the claimant, the party against whom judgment is sought, and their attorney of record of the Commission's decision.
- (5) If any party disputes the decision of the Commission entered under subdivision (c)(4) of this section, the party may appeal to the full Commission within 10 days of the entry of the decision of the Commission. The nonappealing party may file a response within 10 days of receiving notice of appeal. The notice of appeal shall request one of the following:

- a. The Commission reconsider the decision entered based on the record and any additional evidence that parties submit with the notice and response.
 - b. A de novo evidentiary hearing before the full Commission.
- (6) The Commission shall grant the request for an evidentiary hearing under sub-subdivision (c)(5)b. of this section if a material issue of fact exists whose resolution is necessary to determine the appeal.
- (7) If a notice of appeal is given under sub-subdivision (c)(5)a. of this section, the Commission shall issue its decision within 10 days of the filing of the response under subdivision (c)(5) of this section. If a notice of appeal is given under sub-subdivision (c)(5)b. of this section, the Commission shall either conduct an evidentiary hearing and issue its decision on the appeal within 90 days of the filing of the response under subdivision (c)(5) of this section or deny the request for the evidentiary hearing and issue its decision within 10 days of the filing of the response under subdivision (c)(5) of this section. Further appeals are governed by G.S. 97-86.
- (8) Each award and each Certificate of Accrued Arrearages shall include the following information:
- a. The names and addresses of the parties.
 - b. The sum of all principal amounts that have accrued and remain unpaid since the date of the award or since the date of the most recent prior Certificate of Accrued Arrearages.
 - c. The total of any interest that has accrued on the award, as of the date of the Certificate of Accrued Arrearages, since the date of the award or since the date of the most recent prior Certificate of Accrued Arrearages.
 - d. Any costs, penalties, or monetary sanctions included in the award.
- (d) Any party in interest may file a certified copy of an award described in subsection (b) of this section, or of a Certificate of Accrued Arrearages, in the office of the clerk of superior court of the county in which the defendant has a place of business or has property, or in which an injury occurred, or in Wake County. An award shall be accompanied by the party's affidavit stating that the award has become final and the time for making the first payment under the award has expired.

(e) Promptly after a certified copy of an award or of a Certificate of Accrued Arrearages is filed, the clerk shall docket and index a judgment as provided in Chapter 1 of the General Statutes. The principal amount in the award or in the Certificate of Accrued Arrearages shall bear interest at the judgment rate from the date the judgment is docketed. The judgment may be enforced in the same manner as a judgment docketed under Chapter 1 of the General Statutes.

(f) The filing of an award, or of a Certificate of Accrued Arrearages, for docketing as a judgment under this section shall be treated as a civil action for record-keeping purposes. The amount in which the judgment is docketed shall determine the amount of the costs to be collected at the time of filing and assessed pursuant to G.S. 7A-305.

(g) Nothing in this section shall be construed to limit the Commission's authority to impose any other remedy provided by law."

SECTION 2. G.S. 1-209 reads as rewritten:

"§ 1-209. *Judgments authorized to be entered by clerk; sale of property; continuance pending sale; writs of assistance and possession.*

The clerks of the superior courts are authorized to enter the following judgments:

- (1) All judgments of voluntary nonsuit.
- (2) All consent judgments.
- (3) In all actions upon notes, bills, bonds, stated accounts, balances struck, and other evidences of indebtedness within the jurisdiction of the superior court.
- (4) All judgments by default final and default and inquiry as are authorized by Rule 55 of the Rules of Civil Procedure, and in this section provided.
- (5) In all cases where the clerks of the superior court enter judgment by default final upon any debt secured by mortgage, deed of trust, conditional sale contract or other conveyance of any kind, either real or personal property, or by a pledge of property, the said clerks of the superior court are authorized and empowered to order a foreclosure of such mortgage, deed of trust, conditional sale contract, or other conveyance, and order a sale of the property so conveyed or pledged upon such terms as appear to be just; and the said clerks of the superior court shall have all the power and authority now exercised by the judges of the superior court to appoint commissioners to make such sales, to receive the reports thereof, and to confirm the report of sale or to order a

resale, and to that end they are authorized to continue such causes from time to time as may be required to complete the sale, and in the final judgment in said causes they shall order the execution and delivery of all necessary deeds and make all necessary orders disbursing the funds arising from the sale, and may issue writs of assistance and possession upon ten days' notice to parties in possession. The commissioners appointed to make foreclosure sales, as herein authorized, may proceed to advertise such sales immediately after the date of entering judgment and order of foreclosure, unless otherwise provided in said judgment and order.

(6) All judgments on awards, or on Certificates of Accrued Arrearages, of the Industrial Commission in workers' compensation cases, as defined and provided for in G.S. 97-87.

In any tax foreclosure action pending on March 15, 1939 or thereafter brought under the provisions of G.S. 105-414 in which there is filed no answer which seeks to prevent entry of judgment of sale, the clerk of the superior court may render judgment of sale and make all necessary subsequent orders and judgments to the same extent as permitted by this section in actions brought to foreclose a mortgage. All such judgments and orders heretofore rendered or made by a clerk of the superior court in such tax foreclosure actions are hereby, as to the authority of the said clerk, ratified and confirmed."

SECTION 3. This act becomes effective June 1, 2002, and applies to all forms filed and awards arising under G.S. 97-18(b), 97-18(d), or 97-82(b) that are filed or that arise before, on, or after that date; all agreements approved by the North Carolina Industrial Commission under the Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, that are approved before, on, or after that date; all orders or decisions of the North Carolina Industrial Commission under the Workers' Compensation Act that are entered before, on, or after that date; and all awards of the North Carolina Industrial Commission unappealed from or affirmed upon appeal under the Workers' Compensation Act that are awarded before, on, or after that date, and to all Certificates of Accrued Arrearages that are issued on and after that date.

In the General Assembly read three times and ratified this the 20th day of November, 2001.

Became law upon approval of the Governor at 10:07 p.m. on the 29th day of November, 2001.

H.B. 865**SESSION LAW 2001-478**

AN ACT CONCERNING A VOLUNTARY SATELLITE ANNEXATION OF CERTAIN DESCRIBED PROPERTY IN BRUNSWICK COUNTY TO ALLOW THE TOWNS OF ATLANTIC BEACH, EMERALD ISLE, AND HOLDEN BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS, TO MAKE A TECHNICAL CORRECTION IN THE CHARTER OF THE TOWN OF OAK ISLAND, AND TO PROVIDE ADDITIONAL PROCEDURES FOR STREET AND SIDEWALK ASSESSMENTS IN THE TOWN OF OCEAN ISLE BEACH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(2) does not apply to the annexation of any or all of the following described property in Brunswick County:

TRACT ONE

Beginning at $\frac{3}{4}$ " rebar, said rebar located in the eastern right-of-way of State Road 1164, said rebar also being located south 40 degrees 31 minutes west 447.75' from a P.K. Nail located in the intersection of State Road 1164 with State Road 1165, thence leaving the beginning corner and running with the eastern right-of-way of Brunswick Electric Membership Corporation easement line north 06 degrees 41 minutes 53 seconds east 695.32' to an existing 1" iron pipe, thence running north 06 degrees 33 minutes 15 seconds east 200' to a $\frac{3}{4}$ " rebar, thence running north 83 degrees 26 minutes 45 seconds west 299.50' to a point in the eastern right-of-way of State Road 1165, thence running with eastern right-of-way of State Road 1165 north 06 degrees 33 minutes 46 seconds east 287.25' to a point, thence north 05 degrees 44 minutes 10 seconds east 140.79' to an existing 1" iron pipe, thence leaving said right-of-way line south 87 degrees 06 minutes 10 seconds east 790.78' to an existing 1" iron pipe, thence north 02 degrees 53 minutes 50 seconds east 400' to a 1" iron pipe located in Hobson Meares' southern property line, thence running Hobson Meares' southern property line south 87 degrees 06 minutes 10 seconds east 2836.47' to an existing 1" iron pipe, thence north 61 degrees 50 minutes 38 seconds east 327.20' to an existing 1 $\frac{1}{2}$ " iron pipe this being a corner in Odell Williamson Old Stone #4 Tract, thence leaving Hobson Meares' line and running north 46 degrees 10

minutes 15 seconds east 2384.35' to a $\frac{3}{4}$ " rebar, thence continuing north 46 degrees 10 minutes 15 seconds east a distance of 22.27' to the centerline of an existing canal, thence running with said canal these various courses and distances with centerline north 56 degrees 57 minutes 39 seconds east 193.72' to a point north 80 degrees 54 minutes 52 seconds east 79.22' to a point south 86 degrees 17 minutes 40 seconds east 57.57' to a point south 58 degrees 19 minutes 36 seconds east 107.27' to a point south 37 degrees 15 minutes 20 seconds east 172.29' to a point south 63 degrees 16 minutes 05 seconds east 110.67' to a point south 31 degrees 16 minutes 33 seconds east 123.42' to a point north 58 degrees 39 minutes 34 seconds east 132.25' to a point north 81 degrees 35 minutes 30 seconds east 95.53' to a point south 68 degrees 57 minutes 49 seconds east 175.52' to a point south 40 degrees 42 minutes 49 seconds east 85.58' to a point south 04 degrees 04 minutes 30 seconds west 78.31' to a point south 42 degrees 52 minutes 23 seconds east 227.12' to a point south 37 degrees 30 minutes 04 seconds east 105.33' to a point south 43 degrees 49 minutes 5 seconds east 220.67' to a point south 23 degrees 38 minutes 48 seconds east 79.29' to a point south 50 degrees 16 minutes 38 seconds west 431.62' to a point south 32 degrees 24 minutes 04 seconds west 392.01' to a point south 62 degrees 52 minutes 45 seconds west 152.85' to a point south 51 degrees 13 minutes 09 seconds west 149.72' to a point south 29 degrees 39 minutes 45 seconds west 370.67', thence leaving said canal and running south 45 degrees 30 minutes 30 seconds east 12' to a $\frac{3}{4}$ " rebar, thence continuing south 45 degrees 30 minutes 30 seconds east 951.99' to a $\frac{3}{4}$ " rebar, thence running south 00 degrees 00 minutes west 772.22' to a $\frac{3}{4}$ " rebar, thence running south 71 degrees 48 minutes 01 seconds west 1347.01' to a $\frac{3}{4}$ " rebar, thence south 86 degrees 05 minutes 54 seconds west 1717.73' to an existing $\frac{3}{4}$ " rebar, said corner being the northeast corner of Coastal Carolina Presbytery property, thence running with church property south 85 degrees 55 minutes 35 seconds west 435.60' to an existing $\frac{3}{4}$ " rebar, thence leaving the church property line and running south 85 degrees 55 minutes 35 seconds west 1089.18' to a $\frac{3}{4}$ " rebar, thence south 75 degrees 33 minutes 42 seconds west 1627.23' to a $\frac{3}{4}$ " rebar located in the eastern right-of-way line of State Road 1164, thence running with said right-of-way line north 30 degrees 42 minutes 51 seconds west to a $\frac{3}{4}$ " rebar, said rebar being the beginning corner, said property containing 402.5 acres more or less and being a part of Odell Williamson property recorded in deed book 611, page 411 and also deed book 630, page 592. Bearings are magnetic in relation to map cabinet Q, Pages 65, 186, and 187.

TRACT TWO

Beginning at a ¾" rebar, said rebar being the southeastern corner of Tract One, thence running south 18 degrees 11 minutes 59 seconds east 500' to a ¾" rebar located in the northern right-of-way line of State Road 1163, thence running west said right-of-way line south 71 degrees 48 minutes 01 seconds west 150' to a ¾" rebar, thence leaving said right-of-way line and running north 18 degrees 11 minutes 49 seconds west 500' to a ¾" rebar located in southern property line of Tract One, thence running with southern property line of Tract One north 71 degrees 48 minutes 01 seconds east 150' to a ¾" rebar, said corner being the beginning corner said tract containing 1.72 acres more or less. Bearings are magnetic in relation to Map Cabinet Q, Pages 65, 186, and 187.

It is hereby understood that this parcel of land may be used only as a right-of-way to construct a road for anything related to the purpose of egress and ingress or any other purpose related to Tract One of the deed. It is also understood that the Grantor may use the said road for the purpose of egress and ingress to his property or his assigns.

The above described tracts are more particularly described in that certain plat dated September 27, 1991, entitled "Plat of Survey of Property Owned by Odell Williamson, et [sic] ux" as prepared by Jan K. Dale, R. L. S., and recorded in Plat Book W, Page 200 in the Brunswick County Registry, reference to which is made to aid this description.

SECTION 2. Section 3 of S.L. 2001-36 reads as rewritten:

"**SECTION 3.** This act applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach."

SECTION 2.1. Section 5.2 of the Charter of the Town of Oak Island, being S.L. 1999-66, reads as rewritten:

"Sec. 5.2. **Voting.** Election of the Mayor and Town Council member shall be by the nonpartisan plurality election method prescribed by ~~G.S. 163-192~~, G.S. 163-292, and shall be conducted as provided by General Statutes."

SECTION 2.2. Chapter 887 of the 1959 Session Laws, being the Charter of the Town of Ocean Isle Beach, is amended by adding the following new sections to read:

"Section 10.1. **Assessments for Street Improvements; Petition Unnecessary.**

In addition to any authority granted by general law, the Council may order street improvements and to assess the costs thereof against abutting property in accordance with the provisions of this section.

The Board of Commissioners may order street improvements and assess the total costs thereof against abutting property, exclusive of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes without the necessity of a petition, if the Board makes a finding of fact that the street improvement project does not exceed 2,500 linear feet, and that any of the following apply:

- (1) The street or part thereof is unsafe for vehicular traffic or creates a safety or health hazard and it is in the public interest to make such improvements; or
- (2) It is in the public interest to connect two streets or portions of a street already improved; or
- (3) It is in the public interest to widen a street, or part thereof, which is already improved.

Assessments for widening any street or portion of a street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with street classification and improvement standards established by the Town, as applied to the particular street or part thereof.

For the purpose of this section, the term 'street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, repaving, acquisition of right-of-way and construction or reconstruction of curbs, gutters and street drainage facilities.

"Section 10.2. Assessments for Sidewalk Improvements; Petition Unnecessary. In addition to any authority granted by general law, the Board of Commissioners may, without the necessity of a petition, order sidewalk improvements or repairs according to standards and specifications of the Town, and assess the total costs thereof against abutting property, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes provided that regardless of the assessment basis or bases employed, the Board of Commissioners may order the costs of sidewalk improvements made only on one side of a street to be assessed against property abutting both sides of such street.

"Section 10.3. Procedure; Effect of Assessment. In ordering street and sidewalk improvements without a petition and assessing the costs thereof under authority of Sections 10.1 and 10.2 of this Charter, the Board of Commissioners shall comply with the procedures required by Article 10 of Chapter 160A of the General Statutes except those provisions relating to petitions of property owners and sufficiency thereof. The effect of the act of levying assessments under authority of those sections shall be the same as if

assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of December, 2001.

Became law on the date it was ratified.

H.B. 32 SESSION LAW 2001-479

AN ACT TO DIVIDE NORTH CAROLINA INTO THIRTEEN CONGRESSIONAL DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Session Law 2001-471 is repealed.

SECTION 2. G.S. 163-201 is rewritten to read:

"§ 163-201. *Congressional districts specified.*

(a) For purposes of nominating and electing members of the House of Representatives of the Congress of the United States in 2002 and every two years thereafter; the State of North Carolina shall be divided into 13 districts as follows:

District 1: Bertie County, Chowan County, Edgecombe County, Gates County, Greene County, Halifax County, Hertford County, Martin County, Northampton County, Pasquotank County, Perquimans County, Warren County, Washington County, Beaufort County: Precinct BLOUNTS CREEK, Precinct AURORA, Precinct CHOCOWINITY, Precinct EDWARD, Precinct PS JONES WARD 3, Precinct WASHINGTON WARD 1, Precinct WASHINGTON WARD 2; Craven County: Precinct RHEMS, Precinct CLARKS, Precinct JASPER, Precinct COVE CITY, Precinct DOVER, Precinct FORT BARNWELL, Precinct WEST HAVELOCK: Tract 9611: Block Group 1: Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1996; Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block

2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2997, Block 2998, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3998, Block 3999; Tract 9612: Block Group 1: Block 1000, Block 1001, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1992, Block 1993, Block 1995, Block 1996, Block 1997, Block 1998, Block 1999; Tract 9613: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1999; Block Group 6: Block 6047, Block 6048, Block 6049; Precinct GEORGE STREET, Precinct FORT TOTTEN, Precinct H J McDONALD, Precinct GLENBURNIE PARK; Granville County: Precinct CREDLE, Precinct EAST OXFORD, Precinct SALEM, Precinct SOUTH OXFORD, Precinct WEST OXFORD ELEMENTARY; Jones County: Precinct POLLOCKSVILLE: Tract 9801: Block Group 1: Block 1005, Block 1006, Block 1007, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1997, Block 1998; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008,

Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2999; Block Group 3: Block 3000, Block 3001, Block 3002; Tract 9802: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025; Block Group 2: Block 2000, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2036, Block 2037, Block 2038, Block 2039, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2054; Precinct TRENTON, Precinct WHITE OAK; Lenoir County: Precinct CONTENTNEA, Precinct VANCE, Precinct KINSTON 1, Precinct KINSTON 2, Precinct KINSTON 3, Precinct KINSTON 5, Precinct KINSTON 6, Precinct KINSTON 7, Precinct KINSTON 8, Precinct MOSELEY HALL, Precinct SAND HILL; Nash County: Precinct ROCKY MOUNT 1, Precinct ROCKY MOUNT 2, Precinct ROCKY MOUNT 3, Precinct ROCKY MOUNT 4; Pitt County: Precinct 3.01, Precinct 4.01, Precinct 5.01, Precinct 9.01; Tract 19: Block Group 1: Block 1002, Block 1003, Block 1010, Block 1011, Block 1012, Block 1018; Block Group 2: Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2029, Block 2030, Block 2031, Block 2032, Block 2048; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033; Precinct 10.01, Precinct 11.01, Precinct 12.01, Precinct 15.01, Precinct 15.03, Precinct 15.04, Precinct 15.06, Precinct 2.00B, Precinct 8.00B, Precinct 15.05A, Precinct 15.05B; Vance County: Precinct EAST HENDERSON 1, Precinct NORTH HENDERSON 1, Precinct NORTH HENDERSON 2, Precinct SOUTH HENDERSON 1, Precinct WEST HENDERSON 1, Precinct WEST HENDERSON 2, Precinct DABNEY, Precinct MIDDLEBURG, Precinct TOWNSVILLE, Precinct WATKINS, Precinct WILLIAMSBORO; Wayne County: Precinct Precinct 7, Precinct Precinct 10, Precinct Precinct 11, Precinct Precinct 12,

Precinct Precinct 13, Precinct Precinct 17, Precinct Precinct 18, Precinct Precinct 19, Precinct Precinct 20, Precinct Precinct 21, Precinct Precinct 22, Precinct Precinct 23, Precinct Precinct 26, Precinct Precinct 27, Precinct Precinct 29; Wilson County: Precinct GARDNERS, Precinct SARATOGA, Precinct TOISNOT, Precinct WILSON A, Precinct WILSON B, Precinct WILSON C, Precinct WILSON E, Precinct WILSON F, Precinct WILSON G, Precinct WILSON H, Precinct WILSON I, Precinct WILSON N, Precinct WILSON Q.

District 2: Franklin County, Harnett County, Johnston County, Lee County, Chatham County: Precinct ALBRIGHT, Precinct BENNETT, Precinct BONLEE, Precinct GOLDSTON, Precinct THREE RIVERS, Precinct HADLEY: Tract 202: Block Group 3: Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3053, Block 3054; Precinct HARPER'S CROSSROADS, Precinct HICKORY MOUNTAIN, Precinct OAKLAND, Precinct WEST PITTSBORO: Tract 202: Block Group 3: Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3052, Block 3061, Block 3062, Block 3998; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4006, Block 4007, Block 4008, Block 4028, Block 4029, Block 4030, Block 4039, Block 4040, Block 4082, Block 4083; Tract 208: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1999; Block Group 3: Block 3028, Block 3029, Block 3030, Block 3031; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block

4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4998, Block 4999; Precinct EAST PITTSBORO, Precinct EAST SILER CITY, Precinct CENTRAL SILER CITY, Precinct WEST SILER CITY; Cumberland County: Precinct CROSS CREEK 3, Precinct CROSS CREEK 5, Precinct CROSS CREEK 9, Precinct CROSS CREEK 13, Precinct CROSS CREEK 16, Precinct CROSS CREEK 17, Precinct CROSS CREEK 19, Precinct CROSS CREEK 21, Precinct CROSS CREEK 22, Precinct CROSS CREEK 26, Precinct CROSS CREEK 32, Precinct CROSS CREEK 33, Precinct CLIFFDALE WEST, Precinct MANCHESTER: Tract 34: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2009, Block 2011, Block 2012, Block 2017, Block 2018, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2071, Block 2072, Block 2073, Block 2074, Block 2075, Block 2076, Block 2077, Block 2078, Block 2079, Block 2080, Block 2081, Block 2082, Block 2083, Block 2084, Block 2085, Block 2086, Block 2087, Block 2088, Block 2089, Block 2090, Block 2091, Block 2092, Block 2093, Block 2094, Block 2095, Block 2096, Block 2097, Block 2098, Block 2099, Block 2100, Block 2997, Block 2998; Tract 35: Block Group 2: Block 2000, Block 2007, Block 2008, Block 2009; Tract 36: Block Group 1: Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1030, Block 1993, Block 1994, Block 1995, Block 1997, Block 1998; Block Group 2: Block 2003, Block 2004, Block 2012, Block 2013, Block 2017, Block 2031, Block 2995, Block 2996, Block 2998; Block Group 4: Block 4000, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block

4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4037, Block 4039, Block 4043, Block 4044, Block 4045, Block 4046, Block 4998; Precinct SPRING LAKE, Precinct WEST AREA; Nash County: Precinct STONY CREEK: Tract 105.03: Block Group 1: Block 1020, Block 1021, Block 1022; Tract 106: Block Group 2: Block 2000, Block 2001, Block 2006; Block Group 3: Block 3033; Tract 107: Block Group 3: Block 3036, Block 3037, Block 3038, Block 3040, Block 3042, Block 3043, Block 3044, Block 3045, Block 3047, Block 3055; Tract 108: Block Group 4: Block 4035, Block 4036, Block 4037, Block 4059, Block 4060; Precinct ROCKY MOUNT 8, Precinct NASHVILLE, Precinct ROCKY MOUNT 10, Precinct GRIFFINS, Precinct JACKSONS, Precinct MANNINGS 1, Precinct MANNINGS 2, Precinct SOUTH WHITAKERS, Precinct BAILEY, Precinct CASTALIA, Precinct DRYWELLS, Precinct FERRELLS, Precinct NORTH WHITAKERS 1, Precinct NORTH WHITAKERS 2; Sampson County: Precinct CENTRAL CLINTON, Precinct EAST CLINTON, Precinct NORTHEAST CLINTON: Tract 9706: Block Group 1: Block 1012, Block 1013, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037; Tract 9707: Block Group 1: Block 1009, Block 1010, Block 1012, Block 1013, Block 1014, Block 1015, Block 1025, Block 1026; Block Group 4: Block 4003, Block 4004, Block 4014; Precinct SOUTHWEST CLINTON, Precinct GARLAND, Precinct GIDDENSVILLE, Precinct HARRELLS, Precinct INGOLD, Precinct KEENER, Precinct LAKEWOOD, Precinct NEWTON GROVE, Precinct ROWAN, Precinct TURKEY; Vance County: Precinct EAST HENDERSON 2, Precinct SOUTH HENDERSON 2, Precinct HILLTOP, Precinct KITTRELL, Precinct SANDY SCREEK; Wake County: Precinct 01-19, Precinct 01-20, Precinct 01-21, Precinct 01-22, Precinct 01-23, Precinct 01-26, Precinct 01-27: Tract 501: Block Group 1: Block 1070; Precinct 01-35, Precinct 16-01, Precinct 16-02, Precinct 16-03, Precinct 16-04, Precinct 16-05, Precinct 16-06, Precinct 16-07, Precinct 18-01, Precinct 18-06.

District 3: Camden County, Carteret County, Currituck County, Dare County, Hyde County, Onslow County, Pamlico County, Tyrrell County, Beaufort County: Precinct HUNTERS BRIDGE, Precinct BELHAVEN, Precinct NORTH CREEK, Precinct OLD FORD, Precinct RIVER ROAD, Precinct TRANTERS CREEK, Precinct WOODARDS POND, Precinct BEAVER DAM, Precinct PANTEGO, Precinct PINETOWN, Precinct SURRY BATH,

Precinct WASHINGTON WARD 4, Precinct WASHINGTON PARK, Precinct GILEAD; Craven County: Precinct TRENT WOODS, Precinct RIVER BEND, Precinct BRIDGETON, Precinct TRUITT, Precinct ERNUL, Precinct VANCEBORO, Precinct EPWORTH, Precinct GRANTHAM, Precinct CROATAN, Precinct WEST HAVELOCK: Tract 9611: Block Group 2: Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061; Tract 9612: Block Group 1: Block 1012, Block 1013; Tract 9613: Block Group 4: Block 4001, Block 4023, Block 4024; Block Group 5: Block 5015, Block 5016, Block 5017; Block Group 6: Block 6050; Precinct HARLOWE, Precinct FAIRFIELD HARBOUR, Precinct BRICES CREEK, Precinct EAST HAVELOCK, Precinct GROVER C FIELDS, Precinct WEST NEW BERN; Duplin County: Precinct ALBERTSON, Precinct BEULAVILLE: Tract 9905: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3061, Block 3062, Block 3063, Block 3064, Block 3065, Block 3066, Block 3067, Block 3068, Block 3069, Block 3070, Block 3071, Block 3072, Block 3073, Block 3074, Block 3075, Block 3076; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033, Block 4034, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040,

Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046, Block 4047, Block 4048, Block 4049, Block 4050, Block 4051, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060; Block Group 5: Block 5000, Block 5023, Block 5024; Precinct CALYPSO, Precinct CEDAR FORK, Precinct CHINQUAPIN, Precinct GLISSON, Precinct WOLFSCRAPE; Jones County: Precinct BEAVER CREEK, Precinct CYPRESS CREEK, Precinct CHINQUAPIN, Precinct POLLOCKSVILLE; Tract 9801: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1008, Block 1009, Block 1010, Block 1011, Block 1015, Block 1999; Precinct TUCKAHOE; Lenoir County: Precinct INSTITUTE, Precinct NEUSE, Precinct WOODINGTON, Precinct FALLING CREEK, Precinct KINSTON 4, Precinct KINSTON 9, Precinct SOUTHWEST, Precinct TRENT 1, Precinct TRENT 2, Precinct PINK HILL 1, Precinct PINK HILL 2; Nash County: Precinct STONY CREEK; Tract 105.02: Block Group 1: Block 1003, Block 1004; Tract 105.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1011; Tract 107: Block Group 3: Block 3039, Block 3046, Block 3048, Block 3049, Block 3050, Block 3051, Block 3052, Block 3053, Block 3054, Block 3056, Block 3057, Block 3058; Tract 108: Block Group 4: Block 4038, Block 4040, Block 4045, Block 4046, Block 4048, Block 4049, Block 4052, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4067, Block 4068, Block 4088, Block 4089, Block 4090, Block 4091, Block 4092, Block 4102, Block 4103; Precinct ROCKY MOUNT 5, Precinct ROCKY MOUNT 6, Precinct ROCKY MOUNT 7, Precinct ROCKY MOUNT 9, Precinct COOPERS, Precinct OAK LEVEL, Precinct RED OAK; Pitt County: Precinct 1.01, Precinct 6.01, Precinct 7.01, Precinct 9.01; Tract 18: Block Group 3: Block 3001; Tract 19: Block Group 1: Block 1044; Block Group 2: Block 2001, Block 2027, Block 2028, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2047; Precinct 13.01, Precinct 14.02, Precinct 15.09, Precinct 2.00A, Precinct 8.00A, Precinct 11.02A, Precinct 11.02B, Precinct 14.03A, Precinct 14.03B, Precinct 15.07A, Precinct 15.07B, Precinct 15.07C, Precinct 15.08A, Precinct 15.08B, Precinct 15.10A, Precinct 15.10B, Precinct 15.11A, Precinct 15.11B, Precinct 15.12A, Precinct 15.12B; Wayne County: Precinct Precinct 1, Precinct Precinct 2, Precinct Precinct 3, Precinct Precinct 4, Precinct Precinct 5, Precinct Precinct 6, Precinct Precinct 8, Precinct Precinct 9, Precinct Precinct 14, Precinct Precinct 15, Precinct

Precinct 16, Precinct Precinct 24, Precinct Precinct 25, Precinct Precinct 28, Precinct Precinct 30; Wilson County: Precinct BLACK CREEK, Precinct CROSSROADS, Precinct OLD FIELDS, Precinct SPRINGHILL, Precinct STANTONSBURG, Precinct TAYLORS, Precinct WILSON D, Precinct WILSON J, Precinct WILSON K, Precinct WILSON L, Precinct WILSON M, Precinct WILSON P.

District 4: Durham County, Orange County, Chatham County: Precinct BYNUM, Precinct HADLEY: Tract 202: Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3007, Block 3008, Block 3009, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3050, Block 3051, Block 3055, Block 3056, Block 3057, Block 3058, Block 3059, Block 3060, Block 3996, Block 3999; Precinct EAST MANNS CHAPEL, Precinct WEST MANNS CHAPEL, Precinct NEW HOPE, Precinct WEST PITTSBORO: Tract 202: Block Group 3: Block 3025, Block 3026, Block 3027, Block 3034, Block 3035; Precinct EAST WILLIAMS, Precinct NORTH WILLIAMS, Precinct WEST WILLIAMS, Precinct NORTH WILLIAMS 2, Precinct EAST WILLIAMS 2; Wake County: Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 03-00, Precinct 04-01, Precinct 04-03, Precinct 04-05, Precinct 04-06, Precinct 04-07, Precinct 04-08, Precinct 04-09, Precinct 04-10, Precinct 04-11, Precinct 04-12, Precinct 04-13, Precinct 04-14, Precinct 04-15, Precinct 04-17, Precinct 04-18, Precinct 04-19, Precinct 05-00, Precinct 06-01, Precinct 06-02, Precinct 06-03, Precinct 07-03, Precinct 07-06, Precinct 07-07, Precinct 08-01, Precinct 08-02, Precinct 08-03, Precinct 08-04, Precinct 08-05, Precinct 08-06, Precinct 08-08, Precinct 11-01, Precinct 11-02: Tract 515.01: Block Group 1: Block 1004, Block 1005; Tract 525.03: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024; Tract 525.04: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2022, Block 2023, Block 2026, Block 2028, Block 2029, Block 2038, Block 2039, Block 2040, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2993, Block 2994, Block 2995, Block 2996,

Block 2997, Block 2998, Block 2999; Precinct 12-01, Precinct 12-02, Precinct 12-03, Precinct 12-04, Precinct 12-06, Precinct 15-01, Precinct 15-02, Precinct 18-02, Precinct 18-03, Precinct 18-04, Precinct 18-05, Precinct 18-08, Precinct 20-01, Precinct 20-02, Precinct 20-03, Precinct 20-04, Precinct 20-05, Precinct 20-06, Precinct 20-10.

District 5: Alexander County, Alleghany County, Ashe County, Davie County, Stokes County, Surry County, Watauga County, Wilkes County, Yadkin County, Forsyth County: Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 015, Precinct 021, Precinct 031, Precinct 032, Precinct 034, Precinct 051, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 091, Precinct 092, Precinct 111, Precinct 112, Precinct 122, Precinct 123, Precinct 131, Precinct 132, Precinct 133, Precinct 602, Precinct 607, Precinct 701, Precinct 702, Precinct 703, Precinct 704, Precinct 705, Precinct 706, Precinct 707, Precinct 708, Precinct 709, Precinct 801, Precinct 802, Precinct 803, Precinct 804, Precinct 805, Precinct 806, Precinct 807, Precinct 808, Precinct 809, Precinct 901, Precinct 906, Precinct 907, Precinct 908, Precinct 909; Iredell County: Precinct Barringer, Precinct Bethany, Precinct Concord, Precinct Chambersburg, Precinct Cool Springs, Precinct Eagle Mills, Precinct New Hope, Precinct Olin, Precinct Sharpesburg, Precinct Statesville 1, Precinct Statesville 2, Precinct Statesville 3, Precinct Statesville 4, Precinct Statesville 5, Precinct Statesville 6, Precinct Turnersburg, Precinct Union Grove; Rockingham County: Precinct HOGANS: Tract 410.01: Block Group 3: Block 3011; Tract 410.02: Block Group 1: Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1022, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1998; Block Group 2: Block 2011, Block 2012, Block 2013, Block 2014, Block 2043, Block 2044, Block 2045, Block 2046; Precinct HUNTSVILLE, Precinct NEW BETHEL.

District 6: Moore County, Randolph County, Alamance County: Precinct PATTERSON, Precinct COBLE, Precinct MORTON, Precinct FAUCETTE, Precinct ALBRIGHT, Precinct BOONE 5, Precinct CENTRAL BOONE, Precinct NORTH BOONE, Precinct SOUTH BOONE, Precinct WEST BOONE, Precinct GRAHAM 4, Precinct EAST GRAHAM, Precinct SOUTH GRAHAM, Precinct WEST GRAHAM, Precinct NORTH NEWLIN, Precinct SOUTH NEWLIN, Precinct NORTH THOMPSON, Precinct SOUTH THOMPSON, Precinct MELVILLE 3, Precinct NORTH

MELVILLE, Precinct SOUTH MELVILLE, Precinct BURLINGTON 4, Precinct BURLINGTON 5, Precinct BURLINGTON 6, Precinct BURLINGTON 9, Precinct WEST BURLINGTON, Precinct BURLINGTON 10; Davidson County: Precinct COTTON GROVE, Precinct DENTON, Precinct EMMONS, Precinct HEALING SPRINGS, Precinct HOLLY GROVE, Precinct LEXINGTON 1, Precinct LEXINGTON 2, Precinct LEXINGTON 3, Precinct LIBERTY, Precinct MIDWAY, Precinct NORTH DAVIDSON, Precinct SILVER HILL, Precinct SILVER VALLEY, Precinct SOUTH DAVIDSON, Precinct SOUTHMONT, Precinct THOMASVILLE 1, Precinct THOMASVILLE 4, Precinct THOMASVILLE 5, Precinct THOMASVILLE 7, Precinct THOMASVILLE 9, Precinct THOMASVILLE 10, Precinct WELCOME; Guilford County: Precinct Greene, Precinct Center Grove 1, Precinct Center Grove 2, Precinct Friendship 1, Precinct Friendship 2, Precinct Friendship 3, Precinct Friendship 4, Precinct Friendship 5, Precinct Greensboro 16, Precinct Greensboro 18, Precinct Greensboro 19, Precinct Greensboro 20, Precinct Greensboro 21, Precinct Greensboro 22, Precinct Greensboro 27, Precinct Greensboro 30, Precinct Greensboro 31, Precinct Greensboro 32, Precinct Greensboro 33, Precinct Greensboro 34, Precinct Greensboro 35, Precinct Greensboro 41, Precinct Greensboro 42, Precinct Greensboro 43, Precinct Greensboro 63, Precinct Greensboro 64; Tract 160.04: Block Group 4: Block 4048, Block 4049, Block 4050, Block 4051, Block 4052; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016; Tract 164.03: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1006; Tract 165.03: Block Group 1: Block 1000, Block 1001, Block 1010; Precinct Gibsonville, Precinct High Point 4, Precinct High Point 14, Precinct High Point 15, Precinct High Point 16, Precinct High Point 20, Precinct High Point 21, Precinct High Point 22, Precinct High Point 23, Precinct High Point 24, Precinct High Point 25, Precinct High Point 26, Precinct High Point 27, Precinct Oak Ridge 1, Precinct Oak Ridge 2, Precinct Pleasant Garden 1, Precinct Pleasant Garden 2, Precinct Rock Creek 1, Precinct Rock Creek 2, Precinct Summerfield 1, Precinct Summerfield 2, Precinct Summerfield 3, Precinct Summerfield 4, Precinct Fentress 2, Precinct Greensboro 40A, Precinct Greensboro 40B, Precinct Jamestown 4, Precinct Jamestown 5, Precinct Jefferson 1, Precinct Jefferson 2; Tract 153: Block Group 3: Block 3006, Block 3007, Block 3008, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3019, Block 3020, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026; Precinct

Jefferson 4, Precinct Monroe 1, Precinct Monroe 3, Precinct North Center Grove, Precinct North Deep River, Precinct South Deep River, Precinct South Madison, Precinct Stokesdale, Precinct Sumner 3, Precinct Sumner 4, Precinct North Clay, Precinct North Washington, Precinct South Clay, Precinct South Washington; Rowan County: Precinct Barnhardt Mill, Precinct Blackwelder Park, Precinct Bostian Crossroads, Precinct North China Grove, Precinct South China Grove, Precinct South Locke, Precinct Faith, Precinct Rock Grove, Precinct Granite Quarry, Precinct Hatters Shop, Precinct West Kannapolis, Precinct East Kannapolis, Precinct West Landis, Precinct East Landis, Precinct North Locke, Precinct Morgan I, Precinct Morgan II, Precinct Rockwell, Precinct Gold Knob, Precinct Steele, Precinct Sumner, Precinct Trading Ford, Precinct Bostian School.

District 7: Bladen County, Brunswick County, Columbus County, New Hanover County, Pender County, Robeson County, Cumberland County: Precinct CROSS CREEK 1, Precinct CROSS CREEK 2, Precinct HOPE MILLS 2, Precinct PEARCES MILL 3, Precinct ALDERMAN, Precinct BEAVER DAM, Precinct BLACK RIVER, Precinct CROSS CREEK 11, Precinct CROSS CREEK 15, Precinct CROSS CREEK 23, Precinct CEDAR CREEK, Precinct EASTOVER, Precinct JUDSON/VANDER, Precinct LINDEN, Precinct LONG HILL, Precinct MANCHESTER: Tract 34: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2010, Block 2013, Block 2999; Tract 35: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1009, Block 1013; Tract 36: Block Group 1: Block 1000, Block 1001, Block 1008, Block 1009, Block 1031, Block 1032, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2037, Block 2038, Block 2047, Block 2048, Block 2049, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2062, Block 2999; Tract 37: Block Group 2: Block 2021, Block 2022, Block 2023, Block 2025, Block 2026, Block 2043, Block 2995; Precinct SHERWOOD, Precinct STONEY POINT: Tract 16.01: Block Group 3: Block 3022, Block 3024; Tract 31: Block Group 1: Block 1009, Block 1010, Block 1047, Block 1048, Block 1049, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1065, Block 1995, Block 1996, Block 1997; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2018, Block 2019, Block 2021, Block 2999; Block Group 3: Block 3995, Block 3996; Tract 32.01: Block Group 3: Block 3027, Block 3028; Precinct STEDMAN, Precinct WADE; Duplin County: Precinct BEULAVILLE: Tract 9905: Block Group 5: Block 5001, Block 5002, Block 5003, Block 5021, Block 5022; Precinct

CYPRESS CREEK, Precinct CHARITY, Precinct FAISON, Precinct HALLSVILLE, Precinct KENANSVILLE, Precinct LOCKLIN, Precinct MAGNOLIA, Precinct ROCKFISH, Precinct ROSE HILL, Precinct SMITH CABIN, Precinct WALLACE, Precinct WARSAW; Sampson County: Precinct AUTRYVILLE, Precinct CLEMENT, Precinct NORTHEAST CLINTON: Tract 9706: Block Group 1: Block 1014, Block 1015, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4026, Block 4027, Block 4028; Tract 9707: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022; Block Group 4: Block 4005, Block 4006; Precinct WEST CLINTON, Precinct HERRING, Precinct KITTY FORK, Precinct MINGO, Precinct PLAINVIEW, Precinct ROSEBORO, Precinct SALEMBURG, Precinct WESTBROOK; Scotland County: Precinct 2: Tract 104: Block Group 1: Block 1103, Block 1106, Block 1108, Block 1109, Block 1110, Block 1113; Precinct 6: Tract 104: Block Group 1: Block 1094, Block 1095, Block 1101, Block 1102, Block 1107, Block 1111, Block 1112, Block 1121, Block 1122.

District 8: Anson County, Hoke County, Montgomery County, Richmond County, Stanly County, Cabarrus County: Precinct 0101, Precinct 0102, Precinct 0103, Precinct 0104, Precinct 0201, Precinct 0202, Precinct 0203, Precinct 0205, Precinct 0206, Precinct 0207, Precinct 0401, Precinct 0402, Precinct 0403, Precinct 0404, Precinct 0405, Precinct 0406, Precinct 0407, Precinct 0408, Precinct 0409, Precinct 0410, Precinct 0500, Precinct 0600, Precinct 0700, Precinct 0800, Precinct 0900, Precinct 1000, Precinct 1101, Precinct 1102, Precinct 1201, Precinct 1202, Precinct 1203, Precinct 1204, Precinct 1205, Precinct 1206, Precinct 1207, Precinct 1208, Precinct 1209, Precinct 1210, Precinct 1211, Precinct 1212; Cumberland County: Precinct CROSS CREEK 4, Precinct CROSS CREEK 6, Precinct CROSS CREEK 7, Precinct CROSS CREEK 8, Precinct

CUMBERLAND 1, Precinct CUMBERLAND 2, Precinct CUMBERLAND 3, Precinct HOPE MILLS 1, Precinct HOPE MILLS 3, Precinct MORGANTON ROAD, Precinct PEARCES MILL 2, Precinct PEARCES MILL 4, Precinct ARRAN HILLS, Precinct AUMAN, Precinct BRENTWOOD, Precinct CROSS CREEK 10, Precinct CROSS CREEK 12, Precinct CROSS CREEK 14, Precinct CROSS CREEK 18, Precinct CROSS CREEK 20, Precinct CROSS CREEK 24, Precinct CROSS CREEK 25, Precinct CROSS CREEK 27, Precinct CROSS CREEK 28, Precinct CROSS CREEK 29, Precinct CROSS CREEK 30, Precinct CROSS CREEK 31, Precinct CROSS CREEK 34, Precinct LAKE RIM, Precinct MONTIBELLO, Precinct STONEY POINT: Tract 16.01: Block Group 2: Block 2043; Block Group 3: Block 3010, Block 3011, Block 3015, Block 3018; Tract 31: Block Group 1: Block 1005, Block 1031, Block 1032, Block 1998, Block 1999; Block Group 2: Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2020, Block 2022, Block 2023, Block 2998; Tract 32.01: Block Group 1: Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1028, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1998, Block 1999; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022; Block Group 3: Block 3003, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3029, Block 3030, Block 3031, Block 3032, Block 3034; Mecklenburg County: Precinct 002, Precinct 004, Precinct 005, Precinct 006, Precinct 007, Precinct 015, Precinct 017, Precinct 029, Precinct 033, Precinct 034, Precinct 045, Precinct 046, Precinct 061, Precinct 062, Precinct 063, Precinct 064, Precinct 084, Precinct 095, Precinct 108, Precinct 109, Precinct 117, Precinct 123, Precinct 124, Precinct 237, Precinct 130, Precinct 141, Precinct 204, Precinct 205; Scotland County: Precinct 1, Precinct 2: Tract 103: Block Group 1: Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1023, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040,

Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1075, Block 1076, Block 1077, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1100, Block 1999; Block Group 2: Block 2037, Block 2038, Block 2039; Block Group 3: Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4005, Block 4006, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4015, Block 4016, Block 4017, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4024, Block 4025, Block 4026, Block 4027, Block 4028, Block 4029, Block 4030, Block 4031, Block 4032, Block 4033; Block Group 5: Block 5000, Block 5001, Block 5002, Block 5003, Block 5004, Block 5005, Block 5006, Block 5007, Block 5008, Block 5009, Block 5010, Block 5011, Block 5012, Block 5013, Block 5014, Block 5015, Block 5016, Block 5017, Block 5018, Block 5019, Block 5020, Block 5021, Block 5022, Block 5023, Block 5024, Block 5025, Block 5026, Block 5027, Block 5028, Block 5029; Tract 104: Block Group 1: Block 1072, Block 1073, Block 1076, Block 1077, Block 1104, Block 1105, Block 1114, Block 1115, Block 1116, Block 1117, Block 1118, Block 1119, Block 1120, Block 1996; Precinct 3, Precinct 4, Precinct 5, Precinct 6: Tract 103: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1020, Block 1021, Block 1022, Block 1024, Block 1025, Block 1026, Block 1027; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2040, Block 2041; Tract 104: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block

1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1046, Block 1047, Block 1048, Block 1049, Block 1050, Block 1051, Block 1052, Block 1053, Block 1054, Block 1055, Block 1056, Block 1057, Block 1058, Block 1059, Block 1060, Block 1061, Block 1062, Block 1063, Block 1064, Block 1065, Block 1066, Block 1067, Block 1068, Block 1069, Block 1070, Block 1071, Block 1074, Block 1075, Block 1078, Block 1079, Block 1080, Block 1081, Block 1082, Block 1083, Block 1084, Block 1085, Block 1086, Block 1087, Block 1088, Block 1089, Block 1090, Block 1091, Block 1092, Block 1093, Block 1096, Block 1097, Block 1098, Block 1099, Block 1100, Block 1123, Block 1124, Block 1125, Block 1126, Block 1127, Block 1128, Block 1129, Block 1130, Block 1131, Block 1132, Block 1133, Block 1134, Block 1135, Block 1136, Block 1137, Block 1997, Block 1998, Block 1999; Precinct 7, Precinct 8, Precinct 9, Precinct 10; Union County: Precinct 01, Precinct 02, Precinct 03, Precinct 04, Precinct 08, Precinct 09, Precinct 10, Precinct 11, Precinct 25, Precinct 26, Precinct 27, Precinct 36, Precinct 43.

District 9: Gaston County: Precinct York Chester, Precinct Victory, Precinct Pleasant Ridge, Precinct Health Center, Precinct Myrtle, Precinct Highland, Precinct Wood Hill, Precinct Grier, Precinct Sherwood, Precinct Armstrong, Precinct Flint Grove, Precinct Ranlo, Precinct Gardner Park, Precinct Robinson 1, Precinct Gaston Day, Precinct Robinson 2, Precinct Ashbrook, Precinct South Gastonia, Precinct Bessemer City 1, Precinct Bessemer City 2, Precinct Belmont 1, Precinct Belmont 2, Precinct Belmont 3, Precinct Catawba Heights, Precinct Southpoint, Precinct Cramerton, Precinct New Hope, Precinct McAdenville, Precinct Union, Precinct Lowell, Precinct Landers Chapel: Tract 303: Block Group 1: Block 1011, Block 1012, Block 1013, Block 1014, Block 1995; Tract 304: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011; Block Group 2: Block 2005, Block 2015, Block 2016, Block 2048, Block 2050, Block 2995, Block 2996; Tract 305: Block Group 1: Block 1000, Block 1001, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1034, Block 1036, Block 1037, Block 1038, Block 1999; Precinct High Shoals, Precinct Alexis, Precinct Dallas 1, Precinct Dallas 2, Precinct Lucia, Precinct Stanley 1, Precinct Stanley 2, Precinct Mt

Holly 1, Precinct Mt Holly 2; Mecklenburg County: Precinct 001, Precinct 008, Precinct 009, Precinct 010, Precinct 018, Precinct 019, Precinct 020, Precinct 021, Precinct 032, Precinct 035, Precinct 036, Precinct 037, Precinct 038, Precinct 047, Precinct 048, Precinct 049, Precinct 050, Precinct 051, Precinct 057, Precinct 058, Precinct 059, Precinct 065, Precinct 066, Precinct 067, Precinct 068, Precinct 069, Precinct 070, Precinct 071, Precinct 072, Precinct 073, Precinct 074, Precinct 075, Precinct 076, Precinct 077; Tract 59.05: Block Group 2: Block 2008, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050; Precinct 083, Precinct 085, Precinct 086, Precinct 087, Precinct 088, Precinct 089, Precinct 090, Precinct 091, Precinct 092, Precinct 093, Precinct 094, Precinct 096, Precinct 097, Precinct 099, Precinct 100, Precinct 101, Precinct 102, Precinct 103, Precinct 106, Precinct 110, Precinct 111, Precinct 112, Precinct 113, Precinct 114, Precinct 115, Precinct 116, Precinct 118, Precinct 119, Precinct 120, Precinct 121, Precinct 122, Precinct 125, Precinct 128, Precinct 225, Precinct 226, Precinct 227, Precinct 229, Precinct 230, Precinct 231, Precinct 232, Precinct 233, Precinct 234, Precinct 235, Precinct 236, Precinct 238, Precinct 240, Precinct 241, Precinct 242, Precinct 243, Precinct 129, Precinct 131, Precinct 133, Precinct 134, Precinct 136, Precinct 137, Precinct 139, Precinct 140, Precinct 142, Precinct 143, Precinct 144, Precinct 200; Tract 59.01: Block Group 3: Block 3013, Block 3023, Block 3030, Block 3031, Block 3032, Block 3033, Block 3993, Block 3996, Block 3997; Block Group 4: Block 4005, Block 4006, Block 4007, Block 4010, Block 4011, Block 4999; Precinct 201, Precinct 202, Precinct 203, Precinct 207, Precinct 208, Precinct 209, Precinct 214, Precinct 215, Precinct 216, Precinct 217, Precinct 218, Precinct 219, Precinct 220, Precinct 221, Precinct 222, Precinct 223, Precinct 224; Union County: Precinct 05, Precinct 06, Precinct 07, Precinct 12, Precinct 13, Precinct 14, Precinct 15, Precinct 16, Precinct 17, Precinct 18, Precinct 19, Precinct 20, Precinct 21, Precinct 22, Precinct 23, Precinct 24, Precinct 28, Precinct 29, Precinct 30, Precinct 31, Precinct 32, Precinct 33, Precinct 34, Precinct 35, Precinct 37, Precinct 38, Precinct 39, Precinct 40, Precinct 41, Precinct 42.

District 10: Avery County, Burke County, Caldwell County, Catawba County, Cleveland County, Lincoln County, Mitchell County, Gaston County: Precinct Forest Heights, Precinct Crowders Mountain, Precinct Tryon, Precinct Landers Chapel: Tract 305: Block Group 1: Block 1002, Block 1011, Block 1015, Block 1016, Block 1022, Block 1023, Block 1024, Block 1033, Block 1035; Precinct Cherryville 1, Precinct Cherryville 2, Precinct Cherryville

3; Iredell County: Precinct Coddle Creek 1, Precinct Coddle Creek 2, Precinct Coddle Creek 3, Precinct Coddle Creek 4, Precinct Davidson 1, Precinct Davidson 2, Precinct Fallstown, Precinct Shiloh; Rutherford County: Precinct Bostic, Precinct Camp Creek, Precinct Caroleen, Precinct Chimney Rock 1, Precinct Chimney Rock 2, Precinct Cliffside, Precinct Duncans Creek, Precinct Ellenboro, Precinct Forest City 2, Precinct Gilkey, Precinct Golden Valley, Precinct Green Hill: Tract 9602: Block Group 1: Block 1084, Block 1085; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2024, Block 2025, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043; Block Group 3: Block 3046, Block 3048, Block 3052, Block 3053, Block 3054, Block 3055; Block Group 4: Block 4001, Block 4002, Block 4003, Block 4007, Block 4008, Block 4009, Block 4010, Block 4011, Block 4012, Block 4013, Block 4014, Block 4018, Block 4019, Block 4020, Block 4021, Block 4022, Block 4023, Block 4025, Block 4030, Block 4999; Precinct Haynes, Precinct Morgan, Precinct Mount Vernon, Precinct Sandy Mush, Precinct Sunshine.

District 11: Buncombe County, Cherokee County, Clay County, Graham County, Haywood County, Henderson County, Jackson County, McDowell County, Macon County, Madison County, Polk County, Swain County, Transylvania County, Yancey County, Rutherford County: Precinct Danielstown, Precinct Forest City 1, Precinct Green Hill: Tract 9602: Block Group 3: Block 3044, Block 3045, Block 3051; Block Group 4: Block 4017, Block 4024, Block 4026, Block 4027, Block 4028, Block 4029, Block 4031, Block 4032, Block 4033, Block 4035, Block 4036, Block 4037, Block 4038, Block 4039, Block 4040, Block 4041, Block 4042, Block 4043, Block 4044, Block 4045, Block 4046; Tract 9603: Block Group 2: Block 2162; Tract 9604: Block Group 1: Block 1049; Block Group 2: Block 2006, Block 2007; Tract 9605: Block Group 1: Block 1006, Block 1007, Block 1008, Block 1009, Block 1012, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1048, Block 1052, Block 1053, Block 1055, Block 1056, Block 1057, Block 1999; Precinct Rutherfordton 1, Precinct Rutherfordton 2, Precinct Spindale, Precinct Sulphur Springs, Precinct Union.

District 12: Cabarrus County: Precinct 0204, Precinct 0300; Davidson County: Precinct ABBOTTS CREEK, Precinct ARCADIA, Precinct BOONE, Precinct CENTRAL, Precinct

GUMTREE, Precinct LEXINGTON 4, Precinct WARD 1, Precinct WARD 2, Precinct WARD 3, Precinct WARD 4, Precinct WARD 5, Precinct WARD 6, Precinct REEDS YADKIN COLLEGE, Precinct REEDY CREEK, Precinct THOMASVILLE 2, Precinct THOMASVILLE 3, Precinct THOMASVILLE 8, Precinct TYRO, Precinct WALLBURG, Precinct WEST ARCADIA; Forsyth County: Precinct 033, Precinct 042, Precinct 043, Precinct 081, Precinct 082, Precinct 083, Precinct 101, Precinct 201, Precinct 203, Precinct 204, Precinct 205, Precinct 206, Precinct 207, Precinct 301, Precinct 302, Precinct 303, Precinct 304, Precinct 305, Precinct 306, Precinct 401, Precinct 402, Precinct 403, Precinct 404, Precinct 405, Precinct 501, Precinct 502, Precinct 503, Precinct 504, Precinct 505, Precinct 506, Precinct 507, Precinct 601, Precinct 603, Precinct 604, Precinct 605, Precinct 606, Precinct 902, Precinct 903, Precinct 904, Precinct 905; Guilford County: Precinct HP, Precinct Greensboro 4, Precinct Greensboro 46, Precinct Greensboro 52, Precinct Greensboro 53, Precinct Greensboro 54, Precinct Greensboro 55, Precinct Greensboro 57, Precinct Greensboro 59: Tract 126.09: Block Group 1: Block 1030, Block 1031, Block 1035, Block 1036, Block 1037; Block Group 2: Block 2053, Block 2054, Block 2055; Tract 165.02: Block Group 2: Block 2000, Block 2001, Block 2004, Block 2005, Block 2006; Precinct Greensboro 61, Precinct Greensboro 62, Precinct Greensboro 64: Tract 160.04: Block Group 4: Block 4038, Block 4044, Block 4045, Block 4046, Block 4047, Block 4053, Block 4054, Block 4055, Block 4056, Block 4057, Block 4058, Block 4059, Block 4060, Block 4061, Block 4062, Block 4063, Block 4064, Block 4065, Block 4066, Block 4067, Block 4068, Block 4069, Block 4071; Tract 162.01: Block Group 2: Block 2043, Block 2058, Block 2059, Block 2060, Block 2062, Block 2063, Block 2064, Block 2065, Block 2066, Block 2067, Block 2068, Block 2069, Block 2070, Block 2077, Block 2078; Tract 162.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1133, Block 1147, Block 1148; Tract 164.03: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1010, Block 1011, Block 1012, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1029; Precinct Greensboro 65, Precinct Greensboro 66, Precinct Greensboro 67, Precinct Greensboro 68, Precinct Greensboro 69, Precinct Greensboro 70, Precinct Greensboro 71, Precinct Greensboro 73, Precinct Greensboro 74, Precinct Greensboro 75, Precinct High Point 1, Precinct High Point 2, Precinct High Point 3, Precinct High Point 5, Precinct High Point 6, Precinct High Point 7, Precinct High Point 8, Precinct High Point 9, Precinct High Point

10, Precinct High Point 11, Precinct High Point 12, Precinct High Point 13, Precinct High Point 17, Precinct High Point 18, Precinct High Point 19, Precinct Fentress 1, Precinct Jamestown 1, Precinct Jamestown 2, Precinct Jamestown 3, Precinct Jefferson 3, Precinct Sumner 1, Precinct Sumner 2; Mecklenburg County: Precinct 003, Precinct 011, Precinct 012, Precinct 013, Precinct 014, Precinct 016, Precinct 022, Precinct 023, Precinct 024, Precinct 025, Precinct 026, Precinct 027, Precinct 028, Precinct 030, Precinct 031, Precinct 039, Precinct 040, Precinct 041, Precinct 042, Precinct 043, Precinct 044, Precinct 052, Precinct 053, Precinct 054, Precinct 055, Precinct 056, Precinct 060, Precinct 077; Tract 38.04: Block Group 1: Block 1022; Block Group 2: Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2012; Tract 58.06: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1068, Block 1069, Block 1071, Block 1072, Block 1073, Block 1074, Block 1077, Block 1079, Block 1999; Tract 59.05: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007; Precinct 078, Precinct 079, Precinct 080, Precinct 081, Precinct 082, Precinct 098, Precinct 104, Precinct 105, Precinct 107, Precinct 126, Precinct 127, Precinct 228, Precinct 239, Precinct 132, Precinct 135, Precinct 138, Precinct 200; Tract 59.01: Block Group 2: Block 2012, Block 2013, Block 2030, Block 2031, Block 2035, Block 2036; Block Group 3: Block 3000, Block 3001, Block 3002, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3036, Block 3037, Block 3038, Block 3994, Block 3995, Block 3998, Block 3999; Block Group 4: Block 4000, Block 4001, Block 4002, Block 4003, Block 4004, Block 4008, Block 4009; Precinct 206, Precinct 210, Precinct 211, Precinct 212, Precinct 213; Rowan County: Precinct Bradshaw, Precinct Cleveland, Precinct East Enochville, Precinct Franklin, Precinct Milford Hills County, Precinct East Spencer, Precinct Mount Ulla, Precinct Scotch Irish, Precinct Spencer, Precinct Unity, Precinct West Ward II, Precinct West Ward I, Precinct South Ward, Precinct North Ward I, Precinct East Ward I, Precinct West Innes, Precinct North Ward II, Precinct Milford Hills

City, Precinct West Ward III, Precinct East Ward II, Precinct West Enochville.

District 13: Caswell County, Person County, Alamance County: Precinct PLEASANT GROVE, Precinct HAW RIVER, Precinct GRAHAM 3, Precinct NORTH GRAHAM, Precinct BURLINGTON 7, Precinct BURLINGTON 8, Precinct EAST BURLINGTON, Precinct NORTH BURLINGTON, Precinct SOUTH BURLINGTON; Granville County: Precinct ANTIOCH, Precinct BEREA, Precinct BRASSFIELD, Precinct BUTNER, Precinct CORINTH, Precinct CREEDMOOR, Precinct OAK HILL, Precinct SASSAFRAS FORK, Precinct TALLY HO; Guilford County: Precinct Center Grove 3, Precinct Greensboro 1, Precinct Greensboro 2, Precinct Greensboro 3, Precinct Greensboro 5, Precinct Greensboro 6, Precinct Greensboro 7, Precinct Greensboro 9, Precinct Greensboro 10, Precinct Greensboro 11, Precinct Greensboro 12, Precinct Greensboro 13, Precinct Greensboro 14, Precinct Greensboro 15, Precinct Greensboro 17, Precinct Greensboro 23, Precinct Greensboro 24, Precinct Greensboro 25, Precinct Greensboro 26, Precinct Greensboro 28, Precinct Greensboro 29, Precinct Greensboro 36, Precinct Greensboro 37, Precinct Greensboro 38, Precinct Greensboro 39, Precinct Greensboro 44, Precinct Greensboro 45, Precinct Greensboro 47, Precinct Greensboro 48, Precinct Greensboro 49, Precinct Greensboro 50, Precinct Greensboro 51, Precinct Greensboro 56, Precinct Greensboro 58, Precinct Greensboro 59; Tract 126.09: Block Group 1: Block 1024, Block 1025, Block 1027, Block 1028, Block 1029, Block 1032, Block 1033, Block 1034, Block 1038, Block 1039; Block Group 2: Block 2048, Block 2049, Block 2050, Block 2051, Block 2052; Precinct Greensboro 60, Precinct Greensboro 72, Precinct Greensboro 8, Precinct Jefferson 2; Tract 111.02: Block Group 2: Block 2000; Tract 127.07: Block Group 1: Block 1000, Block 1001; Tract 128.03: Block Group 1: Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1028, Block 1029, Block 1030, Block 1032, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1042, Block 1049, Block 1051, Block 1055, Block 1066, Block 1067, Block 1069, Block 1070, Block 1074, Block 1075, Block 1076, Block 1077; Block Group 2: Block 2000, Block 2001, Block 2007, Block 2012, Block 2013, Block 2038; Tract 153: Block Group 3: Block 3018, Block 3021, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036; Precinct Monroe 2, Precinct North Madison; Rockingham County: Precinct BETHLEHEM, Precinct CENTRAL AREA, Precinct DRAPER, Precinct DAN VALLEY, Precinct HOGANS; Tract 410.02: Block

Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1010, Block 1011, Block 1013, Block 1019, Block 1020, Block 1021, Block 1023, Block 1999; Block Group 2: Block 2001, Block 2008; Tract 411: Block Group 4: Block 4026, Block 4027; Precinct IRONWORKS, Precinct MAYFIELD, Precinct MAYODAN, Precinct MARTINS, Precinct OREGON HILL, Precinct PRICE, Precinct RUFFIN, Precinct SHILOH, Precinct SIMPSONVILLE, Precinct STONEVILLE, Precinct WENTWORTH, Precinct WILLIAMSBURG, Precinct LEAKSVILLE 1, Precinct LEAKSVILLE 2, Precinct LEAKSVILLE 3, Precinct MADISON 1, Precinct MADISON 2, Precinct REIDSVILLE 1, Precinct REIDSVILLE 2, Precinct REIDSVILLE 3, Precinct REIDSVILLE 4, Precinct REIDSVILLE 5, Precinct REIDSVILLE 6, Precinct SPRAY 1; Wake County: Precinct 01-01, Precinct 01-02, Precinct 01-03, Precinct 01-04, Precinct 01-05, Precinct 01-06, Precinct 01-07, Precinct 01-09, Precinct 01-10, Precinct 01-11, Precinct 01-12, Precinct 01-13, Precinct 01-14, Precinct 01-15, Precinct 01-16, Precinct 01-17, Precinct 01-18, Precinct 01-25, Precinct 01-27; Tract 501: Block Group 1: Block 1067, Block 1068, Block 1069, Block 1071, Block 1072, Block 1073, Block 1074, Block 1075, Block 1076, Block 1077, Block 1078, Block 1103, Block 1104, Block 1105, Block 1106, Block 1107, Block 1108, Block 1109, Block 1110, Block 1111, Block 1118, Block 1119, Block 1120; Tract 510: Block Group 1: Block 1000, Block 1001; Block Group 2: Block 2000, Block 2001, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042; Tract 522.01: Block Group 1: Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1022; Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014; Tract 522.02: Block Group 1: Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010; Tract 523.02: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1027, Block 1028, Block 1029; Precinct 01-28,

Precinct 01-29, Precinct 01-30, Precinct 01-31, Precinct 01-32, Precinct 01-33, Precinct 01-34, Precinct 01-36, Precinct 01-37, Precinct 01-38, Precinct 01-39, Precinct 01-40, Precinct 01-41, Precinct 01-42, Precinct 01-43, Precinct 01-44, Precinct 01-45, Precinct 01-46, Precinct 01-48, Precinct 01-49, Precinct 01-51, Precinct 04-02, Precinct 04-04, Precinct 04-16, Precinct 07-01, Precinct 07-02, Precinct 07-04, Precinct 07-05, Precinct 07-09, Precinct 07-10, Precinct 07-11, Precinct 07-12, Precinct 09-01, Precinct 09-02, Precinct 10-01, Precinct 10-02, Precinct 10-03, Precinct 10-04, Precinct 11-02: Tract 525.04: Block Group 2: Block 2021, Block 2027, Block 2030, Block 2041; Precinct 13-01, Precinct 13-02, Precinct 13-03, Precinct 14-01, Precinct 14-02, Precinct 17-01, Precinct 17-02, Precinct 17-03, Precinct 17-04, Precinct 17-05, Precinct 17-06, Precinct 17-07, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05, Precinct 19-06, Precinct 19-07, Precinct 19-08.

(b) The names and boundaries of precincts (voting tabulation districts), tracts, block groups, and blocks specified in this section are as they were legally defined and recognized in the 2000 United States Census. Boundaries are as shown on the Redistricting Census 2000 TIGER Files, with modifications made by the Legislative Services Office on its computer database as of May 1, 2001, to reflect precincts divided or renamed as outlined in subsection (c) of this section. However, in Robeson County PHILADEPLUS is, in fact, PHILADELPHUS, and in Vance County SANDY SCREEK is, in fact, SANDY CREEK. If the boundary line between Iredell and Mecklenburg Counties in the Redistricting Census 2000 TIGER Files conflicts with that provided by Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429, Section 1 of Session Law 1998-15 as rewritten by Session Law 2001-429 prevails to the extent of the conflict.

(c) The Legislative Services Office modified on its computer database some of the precincts shown on the Redistricting Census 2000 TIGER Files to reflect precincts divided or renamed by county boards of elections after the TIGER Files were completed. As a result, precincts are shown differently on the Legislative Services Office computer database from the TIGER Files in the following counties:

(1) Buncombe County:

- a. Precinct Asheville 4 in TIGER is shown as Precincts Asheville 4 and Asheville 28.
- b. Precinct Asheville 22 in TIGER is shown as Precincts Asheville 22 and Asheville 27.
- c. Precinct Asheville 19 in TIGER is shown as Precincts Asheville 19 and Asheville 29.

- d. Precinct Riceville Swannanoa 2 CRU in TIGER is shown as Precincts Riceville Swannanoa 2 CRU and Riceville Swannanoa CRU 2.
 - e. Precinct Black Mountain 3 in TIGER is shown as Precincts Black Mountain 3 and Black Mountain 4.
- (2) Cabarrus County:
- a. Precinct 0202 in TIGER is shown as Precincts 0202 and 0207.
 - b. Precinct 1209 in TIGER is shown as Precincts 1209 and 1212.
- (3) Caldwell County: Precinct Lovelady in TIGER is shown as Precincts Lovelady 1 and Lovelady 2.
- (4) Chatham County:
- a. Precinct North Williams in TIGER is shown as Precincts North Williams and North Williams 2.
 - b. Precinct East Williams in TIGER is shown as Precincts East Williams and East Williams 2.
- (5) Craven County: Precinct Havelock in TIGER is shown as Precincts Havelock East and Havelock West.
- (6) Franklin County: Precinct Harris in TIGER is shown as Precincts East Harris and West Harris.
- (7) Guilford County: Precinct Greensboro 40 in TIGER is shown as Precincts Greensboro 40A and Greensboro 40B.
- (8) Johnston County: Precinct East Clayton in TIGER is shown as Precincts East Clayton and South Clayton.
- (9) Orange County:
- a. Precinct Frank Porter Graham in TIGER is renamed Precinct Damascus 1.
 - b. Precinct Dogwood Acres in TIGER is shown as Precincts Dogwood Acres and Damascus 2.
- (10) Rowan County:
- a. Precinct Bostian Crossroads in TIGER is shown as Precincts Bostian Crossroads and Rock Grove.
 - b. Precinct Enochville in TIGER is shown as Precincts Enochville and West Enochville.
- (11) Wake County:
- a. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.
 - b. Precinct 07-06 in TIGER is shown as Precincts 07-06 and 07-11.
 - c. Precinct 10-01 in TIGER is shown as Precincts 10-01 and 10-04.
 - d. Precinct 10-02 in TIGER is shown as Precincts 10-02 and 10-03.

- e. Precinct 01-43 in TIGER is shown as Precincts 01-43 and 01-51.
- f. Precinct 07-02 in TIGER is shown as Precincts 07-02 and 07-12.
- g. Precinct 08-04 in TIGER is shown as Precincts 08-04 and 08-08.
- h. Precinct 12-02 in TIGER is shown as Precincts 12-02 and 12-06.
- i. Precinct 18-03 in TIGER is shown as Precincts 18-03 and 18-08.
- j. Precinct 19-02 in TIGER is shown as Precincts 19-02 and 19-06.
- k. Precinct 19-03 in TIGER is shown as Precincts 19-03 and 19-07.
- l. Precinct 19-04 in TIGER is shown as Precincts 19-04 and 19-08.
- m. Precinct 20-04 in TIGER is shown as Precincts 20-04 and 20-10.
- n. Precinct 01-32 in TIGER is shown as Precincts 01-32 and 01-49.

(d) If any precinct boundary is changed, that change shall not change the boundary of a congressional district, which shall remain the same.

(e) If this section does not specifically assign any area within North Carolina to a district, and the area is:

- (1) Entirely surrounded by a single district, the area shall be deemed to have been assigned to that district.
- (2) Contiguous to two or more districts, the area shall be deemed to have been assigned to that district which contains the least population according to the 2000 United States Census.
- (3) Contiguous to only one district and to another state or the Atlantic Ocean, the area shall be deemed to have been assigned to that district."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law on the date it was ratified.

H.B. 917

SESSION LAW 2001-480

AN ACT TO REPEAL OBSOLETE OR REDUNDANT SECTIONS OF THE CHARTER OF THE CITY OF DURHAM, TO CONSOLIDATE DURHAM COUNTY'S OCCUPANCY TAX

PROVISIONS, AND TO AUTHORIZE DURHAM COUNTY TO INCREASE ITS OCCUPANCY TAX FROM 5% TO 6%.

The General Assembly of North Carolina enacts:

PART I. DURHAM CHARTER CLEANUP

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by repealing the following sections:

Section 2.5, entitled "Use of property lines as annexation boundaries", as added by Chapter 342 of the 1993 Session Laws;

Section 13.1, entitled "Council to judge elections", as added by Chapter 852 of the 1979 Session Laws;

Section 23, entitled "Authority of city manager";

Section 24, entitled "Special police";

Section 28, entitled "Political campaign activity prohibited";

Section 29, entitled "Director of public safety";

Section 33, entitled "Protection of the public water supply";

Section 41, entitled "Fiscal year and annual estimate";

Section 42, entitled "Revenue";

Section 46, entitled "Authority to impose";

Section 48, entitled "License transfer";

Section 50, entitled "Investigation of city affairs";

Section 53, entitled "Opening under the streets; obstructions";

Section 58, entitled "Regulation of the use of public property";

Section 59, entitled "Suppression of nuisances";

Section 61, entitled "Sunday observance";

Section 62, entitled "Regulation of Amusements";

Section 64, entitled "Regulation of bondsmen";

Section 65, entitled "Protection of businesses from fraud";

Section 66, entitled "Licensing of plumbers and electricians";

Section 83, entitled "Public buildings";

Section 84, entitled "Public contracts";

Section 98, entitled "Dedication or reservation of recreation areas";

Section 99, entitled "Building inspections";

Section 103, entitled "Regulation of parks and squares";

Section 104, entitled "Public concerts";

Section 106, entitled "Appropriations for recreational, scientific and cultural activities";

Section 107, entitled "Advertisement of the city";

Section 108, entitled "Encouraging location of industry";

Section 109, entitled "City ice plant";

Section 110, entitled "City rock quarry";

Section 113, entitled "Authority to waive governmental immunity"; and

Section 117, entitled "Penalty for failure to turn over city property".

SECTION 2. Section 7 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, reads as rewritten:

"Sec. 7. Oaths of Office. – The Mayor and each Council member, before entering upon the duties of the office to which they have been elected, shall take before some officer authorized to administer oaths an oath that they will fairly and impartially perform the duties of their office. ~~The Mayor and Council members shall hold their respective offices until their respective successors have been duly qualified.~~"

SECTION 3. Section 8 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended by Chapter 370 of the 1983 Session Laws and Chapter 169 of the 1985 Session Laws, reads as rewritten:

"Sec. 8. Powers of the City Council. – The City Council shall have full power and authority, except as otherwise provided for in this Charter, to exercise all of the powers conferred upon and delegated to the City of Durham by this Charter and by the laws of North Carolina. The City Council shall have power to make such ordinances, rules and regulations as it may deem necessary for the proper government of the City and to promote and safeguard the health, morals, safety and general welfare and convenience of the public. The City Council may provide for the proper enforcement of such ordinances, in such manner as it may think best, by fine, imprisonment or otherwise. The City Council may provide for the organization of the offices, departments and divisions of City government, not inconsistent with this Charter: By way of example and not limitation, the City Council, in performing the duties and responsibilities set forth in G.S. 160A-412, may assign all or part of the duties of an inspection department to an existing or newly created department, division or office of the City, may assign all or some of the personnel appointed pursuant to G.S. 160A-411 to an existing or newly created department, division or office of the City and may designate the job titles and duties of the personnel so assigned.

~~Pursuant to Article V, Section 2(7) of the Constitution of North Carolina, the City Council may contract with and appropriate money to any person, association, or corporation for the accomplishment of any public purpose."~~

SECTION 4. Section 30 of the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, reads as rewritten:

~~"Sec. 30. Authority to Operate Waterworks.-(1) The City Council is authorized to conduct and operate the municipally owned waterworks of the City for the purpose of supplying the purchasers of water of the system with a good and wholesome supply thereof. Persons employed by the City in connection with said system shall be appointed by the City Manager and shall be under his supervision and control.~~

- ~~(2) For the purpose of properly operating and maintaining the system and for making additions and improvements thereto as may be necessary at all times to properly operate the system, the City Council shall have power to acquire by purchase or by condemnation additional property or rights within or without the City.~~
- ~~(3) The City Council, and all persons acting under their authority, shall have the right to use the ground or soil, in, or upon, or under any road, railroad, highway, lane or alley for the purpose of enlarging or improving or maintaining the plant or system of waterworks owned by the City, upon the condition that they shall not permanently injure any such property, and that the same shall be restored to its original condition, or damages done thereto shall be repaired by the City Council.~~

SECTION 5. In order to recodify a local modification to G.S. 160A-314 applicable to the City of Durham as a part of the Charter, S.L. 1998-50 is repealed and the Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, is amended by adding a new section to read:

"Sec. 38. Stationary container collection service.

(a) Where housing units qualify under city ordinances for roll-out cart solid waste collection service, and the housing units instead choose to be served by stationary containers in accordance with city ordinances, a city may provide stationary container collection service without charging fees for such service other than the fees applicable to roll-out cart service.

(b) Nothing in this section shall be construed to impair the authority of a city to charge customers who do not qualify for service under subsection (a) of this section the fees established by city ordinances for stationary container collection service."

PART II. DURHAM OCCUPANCY TAX LEVY

SECTION 6.(a) Durham Occupancy Tax. (a) Authorization and Scope. – The Durham County Board of Commissioners may levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S.

105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 6.(b) Authorization of Additional Two Percent (2%) Tax. – In addition to the tax authorized by subsection (a) of this section, the Durham County Board of Commissioners may levy a room occupancy tax of two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a) of this section. The levy, collection, administration, and repeal of the tax authorized by this act shall be in accordance with the provisions of this section. Durham County may not levy a tax under this subsection unless it also levies the tax authorized under subsection (a) of this section.

SECTION 6.(c) Authorization of Additional One Percent (1%) Tax. – In addition to the tax authorized by subsections (a) and (b) of this section, the Durham County Board of Commissioners may levy a room occupancy tax of one percent (1%) of the gross receipts derived from the rental of accommodations taxable under subsections (a) and (b) of this section. The levy, collection, administration, and repeal of the tax authorized by this act shall be in accordance with the provisions of this section. Durham County may not levy a tax under this subsection unless it also levies the tax authorized under subsections (a) and (b) of this section.

SECTION 6.(d) G.S. 153A-155(a) and G.S. 153A-155(b) apply to Durham County.

SECTION 6.(e) Part III of this act is effective only if Durham County has, prior to February 1, 2002, levied all of the taxes authorized by subsection (a), subsection (b), and subsection (c) of this section.

SECTION 6.(f) The levy of a tax under subsection (a), subsection (b), or subsection (c) of this section applies only if all three such taxes are levied prior to February 1, 2002. Otherwise, the provisions of Chapter 969 of the 1985 Session Laws and Chapter 665 of the 1991 Session Laws (the current three percent (3%) and the current two percent (2%) occupancy taxes) are not affected by this act.

PART III. DURHAM OCCUPANCY TAX PROVISIONS

SECTION 7.(a) If a plan for financing a Performing Arts Theater has not been approved by the Durham City Council and has been disapproved by the Durham County Commissioners within 42 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, the county's authority to levy the one percent (1%) tax described under Section 6(c) of this act and the levy of the

one percent (1%) tax described in this subsection are repealed on the first day of the second month following the 42-month period.

If construction on the Performing Arts Theater has not begun within 42 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, the county's authority to levy the one percent (1%) tax described in Section 6(c) of this act and the levy of the one percent (1%) tax described in Section 6(c) of this act are repealed on the first day of the second month following the 42-month period.

It is the goal of the General Assembly that a plan for financing the Performing Arts Theater shall be adopted within 12 months after the levy of the one percent (1%) tax authorized under Section 6(c) of this act, and construction of the Performing Arts Theater shall begin within 24 months of the levy of the one percent (1%) tax described in Section 6(c) of this act.

Any funds collected but not spent before the repeal date shall be redistributed to the Durham Tourism Development Authority to promote travel and tourism.

SECTION 7.(b) This section does not affect the rights or liabilities of the county, a taxpayer, or another person arising under a law amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed law before the effective date of its amendment or repeal.

SECTION 8. Administration. – A tax levied under Section 6 of this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under that section.

SECTION 9.(a) Distribution and Use of Tax Revenue. – Durham County shall distribute and use the net proceeds of the tax collected under this act as provided in this section. As used in this section, "net proceeds" means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, but not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year. For the purpose of calculating the threshold in the previous section, all three taxes levied under Section 6 of this act shall be considered together.

SECTION 9.(b) Use of Proceeds From First Three Percent (3%) Tax. – Durham County shall retain fifty-seven and one-half percent (57½%) of the net proceeds collected from the tax levied under Section 6(a) of this act and shall distribute the remaining forty-two and one-half percent (42½%) of the net proceeds collected from the tax levied under Section 6(a) of this act to the City of

Durham. Funds retained by the county or distributed to the City of Durham pursuant to this subsection may be used for any purpose authorized by law.

SECTION 9.(c) Use of Proceeds From Additional Two Percent (2%) Tax. – Durham County shall, on a monthly basis, remit the net proceeds of the tax levied under Section 6(b) of this act to the Durham Tourism Development Authority created by Section 10 of this act.

The Authority may use the funds remitted to it under this subsection only to promote travel, tourism, and conventions in Durham County.

SECTION 9.(d) Use of Proceeds From Additional One Percent (1%) Tax During First 24 Months. – Durham County shall, on a monthly basis, remit the net proceeds of the occupancy tax levied under Section 6(c) of this act to the Durham Tourism Development Authority created by Section 10 of this act. During the first 24 months that the tax is levied under Section 6(c) of this act, the Authority shall distribute and use these net proceeds in the following priority order:

- (1) To Durham County, up to the first two hundred thousand dollars (\$200,000) collected to fund the development of a Cultural Arts Master Plan.
- (2) The Authority shall use the next seven hundred thousand dollars (\$700,000) collected to promote travel, tourism, and conventions in Durham County.
- (3) To the City of Durham, the next two hundred forty-eight thousand dollars (\$248,000) collected. The city shall use these funds for the design and engineering costs associated with the construction of a Performing Arts Theater.
- (4) To Durham County, the next four hundred thousand dollars (\$400,000) collected for improvements to the Museum of Life and Science. This may include the financing of debt service.
- (5) To Durham County, the next five hundred thousand dollars (\$500,000) collected. These funds shall be credited into an Arts Reserve Fund and used to implement the Cultural Arts Master Plan developed under subdivision (1) of this subsection.
- (6) The Authority shall use any net proceeds collected in excess of two million forty-eight thousand dollars (\$2,048,000) to promote travel, tourism, and conventions in Durham County.

SECTION 9.(e) Use of Proceeds From Additional One Percent (1%) Tax After First 24 Months. – The net proceeds of the tax collected under Section 6(c) of this act after the first 24 months

that the tax is levied shall be remitted monthly to the Durham Tourism Development Authority created by Section 10 of this act. The Authority shall use and distribute these net proceeds in the following priority order:

- (1) To the City of Durham, the first one million four hundred thousand dollars (\$1,400,000) collected annually to finance the debt service associated with the construction of the Performing Arts Theater. Until those funds are distributed to the City of Durham for that purpose, they shall be held by the Durham Tourism Development Authority in a capital reserve fund as provided by Part 2 of Article 3 of Chapter 159 of the General Statutes except they may be expended as provided by the last sentence of Section 7(a) of this act if the tax is repealed as provided by Section 7(a) of this act. Any interest earned by that fund shall be credited to the fund.
- (2) Thirty-two years after the levy of the tax authorized under Section 6(c) of this act, instead of the allocation under subdivision (1) of this subsection, the first one million four hundred thousand dollars (\$1,400,000) collected annually shall be used by the Authority to promote travel and tourism or for tourism related expenditures.
- (3) To Durham County, the next five hundred thousand dollars (\$500,000) collected annually to be used for improvements to the Museum of Life and Science. This may include the financing of debt service. Any of these funds that are not needed for this purpose shall be returned to the Authority and used to promote travel and tourism.
- (4) The Authority shall use any net proceeds in excess of that provided by subdivisions (1), (2), and (3) of this subsection to promote travel, tourism, and conventions in Durham County.

As used in this subsection, "annually" means the 12-month period beginning after the first 24 months that the tax authorized under Section 6(c) of this act is levied.

SECTION 9.(f) Definitions. – For the purpose of this Part:

- (1) "Promote travel and tourism" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional activities that attract tourists or business travelers to the area, and

also includes administrative expenses incurred in engaging in these activities.

- (2) "Promote travel, tourism, and conventions" means to advertise or market an area or activity, to publish and distribute pamphlets and other materials, to conduct market research, and to engage in similar promotional activities that attract tourists, business travelers, or conventioners to the area, and also includes administrative expenses incurred in engaging in these activities.
- (3) "Tourism related expenditures" are those that, in the judgment of the Durham Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the county by attracting tourists or business travelers to the county, and includes capital expenditures related to that purpose.

SECTION 10.(a) Establishment and Membership of Durham Tourism Development Authority. – There is created the Durham Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act.

SECTION 10.(b) From March 1, 2002, through June 30, 2004, the members of the board of directors of the Durham Convention and Visitors Bureau and the members of the advisory board of the Durham Convention and Visitors Bureau shall together be ex officio the board of directors of the Authority.

SECTION 10.(c) Beginning July 1, 2004, the membership of the Durham Tourism Development Authority shall be as specified in an interlocal cooperation agreement between Durham County and the City of Durham. The agreement shall provide for the number of members, terms of office, who shall appoint the membership, and such other provisions as may reasonably be necessary. The interlocal agreement must be entered into prior to May 1, 2002, but may thereafter be amended as provided by its terms.

At least three-fourths of the membership of the Durham Tourism Development Authority must be, at the time of appointment, active in the promotion of travel, tourism, or conventions in Durham County. One-third of the membership must be affiliated with organizations that collect the tax imposed by Section 6 of this act.

SECTION 10.(d) Duties. – The Authority shall expend the net proceeds of the taxes levied under Section 6 of this act only for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county.

SECTION 10.(e) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the county board of

commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 11. Section 3 of Chapter 969 of the 1985 Session Laws reads as rewritten:

"Sec. 3. This act applies only to the following counties: Graham, Clay, Jackson, ~~Durham~~, Macon, Polk, and Transylvania."

SECTION 12. Chapter 665 of the 1991 Session Laws is repealed.

SECTION 13. The purpose of Parts II and III of this act is to consolidate the acts relating to Durham County's authority to levy an occupancy tax and to authorize Durham County to levy an additional one percent (1%) occupancy tax. It is intended that those provisions of prior acts that are expressly consolidated into this act continue without interruption so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 14. G.S. 153A-155(g), as amended by S.L. 2001-162, S.L. 2001-305, S.L. 2001-321, S.L. 2001-381, S.L. 2001-434, S.L. 2001-439, and S.L. 2001-468, reads as rewritten:

"(g) This section applies only to Anson, Avery, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

PART IV. EFFECTIVE DATE

SECTION 15. Part II of this act is effective when it becomes law, except that any taxes levied under that Part become effective March 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law on the date it was ratified.

S.B. 907

SESSION LAW 2001-481

AN ACT TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND OTHER APPROPRIATE STATE AGENCIES TO STUDY THE ESTABLISHMENT OF A STATEWIDE ORGAN, EYE, AND TISSUE DONOR REGISTRY, AND TO CLARIFY THE CURRENT LAW PERTAINING TO ANATOMICAL GIFT DONATION.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Public Health, in consultation with the

Department of Transportation and the Office of the Secretary of State, federally designated organ, eye, and tissue procurement organizations, and tissue banks shall study the establishment of a statewide organ, eye, and tissue donor registry. In conducting the study, the Department of Health and Human Services shall solicit advice and comment from citizens or citizen advisory groups interested in organ and tissue donation. The purpose of the study is to determine the feasibility and potential benefits of maintaining a statewide registry of persons who have indicated a willingness to donate organs, eyes, and tissue for transplantation or research in order to expedite the identification of potential organ, eye, and tissue donors. The study shall address the following:

- (1) The potential benefits to the general public in maintaining the registry.
- (2) The most efficient process for State administration of the registry, including the particular State agency that should be charged with registry administration and maintenance.
- (3) Type of information to be included in the registry and maintenance of the information in a manner that ensures protection of privacy of registered donors.
- (4) How to streamline the process for individuals to become registered donors and to remove their names from the registry.
- (5) How to ensure informed, witnessed consent by registered donors and whether listing in the registry should be considered informed, witnessed consent.
- (6) Process for informing the general public about organ, eye, and tissue donation, how to become registered and unregistered, and the legal effect of donor cards, drivers license donor symbols, and informed consent.
- (7) How to evaluate the effectiveness of educational initiatives and the registry itself in improving identification of potential donors and procuring donations for transplantation.
- (8) The experience of other states that have established organ and tissue donor registries.
- (9) The cost to the State of establishing and maintaining the registry.
- (10) Coordinating programs to avoid duplication of efforts.

The Department shall report its findings and recommendations to the Joint Legislative Health Care Oversight Committee on or before May 1, 2002.

SECTION 2. G.S. 130A-404 reads as rewritten:
"§ 130A-404. *Persons who may make an anatomical gift.*

(a) An individual of sound mind and 18 years of age or more may give all or any part of that individual's body for any purpose specified in G.S. 130A-405. A gift made in accordance with G.S. 130A-406 shall be sufficient legal authority for procurement without additional authority from the donor or the donor's family or estate. The gift shall take effect upon death. A gift made by the donor in accordance with G.S. 130A-406 may not be revoked upon the donor's death, and neither the donor's family nor the donor's health care agent appointed pursuant to Article 3 of Chapter 32A of the General Statutes may refuse to honor the gift or thwart the procurement of the donation.

(b) ~~Any~~ If the decedent has not made a gift in the manner prescribed in G.S. 130A-406, then any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in G.S. 130A-405.

- (1) The spouse;
- (2) An adult child;
- (3) Either parent;
- (4) An adult sibling;
- (5) A guardian of the person of the decedent at the time of decedent's death;
- (6) Any other person authorized or under obligation to dispose of the body.

(c) The persons authorized by subsection (b) may make the gift after or immediately before death. However, the guardian of the person of a ward may make the gift at any time during the guardianship and the gift shall become effective upon the death of the ward unless the guardianship terminated before death.

(d) If the donee has actual notice of contrary indications by the decedent or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift.

(e) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(f) The rights of the donee created by the gift are paramount to the rights of others except as provided by G.S. 130A-409(d)."

SECTION 3. Article 2 of Chapter 20 of the General Statutes is amended by adding the following section to read:

"§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue

drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer a donor card to each applicant for a drivers license."

SECTION 4. The Department of Transportation and the Department of Health and Human Services may each use funds appropriated to it for the 2001-2003 fiscal biennium to implement this act.

SECTION 5. Sections 2 and 3 of this act become effective January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of November, 2001.

Became law upon approval of the Governor at 11:15 a.m. on the 6th day of December, 2001.

S.B. 178**SESSION LAW 2001-482**

AN ACT TO DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP AN INSTRUMENT FOR ASSESSING THE QUALITY OF CARE PROVIDED BY ADULT CARE HOMES.

Whereas, the number of persons who are considering residency in adult care homes is increasing; and

Whereas, when choosing among available adult care homes, persons who need the care and services provided by these facilities often do not know how to evaluate and compare the physical plant, care, and services provided, and costs associated with residency; and

Whereas, an evaluation method for adult care homes would enable consumers of adult care home services to determine the extent to which quality of care and physical plant standards have been met by the facility before deciding whether to reside there; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services shall develop an assessment instrument that will enable residents of adult care homes, and their families, to determine the extent to which the facility provides quality care. The assessment shall be conducted by the State or local government. The instrument shall address discreet areas of care, services, and physical plant amenities and conditions. The Department shall consult with industry

representatives, advocacy and research organizations, and consumers in developing the assessment instrument.

SECTION 2. The Department of Health and Human Services shall report on the development of the assessment instrument to the North Carolina Study Commission on Aging on or before April 1, 2002. The report shall include a recommendation on whether the assessment should be conducted by the State or by local government. The Department may conduct a pilot test of the assessment in selected adult care homes that have agreed to participate. If a pilot test is conducted, the Department shall report the results of the pilot test to the North Carolina Study Commission on Aging not later than November 1, 2002.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of November, 2001.

Became law upon approval of the Governor at 11:29 a.m. on the 6th day of December, 2001.

H.B. 1389

SESSION LAW 2001-483

AN ACT AUTHORIZING THE DIVISION OF MOTOR VEHICLES TO ISSUE A SPECIAL REGISTRATION PLATE FOR RETIRED MAGISTRATES AND FOR RECIPIENTS OF THE COMBAT INFANTRY BADGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(9a) Combat Infantry Badge Recipient. – Issuable to a recipient of the Combat Infantry Badge. The plate shall bear the phrase "Combat Infantry Badge" and a representation of the Combat Infantry Badge. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(23) Magistrate. – Issuable to a current or retired North Carolina magistrate. ~~The~~ A plate issued to a current magistrate shall bear the letters "MJ" followed by a number indicating the district court district the magistrate serves, then by a hyphen, and then by a number indicating the seniority of the magistrate. The Division shall use the number "9" to designate District

Court Districts 9 and 9B. A plate issued to a retired magistrate shall bear the phrase "Magistrate, Retired", the letters "MJX" followed by a hyphen and the number that indicates the district court district the magistrate served, followed by a letter based on the order of issuance of the plates."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of November, 2001.

Became law upon approval of the Governor at 11:30 a.m. on the 6th day of December, 2001.

S.B. 348 SESSION LAW 2001-484

AN ACT TO AUTHORIZE CUMBERLAND COUNTY TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 983 of the 1983 Session Laws reads as rewritten:

"Section 1. It is the purpose and intent of this act to provide Cumberland County the authority to levy a transient occupancy tax as hereinafter set forth.

Sec. 2.

(a) Authorization and Scope. – Cumberland County is hereby authorized to impose and levy a tax not to exceed three percent (3%) of the gross receipts of any person, firm, corporation or association derived from the rental of any sleeping room or lodging furnished in any hotel, motel, or inn located in Cumberland County and subject to the ~~three percent (3%) sales tax levied imposed~~ by the State of North Carolina, under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. The tax shall not apply, however, to any room or rooms, lodging or accommodations supplied to the same person for a period of 90 continuous days or more. The tax shall also not apply to sleeping rooms or lodgings furnished by charitable, educational, benevolent or religious institutions or organizations not operated for profit.

(a1) Additional Tax. – In addition to the tax authorized by subsection (a) of this section, the Cumberland County Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The tax authorized by this subsection may not be levied earlier than January 1, 2002. The levy, collections, administration, use, and repeal of the tax authorized by this

subsection shall be in accordance with this act. Cumberland County may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section. The rate of tax levied under this subsection may not exceed the applicable maximum provided in the chart below based on the period for which it is in effect:

<u>Period</u>	<u>Maximum</u>
<u>After 1/1/2002</u>	<u>1%</u>
<u>After 1/1/2004</u>	<u>2%</u>
<u>After 1/1/2005</u>	<u>3%</u>

(b) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this act. Before adopting or amending an ordinance imposing and levying such a tax, the Board of Commissioners shall hold a public hearing on the ordinance or amendment. The Board shall cause notice of the hearing to be published not less than 10 days nor more than 25 days before the date fixed for the hearing.

Sec. 3.

(a) Such tax, if levied, shall be due and payable to the county in monthly installments on or before the 15th of the month next succeeding the month in which the tax accrues. Every person, firm, corporation or association liable for the tax imposed pursuant to this act shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the county, a true and correct statement showing the total gross receipts derived in the preceding month from rentals upon which the tax is levied. Collection of the tax, and liability therefor, shall begin and continue only on and after the first day of the calendar month set by the board of commissioners in the ordinance levying the tax.

(b) Any person, firm, corporation or association who fails or refuses to file the return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's omission.

(c) Any person, firm, corporation or association who willfully attempts in any manner to evade the occupancy tax, if levied on any person required to pay the occupancy tax, or to make a return and who willfully fails to pay such tax or make and file such return, shall, in addition to the penalties provided by law, be guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment not to exceed six months, or by both such fine and imprisonment.

Sec. 4. Distribution and use of the first three percent (3%). Cumberland County shall allocate the net proceeds collected as follows:

(a) Cumberland County shall retain three percent (3%) of the gross proceeds of the tax collected to compensate it for any

~~administrative or collection expenses incurred in implementing this program. "Net Proceeds" shall mean gross taxes collected less any monies retained by the county for administrative and collection expenses.~~

~~(b)(a) Fifty~~ The first fifty percent (50%) of the net proceeds from the tax in a fiscal year of the occupancy tax levied under subsection (a) of Section 2 of this act shall be retained by the county and shall be allocated for the benefit of the Cumberland County Auditorium Commission to help finance major repairs, renovation, rehabilitation, or other capital improvements to its existing facilities and any new additions. These funds may also be utilized by the Commission as approved by the county board of commissioners for financing construction of new convention oriented or multipurpose facilities. These funds will not be used for the acquisition, construction, renovation, or operation of any sleeping room or overnight lodging. These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting appropriation and expenditure methods.

~~(e)(b) Fifty~~ The remaining fifty percent (50%) of the net proceeds from the tax in a fiscal year shall be designated, within the auditorium commission budget of the occupancy tax levied under subsection (a) of Section 2 of this act collected through June 30, 2002, shall, on a quarterly basis, be remitted to the Fayetteville Area Convention and Visitors Bureau specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. Beginning on and after July 1, 2002, the remaining fifty percent (50%) of the net proceeds of the occupancy tax levied under subsection (a) of Section 2 of this act shall, on a quarterly basis, be remitted to the Cumberland Tourism Development Authority. The Authority shall use the net proceeds remitted to it under this subsection specifically for advertising the auditorium and promoting travel and tourism within the County of Cumberland. These funds shall be budgeted, appropriated, and expended under the auditorium budget through regular county budgeting, appropriation and expenditure methods, however, 180 days prior to the adoption of the annual county budget, in which this tax is first budgeted, an advisory committee, the constitution of which is described herein below, shall be formed to plan and propose areas and items of expenditure for the funds designated under this subsection.

Sec. 4.1. Distribution and use of additional tax. – Cumberland County shall, on a quarterly basis, remit the net proceeds of the occupancy tax levied under subsection (a1) of Section 2 of this act to the Cumberland Tourism Development Authority. The Authority shall use fifty percent (50%) of these net proceeds to promote travel and tourism in Cumberland County and for tourism-related

expenditures in Cumberland County. The remaining fifty percent (50%) shall be distributed to the Arts Council of Fayetteville/Cumberland County for arts festivals and other arts events that will draw tourists or other business travelers to the area. The Authority and the Arts Council are encouraged to give favorable consideration to tourism-related expenditures of the Seniors Call to Action Team, Inc. (SCAT) and the Martin Luther King, Jr. Committee.

The following definitions apply in this act:

- (1) Net Proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote Travel and Tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.
- (3) Tourism-Related Expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~Sec. 5. This advisory committee shall be constituted of: (a) two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (b) two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners; (c) the chairman of the Travel and Tourism Committee of the Fayetteville Area Chamber of Commerce, in an ex officio capacity; (d) the County Manager of Cumberland County in an ex officio capacity; and (e) the Auditorium Manager of the Cumberland County Memorial Auditorium, in an ex officio capacity. All members to this advisory committee, whether in an appointed or ex officio capacity, shall have equal rights and privileges. This advisory committee will remain intact from term to term to provide information and advice to the Auditorium~~

Commission for the expenditure of these funds on a continuing basis as the need arises.

~~The budget process for these funds shall be as follows: Promotion Plan formulated by the advisory committee and submitted, through the Auditorium Manager, as part of the Auditorium's overall budget to the Auditorium Commission for its review and approval, then to the Cumberland County Board of Commissioners, through the County Manager for its review and adoption.~~

(a) Appointment and Membership of Tourism Development Authority. – When the Cumberland County Board of Commissioners adopts a resolution levying a room occupancy tax under this act, it shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office and for the filling of vacancies on the Authority. The county board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority. All members to the Authority, whether in an appointed or ex officio capacity, shall have equal rights and privileges. The Authority shall be composed of the following members:

- (1) Two representatives nominated by hotels and motels within the county which have in excess of 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.
- (2) Two representatives nominated by hotels and motels within the county which have fewer than 100 rooms subject to this occupancy tax and appointed by the county board of commissioners.
- (3) The President of the Fayetteville Area Chamber of Commerce, in an ex officio capacity.
- (4) The County Manager of Cumberland County, in an ex officio capacity.
- (5) One member of the public who is not affiliated with travel and tourism and who reflects the cultural diversity of the county.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the county board of commissioners on its

receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 6. Chapter 360 of the 1965 Session Laws is amended as follows:

(1) by deleting the word "Treasurer" in the third sentence of Section 1(b)(3) of that act and substituting the words "County Manager"; and

(2) by adding a new sentence at the end of Section 3 of that act to read: "Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be utilized by the Auditorium Commission, as approved by the board of county commissioners, in aiding and encouraging convention and visitor promotion in Cumberland County.

Sec. 7. This act is effective upon ratification."

SECTION 2. G.S. 153A-155(g), as amended by S.L. 2001-162, S.L. 2001-305, S.L. 2001-321, S.L. 2001-381, S.L. 2001-434, S.L. 2001-439, and S.L. 2001-468, reads as rewritten:

"(g) This section applies only to Anson, ~~Avery~~, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Granville, Madison, Montgomery, Nash, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law on the date it was ratified.

S.B. 603

SESSION LAW 2001-485

AN ACT TO TEMPORARILY EXPAND THE NAVASSA TOWN BOARD TO INCLUDE REPRESENTATION FROM THE AREA RECENTLY ANNEXED, TO AUTHORIZE THE TOWN OF CARY TO REGULATE THE OPERATION OF GOLF CARTS ON PUBLIC STREETS WITHIN THE TOWN, AND CONCERNING AIRPORT LEASES BY MONTGOMERY COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Section 3 of Chapter 77 of the 1977 Session Laws, as rewritten by S.L. 2001-325, from January 1, 2002, through the organizational meeting after the 2003 municipal election, the Board of Commissioners of the Town of Navassa shall consist of seven members.

SECTION 2. One of the additional two members of the Board of Commissioners of the Town of Navassa authorized by Section 1 of this act shall be appointed from District 2, as established by Section 4 of Chapter 77 of the 1977 Session Laws, as amended by Chapter 424 of the 1979 Session Laws, as rewritten by S.L. 2001-325, to serve until the organizational meeting after the 2003 municipal election. The other additional new member shall be appointed from District 3 to serve until the organizational meeting after the 2003 municipal election.

SECTION 3. Notwithstanding the provisions of G.S. 20-50 and G.S. 20-54, the Town of Cary may, by ordinance, regulate the operation of electric golf carts on any public street or road within the Town. By ordinance, the Town may require the registration of golf carts, specify the persons authorized to operate golf carts, and specify required equipment, load limits, and the hours and methods of operation of the golf carts.

SECTION 3.1.(a) G.S. 160A-272 reads as rewritten:
"§ 160A-272. *Lease or rental of property.*

Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 20 years (except as otherwise provided herein) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included. Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

No public notice need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less. Leases for terms of more than 20 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property.

SECTION 3.1.(b) This section applies to Montgomery County only, and as to that county only to leases for airport purposes.

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law on the date it was ratified.

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MAKE VARIOUS CHANGES TO BOARDS AND COMMISSIONS.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

Whereas, the President Pro Tempore of the Senate and the Speaker of the House of Representatives have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS

SECTION 1.1. Barbara Berry of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2004.

SECTION 1.2. Robert Frank Timberlake, Jr. of Wake County, Jimmy A. Harrell, Jr. of Camden County, and Deborah Mae Johnson of Sampson County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2004.

SECTION 1.3. Anita D. Pfaff of Forsyth County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2004.

SECTION 1.4. Dr. Donald D'Alessandro of Mecklenburg County is appointed to the North Carolina Board of Athletic Trainers for a term beginning on August 1, 2001, and expiring on July 31, 2004.

SECTION 1.5. Ernie Bowden of Currituck County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2005.

SECTION 1.6. Paul Davis Boney of New Hanover County is appointed to the State Building Commission for a term expiring on June 30, 2004.

SECTION 1.7. Dennis Walters of Cumberland County is appointed to the North Carolina Capital Facilities Finance Agency

Board of Directors for a term expiring on March 1, 2004, to fill the unexpired term of Ashly Maag.

SECTION 1.8. George Matthew Wood, Jr. of Pasquotank County and Reef C. Ivey, II of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2005.

SECTION 1.9. Kenneth Wayne Wells of Dare County and Carol Newman of Mecklenburg County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring on June 30, 2005.

SECTION 1.10. Anita C. McCorkle of Mecklenburg County and Janice McKenzie Cole of Perquimans County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2003.

SECTION 1.11. Richard K. Davis, Jr. of Catawba County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2004.

SECTION 1.12. William K. Rakatanksy of Mecklenburg County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2005.

SECTION 1.13. Terry Lee Waterfield of Pasquotank County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term expiring on June 30, 2003.

SECTION 1.14. Stuart H. LeGrand of Cleveland County and Lieutenant Kenneth B. Wiseman of Harnett County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2005.

SECTION 1.15. Marguerite P. Watts of Pasquotank County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2004.

SECTION 1.16. Jeanne Hopkins Lucas of Durham County, Sharon Hunt of Robeson County, Dina Foster of Cleveland County, Colon Willoughby of Wake County, and John Guard of Pitt County are appointed to serve on the Domestic Violence Commission for terms expiring on August 31, 2003.

SECTION 1.17. Stephen E. Taylor of Dare County is appointed to the Emergency Medical Services Advisory Council for a term expiring on June 30, 2005. Steven Edward Landau of Johnston County is appointed to the Emergency Medical Service Advisory Council for a term expiring on June 30, 2003.

SECTION 1.18. Robert G. Ray of Jackson County, Thomas K. Jenkins of Macon County, and Maurice Anthony Lasher of Buncombe County are appointed to the Environmental Management Commission for terms expiring on June 30, 2003.

SECTION 1.19. Sharon K. Sweeny of Brunswick County is appointed to the North Carolina State Board of Examiners of

Fee-Based Practicing Pastoral Counselors for a term beginning on October 1, 2001, and expiring on September 30, 2005.

SECTION 1.20. John A. Garwood of Wilkes County, Eleanor Kinnaird of Orange County, Charlie S. Dannelly of Mecklenburg County, and Jerry Eugene Allen of Dare County are appointed to the Advisory Committee on Family-Centered Services for terms expiring on June 30, 2005.

SECTION 1.21. Hiram Brinson of Duplin County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2004.

SECTION 1.22. Howard B. Chapin of Beaufort County and Frank B. Holding, Jr. of Wake County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2005.

SECTION 1.23. Jo Anne Jeffries of Durham County, Dianne Fales Wright of Wilson County, Terry Eugene Osborne of Rowan County, Emily H. Moore of Lenoir County, Anthony D. M. Mulvihill of Durham County, Bobby L. Bollinger, Jr. of Mecklenburg County, and George Kerns of Buncombe County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2003.

SECTION 1.24. Patricia G. Garrett of Mecklenburg County and J. Adam Abram of Wake County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2003. Robert J. Yatko of Gaston County and William Womble of Wake County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2005.

SECTION 1.25. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2003.

SECTION 1.26. Rufus Edmisten of Wake County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2005.

SECTION 1.27. Marcus King of Wake County is appointed to the Local Government Commission for a term expiring on June 30, 2005.

SECTION 1.28. Troy Franklin Brickey of Forsyth County and J. P. Cauley of Lenoir County are appointed to the North Carolina Manufactured Housing Board for terms beginning on October 1, 2001, and expiring on September 30, 2004.

SECTION 1.29. Wayne Paul Seville of Guilford County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2003, to fill the unexpired term of Maria Spuller.

SECTION 1.30. Mansfield M. Elmore of Lee County, Jeanne Fenner of Wilson County, and Bernard H. Sullivan, Jr. of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2003.

SECTION 1.31. Windell Daniels of New Hanover County is appointed to the North Carolina Board of Mortuary Science for a term beginning on January 1, 2002, and expiring on December 31, 2004.

SECTION 1.32. Elizabeth Hobgood Wellons of Johnston County and Julia Bryan Jones Daniels of Wake County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2003.

SECTION 1.33. Elsie Griggs Hollowell Pugh of Camden County, Ben Berry of Pasquotank County, Charlie Shaw of Chowan County, Ernie Bowden of Currituck County, Ray E. Hollowell, Jr. of Dare County, and Robert B. Spivey of Bertie County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2003.

SECTION 1.34. Robert E. Morrison of Randolph County is appointed to the North Carolina Center for Nursing Board of Directors for a term expiring on June 30, 2004.

SECTION 1.35. Virginia Adams of New Hanover County and Kathy Weeks of Harnett County are appointed to the North Carolina Nursing Scholars Commission for terms expiring on June 30, 2005.

SECTION 1.36. Todd W. Tilley of Perquimans County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2004.

SECTION 1.37. Michael Richard Haire of Perquimans County, Tom C. Mehder of Mecklenburg County, and Anne Coan, Douglas E. Howey, and Bill Weatherspoon of Wake County are appointed to the Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2003.

SECTION 1.38. Betty Medlin of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2003.

SECTION 1.39. Mack Donaldson of Guilford County is appointed to the Private Protective Services Board for a term expiring on June 30, 2004. James Robert Fosythe of Wayne County is appointed to the Private Protective Services Board for a term expiring on June 30, 2003, to fill the unexpired term of Thomas Burgin.

SECTION 1.40. Richard L. Burton of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2003.

SECTION 1.41. Anthony M. Copeland and Thomas Archbell Morrow of Wake County are appointed to the Board of Public Telecommunications Commissioners North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2003.

SECTION 1.42. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2003.

SECTION 1.43. Thomas P. Dillon of Union County is appointed to the North Carolina Railroad Board of Directors for a term expiring on June 30, 2005. Michael L. Weisel's appointment to the North Carolina Railroad Board of Directors shall expire on June 30, 2003.

SECTION 1.44. BeBe Woody of Dare County, Tod B. Clissold of Dare County, and Arvilla Bowser of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2003.

SECTION 1.45. David Ray Twiddy of Chowan County, Jim Funderburke of Gaston County, Laura DeVan of Cumberland County, and Thomas Hilliard of Wake County are appointed to the Rules Review Commission for terms expiring on June 30, 2003.

SECTION 1.46. Patricia Ferguson of Bertie County, Dr. Donald P. Altieri of Anson County, and William S. Wellons, Jr. of Cumberland County are appointed to the North Carolina Rural Internet Access Authority for terms beginning on August 1, 2001, and expiring on July 31, 2002.

SECTION 1.47. Richard F. Green of Brunswick County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2005.

SECTION 1.48. Kirk Alan Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2003.

SECTION 1.49. Russell Lee Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2003.

SECTION 1.50. Jane W. Smith of Robeson County, William W. Phipps of Columbus County, and Kenneth Robinette of Richmond County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 1.51. Kevin Charles Martin of Franklin County is appointed to the North Carolina Board for Licensing Soil Scientists for a term expiring on June 30, 2004.

SECTION 1.52. Dewitt Hardee of Johnston County is appointed to the Southern Dairy Compact Commission for a term expiring on June 30, 2005.

SECTION 1.53. Louise Ramsey of Nash County and William Cunningham, III of Carteret County are appointed to the North Carolina Teacher Academy Board of Trustees for terms expiring on June 30, 2005.

SECTION 1.54. Joseph M. Jenkins of Cumberland County and Althea Calloway of Mecklenburg County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2003. James Vann's appointment to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan shall expire on June 30, 2002.

SECTION 1.55. John H. Cilley, IV of Catawba County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2003.

SECTION 1.56. LeRoy J. Walker of Durham County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2005.

SECTION 1.57. Michael Scott Holder of Moore County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2004.

SECTION 1.58. D. Samuel Neill of Henderson County, Kenny Hankinson of Rutherford County, and William Forsyth of Cherokee County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005. Michael Stephen Hawkins of Transylvania County is appointed to the Western North Carolina Regional Economic Development Commission for a term expiring on June 30, 2003, to fill the unexpired term of David Huskins.

SECTION 1.59. Amy J. Lewis of Wake County is appointed to the North Carolina Veterinary Medical Board for a term expiring on June 30, 2006.

SECTION 1.60. Russell Mohn Hull, Jr. of Pasquotank County, John Edward Pechmann of Cumberland County, and Eugene Price of Wayne County are appointed to the Wildlife Resources Commission for terms expiring on April 24, 2003.

SECTION 1.61. Leigh Emick Horner of Orange County is appointed to North Carolina Wireless 911 Board for a term expiring on June 20, 2002, to fill the unexpired term of Cindy Smith.

PART IA. SPEAKER'S RECOMMENDATIONS

SECTION 1A.1. Terry Lee Bradley of Gaston County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2003.

SECTION 1A.2. Alfred J. Worley, Jr. of Columbus County, David Hall of Rowan County, and Stan Crow of Martin County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2003.

SECTION 1A.4. Correction of term. Section 1A.3 of S.L. 2000-181 reads as rewritten:

"Section 1A.3. Dr. Thomas J. Newton of Sampson County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on ~~June 30, 2002.~~ June 30, 2003."

SECTION 1A.5. Swayn G. Hamlett of Cumberland County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2005.

SECTION 1A.6. C. Neil Styers of Gaston County is appointed to the State Building Commission for a term expiring on June 30, 2004.

SECTION 1A.7. O. Temple Sloan and Don Beason of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2003.

SECTION 1A.8. Cheri Cheek of Brunswick County and Sheryn Northey of Mecklenburg County are appointed to the North Carolina Center for the Advancement of Teaching Board of Trustees for terms expiring on June 30, 2005.

SECTION 1A.9. Linda Rivers of Cumberland County and Sandy Morris of Buncombe County are appointed to North Carolina Child Care Commission for terms expiring on June 30, 2003.

SECTION 1A.10. Eugene Alligood of Mecklenburg County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2003.

SECTION 1A.11. Mark Hicks of Granville County and Howard Daniely of Alamance County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2003.

SECTION 1A.12. Margaret Eichelberger of Wayne County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2003, to fill the unexpired term of Gary Eichelberger.

SECTION 1A.13. Charles P. Farris, Jr. of Wilson County is appointed to the North Carolina Criminal Justice Education and Training Standards Commission for a term expiring on June 30, 2003.

SECTION 1A.14. Joseph M. Buckner of Orange County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2003, to fill the unexpired term of Ortharine Sansbury. Roy Holler of Person County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005.

SECTION 1A.15. Geraldine Sumter of Mecklenburg County, Rachel Ramsey of Polk County, Gayle P. Van Velsor of New Hanover County, and Michael Turner of Forsyth County, the Honorable Gary Cash of Buncombe County, and Lucy Hurley of Lee County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2003. Earl Butler of Cumberland County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2002, to fill the unexpired term of W.E. Smith.

SECTION 1A.16. Charlotte Cable of Macon County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2004.

SECTION 1A.17. Anne Barnes of Orange County and Don Abernathy of Catawba County are appointed to the Environmental Management Commission for terms expiring on June 30, 2003.

SECTION 1A.18. Marvin Wilson of Mecklenburg County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2004.

SECTION 1A.19. R. Gene Braswell of Wayne County is appointed to the North Carolina Global TransPark Authority for a term expiring on June 30, 2005.

SECTION 1A.20. Gerald W. Canipe of Cumberland County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2005.

SECTION 1A.21. Douglas R. Bebbler of Buncombe County, Brent Barringer of Wake County, Paul S. Jaber of Edgecombe County, and Bill Fitzgerald of Scotland County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2003.

SECTION 1A.22. Ray Littleturtle of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2003.

SECTION 1A.23. Olin H. Broadway, Jr. of Mecklenburg County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2005.

SECTION 1A.24. Billy D. Friende, Jr. of Forsyth County is appointed to the State Judicial Council for a term expiring on December 31, 2004.

SECTION 1A.25. David Huskins of McDowell County is appointed to the Local Government Commission for a term expiring on June 30, 2005.

SECTION 1A.26. Dr. Anna Scheyett of Orange County, Ellen Holliman of Davidson County, and Dr. Marvin S. Swartz of Durham County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2003.

SECTION 1A.27. George S. Parrott of Carteret County is appointed to the North Carolina Board of Mortuary Science for a term beginning on January 1, 2002, expiring on December 31, 2003.

SECTION 1A.28. James Treadaway of Catawba County and Rosemary F. Wyche of Halifax and Wake Counties are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2003.

SECTION 1A.29. Henry L. Kitchin of Rockingham and Brunswick Counties and William Joslin of Wake County are appointed to the Natural Heritage Trust Fund Board of Trustees for terms expiring on December 31, 2007.

SECTION 1A.31. Patricia Gayle Floyd of Beaufort County and Dr. Evelyn Pruden of Wilson County are appointed to the North Carolina Nursing Scholars Commission for terms expiring on June 30, 2005.

SECTION 1A.32. Russell Robinson of Guilford County and Dr. Kenneth M. Sadler of Forsyth County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2003.

SECTION 1A.33. Richard Pierce of New Hanover County, Laura Thompson-Quinn and Angela McCants of Wake County, Nancy McKeel of Buncombe County, Dr. Michael Teague of Wake County, Pat King of Rockingham County, and Jeff Cooper of Martin County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2003.

SECTION 1A.34. Lloyd Williams, Jr. of Cleveland County, Al Dorsett of Guilford County, David Knight and Leland L. Laymon of Wake County, and Bennie Gupton of Franklin County are appointed to the Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2003.

SECTION 1A.35. David Freshwater of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2003.

SECTION 1A.36. John D. Greco of Guilford County is appointed to the Private Protective Services Board for a term expiring on June 30, 2003.

SECTION 1A.37. Wade Wilmoth of Watauga County is appointed to the Property Tax Commission for a term expiring on June 30, 2003.

SECTION 1A.38. James Kirkpatrick of Guilford County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2003.

SECTION 1A.39. Joe Kluttz of Stanly County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2003.

SECTION 1A.40. Jan Dempster of Moore County and Herb Crenshaw of Wake County are appointed to the Board of Public Telecommunications Commissioners for terms expiring on June 30, 2003.

SECTION 1A.41. Ruth Cook of Wake County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2003.

SECTION 1A.42. Sharman Thornton of Mecklenburg County is appointed to the North Carolina Railroad Board of Directors for a term expiring on June 30, 2003.

SECTION 1A.43.(a) Correction of term. Section 2.26 of S.L. 1999-431 reads as rewritten:

"Section 2.26. Fred Yates of Hertford County, Edmond Buckman of Beaufort County, and G.B. Warner of Pasquotank County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring ~~June 30, 2003~~June 30, 2002."

SECTION 1A.43.(b) John E. Schrote of Pasquotank County, Joe Landino of Tyrrell County, and Ralph Mobley of Martin County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2003.

SECTION 1A.44. James L. F. Smith of Pender County, Roger F. Hall, Jr. of Robeson County, and Kermit Williamson of Sampson County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005. Henry E. Miller, III of New Hanover County is appointed to the Southeastern North Carolina Regional Economic Development Commission to fill the unexpired term of Gene Miller effective December 5, 2001, for a term expiring on June 30, 2003.

SECTION 1A.45. Walter Daniels of Dare County, Dr. Thomas Brooks of Wake County, and Winston Hawkins of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2003.

SECTION 1A.46. Dr. Walter Futch of Brunswick County, Jennie Hayman of Wake County, and Dr. John Tart of Wayne County are appointed to the Rules Review Commission for terms expiring on June 30, 2003.

SECTION 1A.47. Bolling Gray McNeill, Jr. of Columbus County, Dr. Cecil Groves of Jackson County, and Brad Phillips of Wake County are appointed to the North Carolina Rural Internet Access Authority Commission for terms expiring on July 31, 2002.

SECTION 1A.48. Dr. Katherine Johnson of Nash County is appointed to the North Carolina Rural Redevelopment Authority for a term expiring on June 30, 2004.

SECTION 1A.49. Jameson Wells of Mecklenburg County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2003.

SECTION 1A.50. Gilbert Baccus of Perquimans County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2003.

SECTION 1A.51. Steve Bunn of Bladen County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2003.

SECTION 1A.52. Toney C. Jacobs of Iredell County is appointed to the North Carolina Board for Licensing Soil Scientists for a term expiring on June 30, 2004.

SECTION 1A.53. Wilson Hayman of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2004, to fill the unexpired term of Ervin L. Ball, Jr.

SECTION 1A.55. William Hendricks and Trudy Mitchell of Wake County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2003.

SECTION 1A.56. James C. Rivers of Mecklenburg County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2003.

SECTION 1A.57. Millie Yongue of Scotland County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2005.

SECTION 1A.58. Douglas O'Neal of Durham County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2004.

SECTION 1A.59. Annette Myers of Granville County and Carol Rahea of Union County are appointed to the Watershed Protection Advisory Council for terms expiring on June 30, 2003.

SECTION 1A.60. Dale Todd of New Hanover County and Willie Setzer of Catawba County are appointed to the Well

Contractors Certification Commission for terms expiring on June 30, 2003.

SECTION 1A.61. Craig Madison of Buncombe County, Leon D. Jones of Cherokee County, and George Couch of Polk County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005. Van Phillips of Mitchell County is appointed to the Western North Carolina Regional Economic Development Commission for a term expiring on June 30, 2003, to fill the unexpired term of R. Tracy Walker.

SECTION 1A.62. Troy Boyd of Pasquotank County, Robert L. Purcell of Wake County, and Charles W. Bennett and Gary Allen of Mecklenburg County are appointed to the Wildlife Resources Commission for terms expiring on June 30, 2003.

SECTION 1A.63. Don Van Liew of Wake County is appointed to North Carolina Wireless 911 Board for a term expiring on June 30, 2002, to fill the unexpired term of Mike Watson.

SECTION 1A.64. Pursuant to G.S. 65-50(a), as amended by Section 2.1 of this act, Leonard J. Fulcher, Jr. of Durham County is appointed to the Cemetery Commission for a term expiring on June 30, 2005.

PART II. STATUTORY AND SESSION LAW CHANGES

—CEMETERY COMMISSION

SECTION 2.1. G.S. 65-50 reads as rewritten:

"§ 65-50. *Cemetery Commission; members, selection, quorum.*

(a) Membership. — ~~The Cemetery Commission shall consist of seven members appointed by the Governor. nine members. The General Assembly shall appoint two members, one of whom shall be recommended by the President Pro Tempore of the Senate and one of whom shall be recommended by the Speaker of the House of Representatives. The Governor shall appoint seven members as follows:~~

- (1) ~~Two members shall be owners or managers of who own or manage~~ Two members shall be owners or managers of who own or manage cemeteries in North Carolina.
- (2) ~~Three members shall be who are~~ Three members shall be who are selected from six nominees submitted by the North Carolina Cemetery Association.
- (3) ~~Two public members shall be public members~~ Two public members shall be public members who have no financial interest in, and are not involved in management of, any cemetery or funeral related business.

(b) Terms. — ~~Four members of the initial Commission shall be appointed for a term to expire June 30, 1977, and three members shall~~

be appointed for a term to expire June 30, 1976. At the end of the respective terms of office of the initial members of the Commission, their successors shall be nominated in the same manner, selected from the same categories and appointed for terms of four years and until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(c) Removal. – ~~The Governor appointing authority shall have the power to remove any member of the Commission appointed by that authority from office for misfeasance, malfeasance and nonfeasance according to the provisions of G.S. 143B-13 of the Executive Organization Act of 1973-applicable provisions of law.~~

(d) Quorum. – A majority of the Commission shall constitute a quorum for the transaction of business.

(e) Chair. – At the first meeting of the Commission held after September 1, 1975, the Commission shall elect one of its members as its chairman and another as its vice-chairman, both to serve through June 30 of the next following year. Thereafter, at its first meeting held on or after July 1 of each year, the Commission shall elect from its members a chairman and vice-chairman to serve through June 30 of the next following year."

—STATE BOARD OF BARBER EXAMINERS

SECTION 2.2. G.S. 86A-4(b) reads as rewritten:

"(b) No member appointed to the Board on or after July 1, 1981, shall serve more than ~~two~~ three complete consecutive three-year terms, except that each member shall serve until the member's successor is appointed and qualifies.

No person who has been employed by the North Carolina State Board of Barber Examiners and has been removed for just cause shall be appointed within five years of the removal to serve as a Board member."

—MORTUARY SCIENCE BOARD

SECTION 2.3.(a) G.S. 90-210.18(b3), as enacted by Section 1 of S.L. 2001-294, reads as rewritten:

"(b3) The Governor, the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and the General Assembly upon the recommendation of the Speaker of the House of Representatives shall each appoint one public member to the Board. The public members of the Board may neither be licensed under this Article nor employed by a person who is. A vacancy occurring in a public member's seat shall be filled for the unexpired term by the appointing official."

SECTION 2.3.(b) Section 12 of S.L. 2001-294 reads as rewritten:

"**SECTION 12.** In order to stagger the terms of the public members of the North Carolina Board of Mortuary Science, the public member of the Board, with a second term expiring December 31, 2001, shall have such term extended until December 31, 2002. The public member of the Board whose term expires December 31, 2002, shall be appointed by the Governor. The public member of the board whose term expires December 31, 2001, shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. The public member of the board whose term expires December 31, 2003, shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives."

—JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

SECTION 2.4. G.S. 120-70.50 reads as rewritten:

"§ 120-70.50. *Creation and membership of Joint Legislative Transportation Oversight Committee.*

The Joint Legislative Transportation Oversight Committee is established. The Committee consists of ~~16~~18 members as follows:

- (1) ~~Eight~~Nine members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and
- (2) ~~Eight~~Nine members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

—JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE

SECTION 2.5. G.S. 120-70.80 reads as rewritten:

"§ 120-70.80. *Creation and membership of Joint Legislative Education Oversight Committee.*

The Joint Legislative Education Oversight Committee is established. The Committee consists of ~~20-22~~ members as follows:

- (1) ~~Ten-Eleven~~ members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and
- (2) ~~Ten-Eleven~~ members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until his successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment."

—JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

SECTION 2.6. G.S. 120-74 reads as rewritten:

"§ 120-74. *Appointment of members; terms of office.*

The Commission shall consist of ~~36-38~~ members. The President pro tempore of the Senate, the Speaker pro tempore of the House, the Deputy President pro tempore of the Senate, the Majority Leader of the House of Representatives, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint ~~15-16~~ members from the House. The President pro tempore of the Senate shall appoint ~~15-16~~ members from the Senate. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission."

—JOINT SELECT COMMITTEE ON INFORMATION TECHNOLOGY

SECTION 2.7. G.S. 120-232(a) reads as rewritten:

"(a) The Committee shall consist of ~~14~~16 members as follows:

- (1) ~~Four~~ Five members of the Senate at the time of their appointment, appointed by the President Pro Tempore of the Senate.
- (2) ~~Four~~ Five members of the House of Representatives at the time of their appointment, appointed by the Speaker of the House of Representatives.
- (3) Three members of the public, appointed by the President Pro Tempore of the Senate.
- (4) Three members of the public, appointed by the Speaker of the House of Representatives.

The members appointed to the Committee from the public shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Committee, including individuals who have expertise in the field of computer technology or commercial transactions."

—RAILROAD STUDY COMMISSION

SECTION 2.8. G.S. 120-246 reads as rewritten:

"§ 120-246. *Membership.*

The Commission shall be composed of ~~16~~18 members as follows:

- (1) ~~Eight~~ Nine members of the House of Representatives appointed by the Speaker of the House.
- (2) ~~Eight~~ Nine members of the Senate appointed by the President Pro Tempore of the Senate.

Terms on the Commission are for two years and begin on January 15 of each odd-numbered year, except for the terms of the initial members, which begin on appointment. Members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Commission."

—ADVISORY COMMISSION ON MILITARY AFFAIRS

SECTION 2.9.(a) G.S. 127C-2(d), as enacted by Section 12.1 of S.L. 2001-424, reads as rewritten:

"(d) The Governor shall designate one member of the Executive Committee appointed pursuant to subsection (b) of this section shall choose a Chairman and four Vice Chairmen from amongst its membership to serve as chair. The Executive Committee shall elect four persons from amongst its membership to serve as vice-chairs."

SECTION 2.9.(b) G.S. 127C-2, as enacted by Section 12.1 of S.L. 2001-424, is amended by adding a new subsection to read:

"(e) The terms of the members of the Executive Committee shall be as follows:

- (1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.
- (2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.
- (3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.

Thereafter, all members shall serve two-year terms."

—BOARD OF TRUSTEES OF THE MUSEUM OF ART

SECTION 2.10. G.S. 140-5.13(b) reads as rewritten:

"(b) The Board of Trustees of the North Carolina Museum of Art shall consist of ~~28~~29 members, chosen as follows:

- (1) The Governor shall appoint ~~twelve~~13 members, one from each congressional district in the State in accordance with G.S. 147-12(3b);
- (2) The North Carolina Art Society, Incorporated, shall elect four members;
- (3) The North Carolina Museum of Art Foundation, Incorporated, shall elect four members;
- (4) The Board of Trustees of the North Carolina Museum of Art shall elect four members;
- (5) The General Assembly shall appoint four members, two upon the recommendation of the Speaker of the House of Representatives, and two upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121;
- (6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 49.

All regular appointments or elections except those by the General Assembly shall be for terms of six years, except that each member shall serve until his successor is chosen and qualifies. No person may be appointed or elected to more than two consecutive terms of six years. All regular appointments by the General Assembly shall be for the then current legislative term, and no appointee of the General Assembly may be appointed to more than two consecutive terms of two years."

—WILDLIFE RESOURCES COMMISSION

SECTION 2.11.(a) G.S. 143-240(a) reads as rewritten:

"(a) There is hereby created the Wildlife Resources Commission of the Department of Environment and Natural Resources which shall consist of ~~47~~19 citizens of North Carolina who shall be appointed as is provided in G.S. 143-241.

Each member of the Commission shall be an experienced hunter, fisherman, farmer, or biologist, who shall be generally informed on wildlife conservation and restoration problems.

Members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5 or G.S. 138-6 as the case may be, which shall be paid from fees collected by the Wildlife Resources Commission."

SECTION 2.11.(b) G.S. 143-241 reads as rewritten:

"§ 143-241. *Appointment and terms of office of Commission members; filling of vacancies.*

The members of the North Carolina Wildlife Resources Commission shall be appointed as follows:

The Governor shall appoint one member each from the first, fourth, and seventh wildlife districts to serve six-year terms;

The Governor shall appoint one member each from the second, fifth, and eighth wildlife districts to serve two-year terms;

The Governor shall appoint one member each from the third, sixth, and ninth wildlife districts to serve four-year terms;

The Governor shall also appoint two at-large members to serve four-year terms.

The General Assembly shall appoint ~~six~~ eight members of the Commission to serve two-year terms, ~~three~~ four upon the recommendation of the Speaker of the House, ~~three~~ four upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121. Of the members appointed upon the recommendation of the Speaker of the House and upon the recommendation of the President Pro Tempore of the Senate, at least one of each shall be a member of the political party to which the largest minority of the members of the General Assembly belongs.

Thereafter as the terms of office of the members of the Commission appointed by the Governor from the several wildlife districts expire, their successors shall be appointed for terms of six years each. As the terms of office of the members of the Commission appointed by the General Assembly expire, their successors shall be appointed for terms of two years each. All members appointed by the Governor serve at the pleasure of the Governor that appointed them and they may be removed by that Governor at any time. A successor to the appointing Governor may remove a Commission member only for cause as provided in G.S. 143B-13. Members appointed by the General Assembly serve at the pleasure of that body and may be removed by law at any time. In the event that a Commission member is removed, the member appointed to replace the removed member shall serve only for the unexpired term of the removed member."

—FIRST FLIGHT CENTENNIAL COMMISSION

SECTION 2.12.(a) G.S. 143-640(c) reads as rewritten:

"(c) Membership. – The Commission shall consist of 28 members, as follows:

- (1) Four persons appointed by the Governor.
- (2) Five persons appointed by the President Pro Tempore of the Senate.
- (3) Five persons appointed by the Speaker of the House of Representatives.
- (4) The following persons or their designees, ex officio:
 - a. The Governor.
 - b. The President Pro Tempore of the Senate.
 - c. The Speaker of the House of Representatives.
 - d. The United States Senators from this State.
 - e. The member of the United States House of Representatives for the Third Congressional District.
 - f. The Governor of the State of Ohio.
 - g. The Secretary of the Department of Cultural Resources.
 - h. The Superintendent of the Cape Hatteras National Seashore of the United States National Park Service.
 - i. The chair of the Centennial of Flight Commemoration Commission.
 - j. The President of the First Flight Society.
 - k. The chair of the Dare County Board of Commissioners.
 - l. The Mayor of the Town of Kill Devil Hills.
 - m. The chair of the Dare County Tourism Board.
 - n. The Mayor of the Town of Kitty Hawk.

The members appointed to the First Flight Centennial Commission shall be chosen from among individuals who have the ability and commitment to promote and fulfill the purposes of the Commission, including individuals who have demonstrated expertise in the fields of aeronautics, aerospace science, or history, who have contributed to the development of the fields of aeronautics or aerospace science, or who have demonstrated a commitment to serving the public."

SECTION 2.12.(b) G.S. 143-640(e) reads as rewritten:

~~"(e) Chair. — The chair shall be appointed biennially by the Governor from among the membership of the Commission. Cochairs. – The Governor shall select the cochairs biennially from among the membership of the Commission. The initial term shall commence on July 1, 1994.~~July 1, 2001."

—COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 2.13. G.S. 143B-148(a), as amended by Section 1.21(b) of S.L. 2001-437, reads as rewritten:

"(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of ~~26~~29 members:

- (1) ~~Four~~Six of whom shall be appointed by the General Assembly, ~~two~~three upon the recommendation of the Speaker of the House of Representatives, and ~~two~~three upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;
- (2) ~~Twenty-two~~Twenty-three of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and ~~40~~the remainder at-large members.
 - a. Of these ~~22~~23 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.
 - b. The remaining ~~seven~~eight members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.
 - c. Of these ~~22~~23 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.

- d. ~~The Governor shall appoint members to the Commission in accordance with the foregoing provisions. The terms of all Commission members appointed or reappointed by the Governor on or after July 1, 2002, shall be four two years. The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996. All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves. A member shall serve not more than three consecutive terms.~~
- (3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid."

—COUNCIL FOR DEAF AND HARD OF HEARING

SECTION 2.14. G.S. 143B-216.32(a), as amended by Section 21.81(d) of S.L. 2001-424, reads as rewritten:

"(a) The Council for the Deaf and the Hard of Hearing shall consist of ~~23~~25 members. Fifteen members shall be members appointed by the Governor. Three members appointed by the Governor shall be persons who are deaf and three members shall be persons who are hard of hearing. One appointment shall be an educator who trains deaf education teachers and one appointment shall be an audiologist licensed under Article 22 of Chapter 90 of the General Statutes. Three appointments shall be parents of deaf or hard of hearing children including one parent of a student in a residential school; one parent of a student in a preschool program; and one parent of a student in a mainstream education program, with at least one parent coming from each region of the North Carolina schools for the deaf regions. One member appointed by the Governor shall be recommended by the President of the North Carolina Association of the Deaf; one member shall be recommended by the President of the North Carolina Pediatric Society; one member shall be recommended by the President of the North Carolina Registry of Interpreters for the Deaf; and one member shall be nominated by the Superintendent of Public Instruction. ~~One member~~Two members shall be appointed from the House of Representatives by the Speaker of the House of Representatives and ~~one member~~two members shall be appointed from the Senate by the President Pro Tempore of the Senate. The Secretary of Health and Human Services shall appoint six members as

follows: one from the Division of Vocational Rehabilitation, one from the Division of Aging, one from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, one from the Division of Social Services, one from a North Carolina Chapter of SHHH (Self Help for the Hard of Hearing), and one from SPEAK (Statewide Parents' Education and Advocacy for Kids)."

—BOARD OF CORRECTION

SECTION 2.15. G.S. 143B-265(b) reads as rewritten:

"(b) The Board of Correction shall consist of one voting member from each of the ~~42~~13 congressional districts, appointed by the Governor to serve at his pleasure. One member shall be a psychiatrist or a psychologist, one an attorney with experience in the criminal courts, one a judge in the General Court of Justice and nine members appointed at large. The Secretary of Correction shall be an additional nonvoting member and chairman ex officio. The terms of office of the nine members presently serving on the Board shall continue, but any vacancy occurring on or after July 1, 1983, shall be filled by the Governor in compliance with the requirement of membership from the various congressional districts."

—ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 2.16. G.S. 143B-283(d) reads as rewritten:

"(d) In addition to the members designated by subsection (a) of this section, the General Assembly shall appoint ~~four~~six members, ~~two~~three upon the recommendation of the Speaker of the House of Representatives, and ~~two~~three upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Members appointed by the General Assembly shall serve terms of two years."

—AERONAUTICS COUNCIL

SECTION 2.17. G.S. 143B-357(a) reads as rewritten:

"(a) The Aeronautics Council of the Department of Transportation shall consist of ~~44~~15 members appointed by the Governor, who, in making such appointments, shall designate one person from each of the congressional districts of the State and two members selected at large. At least four of the appointed members shall possess a broad knowledge of aviation and airport development.

Five of the initial members of the Council shall be the five members of the Governor's Aviation Committee whose terms expire on June 30, 1977, who shall serve on the Council until June 30, 1977. Thereafter, their successors shall be appointed for a term of office of

four years. Six members of the Council shall be appointed for a term of four years beginning July 1, 1975. The initial term of the member representing the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996. Thereafter, after the expiration of their respective terms of office, the successors shall be appointed for terms of four years. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term."

—PROGRESS BOARD

SECTION 2.18. G.S. 143B-372.1(c) reads as rewritten:

"(c) The Governor or the Governor's designee shall be chair of the North Carolina Progress Board. The Governor shall appoint a vice-chair from among the membership of the North Carolina Progress Board to serve at the pleasure of the Governor. The North Carolina Progress Board may elect such other officers as it sees fit."

—HUMAN RELATIONS COMMISSION

SECTION 2.19. G.S. 143B-392(a) reads as rewritten:

"(a) The Human Relations Commission of the Department of Administration shall consist of ~~24~~22 members. The Governor shall appoint one member from each of the ~~12~~13 congressional districts, plus five members at large, including the chairperson. The Speaker of the North Carolina House of Representatives shall appoint two members to the Commission. The President Pro Tempore of the Senate shall appoint two members to the Commission. The terms of four of the members appointed by the Governor shall expire June 30, 1988. The terms of four of the members appointed by the Governor shall expire June 30, 1987. The terms of four of the members appointed by the Governor shall expire June 30, 1986. The terms of four of the members appointed by the Governor shall expire June 30, 1985. The terms of the members appointed by the Speaker of the North Carolina House of Representatives shall expire June 30, 1986. The terms of the members appointed by the Lieutenant Governor shall expire June 30, 1986. The initial term of office of the person appointed to represent the 12th Congressional District shall commence on January 3, 1993, and expire on June 30, 1996. At the end of the respective terms of office of the initial members of the Commission, the appointment of their successors shall be for terms of four years. No member of the commission shall serve more than two consecutive terms. A member having served two consecutive terms shall be eligible for reappointment one year after the expiration of his second term. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, or disability of a member

shall be filled in the manner of the original appointment for the unexpired term."

—GOVERNOR'S ADVOCACY COUNCIL ON CHILDREN AND YOUTH

SECTION 2.20. G.S. 143B-415(a) reads as rewritten:

"(a) The Governor's Advocacy Council on Children and Youth shall consist of ~~18-19~~ members. The composition of the Council shall be as follows: two members appointed by the President Pro Tempore of the Senate from the membership of the Senate; two members selected by the Speaker of the House of Representatives from the membership of the House of Representatives; ~~14-15~~ members appointed by the Governor.

Of the members appointed by the Governor, at least one shall come from each congressional district in accordance with G.S. 147-12(3)b.

In selecting the ~~14-15~~ members of the Council, the Governor shall select ~~10-11~~ public-spirited adult citizens who have an interest in and knowledge of children and youth, persons who work with children or representatives of organizations concerned with problems of children and youth. The remaining four members to be appointed by the Governor shall consist of two youths of each sex who are 18 years of age or under at the time of their appointments."

—BOARD OF SCIENCE AND TECHNOLOGY

SECTION 2.21. Part 27 of Article 9 of Chapter 143B, as recodified by Section 7.6 of S.L. 2001-424, reads as rewritten:

"Part 27. North Carolina Board of Science and Technology.
"§ 143B-426.30. *North Carolina Board of Science and Technology; creation; powers and duties.*

The North Carolina Board of Science and Technology of the Department of ~~Administration~~ Commerce is created. The Board has the following powers and duties:

- (1) To identify, and to support and foster the identification of, important research needs of both public and private agencies, institutions and organizations in North ~~Carolina~~ Carolina that relate to the State's economic growth and development;
- (2) To make recommendations concerning policies, procedures, organizational structures and financial requirements that will promote effective use of scientific and technological resources in fulfilling the research needs ~~identified~~ identified and that will promote the economic growth and development of North Carolina;

- (3) To allocate funds available to the Board to support research projects, to purchase research equipment and supplies, to construct or modify research facilities, to employ consultants, and for other purposes necessary or appropriate in discharging the duties of the ~~Board~~Board;
- (4) To advise and make recommendations to the Governor, the Secretary of Commerce, and the Economic Development Board on the role of science and technology in the economic growth and development of North Carolina.

"§ 143B-426.31. *North Carolina Board of Science and Technology; membership; organization; compensation; staff services.*

(a) The North Carolina Board of Science and Technology consists of the Governor, the Secretary of Commerce, ~~the Science Advisor to the Governor,~~ and 17 members appointed as follows: the Governor shall appoint one member from the University of North Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two members from other components of the University of North Carolina, all nominated by the President of the University of North Carolina; one member from Duke University, nominated by the President of Duke University; one member from a private college or university, other than Duke University, in North Carolina, nominated by the President of the Association of Private Colleges and Universities; one member from the Research Triangle Institute, nominated by the executive committee of the board of that institute; one member from the Microelectronics Center of North Carolina, nominated by the executive committee of the board of that center; one member from the North Carolina Biotechnology Center, nominated by the executive committee of the board of that center; four members from private industry in North Carolina, at least one of whom shall be a professional engineer registered pursuant to Chapter 89C of the General Statutes or a person who holds at least a bachelors degree in engineering from an accredited college or university; and two members from public agencies in North Carolina. Two members shall be appointed by the General Assembly, one shall be appointed upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The nominating authority for any vacancy on the Board among members appointed by the Governor shall submit to the Governor two nominations for each position to be filled, and the persons so nominated shall represent different disciplines.

(b) Members appointed to the Board by the General Assembly shall serve for two-year terms beginning 1 July of odd-numbered years. Vacancies in appointments made by the General Assembly

shall be filled in accordance with G.S. 120-122. The two members from public agencies shall serve for terms expiring at the end of the term of the Governor appointing them. The other 13 members appointed to the Board by the Governor shall serve for four-year terms, and until their successors are appointed and qualified. Of those 13 members, six shall serve for terms that expire on 30 June of years that follow by one year those years that are evenly divisible by four, and seven shall serve for terms that expire on 30 June of years that follow by three years those years that are evenly divisible by four. Any appointment to fill a vacancy on the Board created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(c) The Governor or the Governor's designee shall serve as ~~chairman~~ chair of the Board. The vice ~~chairman~~ vice-chair and the secretary of the Board shall be designated by the Governor or the Governor's designee from among the members of the Board. ~~The Science Advisor to the Governor shall serve as executive director of the Board. The Secretary of Administration or his designee shall serve as secretary to the Board.~~

(d) The Governor may remove any member of the Board from office in accordance with the provisions of G.S. 143B-16.

(e) Members of the Board who are employees of State agencies or institutions shall receive subsistence and travel allowances authorized by G.S. 138-6. Legislative members of the Board shall receive subsistence and travel allowances authorized by G.S. 120-3.1.

(f) A majority of the Board constitutes a quorum for the transaction of business.

(g) The Secretary of ~~Administration~~ Commerce shall provide all clerical and other services required by the Board."

—VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION

SECTION 2.22. Section 1 of S.L. 2001-266 reads as rewritten:

"**SECTION 1.** Upon the Virginia General Assembly's concurring action, the Virginia-North Carolina Interstate High-Speed Rail Commission is established. The North Carolina component shall consist of ~~six~~ eight members to be appointed as follows:

- (1) Three members of the House of Representatives to be appointed by the Speaker of the House of ~~Representatives; and~~ Representatives.
- (1a) One public member appointed by the Speaker of the House of Representatives; and
- (2) ~~Three~~ Four members of the Senate to be appointed by the President Pro Tempore of the ~~Senate.~~ Senate, at least

one of whom is a member of the North Carolina Railroad Study Committee."

—NATURAL HERITAGE TRUST FUND BOARD OF TRUSTEES

SECTION 2.23.(a) G.S. 113-77.8(a) reads as rewritten:

"(a) Expenditures from the Fund shall be authorized by a ~~nine-member~~ 12-member Board of Trustees. ~~Three-Four~~ members shall be appointed by the Governor, ~~three-four~~ by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and ~~three-four~~ by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Persons appointed shall be knowledgeable in the acquisition and management of natural areas. Each appointing officer shall designate one of his initial appointments to serve a two-year term, one to serve a four-year term, and one to serve a six-year term. Thereafter, all appointments shall be for six years, subject to reappointment. ~~All initial appointments shall be made on or before January 1, 1988.~~ Appointments shall expire January 1 of even-numbered years. The Governor shall appoint one Trustee to serve as Chairman of the Board. The Secretary shall provide the Trustees with staff support and meeting facilities using expenditures from the Fund. The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution."

SECTION 2.23.(b) The three members of the Natural Heritage Trust Fund Board of Trustees appointed under G.S. 113-77.8(a), as amended by subsection (a) of this section, shall be appointed on or before January 1, 2002. Notwithstanding G.S. 113-77.8(a), the member of the Natural Heritage Trust Fund Board of Trustees appointed by the Governor under G.S. 113-77.8(a), as amended by subsection (a) of this section, shall serve an initial term of two years; the member of the Natural Heritage Trust Fund Board of Trustees appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives under G.S. 113-77.8(a), as amended by subsection (a) of this section, shall serve an initial term of four years; and the member of the Natural Heritage Trust Fund Board of Trustees appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 113-77.8(a), as amended by subsection (a) of this section, shall serve an initial term of six years. Thereafter, the terms of all members of the Natural Heritage Trust Fund Board of Trustees appointed under G.S. 113-77.8(a), as amended by subsection (a) of this section, shall be for six years. This

section shall not be construed to affect the terms of current members of the Natural Heritage Trust Fund Board of Trustees.

SECTION 2.24. G.S. 143B-344.30 reads as rewritten:
 "§ 143B-344.32. *Staff and offices.*

The Department of Environment and Natural Resources shall provide office space and staff for the State Infrastructure Council as requested by the Council. Upon the request of a chair of the State Infrastructure Council, who is also a member of the General Assembly, the Legislative Services Office shall also provide professional staff services to the Council."

PART III. EFFECTIVE DATES AND HEADINGS

SECTION 3.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 3.2. Unless otherwise provided for in this act, appointments are for terms to begin July 1, 2001.

SECTION 3.3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 6:53 p.m. on the 16th day of December, 2001.

H.B. 338 SESSION LAW 2001-487

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION; AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 1-17 reads as rewritten:
 "§ 1-17. *Disabilities.*

(a) A person entitled to commence an action who is under a disability at the time the cause of action accrued ~~either~~

- (1) ~~Within the age of 18 years; or~~
- (2) ~~Insane; or~~
- (3) ~~Incompetent as defined in G.S. 35A-1101(7) or (8)~~

may bring his or her action within the time ~~herein limited; limited in this Subchapter,~~ after the disability is removed, except in an action for the recovery of real property, or to make an entry or defense founded on the title to real property, or to rents and services out of the ~~same,~~ when he real property, when the person must commence his or her

action, or make ~~his~~the entry, within three years next after the removal of the disability, and at no time thereafter.

For the purpose of this section, a person is under a disability if the person meets one or more of the following conditions:

- (1) The person is within the age of 18 years.
- (2) The person is insane.
- (3) The person is incompetent as defined in G.S. 35A-1101(7) or (8).

(a1) For those persons under a disability on January 1, 1976, as a result of being imprisoned on a criminal charge, or in execution under sentence for a criminal offense, the statute of limitations shall commence to run and no longer be tolled from January 1, 1976.

(b) Notwithstanding the provisions of subsection (a) of this section, an action on behalf of a minor for malpractice arising out of the performance of or failure to perform professional services shall be commenced within the limitations of time specified in ~~G.S. 1-15(e)~~: Provided, that if said G.S. 1-15(c), except that if those time limitations expire before ~~such~~the minor attains the full age of 19 years, the action may be brought before ~~said~~the minor attains the full age of 19 years."

SECTION 2. G.S. 7B-507(b)(4) reads as rewritten:

"(4) A court of competent jurisdiction has determined that: the parent has committed murder or voluntary manslaughter of another child of the parent; has aided, abetted, attempted, conspired, or solicited to commit murder or ~~voluntarily~~voluntary manslaughter of the child or another child of the parent; or has committed a felony assault resulting in serious bodily injury to the child or another child of the parent."

SECTION 3. G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. *Definitions.*

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed ~~meanings:~~meanings. The singular includes the plural, unless otherwise specified.

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (3) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community

- where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (4) Court. – The district court division of the General Court of Justice.
 - (5) Court counselor. – A person responsible for probation and post-release supervision to juveniles under the supervision of the chief court counselor.
 - (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
 - (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
 - (7a) Department. – The Department of Juvenile Justice and Delinquency Prevention created under Article 12 of Chapter 143B of the General Statutes.
 - (8) Detention. – The secure confinement of a juvenile under a court order.
 - (9) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.
 - (10) District. – Any district court district as established by G.S. 7A-133.
 - (11) Holdover facility. – A place in a jail which has been approved by the Department of Health and Human Services as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.
 - (12) House arrest. – A requirement that the juvenile remain at the juvenile's residence unless the court or the juvenile court counselor authorizes the juvenile to leave for specific purposes.
 - (13) Intake counselor. – A person who screens and evaluates a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
 - (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who is an absconder, escapee, or runaway, to the juvenile's home state, and codified in Article 28 of this Chapter.

- (15) Judge. – Any district court judge.
- (16) Judicial district. – Any district court district as established by G.S. 7A-133.
- (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- (18) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
- (19) Repealed by Session Laws 2000, c. 137, s. 2.
- (20) Petitioner. – The individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.
- (21) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Department for placement in a training school.
- (22) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a court counselor, and may be returned to the court for violation of those conditions during the period of probation.
- (23) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (24) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a court counselor.
- (25) Teen court program. – A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile's peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures.
- (26) Training school. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department.
- (27) Undisciplined juvenile. –
 - a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond

the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

- b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.

(28) Wilderness program. – A rehabilitative residential treatment program in a rural or outdoor setting.

~~The singular includes the plural, unless otherwise specified."~~

SECTION 4. Effective July 1, 2001, G.S. 7B-1808(b)(2)

reads as rewritten:

"(b) At the first appearance, the court shall:

...

- (2) Determine whether the juvenile has retained counsel or has been assigned ~~counsel~~-counsel;"

SECTION 5. Effective June 30, 2001, G.S. 17C-3(a)(5)

reads as rewritten:

"(5) Citizens and Others. – The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint two persons, one upon the recommendation of the Speaker of the House of Representatives and one upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall ~~serve~~ be for two-year terms to conclude on June 30th in odd-numbered years."

SECTION 6. G.S. 20-16.5(a)(4) reads as rewritten:

"(a) Definitions. – As used in this section the following words and phrases have the following meanings:

...

- (4) Revocation Report. – A sworn statement by a charging officer and a chemical analyst containing facts indicating that the conditions of subsection (b) have been met, and whether the person has a pending offense for which ~~their~~ the person's license had been or is revoked under this section. When one chemical analyst analyzes a person's

blood and another chemical analyst informs a person of his rights and responsibilities under G.S. 20-16.2, the report must include the statements of both analysts."

SECTION 7. G.S. 20-16.5(g) reads as rewritten:

"(g) Hearing before Magistrate or Judge if Person Contests Validity of Revocation. – A person whose license is revoked under this section may request in writing a hearing to contest the validity of the revocation. The request may be made at the time of the person's initial appearance, or within 10 days of the effective date of the revocation to the clerk or a magistrate designated by the clerk, and may specifically request that the hearing be conducted by a district court judge. The Administrative Office of the Courts must develop a hearing request form for any person requesting a hearing. Unless a district court judge is requested, the hearing must be conducted within the county by a magistrate assigned by the chief district court judge to conduct such hearings. If the person requests that a district court judge hold the hearing, the hearing must be conducted within the district court district as defined in G.S. 7A-133 by a district court judge assigned to conduct such hearings. The revocation remains in effect pending the hearing, but the hearing must be held within three working days following the request if the hearing is before a magistrate or within five working days if the hearing is before a district court judge. The request for the hearing must specify the grounds upon which the validity of the revocation is challenged and the hearing must be limited to the grounds specified in the request. A witness may submit his evidence by affidavit unless he is subpoenaed to appear. Any person who appears and testifies is subject to questioning by the judicial official conducting the hearing, and the judicial official may adjourn the hearing to seek additional evidence if he is not satisfied with the accuracy or completeness of evidence. The person contesting the validity of the revocation may, but is not required to, testify in his own behalf. Unless contested by the person requesting the hearing, the judicial official may accept as true any matter stated in the revocation report. If any relevant condition under subsection (b) is contested, the judicial official must find by the greater weight of the evidence that the condition was met in order to sustain the revocation. At the conclusion of the hearing the judicial official must enter an order sustaining or rescinding the revocation. The judicial official's findings are without prejudice to the person contesting the revocation and to any other potential party as to any other proceedings, civil or criminal, that may involve facts bearing upon the conditions in subsection (b) considered by the judicial official. The decision of the judicial official is final and may not be appealed in the General Court of Justice. If the hearing is not held and completed within three working days of the written request for a

hearing before a magistrate or within five working days of the written request for a hearing before a district court judge, the judicial official must enter an order rescinding the revocation, unless the person contesting the revocation contributed to the delay in completing the hearing. If the person requesting the hearing fails to appear at the hearing or any rescheduling thereof after having been properly notified, he forfeits his right to a hearing."

SECTION 8. G.S. 20-17.8(j)(2) reads as rewritten:

"(2) The person:

- a. Was driving a vehicle that was not equipped with a functioning ignition interlock system; or
- b. Did not personally activate the ignition interlock system before driving the vehicle; or
- c. Drove the vehicle ~~with an alcohol concentration of 0.04 or greater in violation of an applicable alcohol concentration restriction prescribed by subdivision (b)(3) of this section.~~

SECTION 9. G.S. 20-28.3(m) reads as rewritten:

"(m) Trial Priority. – District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

- (1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.
- (2) The judge makes a finding of a "compelling reason" for the continuance.
- (3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party who has not previously been heard on a petition for pretrial release under ~~subsections~~ subsection (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to ~~subsections~~ subsection (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle

continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court."

SECTION 10. G.S. 20-118(c)(14) reads as rewritten:

"(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

...

(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the ~~following conditions:~~conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling aggregates from a distribution yard or a State-permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in an adjacent state as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
- b. Does not operate on an interstate highway or posted bridge.
- c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply.
- ~~d. All other enforcement provisions of this Article remain applicable."~~

SECTION 11. G.S. 20-146(a) reads as rewritten:

"(a) Upon all ~~roadways~~ highways of sufficient width a vehicle shall be driven upon the right half of the highway except as follows:

- (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

- (3) Upon a highway divided into three marked lanes for traffic under the rules applicable thereon; or
- (4) Upon a highway designated and signposted for one-way traffic."

SECTION 13. Effective July 1, 2001, G.S. 23-30.1 reads as rewritten:

"§ 23-30.1. *Provisional release.*

Every person who has filed a petition under the provisions of G.S. 23-30 shall be brought before a judge within 72 hours after filing the petition and shall be provisionally released from imprisonment unless a hearing shall be held and the creditor shall establish that the prisoner has fraudulently concealed assets. If, at the time he is brought before a judge, the prisoner makes a showing of indigency, counsel shall be appointed for the prisoner in accordance with rules adopted by the Office of Indigent Defense Services. A provisional release under this section shall not constitute a discharge of the debtor, and the creditor may oppose the discharge by suggesting fraud even if he has unsuccessfully attempted to oppose the provisional release on the basis of fraudulent concealment. The debtor may be provisionally released even though actual service upon the creditor has not been accomplished if 72 hours has passed since the debtor delivered the notice to the sheriff for service upon the creditor."

SECTION 14.(a) G.S. 24-1.1E(a)(4) and (a)(6) read as rewritten:

"(a) Definitions. – The following definitions apply for the purposes of this section:

- ...
- (4) A "high-cost home loan" means a loan other than an open-end credit plan or a reverse mortgage transaction in which:
 - a. The principal amount of the loan does not exceed the lesser of (i) the conforming loan size limit for a single-family dwelling as established from time to time by ~~the Federal National Mortgage Association, Fannie Mae,~~ or (ii) three hundred thousand dollars (\$300,000);
 - b. The borrower is a natural person;
 - c. The debt is incurred by the borrower primarily for personal, family, or household purposes;
 - d. The loan is secured by either (i) a security interest in a manufactured home (as defined in G.S. 143-147(7)) which is or will be occupied by the borrower as the borrower's principal dwelling, or (ii) a mortgage or deed of trust on real estate upon

which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling; and

- e. The terms of the loan exceed one or more of the thresholds as defined in subdivision (6) of this section.

...

(6) "Thresholds" means:

- a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage transaction" is defined in section 226.2(a)(24) of Title 12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;
- b. The total points and fees payable by the borrower at or before the loan closing exceed five percent (5%) of the total loan amount if the total loan amount is twenty thousand dollars (\$20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars (\$1,000), if the total loan amount is less than twenty thousand dollars (\$20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:
 - 1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either ~~the~~

~~Federal National Mortgage Association-Fannie Mae~~ or the Federal Home Loan Mortgage Corporation, whichever is greater;

2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either ~~the Federal National Mortgage Association-Fannie Mae~~ or the Federal Home Loan Mortgage Corporation, whichever is greater;
3. Prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing; or".

SECTION 14.(b) G.S. 53-270.1(a)(3) reads as rewritten:

"(a) A lender and a borrower may agree, in writing, that in addition to the principal and any interest accruing on the outstanding balance of a reverse mortgage loan, the lender may receive:

...

- (3) The shared appreciation or shared value is paid in conjunction with a loan that:
 - a. Is outstanding for 24 months or longer; and
 - b. Either (i) is guaranteed or insured by an agency of the federal government, or (ii) has been originated under a reverse mortgage program approved by ~~the Federal National Mortgage Association, Fannie Mae,~~ the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, provided the loan is sold to one of those agencies or enterprises within 90 days of loan closing, or (iii) has been originated under a reverse mortgage program of a person, firm, or corporation approved as an authorized lender by the Commissioner; and
 - c. Provides that the borrower receives additional economic benefit in exchange for paying the shared

appreciation or shared value, including, but not limited to, larger monthly payments or a larger line of credit. The specific nature of the economic benefit shall be provided to the Commissioner with the other information about the reverse mortgage program required under G.S. 53-264 for dissemination to the reverse mortgage counselors; and

- d. At least 14 days prior to closing, the borrower receives a disclosure that explains the additional costs and benefits of shared appreciation or shared value and compares those costs and benefits with a comparable loan without shared appreciation or shared value. These costs and benefits shall also be included in the information required under G.S. 53-264."

SECTION 14.(c) G.S. 54-109.88(3) reads as rewritten:

"(3) Assets which are issued by, fully guaranteed as to principal and interest by, or due from the U.S. government, its agencies, ~~the Federal National Mortgage Association, Fannie Mae,~~ or the Government National Mortgage Association."

SECTION 14.(d) G.S. 54B-187 reads as rewritten:

"§ 54B-187. ~~Federal National Mortgage Association Fannie Mae obligations.~~

A State association may invest in stock or other evidences of indebtedness or obligations of ~~the Federal National Mortgage Association, Fannie Mae,~~ or any successor thereto."

SECTION 14.(e) G.S. 54C-136 reads as rewritten:

"§ 54C-136. ~~Federal government-sponsored enterprise obligations.~~

A savings bank may invest in stock or other evidences of indebtedness or obligations of ~~the Federal National Mortgage Association, Fannie Mae,~~ the Federal Home Loan Mortgage Corporation, or any other federal government sponsored enterprise, or any successor thereto."

SECTION 14.(f) G.S. 58-3-140 reads as rewritten:

"§ 58-3-140. ~~Temporary contracts of insurance permitted.~~

A lender engaged in making or servicing real estate mortgage or deed of trust loans on one to four family residences shall accept as evidence of insurance a temporary written contract of insurance meeting the requirements of G.S. 58-44-20(4) and issued by any duly licensed insurance agent, broker, or insurance company.

Nothing herein prohibits the lender from refusing to accept a binder or from disapproving such insurer or agent provided such refusal or disapproval is reasonable.

Such lender need not accept a binder unless such binder:

- (1) Includes:
 - a. The name and address of the insured;
 - b. The name and address of the mortgagee;
 - c. A description of the insured collateral;
 - d. A provision that it may not be cancelled within a term of the binder except upon 10 days' written notice to the mortgagee; and
 - e. The amount of insurance bound.
- (2) Is accompanied by a paid receipt for one year's premium, except in the case of the renewal of a policy subsequent to the closing of a loan; and
- (3) Includes an undertaking of agent to use his best efforts to have the insurance company issue a policy.

The Department may require binders to contain any additional information to permit the binders to comply with the reasonable requirements of ~~the Federal National Mortgage Association, Fannie Mae, the~~ Government National Mortgage Association, or ~~the~~ Federal Home Loan Mortgage Corporation for purchase of mortgage loans."

SECTION 14.(g) G.S. 58-7-173(8) reads as rewritten:

- "(8) Bonds, debentures, or other securities of the following agencies, whether or not those obligations are guaranteed by the U.S. Government:
- a. ~~The Federal National Mortgage Association, Fannie Mae,~~ and stock thereof when acquired in connection with the sale of mortgage loans to the Association.
 - b. Any federal land bank, when the securities are issued under the Farm Loan Act;
 - c. Any federal home loan bank, when the securities are issued under the Home Loan Bank Act;
 - d. The Home Owners' Loan Corporation, created by the Home Owners' Loan Act of 1933;
 - e. Any federal intermediate credit bank, created by the Agricultural Credits Act;
 - f. The Central Bank for Cooperatives and regional banks for cooperatives organized under the Farm Credit Act of 1933, or by any of such banks; and any notes, bonds, debentures, or other similar obligations, consolidated or otherwise, issued by farm credit institutions under the Farm Credit Act of 1971;
 - g. Any other similar agency of the U.S. Government that is of similar financial quality."

SECTION 14.(h) G.S. 115C-443(c)(6) reads as rewritten:

"(c) Moneys may be invested in the following classes of securities, and no others:

...

- (6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, ~~the Federal National Mortgage Association~~, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks."

SECTION 14.(i) G.S. 122A-5.6(d) reads as rewritten:

"(d) The loans to mortgage lenders shall be general obligations of the respective mortgage lenders owing them. The Agency shall require that such loans shall be additionally secured as to payment of both principal and interest by a pledge and lien upon collateral security. The collateral security itself shall be in such amount as the Agency determines will assure the payment of the principal of and the interest on the bonds as they become due. Collateral security shall be deemed to be sufficient if the principal of and the interest on the collateral security, when due, will be sufficient to pay the principal of and the interest on the bonds. The collateral security shall consist of any of the following items: (i) direct obligations of, or obligations guaranteed by, the State or the United States of America; (ii) bonds, debentures, notes or other evidences of indebtedness, satisfactory to the Agency, issued by any of the following federal agencies: Bank for Cooperatives, Federal Intermediate Credit Bank, Federal Home Loan Bank System, Export-Import Bank of Washington, Federal Land Banks, ~~the Federal National Mortgage Association~~ Fannie Mae or the Government National Mortgage Association; (iii) direct obligations of or obligations guaranteed by the State; (iv) mortgages insured or guaranteed by the United States of America or an instrumentality of it as to payment of principal and interest; (v) any other mortgages secured by real estate on which there is located a residential structure, the collateral value of which shall be determined by the regulations issued from time to time by the Agency; (vi) obligations of Federal Home Loan Banks; (vii) certificates of deposit of banks or trust companies, including the trustee, organized under the laws of the United States or any state, which have a combined capital and surplus of at least fifteen million dollars (\$15,000,000); (viii) Bankers Acceptances; and (ix) commercial paper that has been classified for rating purposes by Dun & Bradstreet, Inc., as Prime-1 or by Standard & Poor's Corp. as A-1."

SECTION 14.(k) G.S. 122D-16(b)(2) reads as rewritten:

"(b) All moneys of the Authority may be invested in the following:

...

- (2) Non-convertible debt securities of the following issuers:

- a. The Federal Home Loan Bank Board;
- b. ~~The Federal National Mortgage Association;~~ Fannie Mae;
- c. The Federal Farm Credit Bank; and
- d. The Student Loan Marketing Association;".

SECTION 14.(l) G.S. 143B-472.8(7) reads as rewritten:

"(7) Obligations of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, ~~the Federal National Mortgage Association,~~ Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks, maturing no later than 18 months after the date of purchase."

SECTION 14.(m) G.S. 147-69.1(c)(2) reads as rewritten:

"(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

- ...
- (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, ~~the Federal National Mortgage Association,~~ Fannie Mae, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service, the Export-Import Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the Student Loan Marketing Association."

SECTION 14.(n) G.S. 159B-18(b) reads as rewritten:

"(b) Any moneys received pursuant to the authority of this Chapter and any other moneys available to a joint agency for investment may be invested:

- (1) As provided in subsection (a) of this section;
- (2) As provided in G.S. 159-30, except that:
 - a. A joint agency may also invest, in addition to the obligations enumerated in G.S. 159-30(c)(2), in bonds, debentures, notes, participation certificates, or other evidences of indebtedness issued, or the principal of and the interest on which are unconditionally guaranteed, whether directly or indirectly, by any agency or instrumentality of, or

corporation wholly owned by, the United States of America.

- b. For purposes of G.S. 159-30(c)(12), a joint agency may also enter into repurchase agreements with respect to, in addition to the obligations enumerated in G.S. 159-30(c)(12):
 1. Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, ~~the Federal National Mortgage Association, Fannie Mae,~~ the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, and the United States Postal Service;
 2. Bonds, debentures, notes, participation certificates, or other evidences of indebtedness issued, or the principal of and the interest on which are unconditionally guaranteed, whether directly or indirectly, by any agency or instrumentality of, or corporation wholly owned by, the United States of America;
 3. Mortgage-backed pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, ~~or the Federal National Mortgage Association; Fannie Mae;~~
 4. Direct or indirect obligations which are collateralized by or represent beneficial ownership interests in mortgage-backed pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, ~~or the Federal National Mortgage Association; Fannie Mae;~~ and
 5. Direct or indirect obligations, trust certificates, or other similar instruments which are both: (i) guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, ~~or the Federal National Mortgage Association; Fannie Mae;~~ (ii) collateralized by or represent beneficial ownership interests in mortgage-backed

pass-through securities which are guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association, Fannie Mae~~; including, but not limited to, Real Estate Mortgage Investment Conduit Certificates; and (iii) for purposes of the second proviso of G.S. 159-30(c)(12)a., the financial institution serving either as trustee or as fiscal agent for a joint agency holding the obligations subject to the repurchase agreement may also be the provider of the repurchase agreement if the obligations that are subject to the repurchase agreement are held in trust by the trustee or fiscal agent for the benefit of the joint agency;

- (3) In mortgage-backed pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association, Fannie Mae~~;
- (4) In direct or indirect obligations which are collateralized by or represent beneficial ownership interests in mortgage-backed pass-through securities guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association, Fannie Mae~~; and
- (5) In direct or indirect obligations, trust certificates, or other similar instruments which are (i) guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association, Fannie Mae~~, and (ii) collateralized by or represent beneficial ownership interests in mortgage-backed pass-through securities which are guaranteed by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or ~~the Federal National Mortgage Association, Fannie Mae~~, including, but not limited to, Real Estate Mortgage Investment Conduit Certificates."

SECTION 14.(o) G.S. 159-30(c)(2) reads as rewritten:

"(c) Moneys may be invested in the following classes of securities, and no others:

- ...
- (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the

Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, ~~the Federal National Mortgage Association, Fannie Mae,~~ the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service."

SECTION 15. Effective July 1, 2001, G.S. 25-9-705(c) reads as rewritten:

"(c) Pre-effective-date filing in jurisdiction formerly governing perfection. – This act does not render ineffective an effective financing statement that, before July 1, 2001, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in G.S. 25-9-103 of former Article 9. However, except as otherwise provided in subsections (d) and (e) of this section and G.S. 25-9-706, the financing statement ceases to be effective at the earlier of:

- (1) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; ~~and or~~
- (2) June 30, 2006."

SECTION 16. G.S. 30-3.2 reads as rewritten:
"§ 30-3.2. *Definitions.*

The following definitions apply in this Article:

- ~~(a)~~(1) "Code" means the Internal Revenue Code in effect at the time of the decedent's death.
- ~~(b)~~(2) "Death taxes" means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.
- ~~(c)~~(3) "Nonadverse trustee" means a trustee who would be deemed nonadverse under section 672 of the Code.
- ~~(d)~~(4) "Total Net Assets" means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims, and administration expenses, the sum of the following:
 - ~~(1)~~a. All property to which the decedent had legal and equitable title immediately prior to death;
 - ~~(2)~~b. All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;
 - ~~(3)~~c. One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;

- (4)d. The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;
- (5)e. The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, or 2040 of the Code.
- (6)f. Any donative transfers of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:
 - a.1. Any gifts within the annual exclusion provisions of section 2503 of the Code;
 - b.2. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and
 - c.3. Any gifts made prior to marriage;
- (7)g. Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;
- (8)h. Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and
- (9)i. In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

SECTION 17. G.S. 40A-64(c) reads as rewritten:

"(c) If the owner is to be allowed to remove any timber, building or other permanent ~~improvement of fixtures~~ improvement, or fixtures from the property, the value thereof shall not be included in the compensation award, but the cost of removal shall be considered as an element to be compensated."

SECTION 18. G.S. 58-5-15 reads as rewritten:

"§ 58-5-15. *Minimum deposit required upon admission.*

Upon admission to do business in the State of North Carolina every foreign or alien fire, marine, or fire and marine, fidelity, surety or casualty company shall deposit with the Commissioner securities in the amounts required under G.S. 58-5-5 and G.S. 58-5-10."

SECTION 19. G.S. 58-31-40(b) reads as rewritten:

"(b) No agency or other person authorized or directed by law to select a plan and erect a building for the use of the State or any State institution shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents. No agency or person authorized or directed by law to select a plan or erect a building comprising 10,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents."

SECTION 20. The catch line of G.S. 59-31 reads as rewritten:

"§ 59-31. ~~Name of Article.~~North Carolina Uniform Partnership Act."

SECTION 21.(a) G.S. 62A-22(a)(4) reads as rewritten:

"(4) The ~~Secretary of Commerce or the Secretary's State Chief Information Officer or the Chief Information Officer's~~ designee, who shall serve as the chair."

SECTION 21.(b) G.S. 120-123(57) reads as rewritten:

"No member of the General Assembly may serve on any of the following boards or commissions:

...

(57) The Information Resource Management Commission, as established by ~~G.S. 143B-426.21.~~G.S. 147-33.78.

...."

SECTION 21.(c) Section 8 of S.L. 1997-148 is repealed.

SECTION 21.(d) G.S. 126-5(c1)(17) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(17) The executive director of the independent staff of the Information Resources Management Commission established under ~~G.S. 143B-472.41A.~~G.S. 147-33.78.

...."

SECTION 21.(e) G.S. 143-52.1 reads as rewritten:

"§ 143-52.1. *Board of Awards.*

(a) There is created the Board of Awards. The Board shall consist of three members at a time, appointed by the Chair of the Commission. Members of the Board shall be appointed on a rotating basis from the membership of the Commission and the Council of State. Two out of three members appointed for each meeting of the Board shall constitute a quorum of the Board.

(b) The Board shall meet weekly as called by the Chair of the Commission, except in weeks when no contracts have been submitted to the Board for review.

(c) When the dollar value of a contract exceeds the benchmark established either pursuant to G.S. 143-53.1 or ~~G.S. 143B-472.63, G.S. 147-33.101,~~ the Board shall review and make a recommendation on action to be taken by the Secretary of Administration on contracts to be awarded under Article 3 of Chapter 143 of the General Statutes and on contracts to be awarded by the ~~Secretary of Commerce~~ Chief Information Officer under ~~Part 16 of Article 10 of Chapter 143B~~ Article 3D of Chapter 147 of the General Statutes, prior to the awarding of the contract.

(d) The State Budget Officer shall designate a secretary for the Board. The ~~Secretaries~~ Secretary of Administration and ~~Commerce~~ the State Chief Information Officer shall each submit their matters for consideration to the secretary for inclusion on the Board's agenda. Records shall be kept of each meeting and made public by the ~~applicable~~ Secretary of Administration or Commerce ~~State Chief Information Officer, as applicable~~ Secretary of Administration or State Chief Information Officer, as applicable, determines a specific record of the meeting needs to be confidential due to the nature of the contract. The ~~applicable~~ Secretary of Administration or State Chief Information Officer, as applicable, may elect to proceed with the award of a contract without a recommendation of the Board in cases of emergencies or in the event that a Board is not available. In those cases, contracts awarded without Board review shall be reported to the next meeting of the Board as a matter of record.

(e) Reports on recommendations made by the Board on matters presented by the ~~Secretary of Commerce~~ State Chief Information Officer to the Board shall be reported monthly by the Board to the chairs of the Joint Select Committee on Information Technology."

SECTION 21.(f) G.S. 143-56 reads as rewritten:

"§ 143-56. *Certain purchases excepted from provisions of Article.*

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

- (1) Published books, manuscripts, maps, pamphlets and periodicals.
- (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for information technology purchased in accordance with ~~Part 16 of Article 10 of Chapter 143B~~ Article 3D of Chapter 147 of the General Statutes, for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less

than the expenditure benchmark established under the provisions of G.S. 143-53.1, for group purchases made by hospitals through a competitive bidding purchasing program, as defined in G.S. 143-129, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

SECTION 21.(g) G.S. 150B-21.1(a4) reads as rewritten:

"(a4) Notwithstanding the provisions of subsection (a) of this section, the ~~Secretary of Commerce~~ State Chief Information Officer may adopt temporary rules to implement the information technology procurement provisions of ~~Part 16 of Article 10 of Chapter 143B~~ Article 3D of Chapter 147 of the General Statutes. After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the ~~Secretary Officer~~ shall:

- (1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;
- (2) Accept oral and written comments on the proposed temporary rule; and
- (3) Hold at least one public hearing on the proposed temporary rule.

When the ~~Secretary Officer~~ adopts a temporary rule pursuant to this subsection, the ~~Secretary Officer~~ must submit a reference to this subsection as the ~~Secretary's Officer's~~ statement of need to the Codifier of Rules.

Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the ~~Secretary Officer~~ in accordance with this subsection."

SECTION 21.(h) G.S. 150B-38(a), as rewritten by Section 8 of S.L. 2001-141 and by Section 12 of S.L. 2001-193, reads as rewritten:

"(a) The provisions of this Article shall apply ~~to the following agencies:~~to:

- (1) Occupational licensing agencies.
- (2) The State Banking Commission, the Commissioner of Banks, and the Credit Union Division of the Department of Commerce.
- (3) The Department of Insurance and the Commissioner of Insurance.
- (4) ~~The Department of Commerce~~State Chief Information Officer in the administration of the provisions of ~~Part 16 of Article 10 of Chapter 143B~~Article 3D of Chapter 147 of the General Statutes.
- (5) The North Carolina State Building Code Council."

SECTION 22. G.S. 90-88(d) reads as rewritten:

"(d) If any substance is designated, rescheduled or deleted as a controlled substance under federal law, the Commission shall similarly control or cease control of, the substance under this Article unless the Commission objects to such inclusion. The Commission, at its next regularly scheduled meeting that takes place 30 days after publication in the Federal Register of a final order scheduling a substance, shall determine either to adopt a rule to similarly control the substance under this Article or to object to such action. No rule-making notice or hearing as specified by Chapter 150B ~~150B~~ of the General Statutes is required if the Commission makes a decision to similarly control a substance. However, if the Commission makes a decision to object to adoption of the federal action, it shall initiate rule-making procedures pursuant to Chapter 150B of the General Statutes within 180 days of its decision to object."

SECTION 23.(a) G.S. 93A-2 reads as rewritten:

"§ 93A-2. *Definitions and exceptions.*

(a) A real estate broker within the meaning of this Chapter is any person, partnership, corporation, limited liability company, association, or other business entity who for a compensation or valuable consideration or promise thereof lists or offers to list, sells or offers to sell, buys or offers to buy, auctions or offers to auction (specifically not including a mere crier of sales), or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or who sells or offers to sell leases of whatever character, or rents or offers to rent any real estate or the improvement thereon, for others.

(a1) The term broker-in-charge within the meaning of this Chapter ~~shall mean~~means a real estate broker who has been designated as the

broker having responsibility for the supervision of real estate ~~salesperson~~ salespersons engaged in real estate brokerage at a particular real estate office and for other administrative and supervisory duties as the Commission shall prescribe by rule.

(b) The term real estate salesperson within the meaning of this Chapter shall mean and include any person who under the supervision of a real estate broker designated as broker-in-charge of a real estate office, for a compensation or valuable consideration is associated with or engaged by or on behalf of a licensed real estate broker to do, perform or deal in any act, acts or transactions set out or comprehended by the foregoing definition of real estate broker.

(c) The provisions of this Chapter ~~shall do~~ not apply to and ~~shall do~~ not include:

- (1) Any person, partnership, corporation, limited liability company, association, or other business entity who, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein.
- (2) Any person acting as an attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation of performance of any contract for the sale, lease or exchange of real estate.
- (3) The acts or services of an attorney-at-law.
- (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any person acting under order of any court.
- (5) Any person, while acting as a trustee under a trust agreement, deed of trust or will, or ~~his~~ that person's regular salaried employees.
- (6) Any salaried person employed by a licensed real estate broker, for and on behalf of the owner of any real estate or the improvements thereon, which the licensed broker has contracted to manage for the owner, if the salaried ~~employee~~ employee's employment is limited in ~~his employment~~ to: exhibiting units on the real estate to prospective tenants; providing the prospective tenants with information about the lease of the units; accepting applications for lease of the units; completing and executing preprinted form leases; and accepting security deposits and rental payments for the units only when the deposits and rental payments are made payable to the owner or the broker employed by the owner. The salaried employee shall not negotiate the amount of

security deposits or rental payments and shall not negotiate leases or any rental agreements on behalf of the owner or broker.

- (7) Any owner who personally leases or sells ~~his~~ the owner's own property.
- (8) Any housing authority organized in accordance with the provisions of Chapter 157 of the General Statutes and any regular salaried employees of the housing authority when performing acts authorized in this Chapter as to any property owned or leased by the housing authority. This exception shall not apply to any person, partnership, corporation, limited liability company, association, or other business entity that contracts with a housing authority to sell or manage property owned or leased by the housing authority."

SECTION 23.(b) G.S. 93A-6 reads as rewritten:

"§ 93A-6. *Disciplinary action by Commission.*

(a) The Commission ~~shall have~~ has power to take disciplinary action. Upon its own initiative, or on the complaint of any person, the Commission may investigate the actions of any person or entity licensed under this Chapter, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a licensee has violated any of the provisions of this Chapter, the Commission may hold a hearing on the allegations of misconduct.

The Commission ~~shall have~~ has power to suspend or revoke at any time a license issued under the provisions of this Chapter, or to reprimand or censure any licensee, if, following a hearing, the Commission adjudges the licensee to be guilty of:

- (1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact.
- (2) Making any false promises of a character likely to influence, persuade, or induce.
- (3) Pursuing a course of misrepresentation or making of false promises through agents, salespersons, advertising or otherwise.
- (4) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts.
- (5) Accepting a commission or valuable consideration as a real estate salesperson for the performance of any of the acts specified in this Article or Article 4 of this Chapter, from any person except his or her broker-in-charge or licensed broker by whom he or she is employed.
- (6) Representing or attempting to represent a real estate broker other than the broker by whom he or she is

- engaged or associated, without the express knowledge and consent of the broker with whom he or she is associated.
- (7) Failing, within a reasonable time, to account for or to remit any ~~moneys~~ monies coming into his or her possession which belong to others.
 - (8) Being unworthy or incompetent to act as a real estate broker or salesperson in a manner as to endanger the interest of the public.
 - (9) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Chapter.
 - (10) Any other conduct which constitutes improper, fraudulent or dishonest dealing.
 - (11) Performing or undertaking to perform any legal service, as set forth in G.S. 84-2.1, or any other acts constituting the practice of law.
 - (12) Commingling the money or other property of his or her principals with his or her own or failure to maintain and deposit in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money received by him or her as a real estate licensee acting in that capacity, or an escrow agent, or the temporary custodian of the funds of others, in a real estate transaction; provided, these accounts shall not bear interest unless the principals authorize in writing the deposit be made in an interest bearing account and also provide for the disbursement of the interest accrued.
 - (13) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy and sell real estate to the buyer and to the seller.
 - (14) Failing, at the time the transaction is consummated, to deliver to the seller in every real estate transaction, a complete detailed closing statement showing all of the receipts and disbursements handled by him or her for the seller or failing to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed.
 - (15) Violating any rule or regulation promulgated by the Commission.

The Executive Director shall transmit a certified copy of all final orders of the Commission suspending or revoking licenses issued under this Chapter to the clerk of superior court of the county in which the licensee maintains his or her principal place of business.

The clerk shall enter these orders upon the judgment docket of the county.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any license issued under the provisions of this Chapter or to reprimand or censure any licensee when:

- (1) The licensee has obtained a license by false or fraudulent representation;
- (2) The licensee has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of the criminal offenses of: embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to defraud, or any other offense involving moral turpitude which would reasonably affect the licensee's performance in the real estate business;
- (3) The licensee has violated any of the provisions of G.S. 93A-6(a) when selling, leasing, or buying ~~his~~the licensee's own property;
- (4) The broker's unlicensed employee, who is exempt from the provisions of this Chapter under G.S. 93A-2(c)(6), has committed, in the regular course of business, any act which, if committed by the broker, would constitute a violation of G.S. 93A-6(a) for which the broker could be disciplined; or
- (5) The licensee, who is also a State-licensed or State-certified real estate appraiser pursuant to Chapter 93E of the General Statutes, has violated any provisions of Chapter 93E of the General Statutes and has been reprimanded or has had ~~his~~an appraiser license or certificate suspended or revoked by the Appraisal Board.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person from violating the provisions of this Chapter or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or whether the person is a licensee of the Commission.

(d) Each broker shall maintain complete records showing the deposit, maintenance, and withdrawal of money or other property owned by ~~his~~the broker's principals or held in escrow or in trust for ~~his~~the broker's principals. The Commission may inspect these records periodically, without prior notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a licensee.

(e) When a person or entity licensed under this Chapter is accused of any act, omission, or misconduct which would subject the licensee to disciplinary action, the licensee, with the consent and approval of the Commission, may surrender ~~his or its~~ the license and all the rights and privileges pertaining to it for a period of time established by the Commission. A person or entity who surrenders ~~his or its~~ a license shall not thereafter be eligible for or submit any application for licensure as a real estate broker or salesperson during the period of license surrender."

SECTION 23.(c) G.S. 93A-16 reads as rewritten:

"§ 93A-16. *Real Estate Recovery Fund created; payment to fund; management.*

(a) There is hereby created a special fund to be known as the "Real Estate Recovery Fund" which shall be set aside and maintained by the North Carolina Real Estate Commission. ~~Said~~ The fund shall be used in the manner provided under this Article for the payment of unsatisfied judgments where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any real estate broker or salesperson licensed under this Chapter.

(b) On September 1, 1979, the Commission shall transfer the sum of one hundred thousand dollars (\$100,000) from its expense reserve fund to the Real Estate Recovery Fund. Thereafter, the Commission may transfer to the Real Estate Recovery Fund additional sums of money from whatever funds the Commission may have, provided that, if on December 31 of any year the amount remaining in the fund is less than fifty thousand dollars (\$50,000), the Commission may determine that each person or entity licensed under this Chapter, when renewing ~~his or its~~ a license, shall pay in addition to ~~his~~ the license renewal fee, a fee not to exceed ten dollars (\$10.00) per broker and five dollars (\$5.00) per salesperson as shall be determined by the Commission for the purpose of replenishing the fund.

(c) The Commission shall invest and reinvest the ~~moneys~~ monies in the Real Estate Recovery Fund in the same manner as provided by law for the investment of funds by the clerk of superior court. The proceeds from such investments shall be deposited to the credit of the fund.

(d) The Commission shall have the authority to adopt reasonable rules and procedures not inconsistent with the provisions of this Article, to provide for the orderly, fair and efficient administration and payment of monies held in the Real Estate Recovery Fund."

SECTION 23.(d) G.S. 93A-18 reads as rewritten:

"§ 93A-18. *Hearing; required showing.*

Upon ~~such~~ application by an aggrieved person, the Commission shall conduct a hearing and the aggrieved person shall be required to ~~show~~ show that the aggrieved person:

- (1) ~~He is~~Is not a spouse of the judgment debtor or a person representing ~~such the~~ spouse; ~~and~~
- (2) ~~He is~~Is making application not more than one year after termination of all judicial proceedings, including appeals, in connection with the judgment;
- (3) ~~He has~~Has complied with all requirements of this Article;
- (4) ~~He has~~Has obtained a judgment as described in G.S. 93A-17, stating the amount owing thereon at the date of application;
- (5) ~~He has~~Has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets liable to be sold or applied in satisfaction of the judgment;
- (6) ~~That by such search he~~ After searching as described in subdivision (5) of this section, has discovered no real or personal property or other assets liable to be sold or applied, or ~~that he~~ has discovered certain of them, describing them, but ~~that~~ the amount so realized was insufficient to satisfy the judgment, stating the amount realized and the balance remaining due on the judgment after application of the amount realized; ~~and~~
- (7) ~~He has~~Has diligently pursued ~~his remedies including attempted the~~ the aggrieved person's remedies, which include attempting execution on the judgment against all the judgment ~~debtors~~ debtors, which execution has been returned unsatisfied. ~~In addition to that, he knows~~ Knows of no assets of the judgment debtor and ~~that he~~ has attempted collection from all other persons who may be liable ~~to him in for~~ the transaction for which he the aggrieved person seeks payment from the Real Estate Recovery Fund if there be any such other persons."

SECTION 23.(e) G.S. 93A-19 reads as rewritten:

"§ 93A-19. *Response and defense by Commission and judgment debtor; proof of conversion.*

(a) Whenever the Commission proceeds upon an application as set forth in this Article, counsel for the Commission may defend such action on behalf of the fund and shall have recourse to all appropriate means of defense, including the examination of witnesses. The judgment debtor may defend such action on his or her own behalf and shall have recourse to all appropriate means of defense, including the examination of witnesses. Counsel for the Commission and the judgment debtor may file responses to the application, setting forth answers and defenses. Responses shall be filed with the Commission and copies shall be served upon every party by the filing party. If at

any time it appears there are no triable issues of fact and the application for payment from the fund is without merit, the Commission shall dismiss the application. A motion to dismiss may be supported by affidavit of any person or persons having knowledge of the facts and may be made on the basis that the application or the judgment referred to therein do not form a basis for meritorious recovery within the purview of G.S. 93A-17, that the applicant has not complied with the provisions of this Article, or that the liability of the fund with regard to the particular licensee or transaction has been exhausted; provided, however, notice of ~~such~~the motion shall be given at least 10 days prior to the time fixed for hearing. If the applicant or judgment debtor fails to appear at the hearing after receiving notice of the hearing, the applicant or judgment debtor ~~shall waive his or her rights~~waives the person's rights unless the absence is excused by the Commission.

(b) Whenever the judgment obtained by an applicant is by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant, for purposes of this Article, shall have the burden of proving ~~his~~the cause of action for conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the conversion of trust funds. This presumption is a presumption affecting the burden of producing evidence."

SECTION 23.(f) G.S. 93A-22 reads as rewritten:

"§ 93A-22. *Repayment to fund; automatic suspension of license.*

Should the Commission pay from the Real Estate Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or salesperson, the license of the broker or salesperson shall be automatically suspended upon the effective date of the order authorizing payment from the fund. No such broker or salesperson shall be granted a reinstatement until ~~he has the fund has been~~ repaid in full, ~~plus~~including interest at the legal rate as provided for in G.S. 24-1, ~~the amount paid from the Real Estate Recovery Fund.~~G.S. 24-1."

SECTION 23.(g) G.S. 93A-23 reads as rewritten:

"§ 93A-23. *Subrogation of rights.*

When the Commission has paid from the Real Estate Recovery Fund any sum to the judgment creditor, the Commission shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid and the judgment creditor shall assign all ~~his~~ right, title, and interest in the judgment to the extent of the amount so paid to the Commission and any amount and interest so recovered by the Commission on the judgment shall be deposited in the Real Estate Recovery Fund."

SECTION 23.(h) G.S. 93A-25 reads as rewritten:

"§ 93A-25. *Persons ineligible to recover from fund.*

No real estate broker or real estate salesperson who suffers the loss of any commission from any transaction in which he or she was acting in the capacity of a real estate broker or real estate salesperson shall be entitled to make application for payment from the Real Estate Recovery Fund for ~~such the~~ loss."

SECTION 23.(i) G.S. 93A-42 reads as rewritten:

"§ 93A-42. *Time shares deemed real estate.*

(a) A time share is deemed to be an interest in real estate, and shall be governed by the law of this State relating to real estate.

(b) A purchaser of a time share may in accordance with G.S. 47-18 register the time share instrument by which ~~he the purchaser~~ acquired his the interest and upon such registration shall be entitled to the protection provided by Chapter 47 of the General Statutes for the recordation of other real property instruments. A time share instrument transferring or encumbering a time share shall not be rejected for recordation because of the nature or duration of that estate, provided all other requirements necessary to make an instrument recordable are complied with.

(c) The developer shall record or cause to be recorded a time share instrument:

- (1) Not less than six days nor more than 45 days following the execution of the contract of sale by the purchaser; or
- (2) Not later than 180 days following the execution of the contract of sale by the purchaser, provided that all payments made by the purchaser shall be placed by the developer with an independent escrow agent upon the expiration of the 10-day escrow period provided by G.S. 93A-45(c).

(d) The independent escrow agent provided by G.S. 93A-42(c)(2) shall deposit and maintain the purchaser's payments in an insured trust or escrow account in a bank or savings and loan association located in this State. The trust or escrow account may be interest-bearing and the interest earned shall belong to the developer, if agreed upon in writing by the purchaser; Provided, however, if the time share instrument is not recorded within the time periods specified in this section, then the interest earned shall belong to the purchaser. The independent escrow agent shall return all payments to the purchaser at the expiration of 180 days following the execution of the contract of sale by the purchaser, unless prior to that time the time share instrument has been recorded. However, if prior to the expiration of 180 days following the execution of the contract of sale, the developer and the purchaser provide their written consent to the independent escrow agent, the developer's obligation to record the time share instrument and the escrow period may be extended for an

additional period of 120 days. Upon recordation of the time share instrument, the independent escrow agent shall pay the purchaser's funds to the developer. Upon request by the Commission, the independent escrow agent shall promptly make available to the Commission inspection of records of money held by ~~him~~the independent escrow agent.

(e) In no event shall the developer be required to record a time share instrument if the purchaser is in default of ~~his~~the purchaser's obligations.

(f) Recordation under the provisions of this section of the time share instrument shall constitute delivery of that instrument from the developer to the purchaser."

SECTION 23.(j) G.S. 93A-45(d) reads as rewritten:

"(d) If a developer fails to provide a purchaser to whom a time share is transferred with the statement as required by subsection (a), the purchaser, in addition to any rights to damages or other relief, is entitled to receive from the developer an amount equal to ten percent (10%) of the sales price of the time share not to exceed three thousand dollars (\$3,000). A receipt signed by the purchaser stating that ~~he~~the purchaser has received the statement required by subsection (a) is prima facie evidence of delivery of ~~such~~the statement."

SECTION 23.(k) G.S. 93A-48 reads as rewritten:

"§ 93A-48. *Exchange programs.*

(a) If a purchaser is offered the opportunity to subscribe to any exchange program, the developer shall, except as provided in subsection (b), deliver to the purchaser, prior to the execution of (i) any contract between the purchaser and the exchange company, and (ii) the sales contract, at least the following information regarding ~~such~~the exchange program:

- (1) The name and address of the exchange company;
- (2) The names of all officers, directors, and shareholders owning five percent (5%) or more of the outstanding stock of the exchange company;
- (3) Whether the exchange company or any of its officers or directors has any legal or beneficial interest in any developer or managing agent for any time share project participating in the exchange program and, if so, the name and location of the time share project and the nature of the interest;
- (4) Unless the exchange company is also the developer a statement that the purchaser's contract with the exchange company is a contract separate and distinct from the sales contract;

- (5) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the time share project with the exchange program;
- (6) Whether the purchaser's membership or participation, or both, in the exchange program is voluntary or mandatory;
- (7) A complete and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange company and the procedure by which changes thereto may be made;
- (8) A complete and accurate description of the procedure to qualify for and effectuate exchanges;
- (9) A complete and accurate description of all limitations, restrictions, or priorities employed in the operation of the exchange program, including, but not limited to, limitations on exchanges based on seasonality, unit size, or levels of occupancy, expressed in boldfaced type, and, in the event that such limitations, restrictions, or priorities are not uniformly applied by the exchange program, a clear description of the manner in which they are applied;
- (10) Whether exchanges are arranged on a space available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program;
- (11) Whether and under what circumstances an owner, in dealing with the exchange company, may lose the use and occupancy of ~~his~~ the owner's time share in any properly applied for exchange without ~~his~~ being provided with substitute accommodations by the exchange company;
- (12) The expenses, fees or range of fees for participation by owners in the exchange program, a statement whether any such fees may be altered by the exchange company, and the circumstances under which alterations may be made;
- (13) The name and address of the site of each time share project or other property which is participating in the exchange program;
- (14) The number of units in each project or other property participating in the exchange program which are available for occupancy and which qualify for participation in the exchange program, expressed within the following numerical groupings, 1-5, 6-10, 11-20, 21-50 and 51, and over;

- (15) The number of owners with respect to each time share project or other property which are eligible to participate in the exchange program expressed within the following numerical groupings, 1-100, 101-249, 250-499, 500-999, and 1,000 and over, and a statement of the criteria used to determine those owners who are currently eligible to participate in the exchange program;
- (16) The disposition made by the exchange company of time shares deposited with the exchange program by owners eligible to participate in the exchange program and not used by the exchange company in effecting exchanges;
- (17) The following information which, except as provided in subsection (b) below, shall be independently audited by a certified public accountant in accordance with the standards of the Accounting Standards Board of the American Institute of Certified Public Accountants and reported for each year no later than July 1, of the succeeding year:
 - a. The number of owners enrolled in the exchange program and such numbers shall disclose the relationship between the exchange company and owners as being either fee paying or gratuitous in nature;
 - b. The number of time share projects or other properties eligible to participate in the exchange program categorized by those having a contractual relationship between the developer or the association and the exchange company and those having solely a contractual relationship between the exchange company and owners directly;
 - c. The percentage of confirmed exchanges, which shall be the number of exchanges confirmed by the exchange company divided by the number of exchanges properly applied for, together with a complete and accurate statement of the criteria used to determine whether an exchange requested was properly applied for;
 - d. The number of time shares or other intervals for which the exchange company has an outstanding obligation to provide an exchange to an owner who relinquished a time share or interval during the year in exchange for a time share or interval in any future year; and
 - e. The number of exchanges confirmed by the exchange company during the year; and

- (18) A statement in boldfaced type to the effect that the percentage described in ~~subparagraph (17)c. of subsection (a)~~sub-subdivision c. of subdivision (17) of this subsection is a summary of the exchange requests entered with the exchange company in the period reported and that the percentage does not indicate a purchaser's/owner's probabilities of being confirmed to any specific choice or range of choices, since availability at individual locations may vary.

The purchaser shall certify in writing to the receipt of the information required by this subsection and any other information which the ~~Commissioners~~Commission may by rule require.

(b) The information required by subdivisions (a), (2), (3), (13), (14), (15), and (17) shall be accurate as of December 31 of the year preceding the year in which the information is delivered, except for information delivered within the first 180 days of any calendar year which shall be accurate as of December 31 of the year two years preceding the year in which the information is delivered to the purchaser. The remaining information required by subsection (a) shall be accurate as of a date which is no more than 30 days prior to the date on which the information is delivered to the purchaser.

(c) In the event an exchange company offers an exchange program directly to the purchaser or owner, the exchange company shall deliver to each purchaser or owner, concurrently with the offering and prior to the execution of any contract between the purchaser or owner and the exchange company the information set forth in subsection (a) above. The requirements of this paragraph shall not apply to any renewal of a contract between an owner and an exchange company.

(d) All promotional brochures, pamphlets, advertisements, or other materials disseminated by the exchange company to purchasers in this State which contain the percentage of confirmed exchanges described in (a)(17)c. must include the statement set forth in (a)(18)."

SECTION 23.(1) G.S. 93A-54 reads as rewritten:

"§ 93A-54. *Disciplinary action by Commission.*

(a) The Commission ~~shall have~~has power to take disciplinary action. Upon its own motion, or on the verified complaint of any person, the Commission may investigate the actions of any time share salesperson, developer, or project broker of a time share project registered under this Article, or any other person or entity who shall assume to act in such capacity. If the Commission finds probable cause that a time share salesperson, developer, or project broker has violated any of the provisions of this Article, the Commission may hold a hearing on the allegations of misconduct.

The Commission ~~shall have~~has the power to suspend or revoke at any time a real estate license issued to a time share salesperson or project broker, or a certificate of registration of a time share project issued to a developer; or to reprimand or censure such salesperson, developer, or project broker; or to fine such developer in the amount of five hundred dollars (\$500.00) for each violation of this Article, if, after a hearing, the Commission adjudges either the salesperson, developer, or project broker to be guilty of:

- (1) Making any willful or negligent misrepresentation or any willful or negligent omission of material fact about any time share or time share project;
- (2) Making any false promises of a character likely to influence, persuade, or induce;
- (3) Pursuing a course of misrepresentation or making of false promises through agents, salesperson, advertising or otherwise;
- (4) Failing, within a reasonable time, to account for all money received from others in a time share transaction, and failing to remit such monies as may be required in G.S. 93A-45 of this Article;
- (5) Acting as a time share salesperson or time share developer in a manner as to endanger the interest of the public;
- (6) Paying a commission, salary, or other valuable consideration to any person for acts or services performed in violation of this Article;
- (7) Any other conduct which constitutes improper, fraudulent, or dishonest dealing;
- (8) Performing or undertaking to perform any legal service as set forth in G.S. 84-2.1, or any other acts not specifically set forth in that section;
- (9) Failing to deposit and maintain in a trust or escrow account in an insured bank or savings and loan association in North Carolina all money received from others in a time share transaction as may be required in G.S. 93A-45 of this Article or failing to place with an independent escrow agent the funds of a time share purchaser when required by G.S. 93A-42(c);
- (10) Failing to deliver to a purchaser a public offering statement containing the information required by G.S. 93A-44 and any other disclosures that the Commission may by regulation require;
- (11) Failing to comply with the provisions of Chapter 75 of the General Statutes in the advertising or promotion of

- time shares for sale, or failing to assure such compliance by persons engaged on behalf of a developer;
- (12) Failing to comply with the provisions of G.S. 93A-48 in furnishing complete and accurate information to purchasers concerning any exchange program which may be offered to such purchaser;
 - (13) Making any false or fraudulent representation on an application for registration;
 - (14) Violating any rule or regulation promulgated by the Commission;
 - (15) Failing to record or cause to be recorded a time share instrument as required by G.S. 93A-42(c), or failing to provide a purchaser the protection against liens required by G.S. 93A-57(a); or
 - (16) Failing as a time share project broker to exercise reasonable and adequate supervision of the conduct of sales at ~~his~~a project or location by the brokers and salespersons under ~~his~~the time share project broker's control.

(a1) The clear proceeds of fines collected pursuant to subsection (a) of this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Following a hearing, the Commission shall also have power to suspend or revoke any certificate of registration issued under the provisions of this Article or to reprimand or censure any developer when the registrant has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of the criminal offenses of: embezzlement, obtaining money under false pretense, fraud, forgery, conspiracy to defraud, or any other offense involving moral turpitude which would reasonably affect the developer's performance in the time share business.

(c) The Commission may appear in its own name in superior court in actions for injunctive relief to prevent any person or entity from violating the provisions of this Article or rules promulgated by the Commission. The superior court shall have the power to grant these injunctions even if criminal prosecution has been or may be instituted as a result of the violations, or regardless of whether the person or entity has been registered by the Commission.

(d) Each developer shall maintain or cause to be maintained complete records of every time share transaction including records pertaining to the deposit, maintenance, and withdrawal of money required to be held in a trust or escrow account, or as otherwise required by the Commission, under G.S. 93A-45 of this Article. The Commission may inspect these records periodically without prior

notice and may also inspect these records whenever the Commission determines that they are pertinent to an investigation of any specific complaint against a registrant.

(e) When a licensee is accused of any act, omission, or misconduct under this Article which would subject the licensee to disciplinary action, the licensee may, with the consent and approval of the Commission, surrender ~~his or its~~ the licensee's license and all the rights and privileges pertaining to it for a period of time to be established by the Commission. A licensee who surrenders ~~his or its~~ a license shall not be eligible for, or submit any application for, licensure as a real estate broker or salesperson or registration of a time share project during the period of license surrender. For the purposes of this section, the term licensee shall include a time share developer."

SECTION 23.(m) G.S. 93A-58 reads as rewritten:

"§ 93A-58. *Registrar required; criminal penalties; project broker.*

(a) Every developer of a registered project shall, by affidavit filed with the Commission, designate a natural person to serve as time share registrar for its registered projects. The registrar shall be responsible for the recordation of time share instruments and the release of liens required by G.S. 93A-42(c) and G.S. 93A-57(a). A developer may, from time to time, change the designated time share registrar by proper filing with the Commission and by otherwise complying with this subsection. No sales or offers to sell shall be made until the registrar is designated for a time share project.

The registrar has the duty to ensure that the provisions of this Article are complied with in a time share project for which ~~he~~ the person is registrar. No registrar shall record a time share instrument except as provided by this Article.

(b) A time share registrar ~~shall be~~ is guilty of a Class I felony if he or she knowingly or recklessly fails to record or cause to be recorded a time share instrument as required by this Article.

A person responsible as general partner, corporate officer, joint venturer or sole proprietor of the developer of a time share project ~~shall be~~ is guilty of a Class I felony if ~~he~~ the person intentionally allows the offering for sale or the sale of time share to purchasers without first designating a time share registrar.

(c) The developer shall designate for each project and other locations where time shares are sold or offered for sale a project broker. The project broker shall act as supervising broker for all persons licensed as salespersons at the project or other location and shall directly, personally, and actively supervise all persons licensed as brokers or salespersons at the project or other location in a manner to reasonably ensure that the sale of time shares will be conducted in accordance with the provisions of this Chapter."

SECTION 25. G.S. 105-357(b)(2) reads as rewritten:

"(2) Penalty. – In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving in payment of taxes a check that is returned because of insufficient funds or nonexistence of an account of the drawer is ten percent (10%) of the amount of the check, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000). This penalty does not apply if the tax collector finds that, when the check was presented for payment, the drawer of the check had sufficient funds in an account at a financial institution in this State to pay the check and, by ~~inadvertance,~~ inadvertence, the drawer of the check failed to draw the check on the account that had sufficient funds. This penalty shall be added to and collected in the same manner as the taxes for which the check was given."

SECTION 26. G.S. 116D-4(b) reads as rewritten:

~~"(b) Participation in providing professional services.~~ Participation in Providing Professional Services. – The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this section. As used in this subsection, the term 'historically underutilized business' means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection."

SECTION 29. Effective July 1, 2001, G.S. 122C-269(b) reads as rewritten:

"(b) An official of the facility shall immediately notify the clerk of superior court of the county in which the facility is located of a determination to hold the respondent pending hearing. That clerk shall request transmittal of all documents pertinent to the proceedings from the clerk of superior court where the proceedings were initiated. The requesting clerk shall assume all duties set forth in G.S.

122C-264. The counsel for indigent respondents the counsel provided for in G.S. 122C-268(d) shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services."

SECTION 30.(a) G.S. 126-5(a)(2) reads as rewritten:

"(2) ~~To all~~ All employees of the following local entities:

- a. Area mental health, developmental disabilities, and substance abuse authorities.
- b. Local social services departments.
- c. Local public health departments.
- d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision."

SECTION 30.(b) G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

- (1) Constitutional officers of the State.
- (2) Officers and employees of the Judicial Department.
- (3) Officers and employees of the General Assembly.
- (4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.
- (5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
- (6) Employees of the Office of the Governor that the Governor, at any time, in ~~his~~ the Governor's discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in ~~his~~ the Lieutenant Governor's discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (8) Instructional and research staff, physicians, and dentists of The University of North Carolina.
- (9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-11(5), and 116-14.
- (10) Repealed by Session Laws 1991, c. 84, s. 1.

- (11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
- (12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
- (13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2).
- (14) Employees of the North Carolina State Ports Authority.
- (15) Employees of the North Carolina Global TransPark Authority.
- (16) The executive director and one associate director of the North Carolina Center for Nursing established under Article 9F of Chapter 90 of the General Statutes.
- (17) The executive director of the independent staff of the Information Resources Management Commission established under G.S. 143B-472.41A.
- (18) Employees of the Tobacco Trust Fund Commission established in Article 75 of Chapter 143 of the General Statutes.
- (19) Employees of the Health and Wellness Trust Fund Commission established in Article 21 of Chapter 130A of the General Statutes.
- (20) Employees of the North Carolina Rural Redevelopment Authority created in Part 2D of Article 10 of Chapter 143B of the General Statutes."

SECTION 31. G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

- (1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted ~~hereunder adult care.~~ hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. A license shall not be renewed if outstanding fines and penalties imposed by the State against the home have not been paid. Fines and penalties

for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

- a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;
- b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

- a. The Department finds that:
 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- b. The Department finds that:
 1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
 2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or
- c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules

adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 32. G.S. 143B-434(b) reads as rewritten:

"(b) Membership. – The Economic Development Board shall consist of 36 members. The Secretary of Commerce shall serve ex officio as a member and as the secretary of the Economic Development Board. Four members of the House of Representatives appointed by the Speaker of the House of Representatives, four members of the Senate appointed by the President Pro Tempore of the Senate, the President of The University of North Carolina, or designee, the President of the North Carolina Community College System, or designee, the Secretary of State, and the President of the Senate (or the designee of the President of the Senate), shall serve as members of the Board. The Governor shall appoint the remaining 23 members of the ~~Board, provided that effective~~ Board. Effective with the terms beginning July 1, 1997, one of ~~those~~ the Governor's appointees shall be a representative of a nonprofit organization involved in economic development and two of ~~those~~ the Governor's appointees shall be county economic development representatives. The Governor shall designate a chair and a vice-chair from among the members of the Board. Appointments to the Board made by the Governor for terms beginning July 1, 1997, and appointments to the Board made by the Speaker of the House of Representatives and the President Pro Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and gender diversity of the State as nearly as practical.

The initial appointments to the Board shall be for terms beginning on July 9, 1993. Of the initial appointments made by the Governor, the terms shall expire July 1, 1997. Of the initial appointments made by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate two appointments of each shall be designated to expire on July 1, 1995; the remaining terms shall expire

July 1, 1997. Thereafter, all appointments shall be for a term of four years.

The appointing officer shall make a replacement appointment to serve for the unexpired term in the case of a vacancy.

The members of the Economic Development Board shall receive per diem and necessary travel and subsistence expenses payable to members of State Boards and agencies generally pursuant to G.S. 138-5 and ~~{G.S.}~~G.S. 138-6, as the case may be. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1."

SECTION 33. G.S. 143B-456.1(e) reads as rewritten:

"(e) Notwithstanding any other provision of law, the Authority may agree that all contracts relating to the acquisition, construction, installation and equipping of the special user project shall be solicited, negotiated, awarded and executed by the private party or parties for which the Authority is financing the special user project or their agents subject only to such approvals by the Authority as the Authority may require. The Authority may, out of the proceeds of bonds or notes, make advances to or reimburse such private parties or such agents for all or a portion of the costs incurred in connection with such contracts. The provisions of ~~Section G.S.~~ 143B-463 of this Part shall have no application to funds and moneys derived pursuant to this section."

SECTION 34. G.S. 147-33.85(b) reads as rewritten:

"(b) The Office shall coordinate with the Office of State Budget, Planning, and Management ~~and the Office of State Budget, Planning, and Management~~ to integrate agency strategic and business planning, technology planning and budgeting, and project expenditure processes into the Office's information technology portfolio-based management. The Office shall provide recommendations for agency annual budget requests for information technology investments, projects, and initiatives to the Office of State Budget, Planning, and Management."

SECTION 35. Effective July 1, 2001, G.S. 159D-23 reads as rewritten:

"§ 159D-23. *Application of Article 9 of Chapter 25.*

Article 9 of Chapter 25 of the General Statutes applies to transactions under this Chapter.

~~G.S. Article as if G.S.":~~

SECTION 36. G.S. 160A-37(f1) and (f2) read as rewritten:

"(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an annexation ordinance includes agricultural land, horticultural land, or forestland that meets either of the conditions

listed below on the effective date of annexation is: annexation, then the annexation becomes effective as to that property pursuant to subsection (f2) of this section:

- (1) The land is being taxed at present-use value pursuant to G.S. ~~105-277.4; or 105-277.4.~~
- (2) The land meets both of the following conditions:
 - a. ~~Was on~~ On the date of the resolution of intent for annexation it was being used for actual production and is eligible for present-use value taxation under G.S. 105-277.4, but had not been in use for actual production for the required time under G.S. ~~105-277.3; and 105-277.3.~~
 - b. The assessor for the county where the land subject to annexation is located has certified to the city that the land meets the requirements of this ~~subdivision~~ subdivision.

~~the annexation becomes effective as to that property pursuant to subsection (f2) of this section.~~

(f2) Effective Date of Annexation for Certain Property. – Annexation of property subject to annexation under subsection (f1) of this section ~~shall become effective; becomes effective as provided in this subsection.~~

- (1) Upon the effective date of the annexation ordinance, the property is considered part of the city only (i) for the purpose of establishing city boundaries for additional annexations pursuant to this Article and (ii) for the exercise of city authority pursuant to Article 19 of this Chapter.
- (2) For all other purposes, the annexation becomes effective as to each tract of the property or part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to G.S. ~~105-227.4—105-277.4~~ or no longer meets the requirements of subdivision (f1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subdivision, the tract or part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes nor is the tract or part of a tract entitled to services provided by the city."

SECTION 37. G.S. 160A-300.1(d) reads as rewritten:

"(d) This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, Rocky Mount, Wilmington, Greenville, and Lumberton, ~~Greenville, High Point, Lumberton, Rocky Mount, and~~

Wilmington and the Towns of Chapel Hill, Cornelius, Huntersville, Matthews, and Pineville only."

SECTION 38.(a) G.S. 1-209.1 reads as rewritten:

"§ 1-209.1. *Petitioner who abandons condemnation proceeding taxed with fee for respondent's attorney.*

In all condemnation proceedings authorized by ~~G.S. 40-2~~ G.S. 40A-3 or by any other statute, the clerks of the superior courts are authorized to fix and tax the petitioner with a reasonable fee for respondent's attorney in cases in which the petitioner takes or submits to a voluntary nonsuit or otherwise abandons the proceeding."

SECTION 38.(b) G.S. 1-209.2 reads as rewritten:

"§ 1-209.2. *Voluntary nonsuit by petitioner in condemnation proceeding.*

The petitioner in all condemnation proceedings authorized by ~~G.S. 40-2~~ G.S. 40A-3 or by any other statute is authorized and allowed to take a voluntary nonsuit."

SECTION 38.(c) G.S. 54-166(c) reads as rewritten:

"(c) If within the 30-day period mentioned in subsection (b) of this section the member and the association do not agree as to the fair market value of ~~such the~~ stock or other property rights or interests, the member may, within 60 days after the expiration of the 30-day period, file a petition in the superior court of the county in which the association has its registered office or principal place of business asking for the appointment by the clerk of the superior court of that county of three qualified and disinterested appraisers to appraise the fair market value of ~~such the~~ stock or other property rights or interests. A summons as in other cases of special proceedings, together with a copy of the petition, shall be served on the association at least 10 days prior to the hearing of the petition by the court. The award of the appraisers, or a majority of them, if no exceptions ~~be are~~ filed thereto within 10 days after the award ~~shall have been~~ is filed in court, shall be confirmed by the court, and when confirmed shall be final and ~~conclusive, and the~~ conclusive. The member, upon depositing with the court the proper stock certificates or other evidence of ~~such~~ property rights or interests, shall be entitled to judgment against the association for the appraised value thereof as of the day prior to the date on which the vote was taken, together with interest thereon to the date of ~~such the~~ confirmation. If either party files exceptions to ~~such the~~ award within 10 days after the award ~~shall have been~~ is filed in court, the case shall be transferred to the civil issue docket of the superior court for trial during term and shall be there tried in the same manner, as near as may be practicable, as is provided in Chapter ~~40-40A~~ of the General Statutes for the trial of cases under the eminent domain law of this State, and with the same right of appeal to the appellate division as is permitted in that

Chapter. The court shall assess the cost of the proceedings as it shall deem equitable. Upon payment of the ~~judgment~~ judgment, the owner of ~~such the~~ stock or other property rights or interests shall cease to have any interest in the association and the association shall be entitled to have ~~said the~~ stock certificates or other evidence of ~~such the~~ property rights or interests surrendered to the association by the clerk of court. Unless the member ~~shall file such files a~~ petition within the time herein prescribed, ~~he the member~~ and all persons claiming under ~~him the member~~ shall have no right of payment hereunder, but in that event nothing herein shall impair ~~his the member's~~ status as a member."

SECTION 38.(d) G.S. 104-20 reads as rewritten:

"§ 104-20. *Utilities Commission to secure right-of-way; condemnation by United States.*

If the title to any part of the lands required by the United States government for the construction of ~~such an~~ inland waterway from Beaufort Inlet to the Cape Fear River ~~shall be in any is owned by a~~ private person, company or corporation, railroad company, street railway company, telephone or telegraph company, or other public service corporation, or ~~shall have has~~ been donated or condemned for any public use by any political subdivision of the State or if it may be necessary, for the purpose of obtaining the proper title to any lands, the title to which has heretofore been vested in the State Board of Education, then the Utilities ~~Commission~~ Commission, in the name of the State of North Carolina, ~~is hereby authorized and empowered, acting for and in behalf of the State of North Carolina, to may~~ secure a right-of-way 1,000 feet wide for ~~said the~~ inland waterway across and through ~~such the~~ lands or any part thereof, if possible by purchase, donation or otherwise, through agreement with the owner or owners, and when any ~~such~~ property is thus acquired, the Governor and Secretary of State shall execute a deed for the same to the United States; and if for any reason the ~~said~~ Commission ~~shall be is~~ unable to secure ~~such a~~ right-of-way across ~~any such the~~ property by voluntary agreement with the owner or owners as aforesaid, the ~~said~~ Commission acting for and in behalf of the State of North Carolina, is hereby vested with the power to condemn the same, and in so doing, the ways, means, methods and procedure of Chapter ~~40-40A~~ of the General Statutes of North Carolina, entitled "Eminent Domain," shall be used by it as near as the same is suitable for the purposes of this law, and in all instances, the general and the special benefits to the owner thereof shall be assessed as offsets against the damages to ~~such the~~ property or lands.

As ~~such~~ condemnation proceedings might result in delay in the acquiring of title to all parts of the right-of-way and in the construction of the ~~said~~ inland waterway by the United States, ~~said~~

the Utilities Commission is authorized to enter any of ~~said the~~ lands and property and take possession of the same at the time hereinafter provided as needed for this use in behalf of the State or the United States government for the purposes herein set out prior to the bringing of the proceeding for condemnation and prior to the payment of the money for ~~such the~~ land or property under any judgment in condemnation. In the event the owner or owners shall appeal from the report of the commissioners appointed in the condemnation proceeding it shall not be necessary for ~~said Commission the~~ Commission, acting in behalf of the State of North Carolina, the State of North Carolina, or the United States government, to deposit the money assessed by ~~said the~~ commissioners with the clerk.

Whenever proceedings in condemnation are instituted ~~in~~ pursuance of ~~under~~ the provisions of this section, the ~~said~~ Commission upon the filing of the petition or petitions in ~~such the~~ proceedings, ~~shall have the right to~~ may take immediate possession on behalf of the State of ~~such the~~ lands or property to the extent of the interest to be acquired and the Governor and Secretary of State shall thereupon execute a deed to the United States and ~~said the~~ lands or property may then be appropriated and used by the United States for the purposes ~~aforsaid~~ described in this section. Provided, that in every case the proceedings in condemnation shall be diligently prosecuted to final judgment in order that the just compensation to which the owners of the property are entitled may be ascertained and when so ascertained and determined ~~such the~~ compensation shall be promptly paid as hereinafter in this law provided.

If the United States government shall so determine, it is hereby authorized to condemn and use all lands and property ~~which that~~ may be needed for the purposes herein set out and which is specifically described and set out in the preceding paragraphs, under the authority of ~~said the~~ United States government, and according to the provisions existing in the federal statutes for condemning lands and property for the use of the United States government. In case the United States government shall so condemn ~~said the~~ land and property, the ~~said~~ Utilities Commission is hereby authorized to pay all expenses of the condemnation proceedings and any award that may be made thereunder, out of the money ~~which that~~ may be appropriated for ~~said~~ these purposes."

SECTION 38.(e) G.S. 113-34 reads as rewritten:

"§ 113-34. *Power to acquire lands as State forests, parks, etc.; donations or leases by United States; leases for recreational purposes; rules governing public use.*

(a) The Governor of the State is authorized upon recommendation of the Department to accept gifts of land to the State, the same to be held, protected, and administered by ~~said the~~

Department as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. ~~Such gifts~~ The gifts of land must be absolute except in ~~such cases as~~ where the mineral interest on the land has previously been sold. The Department shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park, and protection purposes, using for such purposes any special appropriations or funds available. The Department shall also have the power to acquire by condemnation under the provisions of Chapter 40, ~~such~~ 40A of the General Statutes, areas of land in different sections of the State as may in the opinion of the Department be necessary for the purpose of establishing ~~and/or developing or~~ developing, or both, State forests, State parks and other areas and developments essential to the effective operation of the State forestry and State park activities with which the Department has been or may be entrusted. ~~Such condemnation~~ Condemnation proceedings shall be instituted and prosecuted in the name of the State of North Carolina, and any property so acquired shall be administered, developed and used for experiment and demonstration in forest management, for public recreation and for ~~such~~ other purposes authorized or required by law: Provided, that before any action or proceeding under this section can be exercised, the approval of the Governor and Council of State shall be obtained and filed with the clerk of the superior court in the county or counties where ~~such~~ the property may be ~~situate, situated,~~ and until ~~such~~ approval is obtained, the rights and powers conferred by this section shall not be exercised. The Attorney General of the State is directed to see that all deeds to the State for land mentioned in this section are properly executed before the gift is accepted or payment of the purchase money is made.

(b) The Department is ~~further authorized and empowered to~~ may accept as gifts to the State of North Carolina ~~such~~ any forest and submarginal farmland acquired by ~~said~~ the federal government as may be suitable for the purpose of creating and maintaining State-controlled forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas, or to enter into longtime leases with the federal government for such areas and administer them with ~~such~~ funds as may be secured from their administration in the best interest of longtime public use, supplemented by ~~such~~ any necessary appropriations as may be made by the General Assembly. The Department is ~~further empowered to~~ may segregate State hunting and fishing licenses, use permits, and concessions and other proper revenue secured through the administration of such forests, game refuges, public shooting grounds, State parks, State lakes, and other recreational areas to be deposited in

the State treasury to the credit of the Department to be used for the administration of these areas.

(c) The Department, with the approval of the Governor and Council of State, ~~is further authorized and empowered to may~~ enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the Department may construct, ~~operate~~ operate, and maintain on ~~said the~~ lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:

- (1) The erection, maintenance and use of docks, piers and ~~such~~ other structures as may be permitted in or on ~~said the~~ waters under its own ~~rules; rules.~~
- (2) Fishing privileges in ~~said the~~ waters, provided that ~~such the~~ privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.

(d) The Department may make reasonable rules for the operation and use of boats or other craft on the surface of the ~~said~~ waters but shall not ~~be authorized to charge or collect fees for such the~~ operation or ~~use use of boats or other craft.~~

(e) The Department may make reasonable rules for the regulation of the ~~use by the public of said~~ public use of the lands and waters and of public service facilities and conveniences constructed thereon, and ~~said the~~ rules shall have the force and effect of law and any violation of ~~such the~~ rules shall constitute a Class 3 misdemeanor.

(f) The authority herein granted is in addition to other authority now held and exercised by the Department."

SECTION 38.(f) G.S. 117-18(6) reads as rewritten:

"(6) The right to apply to the North Carolina Rural Electrification Authority for permission to construct or place any parts of its system or lines in and along any State highway or over any lands ~~which that~~ are now, or may be, the property of this State, or any political subdivision thereof. In all questions involving the right-of-way, or the right of eminent domain, the rulings of the North Carolina Rural Electrification Authority ~~shall be~~ are final. Notwithstanding the foregoing sentence and notwithstanding subdivision (7) of G.S. 117-2, electric membership corporations ~~are hereby empowered, may,~~ without necessity of the Authority's rulings or participation, ~~to~~ exercise the right of eminent domain for the purposes of constructing, operating and maintaining electric generating, transmission, distribution and related facilities, individually and solely

in their own names, pursuant to the provisions of Chapter ~~40-40A~~ of the General Statutes; provided, that notwithstanding G.S. 117-30, the foregoing grant of the power of eminent domain to electric membership corporations shall not apply to telephone membership corporations; and, provided further, that ~~such the grant of the power shall be of eminent domain is~~ supplementary to the power of eminent domain already devolved upon the Authority."

SECTION 38.(g) G.S. 121-16 reads as rewritten:

"§ 121-16. *Acquiring lands by purchase or condemnation.*

The Department of Cultural Resources, within the limits and amounts appropriated by the General Assembly and ~~such any funds as may be~~ available from donations or otherwise, when the conditions set forth in G.S. 121-15 of this Article have been met, is hereby granted the power and authority to purchase sufficient lands for the restoration of ~~said the~~ Palace, and the ~~said~~ Department is hereby authorized to accept title to ~~said~~ lands in the name of the State of North Carolina.

The Department of Cultural Resources shall also have the authority to acquire, by condemnation, under the provisions of Chapter ~~40-40A~~ of the General Statutes of North Carolina, including the provisions of the Public Works Eminent Domain Law, which is hereby made applicable to such proceedings, ~~such any~~ areas of land in New Bern, North Carolina, as it may find ~~to be~~ necessary for the restoration of ~~said the~~ Palace."

SECTION 38.(h) G.S. 156-138.1 reads as rewritten:

"§ 156-138.1. *Acquisition and disposition of lands; lease to or from federal or State government or agency thereof.*

The district may acquire ~~such any~~ lands ~~as may be~~ necessary or convenient to enable it to accomplish the purposes for which the district was established. If the lands cannot be acquired by agreement as to the purchase price, then ~~and in such event~~, the power of eminent domain is hereby conferred and the ~~same lands~~ may be condemned by the procedure set out in G.S. 156-67 and ~~Article 2,~~ Chapter ~~40-40A~~ of the General Statutes. The land so acquired may be used in ~~such a~~ manner and for ~~such the~~ purposes ~~as the~~ commissioners of the district ~~may~~ deem best. If, in the opinion of the drainage commission of the district ~~such the~~ lands should be sold, leased or rented, the board may do so, subject to the approval of the clerk of the superior court.

The commissioners of the district ~~are hereby authorized and empowered, may,~~ in their discretion, ~~to convey or lease to the State or federal governments, or any of their agencies, with or without consideration, any properties, real or personal, belonging to said the~~ district, if in their opinion ~~such it~~ is necessary to enable the district to

receive State or federal funds available to ~~it~~the district. The terms of ~~such a~~ conveyance or lease shall be subject to the approval of the clerk of the superior court of the county in which the district was established.

The commissioners of the district ~~are authorized and empowered to~~may lease from the State or federal governments ~~such any~~ real or personal property ~~as may be~~ needed by the district to enable it to efficiently operate and maintain the district for the purposes for which it was established. The terms of ~~such a~~ lease shall be subject to the approval of the clerk of the superior court of the county in which the district was established."

SECTION 38.(i) G.S. 160A-349.10 reads as rewritten:

"§ 160A-349.10. *Power to condemn land; procedure for condemnation; board incorporated.*

If it becomes necessary to acquire additional lands for cemetery purposes and the ~~said~~ board cannot agree with the owners upon the price thereof, the ~~said~~ board shall have the power to condemn the ~~said~~ lands for cemetery purposes, and in so doing the provisions of Chapter ~~40-40A~~ of the General Statutes shall be followed as nearly as possible, and to that end, and for that purpose, the board of trustees of any cemetery acquired under this Article shall be deemed and considered a corporation and a body politic."

SECTION 39. G.S. 7A-38.4A(j), as enacted by Section 2 of S.L. 2001-320, reads as rewritten:

"(j) Evidence of statements made and conduct occurring in a settlement proceeding conducted under this section shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim, except in proceedings for sanctions or proceedings to enforce a settlement of the action. No settlement ~~proceeding~~agreement reached at a settlement conference or settlement proceeding conducted under this section shall be enforceable unless it has been reduced to writing and signed by the parties and in all other respects complies with the requirements of Chapter 50 of the General Statutes. No evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a settlement proceeding.

No mediator, or other neutral conducting a settlement procedure under this section, shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediated settlement conference or other settlement procedure in any civil proceeding for any purpose, including proceedings to enforce a settlement of the action, except to attest to the signing of any of these agreements, and except proceedings for sanctions under this section, disciplinary hearings before the State Bar or any agency established

to enforce standards of conduct for mediators, and proceedings to enforce laws concerning juvenile or elder abuse."

SECTION 40.(a) G.S. 8-53.5 reads as rewritten:

"§ 8-53.5. *Communications between licensed marriage and family therapist and client(s).*

No person, duly ~~authorized-licensed~~ as a ~~certified marital-licensed~~ marriage and family therapist, nor any of ~~his-the person's~~ employees or associates, shall be required to disclose any information which ~~he~~ the person may have acquired in rendering professional ~~marital~~ marriage and family therapy services, and which information was necessary to enable ~~him-the person~~ to render professional ~~marital~~ marriage and family therapy services. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in ~~his~~ the court's opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge."

SECTION 40.(b) G.S. 8-53.7, as amended by Section 2 of S.L. 2001-152, reads as rewritten:

"§ 8-53.7. *Social worker privilege.*

No person engaged in delivery of private social work services, duly licensed or certified pursuant to Chapter 90B of the General Statutes shall be required to disclose any information ~~which-that~~ he or she may have acquired in rendering professional social services, and which information was necessary to enable him or her to render professional social services: provided, that the presiding judge of a superior or district court may compel such disclosure, if in the court's opinion the same is necessary to a proper administration of justice and such disclosure is not prohibited by G.S. 8-53.6 or any other statute or regulation."

SECTION 40.(c) G.S. 48-10-103(a)(3) reads as rewritten:

"(3) Counseling services for a parent or the adoptee that are directly related to the adoption and are provided by a licensed psychiatrist, licensed psychologist, ~~marital licensed marriage~~ and family therapist, ~~registered practicing-licensed professional~~ counselor, licensed or certified social worker, fee-based practicing pastoral counselor or other licensed professional counselor, or an employee of an agency;"

SECTION 40.(d) G.S. 55B-2(6) reads as rewritten:

"(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing

board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18D, "Occupational Therapy," and Article 24, "Licensed Professional Counselors," of Chapter 90; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act."

SECTION 40.(e) G.S. 55B-14(c)(4) reads as rewritten:

"(4) A physician, or a licensed psychologist, or both, and a certified clinical specialist in psychiatric and mental health nursing, a ~~certified~~-licensed clinical social worker, a licensed professional counselor, or each of them, to render psychotherapeutic and related services that the respective stockholders are licensed, certified, or otherwise approved to provide."

SECTION 40.(f) G.S. 58-39-15(17) reads as rewritten:

"(17) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, chiropractor, optometrist, physical or occupational therapist, ~~certified~~-licensed clinical social worker, clinical dietitian, clinical psychologist, pharmacist, or speech therapist."

SECTION 40.(g) G.S. 58-50-30(a) through (c), as amended by Section 1 of S.L. 2001-297 and by Section 1.7 of S.L. 2001-446, reads as rewritten:

"§ 58-50-30. *Right to choose services of optometrist, podiatrist, ~~certified~~-licensed clinical social worker, certified substance abuse professional, licensed professional counselor, dentist, chiropractor, psychologist, pharmacist, certified fee-based practicing pastoral counselor, advanced practice nurse, or physician assistant.*

(a1) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides for coverage for, payment of, or reimbursement for any service rendered in connection with a condition or complaint that is within the scope of practice of a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly ~~certified~~-licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly licensed pharmacist, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to coverage of, payment of, or reimbursement for the services, whether the services be performed by a duly licensed physician, or a provider listed in this subsection, notwithstanding any provision contained in the plan or policy limiting access to the providers. The policyholder, insured, or beneficiary shall have the right to choose the provider of services notwithstanding any provision to the contrary in any other statute, subject to the utilization review, referral, and prior approval requirements of the plan that apply to all providers for that service; provided that:

- (1) In the case of plans that require the use of network providers as a condition of obtaining benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network; and
- (2) In the case of plans that require the use of network providers as a condition of obtaining a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network in order to obtain the higher level of benefits.

(a2) Whenever any policy of insurance governed by Articles 1 through 65 of this Chapter provides for certification of disability that is within the scope of practice of a duly licensed physician, a duly licensed physician assistant, a duly licensed optometrist, a duly licensed podiatrist, a duly licensed dentist, a duly licensed chiropractor, a duly ~~certified~~-licensed clinical social worker, a duly certified substance abuse professional, a duly licensed professional counselor, a duly licensed psychologist, a duly certified fee-based practicing pastoral counselor, or an advanced practice registered nurse, the insured or other persons entitled to benefits under the policy shall be entitled to payment of or reimbursement for the disability whether the disability be certified by a duly licensed

physician, or a provider listed in this subsection, notwithstanding any provisions contained in the policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of the services notwithstanding any provision to the contrary in any other statute; provided that for plans that require the use of network providers either as a condition of obtaining benefits under the plan or policy or to access a higher level of benefits under the plan or policy, the policyholder, insured, or beneficiary must choose a provider of the services within the network, subject to the requirements of the plan or policy.

(a3) Whenever any health benefit plan, subscriber contract, or policy of insurance issued by a health maintenance organization, hospital or medical service corporation, or insurer governed by Articles 1 through 67 of this Chapter provides coverage for medically necessary treatment, the insurer shall not impose any limitation on treatment or levels of coverage if performed by a duly licensed chiropractor acting within the scope of the chiropractor's practice as defined in G.S. 90-151 unless a comparable limitation is imposed on the medically necessary treatment if performed or authorized by any other duly licensed physician.

(b) For the purposes of this section, a "duly licensed psychologist" is a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

(c) For the purposes of this section, a "duly ~~certified~~-licensed clinical social worker" is a "~~certified~~-licensed clinical social worker" as defined in G.S. 90B-3(2) and licensed by the North Carolina Social Work Certification and Licensure Board ~~for Social Work~~ pursuant to Chapter 90B of the General Statutes.

...."

SECTION 40.(h) G.S. 58-65-1(a) and (c) read as rewritten:
 "§ 58-65-1. *Regulation and definitions; application of other laws; profit and foreign corporations prohibited.*

(a) Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term "hospital service plan" as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term "medical service plan" as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly ~~certified~~-licensed clinical social worker, a duly certified substance abuse professional, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed psychologist, a duly licensed pharmacist, an advanced practice registered nurse, a duly ~~certified~~-licensed clinical social worker, a duly certified substance abuse professional, a duly certified fee-based practicing pastoral counselor, a duly licensed physician assistant, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term "medical services plan" also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

...

(c) For purposes of this section, an "advanced practice registered nurse" means only a registered nurse who is duly licensed or certified as a nurse practitioner, clinical specialist in psychiatric and mental health nursing, or nurse midwife.

For the purposes of this section, a "duly ~~certified~~-licensed clinical social worker" is a "~~certified~~-licensed clinical social worker" as defined in G.S. 90B-3(2) and ~~certified~~-licensed by the North Carolina Social Work Certification and Licensure Board ~~for Social Work~~ pursuant to Chapter 90B of the General Statutes.

For purposes of this section, a "duly certified fee-based practicing pastoral counselor" shall be defined only to include fee-based practicing pastoral counselors certified by the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors pursuant to Article 26 of Chapter 90 of the General Statutes.

For the purposes of this section, a "duly licensed psychologist" shall be defined only to include a psychologist who is duly licensed in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

For purposes of this section, a "duly certified substance abuse professional" is a person certified by the North Carolina Substance Abuse Professional Certification Board pursuant to Article 5C of Chapter 90 of the General Statutes.

The term "dental service plan" as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental and/or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every "medical service plan" and of every "dental service plan," as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term "hospital service corporation" as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital and/or medical and/or dental service plan, as herein defined. Any corporation heretofore or hereafter organized and coming within the provisions of this Article and Article 66 of this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical and/or dental service plan, or any or all of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical and/or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians and/or dentists, or any or all of them, for the

furnishing of fees or services respectively under a hospital or medical and/or dental service plan, or any or all of them.

The term "preferred provider" as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

..."

SECTION 40.(i) G.S. 90-270.48A(a) reads as rewritten:

"(a) This Article does not prevent members of the clergy or licensed, certified, or registered members of professional groups recognized by the Board from advertising or performing services consistent with their own profession. Members of the clergy include, but are not limited to, persons who are ordained, consecrated, commissioned, or endorsed by a recognized denomination, church, faith group, or synagogue. Professional groups the Board shall recognize include, but are not limited to, licensed or certified social workers, licensed professional counselors, fee-based pastoral counselors, licensed practicing psychologists, psychological associates, physicians, and attorneys-at-law. However, in no event may a person use the title "Licensed Marriage and Family Therapist," use the letters "LMFT," or in any way imply that the person is a licensed marriage and family therapist unless the person is licensed as such under this Article."

SECTION 40.(j) G.S. 90-330(c) reads as rewritten:

"(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person licensed as a licensed professional counselor under the provisions of this Article shall be allowed to hold himself or herself out to the public as a ~~certified~~licensed marriage and family therapist, licensed practicing psychologist, psychological associate, or ~~certified~~licensed clinical social worker unless specifically authorized by other provisions of law."

SECTION 40.(k) The statutory catch line for G.S. 90-331 reads as rewritten:

"§ 90-331. ~~Unlawful use of title "licensed professional counselor".~~Prohibitions."

SECTION 40.(l) G.S. 90-332.1(a)(8) reads as rewritten:

- "(8) Any person performing counseling solely as an employee of an area facility, as defined in G.S. 122C-3(14)a., if both of the following apply:
- a. The services are provided by (i) a qualified professional as defined in G.S. 122C-3(31) and subject to the rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, or (ii) an employee supervised by a qualified professional as defined in G.S. 122C-3(31);
 - b. The area facility has obtained written verification from the following boards that the employee has not had his or her license, registration, or certification revoked, rescinded, or suspended: the North Carolina Board of Licensed Professional Counselors, the North Carolina State Board of Examiners of Practicing Psychologists, the North Carolina Social Work Certification Board ~~for Social Work~~, and Licensure Board, and the North Carolina Marital-Marriage and Family Therapy Certification-Licensure Board;"

SECTION 40.(m) G.S. 135-40.1(17a) reads as rewritten:

"(17a) Skilled Care. – Medically necessary services that can only be rendered under State law or regulation by licensed health professionals such as a medical doctor, physician's assistant, physical therapist, occupational therapist, speech therapist, certified clinical social worker, licensed clinical social worker, certified nurse midwife, licensed practical nurse, or registered nurse."

SECTION 40.(n) G.S. 135-40.7B(c) and (c1), as amended by Section 1 of S.L. 2001-258, read as rewritten:

"§ 135-40.7B. *Special provisions for chemical dependency and mental health benefits.*

...

(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

- (1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;
- (2) Licensed or certified doctors of psychology;
- (3) Certified clinical social ~~workers~~; workers and licensed clinical social workers;

- (3a) Licensed professional counselors;
- (4) Certified clinical specialists in psychiatric and mental health nursing;
- (4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
- (5) Repealed by Session Laws 1997-512, s. 14.
- (6) Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology;
- (7), (8) Repealed by Session Laws 1997-512, s. 14.
- (9) Certified fee-based practicing pastoral counselors;
- (10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified; and
- (11) Licensed marriage and family therapists.

(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

- (1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:
 - a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;
 - f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;

- g. Certified clinical social ~~workers;workers~~ and licensed clinical social workers;
 - h. Certified clinical specialists in psychiatric and mental health nursing;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral counselors;
 - k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and
 - l. Licensed marriage and family therapists.
- (2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:
- a. Licensed physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);
 - b. Licensed or certified psychologists;
 - c. Psychiatrists;
 - d. Certified substance abuse counselors working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
 - e. Psychological associates with a masters degree in psychology working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
 - f. Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;
 - g. Certified clinical social ~~workers;workers~~ and licensed clinical social workers;
 - h. Certified clinical specialists in psychiatric and mental health nursing;
 - i. Licensed professional counselors;
 - j. Certified fee-based practicing pastoral counselors;
 - 1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;
 - j1. Licensed marriage and family therapists; and
 - k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:

1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and
2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and
3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency.

...."

SECTION 41. The catch line for G.S. 14-34.7 reads as rewritten:

"§ 14-34.7. Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility."

SECTION 42.(a) G.S. 14-100.1, as enacted by Section 1 of S.L. 2001-461, reads as rewritten:

"§ 14-100.1. Possession or manufacture of certain fraudulent forms of identification.

(a) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly possess or manufacture a false or fraudulent form of identification as defined in this section for the purpose of deception, fraud, or other criminal conduct.

(b) Except as otherwise made unlawful by G.S. 20-30, it shall be unlawful for any person to knowingly obtain a form of identification by the use of false, fictitious, or fraudulent information.

(c) Possession of a form of identification obtained in violation of subsection (b) of this section shall constitute a violation of subsection (a) of this section.

(d) For purposes of this section, a "form of identification" means any of the following or any replica thereof:

- (1) An identification card containing a picture, issued by any department, agency, or subdivision of the State of North Carolina, the federal government, or any other state.
- (2) A military identification card containing a picture.
- (3) A passport.
- (4) An alien registration card containing a picture.

~~(e)~~(e) A violation of this section shall be punished as a Class 1 misdemeanor."

SECTION 42.(b) G.S. 18B-302(f), as rewritten by Section 3 of S.L. 2001-461, reads as rewritten:

"(f) Allowing Use of Identification. – It shall be unlawful for any person to permit the use of the person's drivers license or any other form of identification of any kind issued or given to the ~~person,~~person by any other person who violates or attempts to violate subsection (b) of this section."

SECTION 42.(c) G.S. 20-37.01, as enacted by Section 4 of S.L. 2001-461, reads as rewritten:

"§ ~~20-37.01. Drivers license technology fund~~License Technology Fund.

The Drivers License Technology Fund is established in the Department of Transportation as a nonreverting, interest-bearing special revenue account. The revenue in the Fund at the end of a fiscal year does not revert, and earnings on the Fund shall be credited to the Fund annually. All money collected by the Commissioner pursuant to G.S. 20-37.02 shall be remitted to the State Treasurer and held in the Fund. Money held in the Fund shall be used to supplement funds otherwise available to the Division for information technology and office automation needs. The Commissioner shall report by February 1 and August 1 of each year to the Joint Legislative Commission on Governmental Operations, the chairs of the Senate and House of Representatives Appropriation Committees, and the chairs of the Senate and House of Representatives Appropriations ~~Subcommittee~~Subcommittees on Transportation on all money collected and deposited in the Fund and on the proposed expenditure of funds collected during the preceding six months."

SECTION 43.(a) Effective December 1, 2001, G.S. 14-129, as amended by Section 1 of S.L. 2001-93, reads as rewritten: "§ ~~14-129. Taking, etc., of certain wild plants from land of another.~~

No person, firm or corporation shall dig up, pull up or take from the land of another or from any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*), Gentians (*Gentiana*), ~~Ginseng (*Panax quinquefolium*)~~, Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*), Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*), Orchids (all

species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas (*Greens-Lycopodium*), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea, without having in his possession a permit to dig up, pull up or take such plants, signed by the owner of such land, or by his duly authorized agent. Any person convicted of violating the provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense. The provisions of this section shall not apply to the Counties of Cabarrus, Carteret, Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham, Rowan and Swain."

SECTION 43.(b) G.S. 106-202.19(a) reads as rewritten:

"(a) ~~Unless the conduct is covered under some other provision of law providing greater punishment, it is unlawful:~~

- (1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial use;
- (2) To sell, barter, trade, exchange, export, offer for sale, barter, trade, exchange or export or give away for any purpose including advertising or other promotional purpose any plant on a protected plant list, except as authorized according to the rules and regulations of the Board;
- (3) To violate any rule of the Board promulgated under this Article;
- (4) To dig ginseng on another person's land, except for the purpose of replanting, between the first day of April and the first day of September;
- (5) To buy ginseng outside of a buying season as provided by the Board without obtaining the required documents from the person selling the ginseng;

- (6) To buy ginseng for the purpose of resale or trade without holding a currently valid permit as a ginseng dealer;
- (7) To fail to keep records as required under this Article, to refuse to make records available for inspection by the Board or its agent, or to use forms other than those provided for the current year or harvest season by the Department of Agriculture and Consumer Services;
- (8) To provide false information on any record or form required under this Article;
- (9) To make false statements or provide false information in connection with any investigation conducted under this Article;
- (10) To possess any protected plant, or part thereof, which was obtained in violation of this Article or any rule adopted hereunder; or
- (11) To violate a stop sale order issued by the Board or its agent."

SECTION 44.(a) Effective April 1, 2002, G.S. 14-234(d1), as rewritten by Section 1 of S.L. 2001-409, reads as rewritten:

"(d1) ~~Subdivision (a)(1) of this section does~~ The first sentence of subsection (a) shall not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:"

SECTION 44.(b) Effective July 1, 2002, G.S. 14-234(d1), as rewritten by Section 1 of S.L. 2001-409 and by Section 44(a) of this act, reads as rewritten:

"(d1) ~~The first sentence of subsection (a) shall~~ Subdivision (a)(1) of this section does not apply to (i) any elected official or person appointed to fill an elective office of a village, town, or city having a population of no more than 15,000 according to the most recent official federal census, (ii) any elected official or person appointed to fill an elective office of a county within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, (iii) any elected official or person appointed to fill an elective office on a city board of education in a city having a population of no more than 15,000 according to the most recent official federal census, (iv) any elected official or person appointed to fill an elective office as a member of a county board of education in a county within which there is located no village, town or city with a population of more than 15,000 according to the most recent official federal census, (v) any physician, pharmacist, dentist, optometrist, veterinarian, or nurse appointed to a county social services board, local health board, or area mental health, developmental disabilities, and substance abuse board serving one or more counties within which there is located no village, town, or city with a population of more than 15,000 according to the most recent official federal census, and (vi) any member of the board of directors of a public hospital if all of the following apply:".

SECTION 45. G.S. 14-234(f), as enacted by Section 1 of S.L. 2001-409, reads as rewritten:

"(f) A contract entered into in violation of this section is void. A contract that is void under this section may continue in effect until an alternative can be arranged when; (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved as provided in this subsection. A public agency that is a party to the contract may request approval to continue contracts under this subsection as follows:

- (1) Local governments, as defined in G.S. 159-7(15), public authorities, as defined in G.S. 159-7(10), local school administrative units, and community colleges may request approval from the ~~chairman~~ chair of the Local Government Commission.
- (2) All other public agencies may request approval from the State Director of the Budget.

Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare."

SECTION 46. G.S. 15A-266.4(b) reads as rewritten:

"(b) Crimes covered by this Article include:

- G.S. 14-17 - Murder in the first and second degree.
- G.S. 14-27.2 - First degree rape.

- G.S. 14-27.3 - Second degree rape.
- G.S. 14-27.4 - First degree sexual offense.
- G.S. 14-27.5 - Second degree sexual offense.
- G.S. 14-28 - Malicious castration.
- G.S. 14-29 - Castration or other maiming.
- G.S. 14-30 - Malicious maiming.
- G.S. 14-30.1 - Malicious throwing of corrosive acid or alkali.
- G.S. 14-31 - Malicious assault in secret manner.
- G.S. 14-32 - Felonious assault with deadly weapon with intent to kill.
- G.S. 14-32.1 - Assaults on handicapped persons.
- G.S. 14-34.1 - Discharging barreled weapon or firearm into occupied property.
- G.S. 14-34.2 - Assault with firearm or other deadly weapon upon law enforcement officer, fireman, or EMS personnel.
- G.S. 14-39(a)(3) - Kidnapping for the purpose of doing serious bodily harm to the person.
- G.S. 14-49 - Malicious use of explosive or incendiary.
- G.S. 14-58.2 - Burning of mobile home, manufactured-type house, or recreational trailer home.
- G.S. 14-202.1 - Taking indecent liberties with children.
- G.S. 14-87 - Robbery with a dangerous weapon.
- G.S. 14-277.3 - Stalking.
- G.S. 14-87.1 - Common law robbery.
- G.S. 14-58 - First degree arson."

SECTION 46.5.(a) G.S. 15A-540(c) reads as rewritten:

"(c) New Conditions of Pretrial Release. – When a defendant is surrendered by a surety under subsection (b) of this section, the sheriff shall without unnecessary delay take the defendant before a judicial official, along with a copy of the undertaking received from the surety and a copy of the receipt provided to the surety. The judicial official shall then determine whether the defendant is again entitled to release and, if so, upon what conditions. ~~The judicial official determining conditions of pretrial release under this subsection shall impose any conditions set by the court in any order for arrest issued for the defendant's failure to appear. If no conditions have been set, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the previous bond, and shall impose such restrictions on the travel, associations, conduct, or place of abode of the defendant as will assure that the defendant will not again fail to appear. The magistrate shall also indicate on the release order that the defendant was~~

surrendered after failing to appear as required under a prior release order."

SECTION 46.5.(b) G.S. 15A-534 is amended by adding the following new subsection to read:

"(d1) When conditions of pretrial release are being imposed on a defendant who has failed on one or more prior occasions to appear to answer one or more of the charges to which the conditions apply, the judicial official shall at a minimum impose the conditions of pretrial release that are recommended in any order for the arrest of the defendant that was issued for the defendant's most recent failure to appear. If no conditions are recommended in that order for arrest, the judicial official shall require the execution of a secured appearance bond in an amount at least double the amount of the most recent previous secured or unsecured bond for the charges or, if no bond has yet been required for the charges, in the amount of at least five hundred dollars (\$500.00). The judicial official shall also impose such restrictions on the travel, associations, conduct, or place of abode of the defendant as will assure that the defendant will not again fail to appear. The judicial official shall indicate on the release order that the defendant was arrested or surrendered after failing to appear as required under a prior release order. If the information available to the judicial official indicates that the defendant has failed on two or more prior occasions to appear to answer the charges, the judicial official shall indicate that fact on the release order."

SECTION 47.(a) G.S. 15A-837 reads as rewritten:

"§ 15A-837. Responsibilities of Division of ~~Adult Probation and Parole~~ Community Corrections.

(a) The Division of ~~Adult Probation and Parole~~ Community Corrections shall notify the victim of:

- (1) The defendant's regular conditions of probation or post-release supervision, special or added conditions, supervision requirements, and any subsequent changes.
- (2) The date of a hearing to determine whether the defendant's supervision should be revoked, continued, modified, or terminated.
- (3) The final disposition of any hearing referred to in subdivision (2) of this ~~section~~ subsection.
- (4) Any restitution modification.
- (5) The defendant's movement into or out of any intermediate sanction as defined in G.S. 15A-1340.11(6).
- (6) The defendant's absconding supervision, within 72 hours.
- (7) The capture of a defendant described in subdivision (6) of this ~~section~~ subsection, within 72 hours.

- (8) The date when the defendant is terminated or discharged.
- (9) The defendant's death.

(b) Notifications required in this section shall be provided within 30 days of the event requiring notification, or as otherwise specified in subsection (a) of this section."

SECTION 47.(b) G.S. 15A-1343.2 reads as rewritten:

"§ 15A-1343.2. *Special probation rules for persons sentenced under Article 81B.*

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

(b) Purposes of Probation for Community and Intermediate Punishments. – The Department of Correction shall develop a plan to handle offenders sentenced to community and intermediate punishments. The probation program designed to handle these offenders shall have the following principal purposes: to hold offenders accountable for making restitution, to ensure compliance with the court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment or education programs, and to protect the public safety.

(c) Probation Caseload Goals. – It is the goal of the General Assembly that, subject to the availability of funds, caseloads for probation officers supervising persons sentenced to community punishment should not exceed an average of 90 offenders per officer, and caseloads for offenders sentenced to intermediate punishments should not exceed an average of 60 offenders per officer by July 1, 1998.

(d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court makes specific findings that longer or shorter periods of probation are necessary, the length of the original period of probation for offenders sentenced under Article 81B shall be as follows:

- (1) For misdemeanants sentenced to community punishment, not less than six nor more than 18 months;
- (2) For misdemeanants sentenced to intermediate punishment, not less than 12 nor more than 24 months;
- (3) For felons sentenced to community punishment, not less than 12 nor more than 30 months; and
- (4) For felons sentenced to intermediate punishment, not less than 18 nor more than 36 months.

If the court finds at the time of sentencing that a longer period of probation is necessary, that period may not exceed a maximum of five years, as specified in G.S. 15A-1342 and G.S. 15A-1351.

Extension. – The court may with the consent of the offender extend the original period of the probation if necessary to complete a program of restitution or to complete medical or psychiatric treatment

ordered as a condition of probation. This extension may be for no more than three years, and may only be ordered in the last six months of the original period of probation.

(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of ~~Adult Probation and Parole~~ Community Corrections in the Department of Correction may require an offender sentenced to community punishment to:

- (1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this supervision;
- (2) Report to the offender's probation officer on a frequency to be determined by the officer; or
- (3) Submit to substance abuse assessment, monitoring or treatment.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of ~~Adult Probation and Parole~~ Community Corrections in the Department of Correction may require an offender sentenced to intermediate punishment to:

- (1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this supervision;
- (2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically;
- (3) Submit to substance abuse assessment, monitoring or treatment; or
- (4) Participate in an educational or vocational skills development program.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated to him or her by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 19, s. 3.

(h) Definitions. – For purposes of this section, the definitions in G.S. 15A-1340.11 apply."

SECTION 47.(c) G.S. 15A-1368.4(c) reads as rewritten:

"(c) Discretionary Conditions. – The Commission, in consultation with the Division of ~~Adult Probation and Parole~~Community Corrections, may impose conditions on a supervisee it believes reasonably necessary to ensure that the supervisee will lead a law-abiding life or to assist the supervisee to do so."

SECTION 47.(d) G.S. 105-259(b)(15) reads as rewritten:

"(15) To exchange information concerning a tax imposed by Articles 2A, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the Department or the agency:

- a. The North Carolina Alcoholic Beverage Control Commission.
- b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.
- c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.
- d. Law enforcement agencies.
- e. The Division of ~~Adult Probation and Parole~~Community Corrections of the Department of Correction."

SECTION 47.(e) G.S. 115D-5(b) reads as rewritten:

"(b) In order to make instruction as accessible as possible to all citizens, the teaching of curricular courses and of noncurricular extension courses at convenient locations away from institution campuses as well as on campuses is authorized and shall be encouraged. A pro rata portion of the established regular tuition rate charged a full-time student shall be charged a part-time student taking any curriculum course. In lieu of any tuition charge, the State Board of Community Colleges shall establish a uniform registration fee, or a schedule of uniform registration fees, to be charged students enrolling in extension courses for which instruction is financed primarily from State funds; provided, however, that the State Board of Community

Colleges may provide by general and uniform regulations for waiver of tuition and registration fees for persons not enrolled in elementary or secondary schools taking courses leading to a high school diploma or equivalent certificate, for training courses for volunteer firemen, local fire department personnel, volunteer rescue and lifesaving department personnel, local rescue and lifesaving department personnel, Radio Emergency Associated Citizens Team (REACT) members when the REACT team is under contract to a county as an emergency response agency, local law-enforcement officers, patients in State alcoholic rehabilitation centers, all full-time custodial employees of the Department of Correction, employees of the Department's Division of ~~Adult Probation and Parole~~ Community Corrections and employees of the Department of Juvenile Justice and Delinquency Prevention required to be certified under Chapter 17C of the General Statutes and the rules of the Criminal Justice and Training Standards Commission, trainees enrolled in courses conducted under the New and Expanding Industry Program, clients of sheltered workshops, clients of adult developmental activity programs, students in Health and Human Services Development Programs, juveniles of any age committed to the Department of Juvenile Justice and Delinquency Prevention by a court of competent jurisdiction, prison inmates, and members of the North Carolina State Defense Militia as defined in G.S. 127A-5 and as administered under Article 5 of Chapter 127A of the General Statutes. Provided further, tuition shall be waived for senior citizens attending institutions operating under this Chapter as set forth in Chapter 115B of the General Statutes, Tuition Waiver for Senior Citizens. Provided further, tuition shall also be waived for all courses taken by high school students at community colleges in accordance with G.S. 115D-20(4) and this section."

SECTION 47.(f) G.S. 143B-262(c) reads as rewritten:

"(c) The Department shall establish within the Division of ~~Adult Probation and Parole~~ Community Corrections a program of Intensive Supervision. This program shall provide intensive supervision for probationers, post-release supervisees, and parolees who require close supervision in order to remain in the community pursuant to a community penalties plan, community work plan, community restitution plan, or other plan of rehabilitation. The intensive supervision program shall be available to both felons and misdemeanants. Each offender shall be required to comply with the rules adopted for the Program as well as the requirements specified in G.S. 15A-1340.11(5)."

SECTION 47.(g) G.S. 143B-478, as rewritten by Section 6 of S.L. 2001-95, reads as rewritten:

"§ 143B-478. *Governor's Crime Commission – creation; composition; terms; meetings, etc.*

(a) There is hereby created the Governor's Crime Commission of the Department of Crime Control and Public Safety. The Commission shall consist of 36 voting members and six nonvoting members. The composition of the Commission shall be as follows:

- (1) The voting members shall be:
 - a. The Governor, the Chief Justice of the Supreme Court of North Carolina (or his alternate), the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction;
 - b. A judge of superior court, a judge of district court specializing in juvenile matters, a chief district court judge, a clerk of superior court, and a district attorney;
 - c. A defense attorney, three sheriffs (one of whom shall be from a "high crime area"), three police executives (one of whom shall be from a "high crime area"), six citizens (two with knowledge of juvenile delinquency and the public school system, two of whom shall be under the age of 21 at the time of their appointment, one representative of a "private juvenile delinquency program," and one in the discretion of the Governor), three county commissioners or county officials, and three mayors or municipal officials;
 - d. Two members of the North Carolina House of Representatives and two members of the North Carolina Senate.
- (2) The nonvoting members shall be the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Assistant Secretary of Intervention/Prevention of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Youth Development of the Department of Juvenile Justice and Delinquency Prevention, the Director of the Division of Prisons and the Director of the Division of ~~Adult Probation and Paroles~~. Community Corrections.

(b) The membership of the Commission shall be selected as follows:

- (1) The following members shall serve by virtue of their office: the Governor, the Chief Justice of the Supreme Court, the Attorney General, the Director of the Administrative Office of the Courts, the Secretary of the Department of Health and Human Services, the Secretary of the Department of Correction, the Director of the State Bureau of Investigation, the Secretary of the Department of Crime Control and Public Safety, the Director of the Division of Prisons, the Director of the Division of ~~Adult Probation and Parole~~, Community Corrections, the Secretary of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Intervention/Prevention of the Department of Juvenile Justice and Delinquency Prevention, the Assistant Secretary of Youth Development of the Department of Juvenile Justice and Delinquency Prevention, and the Superintendent of Public Instruction. Should the Chief Justice of the Supreme Court choose not to serve, his alternate shall be selected by the Governor from a list submitted by the Chief Justice which list must contain no less than three nominees from the membership of the Supreme Court.
- (2) The following members shall be appointed by the Governor: the district attorney, the defense attorney, the three sheriffs, the three police executives, the six citizens, the three county commissioners or county officials, the three mayors or municipal officials.
- (3) The following members shall be appointed by the Governor from a list submitted by the Chief Justice of the Supreme Court, which list shall contain no less than three nominees for each position and which list must be submitted within 30 days after the occurrence of any vacancy in the judicial membership: the judge of superior court, the clerk of superior court, the judge of district court specializing in juvenile matters, and the chief district court judge.
- (4) The two members of the House of Representatives provided by subdivision (a)(1)d. of this section shall be appointed by the Speaker of the House of Representatives and the two members of the Senate provided by subdivision (a)(1)d. of this section shall be appointed by the President Pro Tempore of the Senate. These members shall perform the advisory review of the State plan for the General Assembly as permitted by

section 206 of the Crime Control Act of 1976 (Public Law 94-503).

- (5) The Governor may serve as chairman, designating a vice-chairman to serve at his pleasure, or he may designate a chairman and vice-chairman both of whom shall serve at his pleasure.

(c) The initial members of the Commission shall be those appointed under subsection (b) above, which appointments shall be made by March 1, 1977. The terms of the present members of the Governor's Commission on Law and Order shall expire on February 28, 1977. Effective March 1, 1977, the Governor shall appoint members, other than those serving by virtue of their office, to serve staggered terms; seven shall be appointed for one-year terms, seven for two-year terms, and seven for three-year terms. At the end of their respective terms of office their successors shall be appointed for terms of three years and until their successors are appointed and qualified. The Commission members from the House and Senate shall serve two-year terms effective March 1, of each odd-numbered year; and they shall not be disqualified from Commission membership because of failure to seek or attain reelection to the General Assembly, but resignation or removal from office as a member of the General Assembly shall constitute resignation or removal from the Commission. Any other Commission member no longer serving in the office from which he qualified for appointment shall be disqualified from membership on the Commission. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance or nonfeasance.

(e) The Commission shall meet quarterly and at other times at the call of the chairman or upon written request of at least eight of the members. A majority of the voting members shall constitute a quorum for the transaction of business."

SECTION 49.(a) G.S. 18B-1001(15), as enacted by Section 1 of S.L. 2001-262, reads as rewritten:

"(15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings on the premises conducted and supervised by the permittee. A wine tasting consists of the offering of a sample of one or more unfortified wine products, in amounts of no more than one ounce for each sample, without charge, to customers of the business. Representatives of the winery, which produced the wine, or the ~~grape grower~~ wine producer may assist with the tastings in a manner consistent with

existing law. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of wine, and that the tastings are not used by industry members for unlawful inducements to retail permit holders, and do not violate existing rules. Except for purposes of this subsection, the holder of a wine-tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a wine-tasting permit."

SECTION 49.(b) G.S. 18B-1101(2a), as enacted by Section 2 of S.L. 2001-262, reads as rewritten:

"(2a) Receive, in closed containers, unfortified wine produced outside North Carolina under the winery's label from ~~grapes~~ grapes, berries, or other fruits owned by the winery, and sell, deliver, and ship that wine to wholesalers, exporters, and nonresident wholesalers in the same manner as its wine manufactured in North Carolina. This provision may be used only by a winery during its first three years of operation or when there is substantial damage to its ~~grapes~~ grapes, berries, or other fruits from catastrophic ~~grape~~-crop loss. This provision may be used only three years out of every 10 years and notice must be given to the Commission each time this provision is used;"

SECTION 49.(c) G.S. 18B-1114.3, as enacted by Section 4 of S.L. 2001-262, reads as rewritten:

"§ 18B-1114.3. Authorization of wine ~~grower~~ producer permit.

(a) Authorization. – The holder of a wine ~~grower~~ producer permit may:

- (1) Ship ~~grapes~~ crops on land owned by it in North Carolina to a winery, inside or outside the State, for the manufacture and bottling of unfortified wine from those ~~grapes~~ crops and may receive that wine back in closed containers.
- (2) Sell, deliver, and ship the unfortified wine manufactured from its ~~grapes~~ crops in closed containers to wholesalers and retailers licensed under this Chapter as authorized by the ABC laws and also sell to exporters and nonresident wholesalers when the purchase is not for resale in this State.
- (3) Regardless of the results of any local wine election, sell the wine manufactured from its ~~grapes~~ crops for on- or

off-premise consumption upon obtaining the appropriate permit under G.S. 18B-1001.

(b) Limitation on Sales. – The holder of a wine ~~grower-producer~~ permit may not sell, in total, annually, more than 20,000 gallons of wine manufactured off its premises from ~~grapes-crops~~ it has grown."

SECTION 49.(d) G.S. 18B-1000(10), as enacted by Section 7 of S.L. 2001-262, reads as rewritten:

"(10) Wine ~~grower-producer~~. – A farming establishment of at least five acres committed to the production of ~~grapes—grapes, berries, or other fruits~~ for the manufacture of unfortified wine."

SECTION 49.(e) G.S. 18B-1114.1 as amended by Section 3 of S.L. 2001-262, reads as rewritten:

"(a) Authorization. – The holder of an unfortified ~~winery, winery permit~~, a limited winery permit, or a wine ~~grower-producer permit~~ may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission."

SECTION 49.(f) G.S. 18B-902(d) as amended by Section 6 of S.L. 2001-262, reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

...

(34) Wine ~~grower-producer~~ permit – \$300.00.

(35) Wine tasting permit – \$100.00."

SECTION 49.(g) G.S. 18B-1100(19) as enacted by Section 8 of S.L. 2001-262, reads as rewritten:

"(19) Wine ~~grower-producer~~ permit."

SECTION 50.(a) G.S. 20-4.01(12b), as amended by Section 1 of S.L. 2001-356, reads as rewritten:

"(12b) Gross Vehicle Weight Rating (GVWR). – The value specified by the manufacturer as the maximum loaded weight ~~of a vehicle. a vehicle is capable of safely hauling~~. The GVWR of a combination vehicle is the GVWR of the power unit plus the GVWR of the towed unit or units. When a vehicle is determined by an enforcement officer to be structurally altered in any way from the manufacturer's original design, design in an attempt to increase the hauling capacity of the vehicle, the GVWR of that vehicle shall be deemed to be the greater of the license weight or the total weight of the vehicle or combination of vehicles ~~may be~~

~~deemed as the GVWR for the purpose of enforcing this Chapter."~~

SECTION 50.(b) G.S. 20-30(6) reads as rewritten:

~~"(6) To photostat or otherwise reproduce a driver's license or learner's permit or to possess a driver's license or learner's permit which has been photostated or otherwise reproduced, unless such photostat or other reproduction was authorized by the Commissioner. To make a color photocopy or otherwise make a color reproduction of a drivers license, learner's permit, or special identification card which has been color-photocopied or otherwise reproduced in color, unless such color photocopy or other color reproduction was authorized by the Commissioner. It shall be lawful to make a black and white photocopy of a drivers license, learner's permit, or special identification card or otherwise make a black and white reproduction of a drivers license, learner's permit, or special identification card."~~

SECTION 50.(c) G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less, other than a Friends of the Great Smoky Mountains National Park special registration plate, shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

SECTION 50.(d) G.S. 20-101 reads as rewritten:

"§ 20-101. *Certain business vehicles to be marked.*

A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

A motor vehicle that is not subject to those regulations, has a gross vehicle weight rating of more than 10,000 pounds, but less than 26,001 pounds, and is used in intrastate commerce, and is not a farm vehicle, as further described in G.S. 20-118 (c)(4), (c)(5), or (c)(12), shall have the name of the owner printed on the side of the vehicle in letters not less than three inches in height.

A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section."

SECTION 50.(e) G.S. 20-118(c)(14) reads as rewritten:

"(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the following conditions:

- a. Is hauling aggregates from a distribution yard or a State-permitted production site within a North Carolina county contiguous to the North Carolina State border to a destination in ~~an adjacent state~~ another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
- b. Does not operate on an interstate highway or posted bridge.
- c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not ~~apply.~~ apply, and vehicles must be licensed in accordance with G.S. 20-88.
- d. All other enforcement provisions of this Article remain applicable."

SECTION 50.(f) G.S. 20-118.1 reads as rewritten:

"§ 20-118.1. *Officers may weigh vehicles and require overloads to be removed.*

A law enforcement officer may stop and weigh a vehicle to determine if the vehicle's weight is in compliance with the vehicle's declared gross weight and the weight limits set in this Part. The officer may require the driver of the vehicle to drive to a scale located within five miles of where the officer stopped the vehicle.

Any person operating a vehicle or a combination of vehicles having a GVWR of 10,001 pounds or more or any vehicle

transporting hazardous materials that is required to be placarded under 49 C.F.R. § 171-180 must enter a permanent weigh station or temporary inspection or weigh site as directed by duly erected signs or an electronic transponder for the purpose of being electronically screened for compliance, or weighed, or inspected.

If the vehicle's weight exceeds the amount allowable, the officer may detain the vehicle until the overload has been removed. Any property removed from a vehicle because the vehicle was overloaded is the responsibility of the owner or operator of the vehicle. The State is not liable for damage to or loss of the removed property.

Failure to permit a vehicle to be weighed or to remove an overload is a misdemeanor of the Class set in G.S. 20-176. An officer must weigh a vehicle with a scale that has been approved by the Department of Agriculture and Consumer Services."

SECTION 50.(g) G.S. 20-142.3 reads as rewritten:

"§ 20-142.3. ~~Certain vehicles must stop at railroad grade crossing; placarding certain vehicles.~~ crossing.

(a) Before crossing at grade any track or tracks of a railroad, the driver of any school bus, any activity bus, any motor vehicle carrying passengers for compensation, ~~any property hauling motor vehicle carrying hazardous materials,~~ any commercial motor vehicle listed in 49 C.F.R. § 392.10, and any motor vehicle with a capacity of 16 or more persons shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail of the railroad. While stopped, the driver shall listen and look in both directions along the track for any approaching train and shall not proceed until ~~he~~ the driver can do so safely. Upon proceeding, the driver of the vehicle shall cross the track in a gear that allows the driver to cross the track without changing gears and the driver shall not change gears while crossing the track or tracks.

(b) Except for school buses and activity buses, the provisions of this section shall not require the driver of a vehicle to stop:

- (1) At railroad tracks used exclusively for industrial switching purposes within a business district.
- (2) At a railroad grade crossing which a police officer or crossing flagman directs traffic to proceed.
- (3) At a railroad grade crossing protected by a gate or flashing signal designed to stop traffic upon the approach of a train, when the gate or flashing signal does not indicate the approach of a train.
- (4) At an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.
- (5) At an industrial or spur line railroad grade crossing marked with a sign reading "Exempt" erected by or

with the consent of the appropriate State or local authority.

(c) ~~It shall be unlawful to transport by motor vehicle upon the highways of this State any hazardous material without conspicuously marking or placarding the motor vehicle on each side and on the rear with the word "DANGEROUS" or the common or generic name of the article transported or its principal hazard. Additionally, the rear of any such vehicle shall be conspicuously marked with the words "THIS VEHICLE STOPS AT RAILROAD CROSSINGS" or "WE STOP AT RR CROSSINGS."~~ A person violating the provisions of this subsection section shall be guilty of an infraction and punished in accordance with G.S. 20-176. Violation of this section shall not constitute negligence per se.

(d) ~~"Hazardous materials," for purposes of this section only, means any hazardous material required to be placarded under 49 C.F.R. § 171-180.~~

(e) ~~The provisions of this section shall not apply to vehicles subject to Federal Motor Carrier Safety rules adopted by the Division of Motor Vehicles."~~

SECTION 51. G.S. 20-4.01(49) reads as rewritten:

"(49) Vehicle. – Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks; provided, that for the purposes of this Chapter bicycles shall be deemed vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this Chapter applicable to the driver of a vehicle except those which by their nature can have no application. This term shall not include a device which is designed for and intended to be used as a means of transportation for a person with a mobility impairment, or who uses the device for mobility enhancement, is suitable for use both inside and outside a building, including on sidewalks, and whose maximum speed does not exceed 12-is limited by design to 15 miles per hour when the device is being operated by a person with a mobility impairment-impairment, or who uses the device for mobility enhancement."

SECTION 51.5(a) G.S. 20-11(h) is amended by adding a new subdivision to read:

"(2a) A full provisional license, if the person has completed a drivers education program that meets the requirements of the Superintendent of Public Instruction, has held both a learner's permit and a restricted license from

another state for at least six months each, the Commissioner finds that the requirements for the learner's permit and restricted license are comparable to the requirements for a learner's permit and restricted license in this State, and the person has not been convicted during the preceding six months of a motor vehicle moving violation, a seat belt infraction, or an offense committed in another jurisdiction that would be a moving violation or a seat belt infraction if committed in this State."

2002. **SECTION 51.5(b)** This section becomes effective May 1,

SECTION 52. G.S. 20-17(a)(15) reads as rewritten:

"(15) A conviction of malicious use of an explosive or incendiary device to damage property (G.S. 14-49(b) and (b1)); ~~conspiracy to injure or damage by use of an explosive or incendiary device (G.S. 14-50);~~ making a false report concerning a destructive device in a public building (G.S. 14-69.1(c)); perpetrating a hoax concerning a destructive device in a public building (G.S. 14-69.2(c)); possessing or carrying a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(b1)); or causing, encouraging, or aiding a minor to possess or carry a dynamite cartridge, bomb, grenade, mine, or powerful explosive on educational property (G.S. 14-269.2(c1))."

SECTION 53. G.S. 20-39.1(e), as enacted by Section 6.14(a) of S.L. 2001-424, reads as rewritten:

"(e) Upon approval and request of the Director of the State Bureau of Investigation, the Commissioner shall issue confidential license plates to local, State, or federal law enforcement ~~agencies~~ agencies, the Department of Crime Control and Public Safety, and agents of the Internal Revenue Service in accordance with the provisions of this subsection. Applicants in these categories shall provide satisfactory evidence to the Director of the State Bureau of Investigation of the following:

- (1) The confidential license plate requested is to be used on a publicly owned or leased vehicle that is primarily used for transporting, apprehending, or arresting persons charged with violations of the laws of the United States or the State of North Carolina;
- (2) The use of a confidential license plate is necessary to protect the personal safety of an officer or for

placement on a vehicle used primarily for surveillance or undercover operations; and

- (3) The application contains an original signature of the head of the requesting agency or department or, in the case of a federal agency, the signature of the senior ranking officer for that agency in this State.

Confidential license plates issued under this subsection shall be issued on an annual basis and the Division shall maintain a separate registration file for vehicles bearing confidential license plates. That file shall be confidential for the use of the Division and is not a public record within the meaning of Chapter 132 of the General Statutes. Upon the annual renewal of the registration of a vehicle for which a confidential status has been established under this section, the registration shall lose its confidential status unless the agency or department supplies the Director of the State Bureau of Investigation with information demonstrating that an officer's personal safety remains at risk or that the vehicle is still primarily used for surveillance or undercover operations at the time of renewal."

SECTION 54. G.S. 20-39.1(i), as enacted by Section 6.14 of S.L. 2001-424, reads as rewritten:

"(i) The Commissioner shall administer the issuance of private plates for ~~State owned~~ publicly owned vehicles under the provisions of this section to ensure strict compliance with those provisions. The Division shall report to the Joint Legislative Commission on Governmental Operations by January 1 and July 1 of each year on the total number of private plates issued to each agency, and the total number of fictitious licenses and plates issued by the Division."

SECTION 55. G.S. 20-179.3(e) reads as rewritten:

"(e) Limited Basis for and Effect of Privilege. – A limited driving privilege issued under this section authorizes a person to drive if his license is revoked solely under ~~G.S. 20-17(2)~~ G.S. 20-17(a)(2) or as a result of a conviction in another jurisdiction substantially similar to impaired driving under G.S. 20-138.1; if the person's license is revoked under any other statute, the limited privilege is invalid."

SECTION 56. Effective July 1, 2002, G.S. 24-1.1A(a1), as enacted by Section 1 of S.L. 2001-340, reads as rewritten:

"(a1) Subject to federal requirements, ~~at the time a when a natural~~ person applies with a lender for a home loan, loan primarily for personal, family, or household purposes, the lender shall comply with the provisions of this subsection.

- (1) Not later than the date of the home loan closing or three business days after the lender receives an application for a home loan, whichever is earlier, the lender shall provide—deliver or mail to the applicant with information and examples of amortization of home

loans reflecting various terms in a form made available by the Commissioner of ~~Banks~~ Banks, ~~and, for fixed rate home loans only, shall provide the person an amortization schedule for the person's home loan at closing.~~ The Commissioner of Banks shall develop and make available to home loan lenders materials necessary to satisfy the provisions of this subsection.

- (2) Not later than three business days after the home loan closing, the lender shall deliver or mail to the borrower an amortization schedule for the borrower's home loan. Provided, however, that a lender shall not be required to provide an amortization schedule unless the loan is a fixed rate home loan that requires the borrower to make regularly scheduled periodic amortizing payments of principal and interest; and provided further that, with respect to a construction/permanent home loan, the amortization schedule must be provided only with respect to the permanent portion of the home loan during which amortization occurs.
- (3) If the home loan transaction involves more than one natural person, the lender may deliver or mail the materials required by this subsection to any one or more of such persons.
- (4) This subsection does not apply if the home loan applicant is not a natural person or if the home loan is for a purpose other than a personal, family, or household purpose."

SECTION 57. G.S. 25-9-310(b), as rewritten by Section 3 of S.L. 2001-218, reads as rewritten:

"(b) Exceptions: filing not necessary. – The filing of a financing statement is not necessary to perfect a security interest:

- (1) That is perfected under G.S. 25-9-308(d), (e), or (g);
- (2) That is perfected under G.S. 25-9-309 when it attaches;
- (3) In property subject to a statute, regulation, or treaty described in G.S. 25-9-311(a);
- (4) In goods in possession of a bailee which is perfected under G.S. 25-9-312(d)(1) or (2);
- (5) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under G.S. 25-9-312(e), (f), or (g);
- (6) In collateral in the secured party's possession under G.S. 25-9-313;
- (7) In a certificated security which is perfected by delivery of the security certificate to the secured party under G.S. 25-9-313;

- (8) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under G.S. 25-9-314;
- (9) In proceeds which is perfected under G.S. 25-9-315; or
- (10) That is perfected under ~~G.S. 25-9-316; or G.S. 25-9-316.~~"

SECTION 58. G.S. 40A-3(c) reads as rewritten:

"(c) Other Public Condemnors. – For the public use or benefit, the following political entities shall possess the power of eminent domain and may acquire property by purchase, gift, or condemnation for the stated purposes.

- ...
- (8) An authority created under the provisions of Article 1 of Chapter 162A for the purposes of that ~~Article, provided, however the provisions of G.S. 162A-7 shall continue to apply.~~Article.

- ...
- (13) A regional public transportation authority established under Article 26 of Chapter 160A of the General Statutes for the purposes of that Article."

SECTION 59. Effective March 1, 2002, G.S. 44-49, as rewritten by Section 1 of S.L. 2001-377, reads as rewritten:

"§ 44-49. *Lien created; applicable to persons non sui juris.*

(a) From and after March 26, 1935, there is hereby created a lien upon any sums recovered as damages for personal injury in any civil action in this State. This lien is in favor of any person, corporation, State entity, municipal corporation or county to whom the person so recovering, or the person in whose behalf the recovery has been made, may be indebted for any drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services rendered in connection with the injury in compensation for which the damages have been recovered. Where damages are recovered for and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered as fully as if the person were sui juris.

(b) Notwithstanding subsection (a) of this section, no lien provided for under subsection (a) of this section is valid with respect to any claims whatsoever unless the physician, dentist, nurse, hospital, corporation, or other person entitled to the lien furnishes, without charge to the attorney as a condition precedent to the creation of the lien, upon request to the attorney representing the person in whose behalf the claim for personal injury is made, an itemized statement, hospital record, or medical report for the use of the attorney in the negotiation, settlement, or trial of the claim arising by

reason of the personal injury, and a written notice to the attorney of the lien claimed.

(c) No action shall lie against any clerk of court or any surety on any clerk's bond to recover any claims based upon any lien or liens created under subsection (a) of this section when recovery has been had by the person injured, and no claims against the recovery were filed with the clerk by any person or corporation, and the clerk has otherwise disbursed according to law the money recovered in the action for personal injuries."

SECTION 60. G.S. 51-2(a1), as enacted by Section 2 of S.L. 2001-62, reads as rewritten:

"(a1) Persons over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for the marriage, only after there shall have been filed with the register of deeds a written consent to the marriage, said consent having been signed by the appropriate person as follows:

- (1) By a parent having full or joint legal custody of the underage party; or
- (2) By a person, agency, or institution having legal custody or serving as a guardian of the underage party.

~~The written consent required by this subsection shall be either acknowledged before a notary public or signed in the presence of the register of deeds.~~ Such written consent shall not be required for an emancipated minor if a certificate of emancipation issued pursuant to Article 35 of Chapter 7B of the General Statutes or a certified copy of a final decree or certificate of emancipation from this or any other jurisdiction is filed with the register of deeds."

SECTION 61.(a) G.S. 54-109.57(a), as rewritten by Section 2 of S.L. 2001-267, reads as rewritten:

"(a) Shares may be issued to and deposits received from any person or persons establishing an account who shall execute a written agreement with the credit union containing a statement that it is executed pursuant to the provisions of this section and providing for the account to be held in the name of the person or persons as owner or owners for one or more persons designated as beneficiaries, the account and any balance thereof shall be held as a Payable on Death account, with the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the credit union.
- (1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54-109.58.

- (2) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.
- (3) If only one beneficiary is living and of legal age at the death of the last surviving trustee, the beneficiary shall be the holder of the account, and payment by the credit union to the holder shall be a total discharge of the credit union's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54-109.58, and payment by the credit union to the owners or to any of the owners shall be a total discharge of the credit union's obligation as to the amount paid.
- (4) If one or more owners survive the last surviving beneficiary, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners and shall have the legal incidents of an individual account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 54-109.58, in the case of multiple owners.
- (5) If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the credit union shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the credit union shall hold the funds in a similar interest bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established pursuant to this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the credit union of funds in the Payable on Death account to the beneficiary shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the credit union for the funds so paid, but the personal

representative's authority to collect such funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"CREDIT UNION (OR NAME OF INSTITUTION)
PAYABLE ON DEATH ACCOUNT
G.S. 54-109.57

I (or we) understand that by establishing a Payable on Death account under the provisions of North Carolina General Statute 54-109.57 that:

1. During my (or our) lifetime I (or ~~we~~-we), individually or jointly, may withdraw the money in the account; and
2. By written direction to the credit union (or name of institution) I (or we), individually or jointly, may change the beneficiary or beneficiaries; and
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries, and the money will not be inherited by my (or our) heirs or be controlled by will.

-----"

SECTION 61.(b) G.S. 54C-166(a), as rewritten by Section 4 of S.L. 2001-267, reads as rewritten:

"(a) If a person or persons establishing a withdrawable account executes a written agreement with the savings bank containing a statement that it is executed under this section and providing for the account to be held in the name of the person or persons as owner or owners for one or more persons designated as beneficiaries, the account and any balance of the account is held as a Payable on Death account with the following incidents:

- (1) Any owner during the owner's lifetime may change any designated beneficiary by a written direction to the savings bank.
- (1a) If there are two or more owners of a Payable on Death account, the owners shall own the account as joint tenants with right of survivorship and, except as otherwise provided in this section, the account shall have the incidents set forth in G.S. 54C-165.
- (2) Any owner may withdraw funds by writing checks or otherwise, as set forth in the account contract, and receive payment in cash or check payable to the owner's personal order.
- (3) If only one beneficiary is living and of legal age at the death of the last surviving owner, the beneficiary is the

holder of the account, and payment by the savings bank to the holder is a total discharge of the savings bank's obligation as to the amount paid. If two or more beneficiaries are living at the death of the last surviving owner, they shall be owners of the account as joint tenants with right of survivorship as provided in G.S. 54C-165, and payment by the savings bank to the owners or to any of the owners shall be a total discharge of the savings bank's obligation as to the amount paid.

- (4) If one or more owners survive the last surviving beneficiary, the account shall become an individual account of the owner, or a joint account with right of survivorship of the owners, and shall have the legal incidents of an individual account in the case of a single owner or a joint account with right of survivorship, as provided in G.S. 54C-165, in the case of multiple owners.
- (5) If only one beneficiary is living and that beneficiary is not of legal age at the death of the last surviving owner, the savings bank shall transfer the funds in the account to the general guardian or guardian of the estate, if any, of the minor beneficiary. If no guardian of the minor beneficiary has been appointed, the savings bank shall hold the funds in a similar interest-bearing account in the name of the minor until the minor reaches the age of majority or until a duly appointed guardian withdraws the funds.
- (6) Prior to the death of the last surviving owner, no beneficiary shall have any ownership interest in a Payable on Death account. Funds in a Payable on Death account established under this subsection shall belong to the beneficiary or beneficiaries upon the death of the last surviving owner and the funds shall be subject only to the personal representative's right of collection as set forth in G.S. 28A-15-10(a)(1). Payment by the savings bank of funds in the Payable on Death account to the beneficiary or beneficiaries shall terminate the personal representative's authority under G.S. 28A-15-10(a)(1) to collect against the savings bank for the funds so paid, but the personal representative's authority to collect the funds from the beneficiary or beneficiaries is not terminated.

The person or persons establishing an account under this subsection shall sign a statement containing language set forth in a conspicuous manner and substantially similar to the following:

"SAVINGS BANK (OR NAME OF INSTITUTION) PAYABLE ON DEATH ACCOUNT

G.S. 54C-166(A)

I (or we) understand that by establishing a Payable on Death account under G.S. 54C-166(a) that:

1. During my (or our) lifetime, I (or ~~we~~-we), individually or jointly, may withdraw the money in the account; and
2. By written direction to the savings bank (or name of institution) I (or we), individually or jointly, may change the beneficiary; and
3. Upon my (or our) death the money remaining in the account will belong to the beneficiary or beneficiaries and the money will not be inherited by my (or our) heirs or be controlled by will.

-----"

SECTION 62.(a) G.S. 55-1-40(2a), as enacted by Section 3 of S.L. 2001-387, reads as rewritten:

"(2a) 'Business entity,' as used in G.S. 55-11-10 and Article 11A of this Chapter, means a domestic corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation, a domestic or foreign nonprofit corporation, a domestic or foreign limited liability company, a domestic or foreign limited partnership ~~as defined in G.S. 59-102,~~ partnership, a registered limited liability partnership or foreign limited liability partnership as defined in G.S. 59-32, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this State."

SECTION 62.(b) G.S. 55-7-04(a1)(2), as enacted by Section 11 of S.L. 2001-387, reads as rewritten:

"(2) If cumulative voting is authorized, the election of directors and the removal of a director unless the entire board of directors is to be removed, and if G.S. 55-7-28(e) applies to the corporation, an amendment to the articles of incorporation to deny or limit the right of shareholders to vote cumulatively and an amendment to the articles of incorporation or bylaws to decrease the number of directors."

SECTION 62.(c) G.S. 55-7-04(b), as amended by Section 11 of S.L. 2001-387, reads as rewritten:

"(b) A shareholder's written consent to action to be taken without a meeting shall cease to be effective on the sixty-first day after the date of signature appearing on the consent unless prior to the sixty-

first day the corporation has received written consents sufficient under subsection (a) of this section to take the action without meeting. If not otherwise fixed under G.S. 55-7-03 or G.S. 55-7-07, the record date for determining shareholders entitled to take action without a meeting is the earliest date the first shareholder signs the consent under subsection (a) of signature appearing on any consent that is to be counted in satisfying the requirements of subsection (a) of this section. ~~No written consent shall be effective to evidence the action referred to therein unless, within 60 days after the earliest date appearing on a written consent delivered to the corporation in the manner required by this section, the corporation receives written consents signed by shareholders sufficient to take the action without a meeting."~~

SECTION 62.(d) G.S. 55-11A-12, as enacted by Section 17 of S.L. 2001-387, reads as rewritten:

"§ 55-11A-12. *Articles of conversion.*

(a) After a plan of conversion has been approved by the converting domestic corporation as provided in G.S. 55-11A-11, the converting domestic corporation shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic corporation;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic corporation as required by law.

(b) ~~If the domestic corporation is converting to a business entity whose formation formation, or whose status as a registered limited liability partnership, partnership as defined in G.S. 59-32, or limited liability limited partnership, as defined in G.S. 59-102, requires the filing of a document with the Secretary of State, then notwithstanding subsection (a) of this section,~~ the articles of conversion shall be included as part of that document ~~instead of separately filing the articles of conversion and shall contain the information required by the laws governing the organization and internal affairs of the resulting business entity.~~

(c) If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic corporation shall deliver to the Secretary of State for filing prior to

the time the articles of conversion become effective an amendment to the articles of conversion withdrawing the articles of conversion.

~~(b)~~(d) The conversion takes effect when the articles of conversion become effective.

~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 62.(e) G.S. 55A-1-40(20), as amended by Section 33 of S.L. 2001-387, reads as rewritten:

"(20) 'Principal office' means the office (in or out of this State) ~~so designated in the articles of incorporation, the Designation of Principal Office Address form, or in any subsequent Corporation's Statement of Change of Principal Office Address form filed with the Secretary of State~~ where the principal offices of a domestic or foreign corporation are located, as most recently designated by the domestic or foreign corporation in its articles of incorporation, a Designation of Principal Office Address form, a Corporation's Statement of Change of Principal Office Address form, or in the case of a foreign corporation, its application for a certificate of authority."

SECTION 62.(f) G.S. 55A-11-09(c) reads as rewritten:

"(c) Each merging domestic nonprofit corporation and each other merging business entity shall approve a written plan of merger containing:

- (1) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;
- (2) The name of the merging business entity that shall survive the merger;
- (3) The terms and conditions of the merger;
- (4) The manner and basis for converting the interests in each merging business entity into interests, obligations, or securities of the surviving business entity or into cash or other property in whole or in part; and
- (5) If the surviving business entity is a domestic nonprofit corporation, any amendments to its articles of incorporation that are to be made in connection with the merger.

The plan of merger may contain other provisions relating to the merger.

In the case of a merging domestic nonprofit corporation, approval of the plan of merger requires that the plan of merger be adopted as provided in G.S. 55A-11-03. If any member of a merging domestic nonprofit corporation has or will have personal liability for any existing or future obligation of the surviving business entity solely as

a result of holding an interest in the surviving business entity, then in addition to the requirements of G.S. 55A-11-03, approval of the plan of merger by the domestic nonprofit corporation shall require the affirmative vote or written consent of the member. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of such merging business entity.

After a plan of merger has been approved by a domestic nonprofit corporation but before the articles of merger become effective, the plan of merger (i) may be amended as provided in the plan of merger, or (ii) may be abandoned (subject to any contractual rights) as provided in the plan of merger or, if there is no such provision, as determined by the board of directors."

SECTION 62.(g) G.S. 55A-15-21(a), as amended by Section 46 of S.L. 2001-387, reads as rewritten:

"(a) Whenever a foreign corporation authorized to conduct affairs in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was incorporated, or converts into another entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign corporation by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under the laws of which the foreign corporation was incorporated. If the surviving or resulting entity is not authorized to conduct affairs or transact business in this State, the articles or certificate shall be accompanied by an application which must set forth:

- (1) The name of the foreign corporation authorized to conduct affairs in this State, the type of entity and the name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to conduct affairs or transact business in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based upon any cause of action arising in this State, or arising out of affairs conducted in this State, during the time the foreign corporation was authorized to conduct affairs in this State may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subdivision (a)(2) of this section; and

- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address."

SECTION 62.(h) G.S. 55D-21(d), as amended by Section 163 of S.L. 2001-387, reads as rewritten:

"(d) Except as otherwise provided in this subsection, the name of a corporation dissolved under Article 14 of Chapter 55 of the General Statutes, of a nonprofit corporation dissolved under Article 14 of Chapter 55A of the General Statutes, of a limited liability company dissolved under Article 6 of Chapter 57C of the General Statutes, of a limited partnership dissolved under Part 8 of Article 5 of Chapter 59 of the General Statutes, or of a limited liability partnership whose registration as a limited liability partnership has been cancelled under G.S. 59-84.2 or revoked under G.S. 59-84.4, may not be used by another entity until:

- (1) In the case of a nonjudicial dissolution other than an administrative dissolution or cancellation of registration as a limited liability partnership, 120 days after the effective date of the dissolution or cancellation.
- (2) In the case of an administrative dissolution or revocation of registration as a limited liability partnership, the expiration of the period within which the entity or its registration may be reinstated.
- (3) In the case of a judicial dissolution, 120 days after the later of the date the judgment has become final or the effective date of the dissolution. The person applying for the name must certify to the Secretary of State that no appeal or other judicial review of the judgment directing dissolution is pending.

The name of a dissolved entity may be used at any time if the entity changes its name to a name that is distinguishable upon the records of the Secretary of State from the names of other domestic corporations, nonprofit corporations, limited liability companies, limited partnerships, or registered limited liability partnerships or foreign corporations, foreign nonprofit corporations, foreign limited liability companies, or foreign limited partnerships authorized to transact business or conduct affairs in this State, or foreign limited liability partnerships maintaining a statement of foreign ~~registration, registration~~ in this State."

SECTION 62.(i) G.S. 57C-3-04(e), as amended by Section 66 of S.L. 2001-387, reads as rewritten:

"(e) The managers ~~or directors~~ shall have the right to keep confidential from members who are not ~~managers or directors, managers,~~ for such period of time as the managers ~~or directors~~ deem reasonable, any information which the managers ~~or~~

~~directors~~ reasonably believe to be in the nature of trade secrets or other information the disclosure of which the managers ~~or directors~~ in good faith believe is not in the best interest of the limited liability company. The authority authorized in this subsection may be vested in directors instead of managers to the extent provided in the articles of organization or a written operating agreement."

SECTION 62.(j) G.S. 57C-3-21(3) reads as rewritten:

"(3) Upon designation as manager ~~in a written operating agreement~~ and the person's consent to such designation, the designated person shall serve as manager until the earliest to occur of (i) the person's resignation, (ii) any event described in G.S. 57C-3-02 with respect to the manager, (iii) any event specified in the articles of organization or written operating agreement that results in a manager ceasing to be a manager, or (iv) in the case of a person designated as a manager in a written operating agreement, the amendment of the written operating agreement removing the person's designation as a manager."

SECTION 62.(k) G.S. 57C-7-12(a), as amended by Section 88 of S.L. 2001-387, reads as rewritten:

"(a) Whenever a foreign limited liability company authorized to transact business in this State ceases its separate existence as a result of a statutory merger, consolidation, or conversion permitted by the laws of the state or country under which it was formed, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited liability company by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited liability company records in the state or country under the laws of which the foreign limited liability company was formed. If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign limited liability company authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based upon any cause of

action arising in this State, or arising out of business transacted in this State, during the time the foreign limited liability company was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;

- (3) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under subdivision (a)(2) of this section; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address."

SECTION 62.(l) G.S. 57C-3-23 reads as rewritten:

"§ 57C-3-23. *Agency power of managers.*

Every manager is an agent of the limited liability company for the purpose of its business, and the act of every manager, including execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company of which he is a manager, binds the limited liability company, unless the manager so acting has in fact no authority to act for the limited liability company in the particular matter and the person with whom the manager is dealing has knowledge of the fact that the manager has no authority. An act of a manager that is not apparently for carrying on the usual course of the business of the limited liability company does not bind the limited liability company unless authorized in fact or ratified by ~~the managers of~~ the limited liability company."

SECTION 62.(m) G.S. 57C-3-25(b) reads as rewritten:

"(b) The documents, if any, constituting the operating agreement of a limited liability company or a foreign limited liability company authorized to transact business in this State, and records of the actions of its ~~members or~~ members, managers, directors, or executives may be authenticated by any manager of the domestic or foreign limited liability company. Any person dealing with the domestic or foreign limited liability company may rely conclusively upon the certificate or written statement of a manager authenticating the documents and records except to the extent the person has actual knowledge that the certificate or written statement is false."

SECTION 62.(n) G.S. 57C-9A-11(c), as enacted by Section 96 of S.L. 2001-387, reads as rewritten:

"(c) After a plan of conversion has been approved by a domestic limited liability company but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of ~~conversion~~ conversion, or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of conversion, articles of organization, or written operating agreement or, if not so

provided, as determined by the managers or directors of the domestic limited liability company in accordance with G.S. 57C-3-20(b)."

SECTION 62.(o) G.S. 57C-9A-12, as enacted by Section 96 of S.L. 2001-387, reads as rewritten:

"§ 57C-9A-12. *Articles of conversion.*

(a) After a plan of conversion has been approved by the converting domestic limited liability company as provided in G.S. 57C-9A-11, the converting domestic limited liability company shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic limited liability company;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic limited liability company as required by law.

(b) If the domestic limited liability company is converting to a business entity whose ~~formation—formation,~~ or whose status as a registered limited liability ~~partnership,partnership~~ as defined in G.S. 59-32, ~~or limited liability limited partnership, as defined in G.S. 59-102,~~ requires the filing of a document with the Secretary of State, then notwithstanding subsection (a) of this section the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion and shall contain the information required by the laws governing the organization and internal affairs of the resulting business entity.

(c) If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic limited liability company shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

~~(b)(d)~~ The conversion takes effect when the articles of conversion become effective.

~~(e)(e)~~ Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 62.(p) G.S. 57C-9A-21(b), as amended by Section 97 of S.L. 2001-387, reads as rewritten:

"(b) In the case of a merging domestic limited liability company, the plan of merger must be approved in the manner provided in its articles of organization or a written operating agreement for approval of a merger with the type of business entity contemplated in the plan of merger, or, if there is no provision, by the unanimous consent of its members. If any member of a merging domestic limited liability company has or will have personal liability for any existing or future obligation of the surviving business entity solely as a result of holding an interest in the surviving business entity, then in addition to the requirements of the preceding sentence, approval of the plan of merger by the domestic limited liability company shall require the consent of each such member. In the case of each other merging business entity, the plan of merger must be approved in accordance with the laws of the state or country governing the organization and internal affairs of the merging business entity."

SECTION 62.(q) G.S. 59-35.2(b), as enacted in Section 170(b) of S.L. 2001-387, reads as rewritten:

"(b) Whenever the Secretary of State is deemed appointed as a ~~resisted~~-registered agent under this act or under Chapter 55D of the General Statutes, the Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is served on the Secretary of State under this act. The party to the proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding."

SECTION 62.(r) G.S. 59-73.11(c), as enacted by Section 108 of S.L. 2001-387, reads as rewritten:

"(c) After a plan of conversion has been approved as provided in subsection (b) of this section but before the articles of conversion ~~to domestic partnership~~ become effective, the plan of conversion may be amended or abandoned to the extent permitted by the laws that govern the organization and internal affairs of the converting business entity."

SECTION 62.(s) G.S. 59-73.12(a), as enacted by Section 108 of S.L. 2001-387, reads as rewritten:

"(a) After a plan of conversion has been approved by the converting business entity as provided in G.S. 59-73.11, the converting business entity shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) That the domestic partnership is being formed pursuant to a conversion of another business entity;
- (2) The name of the resulting domestic partnership, a designation of its mailing address, and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;

- (3) The name of the converting business entity, its type of business entity, and the state or country whose laws govern its organization and internal affairs; and
- (4) That a plan of conversion has been approved by the converting business entity as required by law.

If the resulting domestic partnership is to be a registered limited liability partnership when the conversion takes effect, then instead of separately filing the articles of conversion, the articles of conversion shall be included as part of the application for registration filed pursuant to G.S. 59-84.2 in addition to the matters otherwise required or permitted by law.

If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting business entity shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment to the articles of conversion withdrawing the articles of ~~conversion to domestic partnership~~ conversion."

SECTION 62.(t) G.S. 59-73.21(c), as enacted by Section 111 of S.L. 2001-387, reads as rewritten:

"(c) After a plan of conversion has been approved by a domestic partnership but before the articles of conversion become effective, the plan of conversion (i) may be amended as provided in the plan of ~~conversion~~ conversion, or (ii) may be abandoned, subject to any contractual rights, as provided in the plan of conversion or written partnership agreement or, if not so provided, as determined in the manner necessary for approval of the plan of conversion."

SECTION 62.(u) G.S. 59-73.22, as enacted by Section 111 of S.L. 2001-387, reads as rewritten:
"§ 59-73.22. *Articles of conversion.*

(a) After a plan of conversion has been approved by the converting domestic partnership as provided in G.S. 59-73.21, the converting domestic partnership shall deliver articles of conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic partnership;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic partnership as required by law.

(b) If the domestic partnership is converting to a business entity whose formation ~~or whose status as a limited liability limited partnership, as defined in G.S. 59-102,~~ requires the filing of a document with the Secretary of State, then notwithstanding subsection (a) of this section the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion, and shall contain the information required by the laws governing the organization and internal affairs of the resulting business entity.

(c) If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic partnership shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

~~(b)(d)~~ The conversion takes effect when the articles of conversion become effective.

~~(e)(e)~~ Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 62.(v) G.S. 59-73.23(b)(2), as enacted by Section 111 of S.L. 2001-387, reads as rewritten:

"(2) To have appointed the Secretary of State as its agent for service of process in any such proceeding. Service on the Secretary of State of any such process shall be made by delivering to and leaving with the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 59-35.1(f). Upon receipt of service of process on behalf of a resulting business entity in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the resulting business entity. If the resulting business entity is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office or, if there is no principal office on file, its registered office. If the resulting business entity is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to ~~G.S. 59-73.12(a)(2)~~.G.S. 59-73.22(a)(2)."

SECTION 62.(w) G.S. 59-102(12), as amended by Section 121 of S.L. 2001-387, reads as rewritten:

"(12) "Person" means a natural person, domestic or foreign partnership, domestic or foreign limited partnership, domestic or foreign limited liability company, trust, estate, unincorporated association, domestic or foreign corporation, domestic or foreign nonprofit corporation, or another entity."

SECTION 62.(x) G.S. 59-102(12a), as enacted by Section 121 of S.L. 2001-387, reads as rewritten:

"(12a) "Principal office" means the office (in or out of this State) where the principal executive offices of a limited liability limited partnership or foreign limited partnership are located, in the case of a limited liability limited partnership as designated in its most recent annual report filed with the Secretary of State or, if no annual report has yet been filed, in its application for registration as a limited liability limited partnership-partnership, or in the case of a foreign limited partnership as most recently designated in its application for registration as a foreign limited partnership or a certificate filed pursuant to G.S. 59-905."

SECTION 62.(y) G.S. 59-902, as amended by Section 159.(b) of S.L. 2001-387, reads as rewritten:

"(a) Before transacting business in this State, a foreign limited partnership shall procure a certificate of authority to transact business in this State from the Secretary of State. No foreign limited partnership shall be entitled to transact in this State any business which a limited partnership organized under this Article is not permitted to transact. In order to register, a foreign limited partnership shall deliver to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner and setting forth:

- (1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
- (2) The jurisdiction and date of its formation;
- (3) The date of formation and the period of duration;
- (4) The street ~~address~~address, and the mailing address if different from the street address, of the principal office of the foreign limited ~~partnership~~partnership, and the county in which the principal office is located;
- (5) The street address, and the mailing address if different from the street address, of the registered office of the foreign limited partnership in this State, the county in

- which the registered office is located, and the name of its proposed registered agent in this State;
- (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and addresses of the partners, a list of the names and addresses or, at the election of the foreign limited partnership, a list of the names and addresses of the general partners and the address, including county and city or town, and street and number, of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep such records until such foreign limited partnership's registration in this State is cancelled;
 - (7) A statement that in consideration of the issuance of a certificate of authority to transact business in this State, the foreign limited partnership appoints the Secretary of State of North Carolina as the agent to receive service of process, notice, or demand, whenever the foreign limited partnership fails to appoint or maintain a registered agent in this State or whenever any such registered agent cannot with reasonable diligence be found at the registered office;
 - (8) The names and addresses including county and city or town, and street and number, if any, of all of the general partners; ~~and~~
 - (8a) Whether the foreign limited partnership is a foreign limited liability partnership; and
 - (9) The effective date and time of the registration if it is not to be effective at the time of filing of the application."

SECTION 62.(z) G.S. 59-909(a), as amended by Section 136 of S.L. 2001-387, reads as rewritten:

"(a) Whenever a foreign limited partnership authorized to transact business in this State ceases its separate existence as a result of a statutory merger or consolidation permitted by the laws of the state or country under which it was organized, or converts into another type of entity as permitted by those laws, the surviving or resulting entity shall apply for a certificate of withdrawal for the foreign limited partnership by delivering to the Secretary of State for filing a copy of the articles of merger, consolidation, or conversion or a certificate reciting the facts of the merger, consolidation, or conversion, duly authenticated by the Secretary of State or other official having custody of limited partnership records in the state or country under

the laws of which the foreign limited partnership was organized. If the surviving or resulting entity is not authorized to transact business or conduct affairs in this State, the articles or certificate must be accompanied by an application which must set forth:

- (1) The name of the foreign limited partnership authorized to transact business in this State, the type of entity and name of the surviving or resulting entity, and a statement that the surviving or resulting entity is not authorized to transact business or conduct affairs in this State;
- (2) A statement that the surviving or resulting entity consents that service of process based on any cause of action arising in this State, or arising out of business transacted in this State, during the time the foreign limited partnership was authorized to transact business in this State, may thereafter be made by service thereof on the Secretary of State;
- (3) A mailing address to which the Secretary of State may mail a copy of any process served upon the Secretary under subdivision (a)(2) of this section; and
- (4) A commitment to file with the Secretary of State a statement of any subsequent change in its mailing address."

SECTION 62.(aa) G.S. 59-1061(b), as enacted by Section 142 of S.L. 2001-387, reads as rewritten:

"(b) The plan of conversion shall be approved by the domestic limited partnership in the manner provided for the approval of the conversion in a written partnership agreement or, if there is no provision, by the unanimous consent of its partners. If any partner of the converting domestic limited partnership has or will have personal liability for any existing or future obligation of the resulting business entity solely as a result of holding an interest in the resulting business entity, then in addition to the requirements of the preceding sentence, approval of the plan of conversion by the domestic limited partnership shall require the consent of each such partner. The converting domestic limited partnership shall provide a copy of the plan of conversion to each partner of the converting domestic limited partnership at the time provided in a written partnership agreement or, if there is no such provision, prior to its approval of the plan of conversion."

SECTION 62.(bb) G.S. 59-1062, as enacted by Section 142 of S.L. 2001-387, reads as rewritten:

"§ 59-1062. *Articles of conversion.*

(a) After a plan of conversion has been approved by the converting domestic limited partnership as provided in G.S. 59-1061, the converting domestic limited partnership shall deliver articles of

conversion to the Secretary of State for filing. The articles of conversion shall state:

- (1) The name of the converting domestic limited partnership;
- (2) The name of the resulting business entity, its type of business entity, the state or country whose laws govern its organization and internal affairs, and, if the resulting business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address; and
- (3) That a plan of conversion has been approved by the domestic limited partnership as required by law.

(b) If the domestic limited partnership is converting to a business entity whose ~~formation~~ formation, or whose status as a registered limited liability ~~partnership~~ partnership as defined in G.S. 59-32, requires the filing of a document with the Secretary of State, ~~then then, notwithstanding subsection (a) of this section, the articles of conversion shall be included as part of that document instead of separately filing the articles of conversion and shall contain the information required by the laws governing the organization and internal affairs of the resulting business entity.~~

(c) If the plan of conversion is abandoned after the articles of conversion have been filed with the Secretary of State but before the articles of conversion become effective, the converting domestic limited partnership shall deliver to the Secretary of State for filing prior to the time the articles of conversion become effective an amendment of the articles of conversion withdrawing the articles of conversion.

~~(b)~~(d) The conversion takes effect when the articles of conversion become effective.

~~(e)~~(e) Certificates of conversion shall also be registered as provided in G.S. 47-18.1."

SECTION 62.(cc) G.S. 59-1072(a), as amended by Section 146 of S.L. 2001-387, reads as rewritten:

"(a) After a plan of merger has been approved by each merging domestic limited partnership and each other merging business entity as provided in G.S. 59-1071, the surviving business entity shall deliver articles of merger to the Secretary of State for filing. The articles of merger shall set forth:

- (1) The plan of merger;
- (2) For each merging business entity, its name, type of business entity, and the state or country whose laws govern its organization and internal affairs;

- (3) The name of the surviving business entity and, if the surviving business entity is not authorized to transact business or conduct affairs in this State, a designation of its mailing address and a commitment to file with the Secretary of State a statement of any subsequent change in its mailing address;
- (4) A statement that the plan of merger has been approved by each merging business entity in the manner required by law; and
- (5) The effective date and time of the merger if it is not to be effective at the time of filing of the articles of merger.

If the plan of merger is amended or abandoned after the articles of merger have been filed but before the articles of merger become effective, the surviving business entity promptly shall deliver to the Secretary of State for filing prior to the time the articles of merger become effective an amendment to the articles of merger reflecting the amendment or abandonment of the plan of merger."

SECTION 62.(dd) G.S. 105-232(a), as amended by Section 153 of S.L. 2001-387, reads as rewritten:

"(a) Any corporation or limited liability company whose articles of incorporation, articles of organization, or certificate of authority to do business in this State has been suspended by the Secretary of State under G.S. 105-230, that complies with all the requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to the suspension, in the same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a fee of twenty-five dollars (\$25.00) to cover the cost of reinstatement, is entitled to exercise again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify the Secretary of State of this compliance and the Secretary of State shall reinstate the corporation or limited liability company by appropriate entry upon the records of the office of the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the date of the suspension by the Secretary of ~~State, State~~ and the corporation or limited liability company resumes carrying on its business as if the suspension had never occurred, subject to the rights of any person who reasonably ~~relied~~ relied, on to that person's ~~prejudice~~ prejudice, on upon the suspension. The Secretary of State shall immediately notify by mail the corporation or limited liability company of the reinstatement."

SECTION 62.(ee) Section 74 of S.L. 2001-387 is repealed.

SECTION 62.(ff) Section 175(b) of S.L. 2001-387, reads as rewritten:

"**SECTION 175.(b)** The amendment to G.S. 105-232 set forth in Section 153 of this act is intended to be retroactive. Accordingly, any act performed or attempted to be performed during the period of suspension of any corporation or limited liability company reinstated pursuant to G.S. 105-232(a) prior to January 1, 2002, shall not be deemed to be invalid and of no effect under G.S. 105-230, subject to the rights of any person who reasonably ~~relied~~ relied, on to that person's ~~prejudice~~ prejudice, on the suspension."

SECTION 62.(gg) This section becomes effective January 1, 2002.

SECTION 63. Effective January 1, 2002, G.S. 58-21-40(a)(4), as amended by Section 28 of S.L. 2001-203 and by Section 2.2 of S.L. 2001-451, reads as rewritten:

"(4) Countersign nonresident produced surplus lines coverages and remit premium taxes for those coverages under G.S. 58-21-70 by means satisfactory to the Commissioner; and charge the nonresident surplus lines licensee a fee for the certification and countersignature as approved by the Commissioner."

SECTION 64.(a) G.S. 74C-3(4) reads as rewritten:

"(4) "Courier service profession" means any person, firm, association, or corporation which transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value which require expeditious service for a fee or other valuable consideration. ~~This definition does not include a person operating a courier service pursuant to a motor carrier certificate or permit issued by the North Carolina Utilities Commission which grants operating rights for such service; however,~~ armed ~~Armed~~ courier service guards shall be subject to the provisions of G.S. 74C-13."

SECTION 64.(b) G.S. 74C-6 reads as rewritten:

"§ 74C-6. ~~Position of Administrator~~ Director created.

The position of ~~Administrator~~ Director of the Private Protective Services Board is hereby created within the Department of Justice. The Attorney General shall appoint a person to fill this full-time position. The ~~Administrator's~~ Director's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the private protective services industry to ensure compliance with the law in all aspects."

SECTION 64.(c) G.S. 74C-8 reads as rewritten:

"§ 74C-8. *Applications for an issuance of license.*

(a) Any person, firm, association, or corporation desiring to carry on or engage in the private protective services profession in this State shall make a verified application in writing to the Board.

(b) The application shall include:

- (1) Full name, home address, post office box, and the actual street address of the business of the applicant;
- (2) The name under which the applicant intends to do business;
- (3) A statement as to the general nature of the business in which the applicant intends to engage;
- (4) The full name and address of any partners in the business and the principal officers, directors and business manager, if any;
- (5) The names of not less than three unrelated and disinterested persons as references of whom inquiry can be made as to the character, standing, and reputation of the persons making the application;
- (6) Such other information, evidence, statements, or documents as may be required by the Board; and
- (7) Accompanying trainee permit applications only, a notarized statement signed by the applicant and his employer stating that the trainee applicant will at all times work with and under the direct supervision of a licensed private detective.

- (c) (1) A business entity other than a sole proprietorship shall not do business under this Chapter unless the business entity has in its employ a designated resident qualifying agent who meets the requirements for a license issued under this Chapter and who is, in fact, licensed under the provisions of this Chapter, unless otherwise approved by the Board. Provided however, that this approval shall not be given unless the business entity has and continuously maintains in this State a registered agent who shall be an individual resident in this State. Service upon the registered agent appointed by the business entity of any process, notice, or demand required by or permitted to be served upon the business entity by the Private Protective Services Board shall be binding upon the business entity and the licensee. Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a business entity in any other manner now or hereafter permitted by law.
- (2) For the purposes of the Chapter a qualifying agent means an individual in a management position who is

licensed under this Chapter and whose name and address have been registered with the ~~Administrator~~Director.

- (3) In the event that the qualifying agent upon whom the business entity relies in order to do business ceases to perform his duties as qualifying agent, the business entity shall notify the ~~Administrator~~Director within 10 working days. The business entity must obtain a substitute qualifying agent within 30 days after the original qualifying agent ceases to serve as qualifying agent unless the Board, in its discretion, extends this period, for good cause, for a period of time not to exceed three months.
- (4) The certificate authorizing the business entity to engage in a private protective services profession shall list the name of at least one designated qualifying agent. No licensee shall serve as the qualifying agent for more than one business entity without prior approval of the ~~Administrator~~Director, subject to the approval of the Board.

(d) Upon receipt of an application, the Board shall conduct a background investigation during the course of which the applicant shall be required to show that he meets all the following requirements and qualifications hereby made prerequisite to obtaining a license:

- (1) That he is at least 18 years of age;
- (2) That he is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, State, federal, or military court of any crime involving the illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage; conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of this subsection, "conviction" means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury;
- (3) Repealed by Session Laws 1989, c. 759, s. 6.
- (4) That he has the necessary training, qualifications, and experience in order to determine the applicant's

competency and fitness as the Board may determine by rule for all licenses to be issued by the Board.

(e) The Board may require the applicant to demonstrate his qualifications by oral or written examination or by successful completion of a Board-approved training program, or all three.

(f) Upon a finding that the application is in proper form, the completion of the background investigation, and the completion of an examination required by the Board, the ~~Administrator~~ Director shall submit to the Board the application and his recommendations. Upon completion of the background investigation, the Director may in his discretion issue a temporary license pending approval of the application by the Board at the next regularly scheduled meeting. The Board shall determine whether to approve or deny the application for a license. Upon approval by the Board, a license will be issued to the applicant upon payment by the applicant of the initial license fee and the required contribution to the Private Protective Services Recovery Fund, and certificate of liability insurance.

(1) through (5) Repealed by Session Laws 1989, c. 759, s. 6.

(g) Except for purposes of administering the provisions of this section and for law enforcement purposes, the home address or telephone number of an applicant, licensee, or the spouse, children, or parents of an applicant or licensee is confidential under G.S. 132-1.2, and the Board shall not disclose this information unless the applicant or licensee consents to such disclosure. The provisions of this subsection shall not apply when a licensee's home address or telephone number is also his or her business address and telephone number. Violation of this subsection shall constitute a Class 3 misdemeanor."

SECTION 64.(d) G.S. 74C-9 reads as rewritten:

"§ 74C-9. *Form of license; term; renewal; posting; branch offices; not assignable; late renewal fee.*

(a) The license when issued shall be in such form as may be determined by the Board and shall state:

- (1) The name of the licensee,
- (2) The name under which the licensee is to operate, and
- (3) The number and expiration date of the license.

(b) The license shall be issued for a term of one year. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the ~~Administrator~~ Director. A license issued under this Chapter is not assignable.

(c) Repealed by Session Laws 1989, c. 759, s. 7.

(d) The operator or manager of any branch office shall be properly licensed or registered. The license shall be posted at all times in a conspicuous place in the branch office. This license shall be issued for a term of one year. Every business covered under the provisions of this Chapter shall file in writing with the Board the addresses of each of its branch offices, if any, within 10 working days after the establishment, closing, or changing of the location of any branch office. The ~~Administrator~~ Director may, upon the successful completion of an investigation of the application, issue a temporary branch office license pending approval of the application by the Board.

(e) The Board is authorized to charge reasonable application and license fees as follows:

- (1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars (\$150.00);
- (2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars (\$250.00);
- (3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars (\$250.00);
- (4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars (\$50.00);
- (5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars (\$100.00), if the license has not been renewed on or before the expiration date of the licensee;
- (6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars (\$30.00);
- (7) An application fee for an armed security guard firearm registration permit not to exceed fifty dollars (\$50.00);
- (8) A new, renewal, replacement, or reissuance fee for an armed security guard firearm registration permit not to exceed thirty dollars (\$30.00);
- (9) An application fee for certification as a certified trainer not to exceed fifty dollars (\$50.00);
- (10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars (\$25.00);
- (11) A new nonresident temporary permit fee not to exceed one hundred dollars (\$100.00);
- (12) An unarmed registration transfer fee not to exceed fifteen dollars (\$15.00);
- (13) A branch office license fee not to exceed fifty dollars (\$50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars (\$100.00).

Except as provided in G.S. 74C-13(k), all fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expenses of administering this Chapter.

(f) A license or trainee permit granted under the provisions of this Chapter may be renewed by the Private Protective Services Board upon notification by the licensee or permit holder to the ~~Administrator~~Director of intended renewal, the payment of the proper fee, and evidence of a policy of liability insurance as prescribed in G.S. 74C-10(e).

The renewal shall be finalized before the expiration date of the license. In no event will renewal be granted more than three months after the date of expiration of a license or trainee permit.

(g) Upon notification of approval of his application by the Board, an applicant must furnish evidence that he has obtained the necessary liability insurance required by G.S. 74C-10 and obtain the license applied for or his application shall lapse.

(h) Trainee permits shall not be issued to applicants that qualify for a private detective license. A licensed private detective may supervise no more than five trainees at any given time."

SECTION 64.(e) G.S. 74C-10(h) reads as rewritten:

"(h) Every licensee shall at all times maintain on file with the Board the certificate of insurance required by this Chapter in full force and effect and upon failure to do so, the license of such licensee shall be automatically suspended and shall not be reinstated until an application therefor, in the form prescribed by the Board, is filed together with a proper insurance certificate.

No cancellation or refusal to renew by an insurer of a licensee under this Chapter shall be effective unless the insurer has given the insured licensee notice of the cancellation or refusal to renew. Upon termination of insurance coverage for said licensee, the insurer shall give notice to the ~~Administrator~~Director of the Board."

SECTION 64.(f) G.S. 74C-11 reads as rewritten:

"§ 74C-11. *Registration of permanent and temporary employees; unarmed security guard required to have registration card.*

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within 20 days after the employment begins, unless the ~~Administrator~~Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The ~~Administrator~~ Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the ~~Administrator~~ Director for an unarmed registration card which the ~~Administrator~~ Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the ~~Administrator~~ Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the ~~Administrator~~ Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the ~~Administrator~~ Director a quarterly report, within 30

days after the end of the quarter in which the temporary employee worked, which provides the ~~Administrator~~ Director with the name, address, social security number, and dates of employment of such employee."

SECTION 64.(g) G.S. 74C-12 reads as rewritten:

"§ 74C-12. *Denial, suspension, or revocation of license, registration, or permit.*

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

- (1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;
- (2) Violated any provision of this Chapter;
- (3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;
- (4) Repealed by Session Laws 1989, c. 759, s. 10.
- (5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;
- (6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;
- (7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;
- (8) Knowingly made any false report to the employer or client for whom information is being obtained;
- (9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;
- (10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;
- (11) Repealed by Session Laws 1989, c. 759, s. 10.
- (12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;
- (13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to

- believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;
- (14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;
 - (15) Violated the firearm provisions set forth in this Chapter;
 - (16) Repealed by Session Laws 1989, c. 759, s. 10.
 - (17) Failed to notify the ~~Administrator~~ Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;
 - (18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;
 - (19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;
 - (20) Failed or refused to offer a report to a client within 30 days of the client's written request;
 - (21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;
 - (22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;
 - (23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;
 - (24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;
 - (25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2)

are prima facie evidence of the same under this subdivision;

- (26) Advertised or solicited business using a name other than that in which the license was issued;
- (27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a private detective or private investigator while licensed under the provisions of this Chapter as a private investigator.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the ~~Administrator~~ Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

- (1) A sworn court official.
- (2) A holder of a company police commission under Chapter 74E of the General Statutes."

SECTION 64.(h) G.S. 74C-13 reads as rewritten:

"§ 74C-13. *Armed security guard required to have firearm registration permit; security guard training.*

(a) It shall be unlawful for any person performing the duties of an armed security guard to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

- (1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; private detective; or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.
- (2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
- (3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders,

armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

- (1) An armed security guard firearm registration permit grants authority to the armed security guard, while in the performance of his duties or ~~travelling~~ traveling directly to and from work, to carry a standard .38 caliber or .32 caliber revolver or any other firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.
- (2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for an armed security guard firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each armed security guard firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed security guard firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit.

(e) If the holder of an armed security guard firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or

proprietary security organization obtains prior approval from the ~~Administrator~~Director. The Board and the Attorney General shall provide by rule the procedure by which a contract security company or a proprietary security organization applicant may be issued a temporary firearm registration permit by the ~~Administrator~~Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny an armed security guard firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The ~~Administrator~~Director may summarily suspend an armed security guard firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a training program for armed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

- (1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
 - a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
 - b. Familiarity with this section,
 - c. Range firing and procedure and hand gun safety and maintenance, and
 - d. Any other topics of armed security guard training curriculum which the Board deems necessary.
- (2) An applicant for an armed security guard firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.
- (3) An armed security guard must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue an armed security guard firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

- (1) Has satisfactorily completed an approved training course.
- (2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.
- (3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued an armed security guard firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

- (1) The Board and the Attorney General shall also establish renewal requirements for certified trainers.
- (2) No certified trainer shall certify an armed security guard unless the armed security guard has successfully completed the training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection."

SECTION 64.(i) G.S. 74C-15(a) reads as rewritten:

"(a) Upon the issuance of a license or trainee permit, a pocket identification card of design, size, and content approved by the Board shall be issued by the Board without charge to each licensee or trainee. The holder must have this card in his possession at all times

when he is on duty and working within the scope of his employment. When a licensee or trainee to whom a card has been issued terminates his position as a licensee or trainee, the card must be surrendered to the ~~Administrator~~Director of the Board within 10 working days thereafter."

SECTION 64.(j) G.S. 74C-18(b) reads as rewritten:

"(b) The ~~Administrator~~Director, in his discretion and subject to the approval of the Board, may issue a temporary permit to a nonresident who has complied with the provisions of G.S. 74C-10 and who is validly licensed in another state to engage in a private protective service activity incidental to a specific case originating in another state. A temporary permit may be issued for a period of no more than 30 days and may be renewed. A temporary permit may contain such restrictions which the Board, in its discretion, deems appropriate."

SECTION 65.(a) G.S. 74D-5.1 reads as rewritten:

"§ 74D-5.1. *Position of ~~Administrator~~Director created.*

The position of ~~Administrator~~Director of the Alarm Systems Licensing Board is hereby created within the Department of Justice. The Attorney General shall appoint a person to fill this full-time position. The ~~Administrator's~~Director's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the alarm systems industry to insure compliance with the law in all aspects. The ~~Administrator~~Director may issue a temporary grant or denial of a request for registration subject to final action by the Board at its next regularly scheduled meeting."

SECTION 65.(b) G.S. 74D-7(d) reads as rewritten:

"(d) Any branch office of an alarm systems business shall obtain a branch office certificate. A separate certificate stating the location and licensed qualifying agent shall be posted at all times in a conspicuous place in each branch office. Every business covered under the provisions of this Chapter shall file in writing with the Board the addresses of each of its branch offices. All licensees of a branch office shall notify the Board in writing, within 10 working days after the establishment, closing, or changing of the location of any branch office. A licensed qualifying agent may be responsible for more than one branch office of an alarm systems business with the prior approval of the Board. Temporary approval may be granted by the ~~Administrator~~Director, upon application of the qualifying agent, for a period of time not to exceed 10 working days after the adjournment of the next regularly scheduled meeting of the Board unless the Board determines that the application should be denied."

SECTION 65.(c) G.S. 74D-8 reads as rewritten:

"§ 74D-8. *Registration of persons employed.*

- (a) (1) All licensees of an alarm systems business shall register with the Board within 20 days after the employment begins, all of the licensee's employees that are within the State, unless in the discretion of the ~~Administrator, Director,~~ the time period is extended for good cause. To register an employee, a licensee shall submit to the Board as to the employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent color photograph(s) of acceptable quality for identification; and statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.
- (2) Except during the period allowed for registration in subdivision (a)(1) of this section, no alarm systems business may employ any employee unless the employee's registration has been approved by the Board as set forth in this section.
- (b) The ~~Administrator, Director~~ shall be notified in writing of the termination of any employee registered under this Chapter within 20 days after the termination.
- (c) The Board shall issue a registration card to each employee of a licensee who is registered under this Chapter. The registration card shall expire two years after its date of issuance and shall be renewed before the expiration of the term of the registration. If a registered person changes employment to another licensee, the registration card may remain valid; however, persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).
- (d) If all required documents, properly completed, have been submitted to the Board no later than 20 days after an employee begins employment, the employer of each applicant for registration shall give the applicant a copy of the complete application which the employee can use until a registration card issued by the Board is received."

SECTION 66.(a) G.S. 95-230 reads as rewritten:

"§ 95-230. *Purpose.*

The General Assembly finds that individuals should be protected from unreliable and inadequate examinations and screening for controlled substances. The General Assembly also finds that employers who test employees for controlled substances shall use reliable and minimally invasive examinations and screenings and be afforded the opportunity to select from a range of cost-effective and advanced drug testing technologies. The purpose of this Article is to

establish procedural and other requirements for the administration of controlled substance examinations."

SECTION 66.(b) The Commissioner of Labor shall adopt, within 30 days of the effective date of this act, temporary rules allowing employers who are subject to Article 20 of Chapter 95 of the General Statutes to collect the oral fluids of examinees as samples in connection with examinations and screenings for controlled substances.

SECTION 67.(a) G.S. 105-164.4B, as enacted by Section 6 of S.L. 2001-430, is recodified as G.S. 105-164.4C.

SECTION 67.(b) G.S. 105-164.4(a)(4c), as rewritten by Section 4 of S.L. 2001-430, reads as rewritten:

"(4c) The rate of four and one-half percent (4.5%) applies to the gross receipts derived from providing telecommunications service. A person who provides telecommunications service is considered a retailer under this Article. Telecommunications service is taxed in accordance with ~~G.S. 105-164.4B~~ G.S. 105-164.4C."

SECTION 67.(c) G.S. 105-164.4C(f), as enacted by S.L. 2001-430 and recodified by Section 67.(a) of this act, reads as rewritten:

"(f) Call Center Cap. – The gross receipts tax on interstate telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay ~~certificate~~ permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap applies separately to each legal entity."

SECTION 67.(d) G.S. 105-164.44F, as enacted by S.L. 2001-430, is amended by renumbering subsection (d) as subsection (e) and by adding a new subsection to read:

"(d) Share of Cities Served by a Telephone Membership Corporation. – The share of a city served by a telephone membership corporation, as described in Chapter 117 of the General Statutes, is computed as if the city was incorporated on or after January 1, 2001, under subsection (b) of this section. If a city is served by a telephone membership corporation and another provider, then its per capita share under this subsection applies only to the population of the area served by the telephone membership corporation."

SECTION 67.(e) The introductory language to Section 13 of S.L. 2001-430 reads as rewritten:

"SECTION 13. ~~G.S. 105-467~~ G.S. 105-467(a), as amended by S.L. 2001-347, is amended by adding a new subdivision to read:"

SECTION 67.(f) This section becomes effective January 1, 2002.

SECTION 68. G.S. 105-187.6(a), as amended by Section 34.24 of S.L. 2001-424, reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

- (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.
- (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
- (3) To the same owner to reflect a change or correction in the owner's name.
- (3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.
- (4) By will or intestacy.
- (5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
- (6) By a distribution of marital or divisible property incident to a marital separation or divorce.
- (7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.
- (8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
 - a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
 - b. By a local board of education.
- (9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:
 - a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire.
 - b. A four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.
 - c. An emergency services vehicle."

SECTION 69.(a) G.S. 105-228.5(e), as amended by Section 34.22(a) of S.L. 2001-424, reads as rewritten:

"(e) Report and Payment. – Each taxpayer doing business in this State shall, within the first 15 days of March, file with the Secretary of Revenue a full and accurate report of the total gross premiums as

defined in this section, the payroll and other information required by the Secretary in the case of a self-insurer, or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. ~~The report shall be verified by the oath of the official or other representative responsible for transmitting it; the~~The taxes imposed by this section shall be remitted to the Secretary with the report."

SECTION 69.(b) G.S. 105-164.4B(c), as enacted by S.L. 2001-430, and as recodified as G.S. 105-164.4C(c), is amended by adding a new subdivision to read:

"(16) Charges to a State agency or to a local unit of government for the North Carolina Information Highway and other data networks owned or leased by the State or unit of local government."

SECTION 69.(c) This section becomes effective January 1, 2002.

SECTION 70. G.S. 105-311, as rewritten by Section 3 of S.L. 2001-279, reads as rewritten:

"(b) Any abstract submitted by mail may be accepted or rejected by the assessor in ~~his~~the assessor's discretion. However, the board of county commissioners, with the approval of the Department of Revenue, may by resolution provide for the general acceptance of completed abstracts submitted by mail or submitted electronically. In no event shall an abstract submitted by mail be accepted unless the affirmation on the abstract is signed by the individual prescribed in subsection (a) of this section. An electronic listing may be signed electronically in accordance with the Electronic Commerce Act, Article 11A of Chapter 66 of the General Statutes.

For the purpose of this Subchapter, abstracts submitted by mail are considered filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the abstract is considered filed when received in the office of the assessor. Abstracts submitted by electronic listing are considered filed when received in the office of the assessor. In any dispute arising under this Subchapter, the burden of proof is on the taxpayer to show that the abstract was timely filed."

SECTION 71. G.S. 106-503.1(b) reads as rewritten:

"(b) Contracts and Leases; Pledge of Gate Receipts, etc. – For the further purpose of acquiring, constructing, operating and financing said properties and facilities on the North Carolina State fairgrounds, the Board of Agriculture may enter into such agreements, contracts and leases as may be necessary for the purpose of this section, and may pledge, appropriate, and pay such sums out of the gate receipts or other revenues coming to the State Board of Agriculture from the

operation of any facilities of the State fair as may be required to secure, repay, or meet the principal and interest charges on the loan herein authorized. Prior to execution, the Board of Agriculture shall consult with the Joint Legislative Commission on Governmental Operations on all agreements, contracts, and leases authorized under this subsection. The preceding sentence applies only to agreements, contracts, and leases with an estimated revenue to the State of one hundred thousand dollars (\$100,000) or more."

SECTION 72. G.S. 110-136.5(d) reads as rewritten:

"(d) Notice to payor and obligor. If an order for income withholding is entered, a notice of obligation to withhold shall be served on the payor as required by G.S. 1A-1, ~~Rule 4~~, Rule 5, Rules of Civil Procedure. Copies of such notice shall be filed with the clerk of court and served upon the obligor by first class mail."

SECTION 73. G.S. 113-44.15(b), as amended by Section 1 of S.L. 2001-114, reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

- (1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.
- (2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The ~~approved~~-appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.
- (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable. Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs."

SECTION 74.(a) G.S. 115C-290.6, as rewritten by Section 28.25(e) of S.L. 2001-424, reads as rewritten:

"§ 115C-290.6. *Application to the State Board of Education.*

An individual who seeks ~~to be recommended by the Standards Board for certification~~ by the State Board of ~~Education, Education~~ shall file a written application on a form provided by the State Board of Education. The application shall be accompanied by the required application and exam fees and shall include any information required by the Board."

SECTION 74.(b) G.S. 115C-290.8(c), as rewritten by Section 28.25(g) of S.L. 2001-424, reads as rewritten:

"(c) A person who is exempt from the requirements of this Article but applies for certification under this Article shall be subject to the Article."

SECTION 74.(c) G.S. 115C-325(a)(5a), as enacted by Section 28.24(b) of S.L. 1998-212 and rewritten by Section 67.1(a) of S.L. 1998-217 and by Section 32.25(b) of S.L. 2001-424, reads as rewritten:

"(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...

(5a) **(Effective until June 30, 2003)** "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least six months, has not been employed in any capacity, other than as a substitute ~~teacher, teacher or a part-time tutor~~, with a local board of education for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status."

SECTION 75. G.S. 115C-391(d3) reads as rewritten:

"(d3) A local board of education or superintendent shall suspend for 365 calendar days any student who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that there is located on educational property or at a school-sponsored curricular or extracurricular activity off educational property any device designed to destroy or damage property by explosion, blasting, or burning, or who, with intent to perpetrate a hoax, conceals, places, or displays any device, machine, instrument, or artifact on educational property

or at a school-sponsored curricular or extracurricular activity off educational property, so as to cause any person reasonably to believe the same to be a bomb or other device capable of causing injury to persons or property. The local board upon recommendation by the superintendent may modify either suspension requirement on a case-by-case basis that includes, but is not limited to, the procedures established for the discipline of students with disabilities and may also provide, or contract for the provision of, educational services to any student suspended under this subsection in an alternative school setting or in another setting that provides educational and other services. For purposes of this subsection and subsection (d1) of this section, the term "educational property" has the same definition as in G.S. 14-269.2(a)(1)."

SECTION 76. G.S. 115D-1.1(a)(2)a., as enacted by Section 2 of S.L. 2001-312, reads as rewritten:

"a. The local board of education, or the board's designee, for the ~~public~~-local school administrative unit in which the student is enrolled."

SECTION 77. G.S. 120-2(d), as rewritten by S.L. 2001-459, reads as rewritten:

"(d) If any precinct boundary is changed, that change shall not change the boundary of a ~~senatorial~~-house district, which shall remain the same."

SECTION 78. G.S. 120-20.1(a) reads as rewritten:

"(a) Whenever in any act:

(1) It is stated ~~that a~~-that:

a. A law "reads as rewritten:"; or

b. Laws "read as rewritten:"; and

(2) The law is set out showing material struck through or underlined, or both

the material struck through is being deleted from the existing law, and the material underlined is being added to the existing law."

SECTION 79. G.S. 120-36.8 is transferred to a new Article 7B of Chapter 120 of the General Statutes and reads as rewritten:

"Article 7B.

"Research Division.

"§ 120-36.8. *Certification of legislation required by federal law.*

(a) Every bill and resolution introduced in the General Assembly proposing any change in the law which purports to implement federal law or to be required or necessary for compliance with federal law, or on which is conditioned the receipt of federal funds shall have attached to it at the time of its consideration by the General Assembly a certification prepared by the ~~Fiscal~~-Research Division, in consultation with the Bill Drafting and Fiscal Research Divisions,

identifying the federal law requiring passage of the bill or resolution. The certification shall contain a statement setting forth the reasons why the bill or resolution is required by federal law. If the bill or resolution is not required by federal law or exceeds the requirements of federal law, then the certification shall state the reasons for that opinion. No comment or opinion shall be included in the certification with regard to the merits of the measure for which the certification is prepared. However, technical and mechanical defects may be noted.

(b) The sponsor of each bill or resolution to which this section applies shall present a copy of the bill or resolution with the request for certification to the ~~Fiscal~~ Research Division. Upon receipt of the request and the copy of the bill or resolution, the ~~Fiscal~~ Research Division shall consult with the Bill Drafting and Fiscal Research Divisions, and may consult with the Office of State Budget, Planning, and Management or any State agency on preparation of the certification as promptly as possible. The ~~Fiscal~~ Research Division shall prepare the certification and transmit it to the sponsor within two weeks after the request is made, unless the sponsor agrees to an extension of time.

(c) This certification shall be attached to the original of each proposed bill or resolution that is reported favorably by any committee of the General Assembly, but shall be separate from the bill or resolution and shall be clearly designated as a certification. A certification attached to a bill or resolution pursuant to this section is not a part of the bill or resolution and is not an expression of legislative intent proposed by the bill or resolution.

(d) If a committee of the General Assembly reports favorably a proposed bill or resolution with an amendment proposing any change in the law which purports to implement federal law or to be required or necessary for compliance with federal law, the chair of the committee shall obtain from the ~~Fiscal~~ Research Division and attach to the amended bill or resolution a certification as provided in this section."

SECTION 79.5. G.S. 122C-117(a), as amended by Section 1.10 of S.L. 2001-437, is amended by adding the following new subdivision to read:

"(13) Coordinate with Treatment Accountability for Safer Communities for the provision of services to criminal justice clients."

SECTION 80.(a) G.S. 122C-181(c), as enacted by Section 1.19 of S.L. 2001-437, reads as rewritten:

"(c) Closure of a State facility under subsection (b) of this section becomes effective on the earlier of the 31st legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 10 days after the date the closure is approved,

unless a different effective date applies under this subsection. If a bill that specifically disapproves the State facility closure is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the closure becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the State facility closure. If the Secretary specifies a later effective date for closure than the date that would otherwise apply under this subsection, the later date applies. Closure of a State facility does not become effective if the closure is specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law before it becomes effective. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove closure of a facility that has been approved by the Governor and Council of State as provided in subsection (b) of this section. Nothing in this subsection shall be construed to impair the Secretary's power or duty otherwise imposed by law to close a State facility temporarily for the protection of health and safety."

SECTION 80.(b) G.S. 150B-21.3 reads as rewritten:

"§ 150B-21.3. *Effective date of rules.*

(a) Temporary Rule. – A temporary rule becomes effective on the date the Codifier of Rules enters the rule in the North Carolina Administrative Code.

(b) Permanent Rule. – A permanent rule approved by the Commission becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law before it becomes effective does not become effective.

A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any

rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(c) Executive Order Exception. – The Governor may, by executive order, make effective a permanent rule that has been approved by the Commission and has not become effective under subsection (b) of this section upon finding that it is necessary that the rule become effective in order to protect public health, safety, or welfare. A rule made effective by executive order becomes effective on the date the order is issued or at a later date specified in the order. When the Codifier of Rules enters in the North Carolina Administrative Code a rule made effective by executive order, the entry must reflect this action.

A rule that is made effective by executive order remains in effect unless it is specifically disapproved by the General Assembly in a bill ~~ratified~~ enacted into law on or before the day of adjournment of the regular session of the General Assembly that begins at least 25 days after the date the executive order is issued. A rule that is made effective by executive order and that is specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law is repealed as of the date specified in the bill. If a rule that is made effective by executive order is not specifically disapproved by a bill ~~ratified by the General Assembly~~ enacted into law within the time set by this subsection, the Codifier of Rules must note this in the North Carolina Administrative Code.

(d) Legislative Day and Day of Adjournment. – As used in this section:

- (1) A "legislative day" is a day on which either house of the General Assembly convenes in regular session.
- (2) The "day of adjournment" of a regular session held in an odd-numbered year is the day the General Assembly adjourns by joint resolution for more than 10 days.
- (3) The "day of adjournment" of a regular session held in an even-numbered year is the day the General Assembly adjourns sine die.

(e) OSHA Standard. – A permanent rule concerning an occupational safety and health standard that is adopted by the Occupational Safety and Health Division of the Department of Labor and is identical to a federal regulation promulgated by the Secretary of the United States Department of Labor becomes effective on the date the Division delivers the rule to the Codifier of Rules, unless the

Division specifies a later effective date. If the Division specifies a later effective date, the rule becomes effective on that date.

(f) Technical Change. – A permanent rule for which no notice or hearing is required under G.S. 150B-21.5(a)(1) through (a)(5) or G.S. 150B-21.5(b) becomes effective on the first day of the month following the month the rule is approved by the Rules Review Commission."

SECTION 82. Effective January 1, 2002, G.S. 128-26(e) reads as rewritten:

"(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of the service certified on his prior service certificate; and if he has sick leave standing to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof not to exceed 12 days of credit for each year of prior and membership service or fraction thereof, but sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance.

On and after July 1, 1971, a member whose account was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently returns to service for a period of five years, may thereafter repay the amount withdrawn plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service by the amount of creditable service lost when this account was closed.

On and after July 1, 1973, a member whose account in the Teachers' and State Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of this System with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the Teachers' and State Employees' Retirement System plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service in this System by the amount of creditable service lost when his account was closed.

Notwithstanding any other provision of this Chapter, any member who entered service or was restored to service prior to July 1, 1982, and was excluded from membership service solely on account of having attained the age of 62 years, in accordance with former G.S. 128-24(3a), may purchase membership service credits for such excluded service by making a lump-sum payment equal to the contributions that would have been deducted pursuant to G.S. 128-30(b) had he been a member of the Retirement System, increased

by interest calculated at a rate of seven percent (7%) per annum. Creditable service for unused sick leave shall be allowed only for sick leave accrued monthly during employment under a duly adopted sick leave policy and for which the member may be able to take credits and be paid for sick leave without restriction.

On and after January 1, 1986, the creditable service of a member who was a member of the Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement officers employed by participating employers from that System to this Retirement System and whose accumulated contributions are transferred from that System to this Retirement System, includes service that was creditable in the Law Enforcement Officers' Retirement System; and membership service with that System is membership service with this Retirement System; provided, notwithstanding any provisions of this Article to the contrary, any inchoate or accrued rights of such a member to purchase creditable service for military service, withdrawn service and prior service under the rules and regulations of the Law Enforcement Officers' Retirement System may not be diminished and may be purchased as creditable service with this Retirement System under the same conditions that would have otherwise applied."

SECTION 83. G.S. 130A-110(a), as amended by Section 15 of S.L. 2001-62, reads as rewritten:

"(a) On or before the fifteenth day of the month, the register of deeds shall transmit to the State Registrar a record of each marriage ceremony performed ~~in the county~~ during the preceding calendar ~~month~~ month-month for which a license was issued by the register of deeds. The State Registrar shall prescribe a form containing the information required by G.S. 51-16 and additional information to conform with the requirements of the federal agency responsible for national vital statistics. The form shall be the official form of a marriage license, certificate of marriage and application for marriage license."

SECTION 84.(a) G.S. 130A-235(a), as amended by S.L. 2001-109, reads as rewritten:

"(a) For protection of the public health, the Commission shall adopt rules to establish sanitation requirements for all institutions and facilities at which individuals are provided room or board and for which a license to operate is required to be obtained or a certificate for payment is obtained from the Department. The rules shall also apply to facilities that provide room and board to individuals but are exempt from licensure under G.S. 131D-10.4(1). No other State agency may adopt rules to establish sanitation requirements for these institutions and facilities. The Department shall issue a license to operate or a certificate for payment to such an institution or facility only upon compliance with all applicable sanitation rules of the

Commission, and the Department may suspend or revoke a license or a certificate for payment for violation of these rules. In adopting rules pursuant to this section, the Commission shall define categories of standards to which such institutions and facilities shall be subject and shall establish criteria for the placement of any such institution or facility into one of the categories. This section shall not apply to State institutions and facilities subject to inspection under G.S. 130A-5(10). This section shall not apply to a single-family dwelling that is used for a family foster home or a therapeutic foster home, as those terms are defined in G.S. 131D-10.2, or a therapeutic home. For purposes of this section, "therapeutic home" means a 24-hour residential facility located in a private residence that provides professionally trained parent substitutes who work intensively with children and adolescents who are emotionally disturbed or who have a substance abuse problem.G.S. 131D-10.2."

SECTION 84.(b) G.S. 131D-10.2 is amended by adding a new subdivision to read:

"(14) "Therapeutic Foster Home" means a family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission."

SECTION 85.(a) G.S. 131D-4.3(a)(5), as amended by Section 1 of S.L. 2001-85, reads as rewritten:

"(5) Adult care homes shall comply with all of the following staffing requirements:

- a. First shift (morning): 0.4 hours of aide duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents (licensed capacity or resident census) plus 3.0 hours for all other residents, whichever is greater;
- b. Second shift (afternoon): 0.4 hours of aid duty for each resident (licensed capacity or resident census), or 8.0 hours of aide duty per each 20 residents plus 3.0 hours for all other residents (licensed capacity or resident census), whichever is greater;
- c. Third shift (evening): 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census).

In addition to these requirements, the facility shall provide staff to meet the needs of the facility's heavy care residents equal to the amount of time

reimbursed by Medicaid. As used in this subdivision, the term "heavy care resident" means an individual residing in an adult care home who is defined "heavy care" by Medicaid and for which the facility is receiving enhanced Medicaid payments for such needs. Each facility shall post in a conspicuous place information about required staffing that enables residents and their families to ascertain each day the number of direct care staff and supervisors that are required by law to be on duty for each shift for that day."

SECTION 85.(b) G.S. 131E-114.1, as enacted by Section 2 of S.L. 2001-85, reads as rewritten:

"§ 131E-114.1. *Posting of information indicating number of staff on duty.*

Every nursing home subject to licensure under this Part shall post in a conspicuous place in the nursing home information about required staffing that enables residents and their families to readily ascertain each day the number of direct care staff and supervisors that are required by law to be on duty for each shift for that day."

SECTION 85.5. G.S. 135-39.5 is amended by adding a new subdivision to read:

"(27) The Executive Administrator may establish pilot programs to measure potential cost savings and improvements in patient care available through local, provider-driven medical management."

SECTION 86.(a) G.S. 135-40.2(b)(12) reads as rewritten:

"(12) Notwithstanding the provisions of G.S. 135-40.11, former employees covered by the provisions of G.S. 135-40.2(a)(6), and their spouses and eligible dependent children who were covered by the Plan at the time of the former employees' separation from service pursuant to G.S. 135-40.2(a)(6), following expiration of the former employees' coverage provided by G.S. 135-40.2(a)(6). Election of coverage under this subdivision shall be made within 90 days after the termination of coverage provided under G.S. 135-40.2(a)(6)."

SECTION 86.(b) G.S. 135-40.6(8)b. reads as rewritten:

"b. Private Duty Nursing: Services of licensed nurses (not immediate relatives or members of the participant's household or private duty nursing used in lieu of or as a substitute for hospital staff nurses) ordered by the attending doctor for a condition requiring skilled nursing services. Private Duty

Nursing ordered must be approved in advance by the Claims Processor as medically necessary. Allowances for Private Duty Nursing shall not exceed the lesser of the Plan's usual, customary and reasonable allowances or ninety percent (90%) of the daily semiprivate rate at skilled nursing facilities as determined by the Plan."

SECTION 87. G.S. 143-64.60, as enacted by Section 1 of S.L. 2001-256, reads as rewritten:

"§143-64.60. *State Privacy Act.*

(a) It is unlawful for any State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

The provisions of this ~~section~~ subsection shall not apply with respect to:

- (1) Any disclosure which is required or permitted by federal statute, or
- (2) The disclosure of a social security number to any State or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

(b) Any State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

SECTION 88. G.S. 143-129(e), as rewritten by Section 1 of S.L. 2001-328, reads as rewritten:

"(e) Exceptions. – The requirements of this Article do not apply to:

- (1) The purchase, lease, or other acquisition of any apparatus, supplies, materials, or equipment from: (i) the United States of America or any agency thereof; or (ii) any other government unit or agency thereof within the United States. The Secretary of Administration or the governing board of any political subdivision of the State may designate any officer or employee of the State or political subdivision to enter a bid or bids in its behalf at any sale of apparatus, supplies, materials, equipment, or other property owned by: (i) the United States of America or any agency thereof; or (ii) any other governmental unit or agency thereof within the United

States. The Secretary of Administration or the governing board of any political subdivision of the State may authorize the officer or employee to make any partial or down payment or payment in full that may be required by regulations of the governmental unit or agency disposing of the property.

- (2) Cases of special emergency involving the health and safety of the people or their property.
- (3) Purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively ~~bid~~ obtained purchasing services at discount prices to two or more public agencies.
- (4) Construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section.
- (5) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. These purchases are subject to G.S. 143-131.
- (6) Purchases of apparatus, supplies, materials, or equipment when: (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a political subdivision of the State shall approve the purchases listed in the preceding sentence prior to the award of the contract.

In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when: (i) a particular medical item or prosthetic appliance is needed; (ii) a particular product is ordered by an attending physician for his patients; (iii) additional products are needed to complete an ongoing job or task; (iv) products are purchased for "over-the-counter" resale; (v) a particular product is needed or desired for experimental, developmental, or research work; or (vi) equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital shall keep a record of all purchases made pursuant to this ~~subsection~~ subdivision. These records are subject to public inspection.

- (7) Purchases of information technology through contracts established by the State Office of Information Technology Services as provided in G.S. 147-33.82(b) and G.S. 147-33.92(b).
- (8) Guaranteed energy savings contracts, which are governed by Article 3B of Chapter 143 of the General Statutes.
- (9) Purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, ~~or~~ and conditions as established in the State contract.
- (10) Purchase of used apparatus, supplies, materials, or equipment. For purposes of this subdivision, ~~remanufactured or refabricated~~ remanufactured, refabricated or demo apparatus, supplies, materials, or equipment are not included in the exception. A demo item is one that is used for demonstration and is sold by the manufacturer or retailer at a discount."

SECTION 89. G.S. 143-166.13(a) reads as rewritten:

"(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

- (1) State Government Security Officers, Department of Administration;
- (2) State Correctional Officers, Department of Corrections;
- (3) State Probation and Parole Officers, Department of Corrections;
- (4) Sworn State Law-Enforcement Officers with the power of arrest, Department of Corrections;
- (5) Alcohol Law-Enforcement Agents, Department of Crime Control and Public Safety;
- (6) State Highway Patrol Officers, Department of Crime Control and Public Safety;
- (7) State Legislative Building Special Police, General Assembly;
- (8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
- (9) ~~Youth Correctional Officers, Department of Health and Human Services;~~ Juvenile Justice Officers, Department of Juvenile Justice and Delinquency Prevention;
- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Agents, Department of Justice;

- (12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;
- (13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the Commissioner of Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
- (14) Utilities Commission Transportation Inspectors and Special Investigators;
- (15) North Carolina Ports Authority Police, Department of Commerce;
- (16) Sworn State Law-Enforcement Officers with the power of arrest, Department of Environment and Natural Resources;
- (17) Sworn State Law-Enforcement Officers with the power of arrest, Department of Crime Control and Public Safety.
- (18) Sworn State Law-Enforcement Officers with the power of arrest, Department of Revenue.
- (19) Sworn State Law-Enforcement Officers with the power of arrest, University System."

SECTION 90. G.S. 143-661(b), as rewritten by Section 23.6.(b) of S.L. 2001-424, reads as rewritten:

"(b) The Board shall consist of ~~20~~21 members, appointed as follows:

- (1) ~~Four~~Five members appointed by the Governor, including one member who is a director or employee of a State correction agency for a term to begin September 1, 1996 and to expire on June 30, 1997, one member who is an employee of the North Carolina Department of Crime Control and Public Safety for a term beginning September 1, 1996 and to expire on June 30, 1997, and one member selected from the North Carolina Association of Chiefs of Police for a term to begin September 1, 1996 and to expire on June 30, 1999, ~~and~~ one member who is an employee of the Department of Juvenile Justice and Delinquency ~~Prevention~~Prevention, and one member who represents the Division of Motor Vehicles.

..."

SECTION 90.5. G.S. 143B-148, as amended by Section 1.21(b) of S.L. 2001-437, reads as rewritten:

"§ 143B-148. *Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services – members; selection; quorum; compensation.*

(a) The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services shall consist of ~~26~~29 members:

- (1) ~~Four~~Six of whom shall be appointed by the General Assembly, ~~two~~three upon the recommendation of the Speaker of the House of Representatives, and ~~two~~three upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. These members shall be individuals who are concerned about the needs of individuals for mental health, developmental disabilities, and substance abuse services. Members shall serve for two-year terms beginning July 1 of odd-numbered years. A member shall serve not more than three consecutive two-year terms. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122;
- (2) ~~Twenty-two~~Twenty-three of whom shall be appointed by the Governor, one from each congressional district in the State in accordance with G.S. 147-12(3)b, and ~~40~~the remainder at-large members.
 - a. Of these ~~22~~23 members, three shall have a special interest in mental health, three shall have a special interest in mental retardation, three shall have a special interest in developmental disabilities other than mental retardation, three shall have a special interest in alcohol abuse and alcoholism and three shall have a special interest in drug abuse. Each group of three shall be made up of one member who is a consumer representative; one other who is a representative of a local or State citizen organization or association; and one other who is a professional in the field.
 - b. The remaining ~~seven~~eight members shall be appointed from the general public, other citizen groups, area mental health, developmental disabilities, and substance abuse authorities, or from other related agencies.
 - c. Of these ~~22~~23 appointments, at least one shall be a licensed physician and at least one other shall be a licensed attorney.
 - d. ~~The Governor shall appoint members to the Commission in accordance with the foregoing~~

~~provisions.~~ The terms of all Commission members appointed or reappointed by the Governor on or after July 1, 2002, shall be ~~four~~ two years. ~~The initial term of the person representing the 12th Congressional District shall begin January 3, 1993, and expire June 30, 1996.~~ All Commission members shall serve their designated terms and until their successors are duly appointed and qualified. All Commission members may succeed themselves. A member shall serve not more than three consecutive terms.

- (3) All appointments shall be made pursuant to current federal rules and regulations, when not inconsistent with State law, which prescribe the selection process and demographic characteristics as a necessary condition to the receipt of federal aid.

(b) Except as otherwise provided in this section, the provisions of G.S. 143B-13 through 143B-20 relating to appointment, qualifications, terms and removal of members shall apply to all members of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

(c) Commission members shall receive per diem, travel and subsistence allowances in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(d) A majority of the Commission shall constitute a quorum for the transaction of business.

(e) All clerical and other services required by the Commission shall be supplied by the Secretary of the Department of Health and Human Services."

SECTION 91.(a) G.S. 143B-475.1 is recodified as G.S. 143B-262.4.

SECTION 91.(b) G.S. 143B-262.4, as recodified by Section 91(a) of this act, reads as rewritten:

"§ ~~143B-475.1~~ 143B-262.4. *Deferred prosecution, community service restitution, and volunteer program.*

(a) The Department of ~~Crime Control and Public Safety~~ Correction may conduct a deferred prosecution, community service restitution, and volunteer program for youthful and adult offenders. The Secretary of ~~Crime Control and Public Safety~~ Correction may assign one or more coordinators to each district court district as defined in G.S. 7A-133 to assure and report to the Court the offender's compliance with the requirements of the program. The appointment of each coordinator shall be made in consultation with the chief district court judge in the district to which the coordinator is assigned. Each county shall provide office space in the courthouse or

other convenient place, for the use of each coordinator assigned to that county.

(b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee of one hundred dollars (\$100.00) shall be paid by all persons who participate in the program or receive services from the program staff. If the person is convicted in a court in this State, the fee shall be paid to the clerk of court in the county in which he is convicted. If the person is participating in the program as a result of a deferred prosecution or similar program, the fee shall be paid to the clerk of court in the county in which the agreement is filed. Persons participating in the program for any other reason shall pay the fee to the clerk of court in the county in which the services are provided by the program staff. The fee shall be paid in full within two weeks from the date the person is ordered to perform the community service, and before he begins his community service, except that:

- (1) A person convicted in a court in this State may be given an extension of time or allowed to begin the community service before he pays the fee by the court in which he is convicted; or
- (2) A person performing community service pursuant to a deferred prosecution or similar agreement may be given an extension of time or allowed to begin his community service before the fee is paid by the official or agency representing the State in the agreement.

Fees collected pursuant to this subsection shall be deposited in the General Fund.

(c) The Secretary may designate the same person to serve as a coordinator under this section and under G.S. 20-179.4.

(d) A person is not liable for damages for any injury or loss sustained by an individual performing community or reparation service under this section unless the injury is caused by the person's gross negligence or intentional wrongdoing. As used in this subsection, "person" includes any governmental unit or agency, nonprofit corporation, or other nonprofit agency that is supervising the individual, or for whom the individual is performing community service work, as well as any person employed by the agency or corporation while acting in the scope and course of the person's employment. This subsection does not affect the immunity from civil liability in tort available to local governmental units or agencies. Notice of the provisions of this subsection shall be furnished to the individual at the time of assignment of community service work by the community service coordinator.

(e) In order to maximize the efficiency and effectiveness of the community service program, (i) beginning September 1, 1995, community service program districts shall have the same boundaries

as the district court districts established in G.S. 7A-133 and (ii) beginning with persons hired on or after September 1, 1995, all community service program district supervisors employed by the Department of ~~Crime Control and Public Safety~~ Correction to supervise each of the community service program districts shall reside in the district in which the supervisor works.

(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers [driver's] license issued to the person and notify the Division of Motor Vehicles to revoke any drivers [driver's] license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

SECTION 92. G.S. 147-12(13) reads as rewritten:

"(13) To oversee and approve all memoranda of understanding and agreements between the State and foreign governments, as defined in ~~G.S. 66-275(e), G.S. 66-280(c)~~, and international organizations. Any memoranda of understanding or agreements under this subsection to be signed on behalf of the State must first be approved by the Governor after review by the Attorney General, and after execution filed with the Secretary of State in accordance with ~~G.S. 66-275, G.S. 66-280.~~"

SECTION 93. G.S. 147-49 reads as rewritten:

"§ 147-49. *Disposition of damaged and unsaleable publications.*

The Secretary of State is hereby authorized and empowered to dispose of damaged and unsaleable House and Senate Journals and ~~Public Session~~ Laws of various years at a price to be determined by the Secretary of State."

SECTION 94. G.S. 159C-5 reads as rewritten:

"§ 159C-5. *General powers.*

Each authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including, but without limiting the generality of the foregoing, the powers:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;
- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places within the boundaries of the county for which it was created as it may determine;
- (4) To sue and be sued in its own name, plead and be impleaded;
- (5) To receive, administer and comply with the conditions and requirements respecting any gift, grant or donation of any property or money;
- (6) To make and execute financing agreements, security documents and other contracts and instruments necessary or convenient in the exercise of the powers and functions of the authority under this Chapter;
- (7) To acquire by purchase, lease, gift or otherwise, but not by eminent domain, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, and interests in land less than the fee ~~thereof, interest,~~ for the construction, operation or maintenance of any project;
- ~~(7a) To acquire by purchase, lease, gift, or otherwise, but not by eminent domain, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, and interests in land less than the fee interest, for the construction, operation, or maintenance of any project;~~
- (8) To sell, lease, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any real or personal property or interest therein;
- (9) To pledge or assign revenues of the authority;
- (10) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish and equip one or more projects and to pay all or any part of the costs thereof from the proceeds of bonds of the authority or from any contribution, gift or donation or other funds made available to the authority for such purpose;

- (11) To fix, charge and collect revenues with respect to any project;
- (12) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor and to select and retain subject to approval of the Local Government Commission the financial consultants, underwriters and bond attorneys to be associated with the issuance of any bonds and to pay for services rendered by underwriters, financial consultants or bond attorneys out of the proceeds of any such issue with regard to which the services were performed; and
- (13) To do all acts and things necessary, convenient or desirable to carry out the purposes, and to exercise the powers herein granted."

SECTION 95. G.S. 162-33 reads as rewritten:

"§ 162-33. *Prisoner may furnish necessities.*

~~Prisoners~~ With the sheriff's approval, prisoners shall be allowed to purchase and procure such necessities, in addition to the diet furnished by the jailer, as they may think proper; and to provide their own bedding, linen and clothing, without paying any perquisite to the jailer for such indulgence. ~~proper."~~

SECTION 96. G.S. 163-132.3(d)(1)a., as enacted by Section 10.1 of S.L. 2001-319, reads as rewritten:

"a. Is likely to be designated by the Census Bureau as a block boundary in the next federal decennial ~~Census~~ Census."

SECTION 97.(a) G.S. 163-278.19(e) reads as rewritten:

"(e) Notwithstanding the prohibitions specified in this Article and Article 22 of this Chapter, a political committee organized under provisions of this Article shall be entitled to receive and the corporation, business entity, labor union, professional association, or insurance company designated on the committee's organizational report as the parent entity of the employees or members who organized the committee is authorized to give reasonable administrative support that shall include, but not be limited to, record keeping, computer services, billings, mailings to members of the committee, and such other support as is reasonably necessary for the administration of the committee.

The approximate cost of any record keeping, computer services, billings, mailings, office supplies, and office space provided on a continuing basis shall be submitted to the committee, in writing, and the committee shall include that cost on the ~~annual~~ report required by

G.S. 163-278.9(a)(6). Also included in the report shall be the approximate allocable portion of the compensation of any officer or employee of the corporation, business entity, labor union, professional association, or insurance company who has devoted more than thirty-five percent (35%) of his time during normal business hours of the corporation, business entity, labor union, professional association, or insurance company during the period covered by the required report. The approximate cost submitted by the parent corporation, business entity, labor union, professional association, or insurance company shall be entered on the committee's ~~annual~~ report as the final entry on its list of "contributions" and a copy of the written approximate cost received by it shall be attached.

The administrative support given by a corporation, business entity, labor union, professional association, or insurance company shall be designated on the books of the corporation, business entity, labor union, professional association, or insurance company as such and may not be treated by it as a business deduction for State income tax purposes."

SECTION 97.(b) The prefatory clause of G.S. 163-278.9(a) reads as rewritten:

"(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file with the Board under verification certification of the treasurer as true and correct to the best of the knowledge of that officer with the Board the following reports:"

SECTION 98. G.S. 166A-6A(b)(2), as enacted by Section 4 of S.L. 2001-214, reads as rewritten:

"(2) Public ~~Assistance~~-assistance. – State disaster assistance in the form of public assistance grants may be made available to eligible entities located within the disaster area on the following terms and conditions:

- a. Eligible entities shall meet the following qualifications:
 1. The eligible entity suffers a minimum of ten thousand dollars (\$10,000) in uninsurable losses;
 2. The eligible entity suffers uninsurable losses in an amount equal to or exceeding one-half percent (0.5%) of the annual operating budget;
 3. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act; and

4. For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall be participating in the National Flood Insurance Program in order to receive public assistance for flooding damage.
- b. Eligible entities shall be required to provide non-State matching funds equal to twenty-five percent (25%) of the eligible costs of the public assistance grant.
- c. An eligible entity that receives a public assistance grant pursuant to this subsection may use the grant for the following purposes only:
 1. Debris clearance.
 2. Emergency protective measures.
 3. Roads and bridges.
 4. Crisis counseling.
 5. Assistance with public transportation needs."

SECTION 99. Section 2 of S.L. 1998-106, as rewritten by Section 1 of S.L. 2001-354, reads as rewritten:

"Sec. 2. The Cabarrus County demonstration Work Over Welfare Program for certain Work First and Food Stamp recipients shall:

- (1) Provide job opportunities to all able-bodied Work First and Food Stamp recipients who are required to participate in the Work First employment program;
- (2) Create job opportunities in the public, the private, nonprofit, and the private, for-profit sector, primarily in the human services areas by allowing Cabarrus County to use grant diversions, consisting of the Work First benefits and the cash value of Food Stamps that would be paid to otherwise eligible recipients to match employer funds, to subsidize the employment of these recipients. Human service area jobs will meet such socially necessary needs as day care work, nursing home aide work, and in-home aide work;
- (3) Allow wages paid to these recipients, which contain grant-diverted funds, to be exempt from income for purposes of determining eligibility for assistance;
- (4) Structure payment of wages to these recipients such that they will be considered income, in order to make recipients eligible for the federal earned income tax credit;
- (5) Create work experience opportunities in the private sector more realistically to reflect the world of work;
- (6) Require these recipients to participate in the development of an opportunity agreement outlining the

- responsibilities of the recipient and agency, as well as the incentives for compliance and the sanctions for noncompliance;
- (7) Require all these recipients who participate in the program to pursue and accept employment, full or part time, subsidized or unsubsidized, as a condition for continued eligibility for Work First and Food Stamp assistance;
 - (8) Require job search training of all participants;
 - (9) Require monitored job search of all participants until employment is found or until other work activities of up to 40 hours per week are in place;
 - (10) Create a positive work incentive by providing wage incentives to participants who are in compliance with the program by using the job bonus as outlined in the Work First Policy Manual for both Work First and Food Stamp benefits;
 - (11) Provide for a system in which the Work First cash assistance case is terminated following the first month of noncompliance, with restoration of assistance after the client agrees to comply with requirements and files a new application. To ensure that children in terminated households are not harmed, provide social worker monitoring and the use of direct vendor payments or assistance from other community resources for rent, utilities, or other basic needs of children as necessary, during the period in which assistance for the household is terminated. This period of social worker monitoring shall coincide with the period of time that the household would have been, as a Work First case, under a three-month pay-for-performance sanction system and shall not exceed three months from the date of ~~termination-termination~~;
 - (12) Provide for all individuals to be evaluated for ongoing Medicaid and children to be evaluated for Health Choice eligibility any time Work First terminates. This act shall not alter any individual's eligibility for Medicaid or Health Choice as set out in State and Federal law or ~~regulation-regulation~~;
 - (13) Require that a recipient who voluntarily terminates employment without good cause be ineligible for Work First until the individual returns to work, provided work opportunities are available. Provide employment services for 30 days to assist the individual in obtaining employment;

- (14) Require applicants for Work First to meet with child support staff within 10 days of application. Failure or refusal to pursue child support without good cause is grounds for denial of benefits;
- (15) Provide that an applicant may be eligible for a one-time Work First diversion payment in an amount not exceeding one thousand two hundred dollars (\$1,200). Applicants receiving the diversion payment shall not be eligible for ongoing Work First benefits for a period of three months from the date of receipt of the diversion payment. Individuals receiving a diversion payment must attend budgetary counseling and may be required to have a protective payee for the diversion payment;
- (16) Provide that the period of exemption from participation in employment services for a parent of a newborn child is three months. If a recipient returns to work within six weeks of childbirth, the recipient may reclaim the remainder of the three-month exemption if the recipient chooses not to continue working during the initial six-week period;
- (17) In ongoing Work First cases, require family reassessment of service needs when the family circumstance changes due to an able-bodied, financially responsible adult moving into the home. Family reassessment may result in benefit diversion, change in services, or termination from Work First program participation;
- (18) Not sanction individuals who demonstrate that they cannot meet program requirements because necessary child care is not available."

SECTION 100. Section 2 of S.L. 2001-177 reads as rewritten:

"**SECTION 2.** This act becomes effective October 1, 2001, and applies to actions on payment bonds filed labor and materials furnished on or after that date."

SECTION 101. Section 29 of S.L. 2001-208 reads as rewritten:

"**SECTION 29.** This Section 15 of this act becomes effective January 1, 2002, and applies to relinquishments executed on or after that date. The remainder of this act becomes effective January 1, 2002, and applies to actions pending or filed on or after that date."

SECTION 102.(a) S.L. 2001-216 is amended by adding a new section to read:

"**SECTION 6.1.** In the event that a court of competent jurisdiction holds that any provision of this act is unconstitutional or

otherwise invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of each section of this act are severable one from the other and from the remainder of this act."

SECTION 102.(b) Section 7 of S.L. 2001-216 reads as rewritten:

"**SECTION 7.** This act is effective when it becomes ~~law~~law and applies to all cases pending on or after the effective date except those cases in which a health benefit plan has intervened before the Industrial Commission prior to the effective date."

SECTION 102.(c) This section becomes effective June 15, 2001.

SECTION 103.(a) Section 24.5 of S.L. 2001-223 reads as rewritten:

"**SECTION 24.5.** This ~~section~~Part applies to estates that are pending."

SECTION 103.(b) G.S. 58-7-178(a), as rewritten by Section 8.11 of S.L. 2001-223, reads as rewritten:

"(a) An insurer authorized to transact insurance in a foreign country or any U.S. territory may have funds invested in securities that may be required for that authority and for the transaction of that business, provided the funds and securities are substantially of the same kinds, classes, and investment grades as those otherwise eligible for investment under this Chapter. ~~percent (5%) of admitted assets.~~ The aggregate amount of investments under this subsection shall not exceed the amount that the insurer is required by law to invest in the foreign country or United States territory, or one and one-half times the amount of reserves and other obligations under the contracts, whichever is greater."

SECTION 104. The prefatory language of Section 2 of S.L. 2001-281 reads as rewritten:

"**SECTION 2.** ~~G.S. 20-182(e)~~ G.S. 90-182(c) reads as rewritten:"

SECTION 105.(a) The prefatory language of Section 2 of S.L. 2001-297 is rewritten to read:

"**SECTION 2.** G.S. 58-65-1 reads as rewritten:"

SECTION 105.(b) The statutory catch line in Section 2 of S.L. 2001-297 is rewritten to read:

"§58-65-1. *Regulation and definitions; application of other laws; profit and foreign corporations prohibited.*"

SECTION 106.(a) Effective October 1, 2001, Section 17.4 of S.L. 2001-334 is repealed.

SECTION 106.(b) Effective October 1, 2001, G.S. 58-67-50(b), as rewritten by Section 8.1 of S.L. 2001-334, reads as rewritten:

- "(b) (1) Premium approval. – No schedule of premiums for coverage for health care services, or any amendment to the schedule, shall be used in conjunction with any health care plan until a copy of the schedule or amendment has been filed with and approved by the Commissioner.
- (2) Individual coverage. – Premiums shall be established in accordance with actuarial principles for various categories of enrollees. Premiums applicable to an enrollee shall not be individually determined based on the status of the enrollee's health. Premiums shall not be excessive, inadequate or unfairly discriminatory; and shall exhibit a reasonable relationship to the benefits provided by the evidence of coverage. The premiums or any premium revisions to the premiums with respect to for nongroup enrollee coverage shall be guaranteed, as to every enrollee covered under the same category of enrollee coverage, for a period of not less than 12 months. As an alternative to giving this guarantee for nongroup enrollee coverage, the premium or premium revisions may be made applicable to all similar category categories of enrollee coverage at one time if the health maintenance organization chooses to apply for the premium revision with respect to such the categories of coverages no more frequently than once in any 12-month period. The premium revision shall be applicable to all categories of nongroup enrollee coverage of the same type; provided that no premium revision may become effective for any category of enrollee coverage unless the HMO has given written notice of the premium revision to the enrollee 45 days before the effective date of the revision. The enrollee thereafter must then pay the revised premium in order to continue the contract in force. The Commissioner may adopt reasonable rules, after notice and hearing, to require the submittal of supporting data and such information as the Commissioner considers necessary to determine whether the rate revisions meet the standards in this subdivision. In adopting the rules under this subsection, the Commissioner may require identification of the types of rating methodologies used by filers and may also address standards for data in HMO rate filings for initial filings, filings by recently licensed HMOs, and rate revision filings; data requirements for service area expansion requests; policy reserves used in rating; incurred loss

ratio standards; and other recognized actuarial principles of the NAIC, the American Academy of Actuaries, and the Society of Actuaries.

- (3) Group coverage. – Employer group premiums shall be established in accordance with actuarial principles for various categories of enrollees, provided that premiums applicable to an enrollee shall not be individually determined based on the status of the enrollee's health. Premiums shall not be excessive, inadequate, or unfairly discriminatory, and shall exhibit a reasonable relationship to the benefits provided by the evidence of coverage. The premiums or any revisions to the premiums for employer group coverage shall be guaranteed for a period of not less than 12 months. No premium revision shall become effective for any category of group coverage unless the HMO has given written notice of the premium revision to the master group contract holder upon receipt of the group's finalized benefits or 45 days before the effective date of the revision, whichever is earlier. The master group contract holder thereafter must pay the revised premium in order to continue the contract in force. The Commissioner may adopt reasonable rules, after notice and hearing, to require the submittal of supporting data and such information as the Commissioner considers necessary to determine whether the rate revisions meet the standards in this subdivision."

SECTION 107.(a) Section 14.(b) of S.L. 2001-358 reads as rewritten:

"**SECTION 14.(b)** G.S. 55-4-02, 55-4-03, 55-4-04, and 55-4-05 are recodified as G.S. 55D-23, 55D-24, 55D-25, and 55D-26, ~~and 55D-27~~, respectively, in Article 3 of Chapter 55D of the General Statutes."

SECTION 107.(b) G.S. 59-62(c), as enacted by Section 41 of S.L. 2001-358, reads as rewritten:

"(c) The name of a registered limited liability ~~company~~ partnership becomes available for use by another entity as provided in G.S. 55D-21."

SECTION 107.5.(a) Section 9 of S.L. 2001-379 reads as rewritten:

"**SECTION 9.** Section 3 of this act becomes effective October 1, 2001 and applies to actions filed before, on or after that date. Section 7 of this act is effective when it becomes law and applies to actions pending on or after that date. The remainder of this act becomes

effective October 1, 2001, and applies to actions filed on or after that date."

SECTION 107.5.(b) This section is effective October 1, 2001.

SECTION 109. Section 6.20(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 6.20.(c)** The provisions of S.L. 2001-250, S.L. 2001-287, S.L. 2001-322, and ~~S.L. 2001-395, S.L. 2001-~~S.L. 2001-395 remain in effect for the 2001-2002 fiscal year except to the extent that:

- (1) Those provisions are expressly repealed or amended in this act or
- (2) Those provisions conflict with the provisions of this act. To the extent of such a conflict, the provisions of this act shall prevail.
- (3) Those provisions expire or expired pursuant to the provisions of those acts."

SECTION 110. Section 21.14(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.14.(b)** Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All professional and supervisory employees in policy and management positions within the Office of Policy and Planning are exempt from Chapter 126 of the General Statutes except for Articles 6, 7, and 14 of that Chapter. ~~positions as that term is defined in G.S. 126-5. Exempt positions within the Office of Policy and Planning shall not count toward the exempt position totals authorized by G.S. 126-5(d)(1).~~"

SECTION 112. Section 21.76B(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.76B.(b)** The Department of Health and Human Services and the Department of Public Instruction shall establish the "More at Four" Pre-K Task Force to oversee development and implementation of the pilot program. The membership shall include:

- (1) Parents of at-risk children.
- (2) Representatives with expertise in early childhood development.
- (3) Classroom teachers who are certified in early childhood education.
- (4) Representatives of the private not-for-profit and for-profit child care providers in North Carolina.

- (5) Employees of the Department of Health and Human Services who are knowledgeable in the areas of early childhood development, current State and federally funded efforts in child development, and providing child care.
- (6) Representatives of the North Carolina Partnership for Children, Inc., and of local Smart Start partnerships.
- (7) Representatives of local school administrative units.
- (8) Representatives of Head Start prekindergarten programs in North Carolina.
- (9) Employees of the Department of Public Instruction."

SECTION 113. Section 21.84(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 21.84.(a)** The Department of Health and Human Services, Division of Public Health shall not expand the ~~Student Information Management System~~ interagency database system pilot program statewide during the 2001-2002 fiscal year. The Department shall maintain, evaluate, and improve the three pilot projects implemented in the 2000-2001 fiscal year, and provide a report on the status of the system to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by October 1, 2001. The report shall include the status of the operations of the database, a plan for statewide expansion, and the costs associated with the expansion."

SECTION 114.(a) The heading of Section 22.8 of S.L. 2001-424 reads as rewritten:

"AUTHORIZE FAMILY DRUG TREATMENT COURTS TO SERVE ADDICTED PARENTS OF ABUSED AND NEGLECTED CHILDREN AND TO SERVE SUBSTANCE-ABUSING JUVENILE OFFENDERS WHO COME UNDER THE COURTS' JURISDICTION/DRUG TREATMENT COURT PROGRAM FOR JUDICIAL DISTRICT-DISTRICTS 3B AND 28."

SECTION 114.(b) Subsection (h) of Section 22.8 of S.L. 2001-424 reads as rewritten:

"**SECTION 22.8.(h)** The Judicial Department may seek non-State funds and provide technical assistance to the local drug treatment court planning committee for the purpose of implementing a drug treatment court program in ~~the 28th Judicial District.~~ Judicial Districts 3B and 28."

SECTION 114.6. Section 28.45 of S.L. 2001-424 reads as rewritten:

"**SECTION 28.45.** The State Auditor shall audit ExplorNet, Incorporated, for fiscal year 1999-2000 and fiscal year 2000-2001,

under G.S. 143-6.1(f). No State funds appropriated for distribution to ExplorNet, Incorporated, shall be disbursed until the State Auditor and the Office of State Budget and Management certify that ExplorNet, Incorporated, is capable of managing the funds in accordance with law and has established adequate financial procedures and controls. If the State Auditor does not complete the audit prior to March 15, 2002, the Office of State Budget and Management shall authorize the State Board of Education to disburse funds only for grants to local school administrative units. The State Board of Education shall consult with ExplorNet, Incorporated, prior to the disbursal of these funds.

A copy of the State Auditor's report shall be sent to the Joint Legislative Education Oversight Committee and to the Joint Legislative Commission on Governmental Operations.

Eighty percent (80%) of any funds disbursed pursuant to this section shall be distributed in the form of grants to local school administrative units."

SECTION 115.(a) The heading of Section 27.29 of S.L. 2001-424 reads as rewritten:

"RAIL DIVISION FUNDS FOR ~~RAILROAD BRIDGE REPLACEMENT PROJECT PLANNING AND PRELIMINARY ENGINEERING MAINTENANCE OF RAILROAD TRACK AND SIGNAL IMPROVEMENT"~~

SECTION 115.(b) Section 27.29 of S.L. 2001-424 reads as rewritten:

"SECTION 27.29. Of funds appropriated to the Department of Transportation Rail Division, ~~up to eight hundred thousand dollars (\$800,000) shall be used for planning and preliminary engineering of the Neuse Railroad Bridge east of Kinston replacement project and the Highway 54 Railroad bridge in Research Triangle Park replacement project.~~used for maintenance of track, signals and equipment."

SECTION 116. Section 28.17(h) of S.L. 2001-424 reads as rewritten:

"SECTION 28.17.(h) Students in a local school shall not be subject to field tests or national tests during the two-week period preceding the administration of the end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams. No school shall participate in more than two field tests at any one grade level during a school year ~~unless that~~unless:

- (1) That school volunteers, through a vote of its school improvement team, to participate in an expanded number of field tests.~~tests; or~~
- (2) The State Board of Education makes written findings, based on information provided by the Department of

Public Instruction, that an additional field test must be administered at that school to ensure the reliability and validity of a specific test."

SECTION 118.(a) Section 6(e) of S.L. 2001-427 is repealed.

SECTION 118.(b) The introductory language of Section 13(a) of S.L. 2001-427 reads as rewritten:

"**SECTION 13.(a)** G.S. 105-472(a) and (b)—reads read as rewritten:"

SECTION 119. Section 18 of S.L. 2001-430 reads as rewritten:

"**SECTION 18.** Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the ~~rate set for local telecommunications services~~ rates set for telecommunications services to reflect the repeal of G.S. 105-120 and the resulting liability of local telecommunications companies for the tax imposed under G.S. 105-122."

SECTION 120. Section 11 of S.L. 2001-433 reads as rewritten:

"**SECTION 11.** This act becomes effective ~~October 1, 2001~~ December 1, 2001."

SECTION 121. The prefatory language of Section 2 of S.L. 2001-450 reads as rewritten:

"**SECTION 2.** ~~G.S. 10-9~~ G.S. 10A-9 is amended by adding the following subsections to read:"

SECTION 121.5. District 36 as described in Section 1 of S.L. 2001-458 reads as rewritten:

"District 36: Franklin County: Precinct WEST YOUNGSVILLE, Precinct EAST HARRIS, Precinct PEARCES, Precinct EAST YOUNGSVILLE, Precinct WEST HARRIS; Wake County: Precinct 01-42, Precinct 01-45, Precinct 01-47, Precinct 02-01, Precinct 02-02, Precinct 02-03, Precinct 02-04, Precinct 02-05, Precinct 02-06, Precinct 05-00, Precinct 07-02, Precinct 07-03, Precinct 07-04, Precinct 07-05, Precinct 07-06, Precinct 07-07, Precinct 07-10, Precinct 07-11, Precinct 07-12, Precinct 08-01, Precinct 08-02, Precinct 08-03, Precinct 08-04, Precinct 08-05, Precinct 08-06, Precinct 08-08, Precinct 13-02; Tract 540.09: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2019, Block 2020, Block 2021, Block 2022, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034, Block 2035, Block 2036, Block 2037, Block 2038, Block 2039, Block 2040, Block 2041, Block 2042, Block 2043, Block 2044, Block

2045, Block 2046, Block 2047, Block 2048, Block 2049, Block 2050, Block 2051, Block 2052, Block 2053, Block 2054, Block 2055, Block 2056, Block 2057, Block 2058, Block 2059, Block 2060, Block 2061, Block 2079, Block 2080, Block 2081, Block 2999; Tract 540.10: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1008, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1024, Block 1025, Block 1026, Block 1027, Block 1028, Block 1029, Block 1030, Block 1031, Block 1032, Block 1033, Block 1034, Block 1035, Block 1036, Block 1037, Block 1038, Block 1039, Block 1040, Block 1041, Block 1042, Block 1043, Block 1044, Block 1045, Block 1048, Block 1049, Block 1051, Block 1054, Block 1055, Block 1058, Block 1059; Tract 542.01: Block Group 5: Block 5999; Precinct 14-01, Precinct 14-02, Precinct 19-01, Precinct 19-02, Precinct 19-03, Precinct 19-04, Precinct 19-05, Precinct 19-06, Precinct 19-07, Precinct 19-08."

SECTION 122.(a) G.S. 105-164.4(a)(1g)b., as enacted by S.L. 2001-476, reads as rewritten:

"b. Rates. – A single tax rate applies to all of the qualified electricity received by an industry or a plant in each fiscal year beginning July 1. That tax rate is determined based on the megawatt-hour volume of qualified electricity received by the industry or plant during the previous calendar year, in accordance with the following table. The rates set based on the table are subject to adjustment as provided in sub-subdivision f. of this subdivision.

Previous Year's Megawatt-Hours Received	Rate for Fiscal Year
1,200,000 <u>900,000</u> or Less	2.83%
Over 1,200,000 <u>900,000</u>	0.17%".

SECTION 122.(b) Section 17(f) of S.L. 2001-476 is amended as follows:

- (1) By deleting the phrase "~~1,200,000~~" and substituting the phrase "900,000"; and
- (2) By deleting the phrase "up to 1,200,000" and substituting the phrase "up to 900,000".

SECTION 122.(c) Section 17(g) of S.L. 2001-476 reads as rewritten:

"**SECTION 17.(g)** Subsections (b) and (c) of this section become effective ~~July~~ January 1, 2002, and apply to sales made on or after that date. Subsection (f) of this section becomes effective July 1,

2005, and applies to sales made on or after that date. The remainder of this section is effective when it becomes law."

SECTION 122.(d) This section is effective when it becomes law and applies to sales made on or after January 1, 2002.

SECTION 123. Section 8(c) of S.L. 2001-476 reads as rewritten:

"SECTION 8.(c) This section is effective for ~~taxable years beginning business activities occurring~~ on or after January 1, 2002. In addition, this section applies to business activities occurring before January 1, 2002, for which no application has been filed with the Department of Commerce as of January 1, 2003. For business activities occurring before January 1, 2002, for which no application for certification has been filed as of January 1, 2002, the taxpayer must file an application pursuant to G.S. 105-129.6, accompanied by any required fee, with the Department of Commerce. The Department of Commerce shall not make a determination regarding eligibility for credits under Article 3A of Chapter 105 of the General Statutes based on the application and shall not issue a certification, but shall instead mark on the application that the fee has been paid and return the application to the taxpayer. The taxpayer must then submit the application along with the relevant tax return. The relevant tax return is the first return on which the credit is claimed if that return is an amended return. In all other cases, the relevant return is the next return filed by the taxpayer. The Department of Commerce shall retain one-fourth of these fees collected during the 2002 calendar year for the costs of administering Article 3A of Chapter 105 of the General Statutes and shall credit the remaining proceeds of these fees to the Department of Revenue for the costs of auditing and administering Article 3A of Chapter 105 of the General Statutes. The proceeds of these fees are receipts of the Department to which they are credited."

SECTION 123.5. If Senate Bill 649, 2001 General Assembly, becomes law, Section 6 reads as rewritten:

"SECTION 6. Sections 1, 2, and 3 of this act become effective December 1, ~~31~~ 2001. Section 5 of this act becomes effective upon ~~ratification and expires November 1, 2001.~~ ratification. Section 4 of this act becomes effective December 31, 2001. Section 6 becomes effective when it becomes law."

SECTION 124. Notwithstanding G.S. 150B-21.1(a)(2), the Health and Wellness Trust Fund Commission and the Tobacco Trust Fund Commission shall have the authority to adopt temporary rules as a recent act of the General Assembly through June 30, 2002, in order to adopt rules as authorized in S.L. 2000-147.

SECTION 125.1. G.S. 136-44 reads as rewritten:

"§ 136-44. Maintenance of grounds at home of Nathaniel Macon and grave of Anne Carter Lee. grounds.

The Department of Transportation is hereby authorized and directed through the highway supervisor of the district that includes Warren County District, to clean off and keep clean the premises and grounds at the old home of Nathaniel Macon, known as "Buck Springs," which are owned by the County of Warren, and also to look after the care and keeping the grounds surrounding the grave of Miss Anne Carter Lee, daughter of General Robert E. Lee, in Warren County.

The Department of Transportation is authorized and directed through the highway supervisor of the district that includes Pender County to maintain the grounds surrounding the grave of Governor Samuel Ashe in Pender County."

SECTION 125.5. If Senate Bill 571, 2001 General Assembly, becomes law, the prefatory language of Section 2.24 of that act reads as rewritten:

"**SECTION 2.24.** ~~G.S. 143B-344.30~~ G.S. 143B-344.32 reads as rewritten:"

SECTION 126. Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 6:57 p.m. on the 16th day of December, 2001.

H.B. 382**SESSION LAW 2001-488**

AN ACT ADOPTING THE OFFICIAL FRUIT AND BERRIES OF NORTH CAROLINA.

PART I. NORTH CAROLINA'S HERITAGE OF FARMING.

Whereas, North Carolina's economy originated and developed as an agrarian economy with a cornucopia of fruits and vegetables; and

Whereas, the State takes great pride in its rich heritage of farming; and

Whereas, there are still many families who base their livelihood in farming and who are continuing the North Carolina tradition of producing goods from our land; and

Whereas, one of the main sources of agricultural production in the State is the production of fruits and berries of several varieties; and

PART II. THE SCUPPERNONG GRAPE.

Whereas, North Carolina is the home of our nation's first cultivated grape, the Scuppernong; and

Whereas, the Scuppernong grape was named after the Scuppernong River in North Carolina; and

Whereas, British explorers in 1584 and 1585 reported to Queen Elizabeth and Sir Walter Raleigh that the barrier islands of what is now, in part, Roanoke Island were full of grapes and that the soil of the land was "so abounding with sweet trees that bring rich and most pleasant gummess, grapes of such greatness, yet wild, as France, Spain, nor Italy hath not greater..."; and

Whereas, Sir Walter Raleigh's colony discovered the famous Scuppernong "Mother Vineyard" on Roanoke Island, a vine that is now over 400 years old and has a trunk over two feet thick; and

Whereas, the State toast, penned in 1904, references North Carolina as the land "[w]here the scuppernong perfumes the breeze at night,"; and

PART III. THE STRAWBERRY AND THE BLUEBERRY.

Whereas, there are over 1,700 acres of strawberries and over 3,600 acres of blueberries harvested in North Carolina each year; and

Whereas, in 2000, strawberry growers in the State produced 23,000,000 pounds of strawberries, yielding \$17,325,000 in revenues; and

Whereas, in 2000, blueberry growers in the State produced 17,500,000 pounds of blueberries, resulting in an increase in the State's economy of over \$18,000,000 in revenues; and

Whereas, these delicious berries are a good source of vitamins, a number of life-sustaining minerals, and dietary fiber;

Whereas, the blueberry is an antioxidant, which has been proven to reduce cholesterol and lower the risk of heart disease; and

Whereas, each year the Town of Chadbourn in Columbus County hosts the North Carolina Strawberry Festival, which is one of the most celebrated traditions in the State; and

Whereas, the State of North Carolina does not have an official fruit nor an official berry; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"§ 145-18. State fruit and State berries.

(a) The official fruit of the State of North Carolina is the Scuppernong grape (Vitis genus).

(b) The official red berry of the State is the strawberry (Fragaria genus).

(c) The official blue berry of the State is the blueberry (Vaccinium genus)."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 6:58 p.m. on the 16th day of December, 2001.

H.B. 748**SESSION LAW 2001-489**

AN ACT TO PROVIDE TRANSITIONAL PROVISIONS FOR THE REPEAL OF THE HIGHWAY USE TAX CAP ON NONCOMMERCIAL MOTOR VEHICLES, TO TEMPORARILY MODIFY THE TAXATION OF HMOS AND MEDICAL SERVICE CORPORATIONS, AND TO CLARIFY THE SALES TAX EXEMPTION FOR PREPARED FOOD.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Section 34.24(f) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.24(f)** Subsection (c) of this section is effective on and after July 1, 2001. The remainder of this section becomes effective October 1, 2001, and applies to certificates of title issued on or after that date.

Subsection (a) of this section does not apply to a certificate of title issued as the result of a purchase of a vehicle if the purchase was made before October 1, 2001, or was made pursuant to a contract entered into or awarded before October 1, 2001."

SECTION 1.(b) This section is effective when it becomes law.

SECTION 2.(a) Subsections (d) and (e) of Section 34.22 of S.L. 2001-424 are repealed.

SECTION 2.(b) G.S. 105-228.5(d)(5), as amended by subsection (a) of Section 34.22 of S.L. 2001-424, reads as rewritten:

"(5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is ~~eight hundred thirty three thousandths percent (0.833%)~~ one and one-tenth percent (1.1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(c) G.S. 105-228.5(d)(6), as enacted by subsection (a) of Section 34.22 of S.L. 2001-424, reads as rewritten:

"(6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued

by health maintenance organizations is ~~eight hundred thirty three thousandths percent (0.833%)~~. one and one-tenth percent (1.1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(d) Subsection (f) of Section 34.22 of S.L. 2001-424 reads as rewritten:

~~"SECTION 34.22.(f) Subsections (d) and (e) of this section become effective for taxable years beginning on or after January 1, 2003. The remainder of this~~ This section is effective for taxable years beginning on or after January 1, ~~2002~~. 2003."

SECTION 2.(e) Notwithstanding the provisions of G.S. 105-228.5(f), the following provisions apply to Article 65 Corporations and Health Maintenance Organizations, as defined in G.S. 105-228.3, for the 2003 taxable year in lieu of the provisions of G.S. 105-228.5(f):

Article 65 Corporations and Health Maintenance Organizations that are subject to the tax imposed by G.S. 105-228.5 and have an estimated premium tax liability for the 2003 taxable year, not including the additional local fire and lightning tax, of ten thousand dollars (\$10,000) or more for business done in North Carolina shall remit two estimated tax payments with each payment equal to fifty percent (50%) of the taxpayer's estimated premium tax liability for the 2003 taxable year. The first estimated payment is due on or before April 15, 2003, and the second estimated payment is due on or before June 15, 2003. The taxpayer must remit the balance by the following March 15 in the same manner provided in G.S. 105-228.5(e) for annual returns.

An underpayment of an estimated payment required by this subsection bears interest at the rate established under G.S. 105-241.1(i). Any overpayment bears interest as provided in G.S. 105-266(b) and, together with the interest, must be credited to the taxpayer and applied against the taxes imposed upon the company under G.S. 105-228.5.

The penalties provided in Article 9 of Chapter 105 of the General Statutes apply to the estimated tax payments required by this subsection.

SECTION 2.(f) G.S. 105-228.5(d)(5), as amended by subsection (a) of Section 34.22 of S.L. 2001-424 and by this section, reads as rewritten:

"(5) Article 65 Corporations. – The tax rate to be applied to gross premiums and/or gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is ~~one and one-tenth percent (1.1%)~~. percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(g) G.S. 105-228.5(d)(6), as enacted by subsection (a) of Section 34.22 of S.L. 2001-424 and as amended by this section, reads as rewritten:

"(6) Health Maintenance Organizations. – The tax rate to be applied to gross premiums on insurance contracts issued by health maintenance organizations is one ~~and one tenth percent (1.1%)~~, percent (1%). The net proceeds shall be credited to the General Fund."

SECTION 2.(h) Subsections (a) and (d) of this section are effective when they become law. Subsections (f) and (g) of this section become effective for taxable years beginning on or after January 1, 2004. The remainder of this section is effective for taxable years beginning on or after January 1, 2003.

SECTION 3.(a) G.S. 105-164.3(5a), as enacted by S.L. 2001-347, reads as rewritten:

"(5a) Food. – Substances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include ~~alcoholic beverages, as defined in G.S. 105-113.68, or tobacco products, as defined in G.S. 105-113.4.~~"

SECTION 3.(b) G.S. 105-164.13B, as amended by S.L. 2001-347, reads as rewritten:

"§ 105-164.13B. *Food exempt from tax.*

~~Except as provided in this section, the taxes imposed by this Article do not apply to food. The tax does apply to all of the following:~~

- ~~(1) Candy not sold for home consumption.~~
- ~~(2) Dietary supplements.~~
- ~~(3) Prepared food not sold for home consumption.~~
- ~~(4) Food sold through a vending machine.~~
- ~~(5) Soft drinks not sold for home consumption.~~

Food is exempt from the taxes imposed by this Article, except as follows:

- (1) The following items are subject to tax:
 - a. Alcoholic beverages, as defined in G.S. 105-113.68.
 - b. Dietary supplements.
 - c. Food sold through a vending machine.
- (2) The following items are subject to tax, unless the items are purchased for home consumption and would be exempt if purchased under the Federal Food Stamp Program, 7 U.S.C. § 51:
 - a. Candy.
 - b. Prepared food.

c. Soft drinks."

SECTION 3.(b) This section becomes effective January 1, 2002, and applies to sales made on or after that date.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:18 p.m. on the 19th day of December, 2001.

S.B. 68

SESSION LAW 2001-490

AN ACT TO MAKE CHANGES TO THE MEMBERSHIP OF THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION, TO CLARIFY THE ENFORCEMENT POWERS OF THE COMMISSION, TO REPEAL THE REMOVAL OF THE DEPARTMENT OF CORRECTION FROM THE COMMISSION, AS RECOMMENDED BY THE JOINT LEGISLATIVE CORRECTIONS AND CRIME CONTROL OVERSIGHT COMMITTEE, AND TO MAKE CONFORMING CHANGES FOR THE DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

The General Assembly of North Carolina enacts:

PART I. CHANGES TO NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION 1.1. G.S. 17C-2(3) reads as rewritten:

"(3) Criminal justice officers. – The administrative and subordinate personnel of all the departments, agencies, units or entities comprising the criminal justice agencies who are sworn law-enforcement officers, both State and local, with the power of arrest; ~~revenue law enforcement officers;~~ State correctional officers; State probation/parole officers; State probation/parole officers-surveillance; officers, supervisory and administrative personnel of local confinement facilities; ~~State youth services officers; State probation/parole intake officers; State probation/parole officers-surveillance; State probation/parole intensive officers; and State parole case analysts.~~ State juvenile justice officers; chief court counselors; and juvenile court counselors."

SECTION 1.2. G.S. 17C-3 reads as rewritten:

"(a) There is established the North Carolina Criminal Justice Education and Training Standards Commission, hereinafter called 'the Commission.' The Commission shall be composed of ~~26~~ 33 members as follows:

- (1) Police Chiefs. – Three police chiefs selected by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor.
- (2) Police Officers. – Three police officials appointed by the North Carolina Police Executives Association and two criminal justice officers certified by the Commission as selected by the North Carolina Law-Enforcement Officers' Association.
- (3) Departments. – The Attorney General of the State of North Carolina; the Secretary ~~of the Department~~ of Crime Control and Public Safety; the Secretary ~~of the Department~~ of Correction; the President of the ~~North Carolina System of Community Colleges~~; North Carolina Community Colleges System; the Secretary of Juvenile Justice and Delinquency Prevention.
- ~~(3a) A representative of the Office of Juvenile Justice.~~
- (4) At-large Groups. – One individual representing and appointed by each of the following organizations: one mayor selected by the League of Municipalities; one law-enforcement training officer selected by the North Carolina Law-Enforcement Training Officers' Association; one criminal justice professional selected by the North Carolina Criminal Justice Association; one sworn law-enforcement officer selected by the North State Law-Enforcement Officers' Association; one member selected by the North Carolina Law-Enforcement Women's Association; and one District Attorney selected by the North Carolina Association of District Attorneys.
- (5) Citizens and Others. – The President of The University of North Carolina; the Director of the Institute of Government; and two citizens, one of whom shall be selected by the Governor and one of whom shall be selected by the Attorney General. The General Assembly shall appoint ~~two~~ four persons, ~~one~~ two upon the recommendation of the Speaker of the House of Representatives and ~~one~~ two upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the

General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years.

- (6) Correctional Officers. – Four correctional officers in management positions employed by the Department of Correction shall be appointed, two from the Division of Community Corrections upon the recommendation of the Speaker of the House of Representatives and two from the Division of Prisons upon the recommendation of the President Pro Tempore of the Senate. Appointments by the General Assembly shall be made in accordance with G.S. 120-122. Appointments by the General Assembly shall serve two-year terms to conclude on June 30th in odd-numbered years. The Governor shall appoint one correctional officer employed by the Department of Correction and assigned to the Office of Staff Development and Training. The Governor's appointment shall serve a three-year term.

(b) The members shall be appointed for staggered terms. The initial appointments shall be made prior to September 1, 1983, and the appointees shall hold office until July 1 of the year in which their respective terms expire and until their successors are appointed and qualified as provided hereafter:

For the terms of one year: one member from subdivision (1) of subsection (a) of this section, serving as a police chief; three members from subdivision (2) of subsection (a) of this section, one serving as a police official, and two criminal justice officers; one member from subdivision (4) of subsection (a) of this section, appointed by the North Carolina Law-Enforcement Training Officers' Association; and two members from subdivision (5) of subsection (a) of this section, one appointed by the Governor and one appointed by the Attorney General.

For the terms of two years: one member from subdivision (1) of subsection (a) of this section, serving as a police chief; one member from subdivision (2) of subsection (a) of this section, serving as a police official; and two members from subdivision (4) of subsection (a) of this section, one appointed by the League of Municipalities and one appointed by the North Carolina Association of District Attorneys.

For the terms of three years: two members from subdivision (1) of subsection (a) of this section, one police chief appointed by the North Carolina Association of Chiefs of Police and one police chief appointed by the Governor; one member from subdivision (2) of subsection (a) of this section, serving as a police official; and three members from subdivision (4) of subsection (a) of this section, one appointed by the North Carolina Law-Enforcement Women's

Association, one appointed by the North Carolina Criminal Justice Association, and one appointed by the North State Law-Enforcement Officers' Association.

Thereafter, as the term of each member expires, his successor shall be appointed for a term of three years. Notwithstanding the appointments for a term of years, each member shall serve at the will of the appointing authority.

The Attorney General, the Secretary ~~of the Department~~ of Crime Control and Public Safety, the Secretary ~~of the Department~~ of Correction, the President of The University of North Carolina, the Director of the Institute of Government, ~~and the President of the Department of Community Colleges~~ North Carolina Community Colleges System, and the Secretary of Juvenile Justice and Delinquency Prevention shall be continuing members of the Commission during their tenure. These members of the Commission shall serve ex officio and shall perform their duties on the Commission in addition to the other duties of their offices. The ex officio members may elect to serve personally at any or all meetings of the Commission or may designate, in writing, one member of their respective office, department, university or agency to represent and vote for them on the Commission at all meetings the ex officio members are unable to attend.

Vacancies in the Commission occurring for any reason shall be filled, for the unexpired term, by the authority making the original appointment of the person causing the vacancy. A vacancy may be created by removal of a Commission member by majority vote of the Commission for misconduct, incompetence, or neglect of duty. A Commission member may be removed only pursuant to a hearing, after notice, at which the member subject to removal has an opportunity to be heard."

SECTION 1.3. G.S. 17C-11 reads as rewritten:

"§ 17C-11. ~~Power of the Commission to seek injunction.~~ Compliance; enforcement.

(a) Any criminal justice officer who the Commission determines does not comply with this Chapter or any rules adopted under this Chapter shall not exercise the powers of a criminal justice officer and shall not exercise the power of arrest unless the Commission waives that certification or deficiency. The Commission shall enforce this section by the entry of appropriate orders effective upon service on either the criminal justice agency or the criminal justice officer.

(b) Any person who desires to appeal the proposed denial, suspension, or revocation of any certification authorized to be issued by the Commission shall file a written appeal with the Commission not later than 30 days following notice of denial, suspension, or revocation.

(c) The Commission may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto; specifically, the performance of criminal justice officer functions by officers or individuals who are not in compliance with the standards and requirements of G.S. 17C-6(a) and G.S. 17C-10. A single act of performance of a criminal justice officer function by an officer or individual who is performing such function in violation of this Chapter is sufficient, if shown, to invoke the injunctive relief of this section."

SECTION 1.4. G.S. 17E-9(a) reads as rewritten:

"(a) Any justice officer who the Commission determines does not comply with the provisions of this Chapter or any rules adopted under this Chapter shall not ~~be authorized to exercise the powers of a justice officer and shall not be authorized to exercise the power of arrest unless such certification or deficiency has been waived by the Commission.~~ the Commission waives that certification or deficiency. The Commission shall enforce ~~the provisions of this section by the entry of appropriate orders.~~ orders effective upon service on either the department or the justice officer."

SECTION 1.5. Section 17.3 of S.L. 2000-67 is repealed.

PART II. CONFORMING CHANGES TO LAWS GOVERNING UNDISCIPLINED AND DELINQUENT JUVENILES

SECTION 2.1. G.S. 7B-1501 reads as rewritten:

"§ 7B-1501. *Definitions.*

In this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- (2) Clerk. – Any clerk of superior court, acting clerk, or assistant or deputy clerk.
- (3) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.

- (4) Court. – The district court division of the General Court of Justice.
- (5) ~~Court counselor. – A person responsible for probation and post release supervision to juveniles under the supervision of the chief court counselor~~
- (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- (7a) Department. – The Department of Juvenile Justice and Delinquency Prevention created under Article 12 of Chapter 143B of the General Statutes.
- (8) Detention. – The secure confinement of a juvenile under a court order.
- (9) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention facilities include both State and locally administered detention homes, centers, and facilities.
- (10) District. – Any district court district as established by G.S. 7A-133.
- (11) Holdover facility. – A place in a jail which has been approved by the Department of Health and Human Services as meeting the State standards for detention as required in G.S. 153A-221 providing close supervision where the juvenile cannot converse with, see, or be seen by the adult population.
- (12) House arrest. – A requirement that the juvenile remain at the juvenile's residence unless the court or the juvenile court counselor authorizes the juvenile to leave for specific purposes.
- (13) ~~Intake counselor. – A person who screens and evaluates a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.~~
- (13) Intake. – The process of screening and evaluating a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
- (14) Interstate Compact on Juveniles. – An agreement ratified by 50 states and the District of Columbia providing a formal means of returning a juvenile, who

is an absconder, escapee, or runaway, to the juvenile's home state, and codified in Article 28 of this Chapter.

- (15) Judge. – Any district court judge.
- (16) Judicial district. – Any district court district as established by G.S. 7A-133.
- (17) Juvenile. – Except as provided in subdivisions (7) and (27) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- (18) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
- (18a) Juvenile court counselor. – A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
- (19) Repealed by Session Laws 2000, c. 137, s. 2.
- (20) Petitioner. – The individual who initiates court action by the filing of a petition or a motion for review alleging the matter for adjudication.
- (21) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Department for placement in a training school.
- (22) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a juvenile court counselor, and may be returned to the court for violation of those conditions during the period of probation.
- (23) Prosecutor. – The district attorney or assistant district attorney assigned by the district attorney to juvenile proceedings.
- (24) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.
- (25) Teen court program. – A community resource for the diversion of cases in which a juvenile has allegedly committed certain offenses for hearing by a jury of the juvenile's peers, which may assign the juvenile to counseling, restitution, curfews, community service, or other rehabilitative measures.

- (26) Training school. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department.
- (27) Undisciplined juvenile. –
- a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or
 - b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours.
- (28) Wilderness program. – A rehabilitative residential treatment program in a rural or outdoor setting.

The singular includes the plural, unless otherwise specified."

SECTION 2.2. G.S. 7B-1601(e) reads as rewritten:

"(e) The court has jurisdiction over delinquent juveniles in the custody of the Department and over proceedings to determine whether a juvenile who is under the post-release supervision of the juvenile court counselor has violated the terms of the juvenile's post-release supervision."

SECTION 2.3. G.S. 7B-1700 reads as rewritten:

"§ 7B-1700. *Intake services.*

The chief court counselor, under the direction of the Department, shall establish intake services in each judicial district of the State for all delinquency and undisciplined cases.

The purpose of intake services shall be to determine from available evidence whether there are reasonable grounds to believe the facts alleged are true, to determine whether the facts alleged constitute a delinquent or undisciplined offense within the jurisdiction of the court, to determine whether the facts alleged are sufficiently serious to warrant court action, and to obtain assistance from community resources when court referral is not necessary. The intake juvenile court counselor shall not engage in field investigations to substantiate complaints or to produce supplementary evidence but may refer complainants to law enforcement agencies for those purposes."

SECTION 2.4. G.S. 7B-1701 reads as rewritten:

"§ 7B-1701. *Preliminary inquiry.*

When a complaint is received, the ~~intake~~-juvenile court counselor shall make a preliminary determination as to whether the juvenile is within the jurisdiction of the court as a delinquent or undisciplined juvenile. If the ~~intake~~-juvenile court counselor finds that the facts contained in the complaint do not state a case within the jurisdiction of the court, that legal sufficiency has not been established, or that the matters alleged are frivolous, the ~~intake~~-juvenile court counselor, without further inquiry, shall refuse authorization to file the complaint as a petition.

When requested by the ~~intake~~-juvenile court counselor, the prosecutor shall assist in determining the sufficiency of evidence as it affects the quantum of proof and the elements of offenses.

The ~~intake~~-juvenile court counselor, without further inquiry, shall authorize the complaint to be filed as a petition if the ~~intake~~-juvenile court counselor finds reasonable grounds to believe that the juvenile has committed one of the following nondivertible offenses:

- (1) Murder;
- (2) First-degree rape or second degree rape;
- (3) First-degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 of the General Statutes that would constitute a felony if committed by an adult;
- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon."

SECTION 2.5. G.S. 7B-1702 reads as rewritten:

"§ 7B-1702. *Evaluation.*

Upon a finding of legal sufficiency, except in cases involving nondivertible offenses set out in G.S. 7B-1701, the ~~intake~~-juvenile court counselor shall determine whether a complaint should be filed as a petition, the juvenile diverted pursuant to G.S. 7B-1706, or the case resolved without further action. In making the decision, the counselor shall consider criteria provided by the Department. The intake process shall include the following steps if practicable:

- (1) Interviews with the complainant and the victim if someone other than the complainant;
- (2) Interviews with the juvenile and the juvenile's parent, guardian, or custodian;
- (3) Interviews with persons known to have relevant information about the juvenile or the juvenile's family.

Interviews required by this section shall be conducted in person unless it is necessary to conduct them by telephone."

SECTION 2.6. G.S. 7B-1703 reads as rewritten:

"§ 7B-1703. *Evaluation decision.*

(a) The ~~intake~~-juvenile court counselor shall complete evaluation of a complaint within 15 days of receipt of the complaint, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The ~~intake~~-juvenile court counselor shall decide within this time period whether a complaint shall be filed as a juvenile petition.

(b) Except as provided in G.S. 7B-1706, if the ~~intake~~-juvenile court counselor determines that a complaint should be filed as a petition, the counselor shall file the petition as soon as practicable, but in any event within 15 days after the complaint is received, with an extension for a maximum of 15 additional days at the discretion of the chief court counselor. The ~~intake~~-juvenile court counselor shall assist the complainant when necessary with the preparation and filing of the petition, shall include on it the date and the words "Approved for Filing", shall sign it, and shall transmit it to the clerk of superior court.

(c) If the ~~intake~~-juvenile court counselor determines that a petition should not be filed, the ~~intake~~-juvenile court counselor shall notify the complainant immediately in writing with reasons for the decision and shall include notice of the complainant's right to have the decision reviewed by the prosecutor. The ~~intake~~-juvenile court counselor shall sign the complaint after indicating on it:

- (1) The date of the determination;
- (2) The words "Not Approved for Filing"; and
- (3) Whether the matter is "Closed" or "Diverted and Retained".

Except as provided in G.S. 7B-1706, any complaint not approved for filing as a juvenile petition shall be destroyed by the ~~intake~~-juvenile court counselor after holding the complaint for a temporary period to allow review as provided in G.S. 7B-1705."

SECTION 2.7. G.S. 7B-1704 reads as rewritten:

"§ 7B-1704. *Request for review by prosecutor.*

The complainant has five calendar days, from receipt of the ~~intake~~-juvenile court counselor's decision not to approve the filing of a petition, to request review by the prosecutor. The ~~intake~~-juvenile court counselor shall notify the prosecutor immediately of such request and shall transmit to the prosecutor a copy of the complaint. The prosecutor shall notify the complainant and the ~~intake~~-juvenile court counselor of the time and place for the review."

SECTION 2.8. G.S. 7B-1705 reads as rewritten:

"§ 7B-1705. *Review of determination that petition should not be filed.*

No later than 20 days after the complainant is notified, the prosecutor shall review the ~~intake~~-juvenile court counselor's determination that a juvenile petition should not be filed. Review shall include conferences with the complainant and the ~~intake~~-juvenile court counselor. At the conclusion of the review, the prosecutor shall: (i) affirm the decision of the ~~intake~~-juvenile court counselor or direct the filing of a petition and (ii) notify the complainant of the prosecutor's action."

SECTION 2.9. G.S. 7B-1706 reads as rewritten:

"§ 7B-1706. *Diversion plans and referral.*

(a) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the ~~intake~~-juvenile court counselor may divert the juvenile pursuant to a diversion plan, which may include referring the juvenile to any of the following resources:

- (1) An appropriate public or private resource;
- (2) Restitution;
- (3) Community service;
- (4) Victim-offender mediation;
- (5) Regimented physical training;
- (6) Counseling;
- (7) A teen court program, as set forth in subsection (c) of this section.

As part of a diversion plan, the ~~intake~~-juvenile court counselor may enter into a diversion contract with the juvenile and the juvenile's parent, guardian, or custodian.

(b) Unless the offense is one in which a petition is required by G.S. 7B-1701, upon a finding of legal sufficiency the ~~intake~~-juvenile court counselor may enter into a diversion contract with the juvenile and the parent, guardian, or custodian; provided, a diversion contract requires the consent of the juvenile and the juvenile's parent, guardian, or custodian. A diversion contract shall:

- (1) State conditions by which the juvenile agrees to abide and any actions the juvenile agrees to take;
- (2) State conditions by which the parent, guardian, or custodian agrees to abide and any actions the parent, guardian, or custodian agrees to take;
- (3) Describe the role of the juvenile court counselor in relation to the juvenile and the parent, guardian, or custodian;
- (4) Specify the length of the contract, which shall not exceed six months;
- (5) Indicate that all parties understand and agree that:

- a. The juvenile's violation of the contract may result in the filing of the complaint as a petition; and
- b. The juvenile's successful completion of the contract shall preclude the filing of a petition.

After a diversion contract is signed by the parties, the ~~intake~~ juvenile court counselor shall provide copies of the contract to the juvenile and the juvenile's parent, guardian, or custodian. The ~~intake~~ juvenile court counselor shall notify any agency or other resource from which the juvenile or the juvenile's parent, guardian, or custodian will be seeking services or treatment pursuant to the terms of the contract. At any time during the term of the contract if the juvenile court counselor determines that the juvenile has failed to comply substantially with the terms of the contract, the juvenile court counselor may file the complaint as a petition. Unless the juvenile court counselor has filed the complaint as a petition, the ~~intake~~ juvenile court counselor shall close the juvenile's file in regard to the diverted matter within six months after the date of the contract.

(c) If a teen court program has been established in the district, the ~~intake~~ juvenile court counselor, upon a finding of legal sufficiency, may refer to a teen court program, any case in which a juvenile has allegedly committed an offense that would be an infraction or misdemeanor if committed by an adult. However, the ~~intake~~ juvenile court counselor shall not refer a case to a teen court program (i) if the juvenile has been referred to a teen court program previously, or (ii) if the juvenile is alleged to have committed any of the following offenses:

- (1) Driving while impaired under G.S. 20-138.1, 20-138.2, 20-138.3, 20-138.5, or 20-138.7, or any other motor vehicle violation;
- (2) A Class A1 misdemeanor;
- (3) An assault in which a weapon is used; or
- (4) A controlled substance offense under Article 5 of Chapter 90 of the General Statutes, other than simple possession of a Schedule VI drug or alcohol.

(d) The ~~intake~~ juvenile court counselor shall maintain diversion plans and contracts entered into pursuant to this section to allow ~~intake~~ juvenile court counselors to determine when a juvenile has had a complaint diverted previously. Diversion plans and contracts are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, and shall be withheld from public inspection or examination. Diversion plans and contracts shall be destroyed when the juvenile reaches the age of 18 years or when the juvenile is no longer under the jurisdiction of the court, whichever is longer.

(e) No later than 60 days after the ~~intake-juvenile court~~ counselor diverts a juvenile, the ~~intake-juvenile court~~ counselor shall determine whether the juvenile and the juvenile's parent, guardian, or custodian have complied with the terms of the diversion plan or contract. In making this determination, the ~~intake-juvenile court~~ counselor shall contact any referral resources to determine whether the juvenile and the juvenile's parent, guardian, or custodian complied with any recommendations for treatment or services made by the resource. If the juvenile and the juvenile's parent, guardian, or custodian have not complied, the ~~intake-juvenile court~~ counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition within 10 days after making the determination. If the ~~intake-juvenile court~~ counselor does not file a petition, the ~~intake-juvenile court~~ counselor may continue to monitor the case for up to six months from the date of the diversion plan or contract. At any point during that time period if the juvenile and the juvenile's parent, guardian, or custodian fail to comply, the ~~intake-juvenile court~~ counselor shall reconsider the decision to divert and may authorize the filing of the complaint as a petition. After six months, the ~~intake-juvenile court~~ counselor shall close the diversion plan or contract file."

SECTION 2.10. G.S. 7B-1802 reads as rewritten:

"§ 7B-1802. *Petition.*

The petition shall contain the name, date of birth, and address of the juvenile and the name and last known address of the juvenile's parent, guardian, or custodian. The petition shall allege the facts that invoke jurisdiction over the juvenile. The petition shall not contain information on more than one juvenile.

A petition in which delinquency is alleged shall contain a plain and concise statement, without allegations of an evidentiary nature, asserting facts supporting every element of a criminal offense and the juvenile's commission thereof with sufficient precision clearly to apprise the juvenile of the conduct which is the subject of the allegation.

Sufficient copies of the petition shall be prepared so that copies will be available for the juvenile, for each parent if living separate and apart, for the guardian or custodian if any, for the juvenile court counselor, for the prosecutor, and for any person determined by the court to be a necessary party."

SECTION 2.11. G.S. 7B-1803 reads as rewritten:

"§ 7B-1803. *Receipt of complaints; filing of petition.*

(a) All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the ~~intake-juvenile court~~ counselor for screening and evaluation. Thereafter, if the ~~intake-juvenile court~~ counselor determines that a petition should be filed, the petition shall be drawn by the ~~intake-juvenile court~~ counselor or the

clerk, signed by the complainant, and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the ~~intake~~ juvenile court counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating the complaint to the ~~intake~~ juvenile court counselor by telephone and, with the approval of the ~~intake~~ juvenile court counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the ~~intake~~ juvenile court counselor. Procedures for receiving delinquency and undisciplined complaints and drawing petitions thereon, consistent with this Article and Article 17 of this Chapter, shall be established by administrative order of the chief judge in each judicial district.

(b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a complaint and any decision of the ~~intake~~ juvenile court counselor not to authorize that the complaint be filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition, recording the day of filing."

SECTION 2.12. G.S. 7B-1804(b) reads as rewritten:

"(b) When the office of the clerk is closed and ~~an intake~~ the juvenile court counselor requests a petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and verify the petition and accept it for filing, which acceptance shall constitute filing. The magistrate's authority under this subsection is limited to emergency situations when a petition is required in order to obtain a secure or nonsecure custody order. Any petition accepted for filing under this subsection shall be delivered to the clerk's office for processing as soon as that office is open for business."

SECTION 2.13. G.S. 7B-1900 reads as rewritten:

"§ 7B-1900. *Taking a juvenile into temporary custody.*

Temporary custody means the taking of physical custody and providing personal care and supervision until a court order for secure or nonsecure custody can be obtained. A juvenile may be taken into temporary custody without a court order under the following circumstances:

- (1) By a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances under G.S. 15A-401(b).
- (2) By a law enforcement officer or a juvenile court counselor if there are reasonable grounds to believe that the juvenile is an undisciplined juvenile.
- (3) By a law enforcement officer, by a juvenile court counselor, by a member of the Black Mountain Center,

Alcohol Rehabilitation Center, and Juvenile Evaluation Center Joint Security Force established pursuant to G.S. 122C-421, or by personnel of the Department if there are reasonable grounds to believe the juvenile is an absconder from any residential facility operated by the Department or from an approved detention facility."

SECTION 2.14. G.S. 7B-1901(a) reads as rewritten:

"(a) A person who takes a juvenile into custody without a court order under G.S. 7B-1900(1) or (2) shall proceed as follows:

- (1) Notify the juvenile's parent, guardian, or custodian that the juvenile has been taken into temporary custody and advise the parent, guardian, or custodian of the right to be present with the juvenile until a determination is made as to the need for secure or nonsecure custody. Failure to notify the parent, guardian, or custodian that the juvenile is in custody shall not be grounds for release of the juvenile.
- (2) Release the juvenile to the juvenile's parent, guardian, or custodian if the person having the juvenile in temporary custody decides that continued custody is unnecessary. In the case of a juvenile unlawfully absent from school, if continued custody is unnecessary, the person having temporary custody may deliver the juvenile to the juvenile's school or, if the local city or county government and the local school board adopt a policy, to a place in the local school administrative unit.
- (3) If the juvenile is not released, request that a petition be drawn pursuant to G.S. 7B-1803 or G.S. 7B-1804. Once the petition has been drawn and verified, the person shall communicate with the ~~intake~~-juvenile court counselor. If the ~~intake~~-juvenile court counselor approves the filing of the petition, the ~~intake~~-juvenile court counselor shall contact the judge or the person delegated authority pursuant to G.S. 7B-1902 if other than the ~~intake~~-juvenile court counselor, for a determination of the need for continued custody."

SECTION 2.15. G.S. 7B-1905(c) reads as rewritten:

"(c) A juvenile who has allegedly committed an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult may be detained in secure custody in a holdover facility up to 72 hours, if the court, based on information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires the juvenile be housed in a holdover facility."

SECTION 2.16. G.S. 7B-2102(e) reads as rewritten:

"(e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of this section, the custodian of records shall destroy all fingerprints and photographs at the earlier of the following:

- (1) The ~~intake~~-juvenile court counselor or prosecutor does not file a petition against the juvenile within one year of fingerprinting and photographing the juvenile pursuant to subsection (a) of this section;
- (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
- (3) The juvenile is not adjudicated delinquent of any offense that would be a felony or a misdemeanor if committed by an adult.

The chief court counselor shall notify the local custodian of records, and the local custodian of records shall notify any other record-holding agencies, when a decision is made not to file a petition, the court does not find probable cause, or the court does not adjudicate the juvenile delinquent."

SECTION 2.17. G.S. 7B-2408 reads as rewritten:

"§ 7B-2408. *Rules of evidence.*

If the juvenile denies the allegations of the petition, the court shall proceed in accordance with the rules of evidence applicable to criminal cases. In addition, no statement made by a juvenile to the ~~intake~~-juvenile court counselor during the preliminary inquiry and evaluation process shall be admissible prior to the dispositional hearing."

SECTION 2.18. G.S. 7B-2413 reads as rewritten:

"§ 7B-2413. *Predisposition investigation and report.*

The court shall proceed to the dispositional hearing upon receipt of the predisposition report. A risk and needs assessment, containing information regarding the juvenile's social, medical, psychiatric, psychological, and educational history, as well as any factors indicating the probability of the juvenile committing further delinquent acts, shall be conducted for the juvenile and shall be attached to the predisposition report. In cases where no predisposition report is available and the court makes a written finding that a report is not needed, the court may proceed with the dispositional hearing. No predisposition report or risk and needs assessment of any child alleged to be delinquent or undisciplined shall be made prior to an adjudication that the juvenile is within the juvenile jurisdiction of the court unless the juvenile, the juvenile's parent, guardian, or custodian, or the juvenile's attorney files a written statement with the juvenile court counselor granting permission and giving consent to the predisposition report or risk and needs assessment. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing. The court shall permit the

juvenile to inspect any predisposition report, including any attached risk and needs assessment, to be considered by the court in making the disposition unless the court determines that disclosure would seriously harm the juvenile's treatment or rehabilitation or would violate a promise of confidentiality. Opportunity to offer evidence in rebuttal shall be afforded the juvenile and the juvenile's parent, guardian, or custodian at the dispositional hearing. The court may order counsel not to disclose parts of the report to the juvenile or the juvenile's parent, guardian, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the juvenile or would violate a promise of confidentiality given to a source of information."

SECTION 2.19. G.S. 7B-2503 reads as rewritten:

"§ 7B-2503. *Dispositional alternatives for undisciplined juveniles.*

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
 - a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
 - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
 - c. Place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable

to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or the judge's designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

- (2) Place the juvenile under the protective supervision of a juvenile court counselor for a period of up to three months, with an extension of an additional three months in the discretion of the court.
- (3) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
 - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
 - b. A suitable plan of supervision or placement; or
 - c. Some other plan that the court finds to be in the best interests of the juvenile."

SECTION 2.20. G.S. 7B-2504 reads as rewritten:

"§ 7B-2504. *Conditions of protective supervision for undisciplined juveniles.*

The court may place a juvenile on protective supervision pursuant to G.S. 7B-2503 so that the juvenile court counselor may (i) assist the juvenile in securing social, medical, and educational services and (ii) visit and work with the family as a unit to ensure the juvenile is

provided proper supervision and care. The court may impose any combination of the following conditions of protective supervision that are related to the needs of the juvenile, including:

- (1) That the juvenile shall remain on good behavior and not violate any laws;
- (2) That the juvenile attend school regularly;
- (3) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades;
- (4) That the juvenile not associate with specified persons or be in specified places;
- (5) That the juvenile abide by a prescribed curfew;
- (6) That the juvenile report to a juvenile court counselor as often as required by a juvenile court counselor;
- (7) That the juvenile be employed regularly if not attending school; and
- (8) That the juvenile satisfy any other conditions determined appropriate by the court."

SECTION 2.21. G.S. 7B-2505 reads as rewritten:

"§ 7B-2505. *Contempt of court for undisciplined juveniles.*

Upon motion of the juvenile court counselor or on the court's own motion, the court may issue an order directing a juvenile who has been adjudicated undisciplined to appear and show cause why the juvenile should not be held in contempt for willfully failing to comply with an order of the court. The first time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed 24 hours. The second time the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed three days. The third time and all subsequent times the juvenile is held in contempt, the court may order the juvenile confined in an approved detention facility for a period not to exceed five days. The timing of any confinement under this section shall be determined by the court in its discretion. In no event shall a juvenile held in contempt pursuant to this section be confined for more than 14 days in one 12-month period."

SECTION 2.22. G.S. 7B-2506 reads as rewritten:

"§ 7B-2506. *Dispositional alternatives for delinquent juveniles.*

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
 - a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
 - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
 - c. Place the juvenile in the custody of the department of social services in the county of his residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. The director may, unless otherwise ordered by the judge, arrange for, provide, or consent to, needed routine or emergency medical or surgical care or treatment. In the case where the parent is unknown, unavailable, or unable to act on behalf of the juvenile or juveniles, the director may, unless otherwise ordered by the judge, arrange for, provide, or consent to any psychiatric, psychological, educational, or other remedial evaluations or treatment for the juvenile placed by a judge or his designee in the custody or physical custody of a county department of social services under the authority of this or any other Chapter of the General Statutes. Prior to exercising this authority, the director shall make reasonable efforts to obtain consent from a parent, guardian, or custodian of the affected juvenile. If the director cannot obtain consent, the director shall promptly notify the parent, guardian, or custodian that care or treatment has been provided and shall give the parent, guardian, or custodian frequent status reports on the circumstances of the juvenile. Upon request of a parent, guardian, or custodian of the affected juvenile, the results or records of the

aforementioned evaluations, findings, or treatment shall be made available to the parent, guardian, or custodian by the director unless prohibited by G.S. 122C-53(d).

...

- (8) Place the juvenile on probation under the supervision of a juvenile court counselor, as specified in G.S. 7B-2510.

...

- (15) Place the juvenile on intensive probation under the supervision of a juvenile court counselor.

...."

SECTION 2.23. G.S. 7B-2510(a) reads as rewritten:

"(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2506(8), the juvenile court counselor shall have the authority to visit the juvenile where the juvenile resides. The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:

- (1) That the juvenile shall remain on good behavior.
- (2) That the juvenile shall not violate any laws.
- (3) That the juvenile shall not violate any reasonable and lawful rules of a parent, guardian, or custodian.
- (4) That the juvenile attend school regularly.
- (5) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades.
- (6) That the juvenile not associate with specified persons or be in specified places.
- (7) That the juvenile:
 - a. Refrain from use or possession of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act;
 - b. Refrain from use or possession of any alcoholic beverage regulated under Chapter 18B of the General Statutes; and
 - c. Submit to random drug testing.
- (8) That the juvenile abide by a prescribed curfew.

- (9) That the juvenile submit to a warrantless search at reasonable times.
- (10) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (11) That the juvenile report to a juvenile court counselor as often as required by the juvenile court counselor.
- (12) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2506(4), (5), and (22).
- (13) That the juvenile be employed regularly if not attending school.
- (14) That the juvenile satisfy any other conditions determined appropriate by the court."

SECTION 2.24. G.S. 7B-2510(d) reads as rewritten:

"(d) On motion of the juvenile court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on probation at any time during the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this Subchapter and only after notice and a hearing."

SECTION 2.25. G.S. 7B-2511 reads as rewritten:

§ 7B-2511. *Termination of probation.*

At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. The finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the juvenile court counselor or, at the election of the court, the order may be entered with the juvenile present after notice and a hearing."

SECTION 2.26. G.S. 7B-2513(h) reads as rewritten:

"(h) Pending placement of a juvenile with the Department, the court may house a juvenile who has been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the court, based on the information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires that the juvenile be housed in a holdover facility."

SECTION 2.27. G.S. 7B-2514(a) reads as rewritten:

"(a) The Department shall be responsible for evaluation of the progress of each juvenile at least once every six months as long as the juvenile remains in the care of the Department. Any determination that the juvenile should remain in the care of the Department for an additional period of time shall be based on the Department's determination that the juvenile requires additional treatment or

rehabilitation pursuant to G.S. 7B-2515. If the Department determines that a juvenile is ready for release, the Department shall initiate a post-release supervision planning process. The post-release supervision planning process shall be defined by rules and regulations of the Department, but shall include the following:

- (1) Written notification shall be given to the court that ordered commitment.
- (2) A post-release supervision planning conference shall be held involving as many as possible of the following: the juvenile, the juvenile's parent, guardian, or custodian, juvenile court counselors who have supervised the juvenile on probation or will supervise the juvenile on post-release supervision, and staff of the facility that found the juvenile ready for release. The planning conference shall include personal contact and evaluation rather than telephonic notification.
- (3) The planning conference participants shall consider, based on the individual needs of the juvenile and pursuant to rules adopted by the Department, placement of the juvenile in any program under the auspices of the Department, including the juvenile court services programs that, in the judgment of the Department, would be appropriate transitional placement, pending release under G.S. 7B-2513."

SECTION 2.28. G.S. 7B-2514(g) reads as rewritten:

"(g) A juvenile on post-release supervision shall be supervised by a juvenile court counselor. Post-release supervision shall be terminated by order of the court."

SECTION 2.29. G.S. 7B-2516 reads as rewritten:

"(a) On motion of the juvenile court counselor providing post-release supervision or motion of the juvenile, or on the court's own motion, and after notice, the court may hold a hearing to review the progress of any juvenile on post-release supervision at any time during the period of post-release supervision. With respect to any hearing involving allegations that the juvenile has violated the terms of post-release supervision, the juvenile:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations in the motion, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of post-release supervision to the extent that post-release supervision should be revoked;
- (2) Shall be represented by an attorney at the hearing;
- (3) Shall have the right to confront and cross-examine witnesses; and

- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of the juvenile's contentions. A record of the proceeding shall be made and preserved in the juvenile's record."

SECTION 2.30. G.S. 7B-2703(a) reads as rewritten:

"(a) The court may order the parent, guardian, or custodian, to the extent that person is able to do so, to provide transportation for a juvenile to keep an appointment with a juvenile court counselor or to comply with other orders of the court."

SECTION 2.31. G.S. 7B-2706 reads as rewritten:

"§ 7B-2706. *Contempt for failure to comply.*

Upon motion of the juvenile court counselor or prosecutor or upon the court's own motion, the court may issue an order directing the parent, guardian, or custodian to appear and show cause why the parent, guardian, or custodian should not be found or held in civil or criminal contempt for willfully failing to comply with an order of the court. Chapter 5A of the General Statutes shall govern contempt proceedings initiated pursuant to this Article."

SECTION 2.32. G.S. 7B-3001 reads as rewritten:

"§ 7B-3001. *Other records relating to juveniles.*

(a) The chief court counselor shall maintain a record of all cases of juveniles under supervision of juvenile court counselors, to be known as the juvenile court counselor's record. The juvenile court counselor's record shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family; or other information the court finds should be protected from public inspection in the best interests of the juvenile.

(b) Unless jurisdiction of the juvenile has been transferred to superior court, all law enforcement records and files concerning a juvenile shall be kept separate from the records and files of adults and shall be withheld from public inspection. The following persons may examine and obtain copies of law enforcement records and files concerning a juvenile without an order of the court:

- (1) The juvenile;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The district attorney or prosecutor;
- (4) ~~Court~~ Juvenile court counselors; and
- (5) Law enforcement officers sworn in this State.

Otherwise, the records and files may be examined or copied only by order of the court.

(c) All records and files maintained by the Department pursuant to this Chapter shall be withheld from public inspection. The following persons may examine and obtain copies of the Department records and files concerning a juvenile without an order of the court:

- (1) The juvenile and the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) Professionals in the agency who are directly involved in the juvenile's case; and
- (4) ~~Court~~ Juvenile court counselors.

Otherwise, the records and files may be examined or copied only by order of the court. The court may inspect and order the release of records maintained by the Department."

SECTION 2.33. G.S. 7B-3200(f) reads as rewritten:

"(f) Records of a juvenile adjudicated delinquent or undisciplined being maintained by the chief court counselor, an intake counselor, or a juvenile court counselor shall be retained or disposed of as provided by the Department, except that no records shall be destroyed before the juvenile reaches the age of 18 or 18 months have elapsed since the person was released from juvenile court jurisdiction, whichever occurs last."

SECTION 2.34. G.S. 7B-3503 reads as rewritten:

"§ 7B-3503. *Hearing.*

The court, sitting without a jury, shall permit all parties to present evidence and to cross-examine witnesses. The petitioner has the burden of showing by a preponderance of the evidence that emancipation is in the petitioner's best interests. Upon finding that reasonable cause exists, the court may order the juvenile to be examined by a psychiatrist, a licensed clinical psychologist, a physician, or any other expert to evaluate the juvenile's mental or physical condition. The court may continue the hearing and order investigation by a juvenile court counselor or by the county department of social services to substantiate allegations of the petitioner or respondents.

No husband-wife or physician-patient privilege shall be grounds for excluding any evidence in the hearing."

SECTION 2.35. G.S. 14-16.10 reads as rewritten:

"§ 14-16.10. *Definitions.*

The following definitions apply in this Article:

- (1) Court officer. – Magistrate, clerk of superior court, acting clerk, assistant or deputy clerk, judge, or justice of the General Court of Justice; district attorney, assistant district attorney, or any other attorney designated by the district attorney to act for the State or on behalf of the

district attorney; public defender or assistant defender; court reporter; juvenile court counselor as defined in ~~G.S. 7B-1501(5)~~; G.S. 7B-1501(18a).

- (2) Executive officer. – A person named in G.S. 147-3(c).
- (3) Legislative officer. – A person named in G.S. 147-2(1), (2), or (3)."

SECTION 2.36. G.S. 14-208.27 reads as rewritten:

"§ 14-208.27. *Change of address.*

If a juvenile who is adjudicated delinquent and required to register changes address, the juvenile court counselor for the juvenile shall provide written notice of the new address not later than the tenth day after the change to the sheriff of the county with whom the juvenile had last registered. Upon receipt of the notice, the sheriff shall immediately forward this information to the Division. If the juvenile moves to another county in this State, the Division shall inform the sheriff of the new county of the juvenile's new residence."

SECTION 2.37. G.S. 14-208.28 reads as rewritten:

"§ 14-208.28. *Verification of registration information.*

The information provided to the sheriff shall be verified annually for each juvenile registrant as follows:

- (1) Every year on the anniversary of a juvenile's initial registration date, the sheriff shall mail a verification form to the juvenile court counselor assigned to the juvenile.
- (2) The juvenile court counselor for the juvenile shall return the verification form to the sheriff within 10 days after the receipt of the form.
- (3) The verification form shall be signed by the juvenile court counselor and the juvenile and shall indicate whether the juvenile still resides at the address last reported to the sheriff. If the juvenile has a different address, then that fact and the new address shall be indicated on the form."

SECTION 2.38. G.S. 115C-378 reads as rewritten:

"§ 115C-378. *Children required to attend.*

Every parent, guardian or other person in this State having charge or control of a child between the ages of seven and 16 years shall cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or other person in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause such child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school. No person shall

encourage, entice or counsel any such child to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school policy.

The principal, superintendent, or teacher who is in charge of such school shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause which does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used herein is defined to embrace all public schools and such nonpublic schools as have teachers and curricula that are approved by the State Board of Education.

All nonpublic schools receiving and instructing children of a compulsory school age shall be required to keep such records of attendance and render such reports of the attendance of such children and maintain such minimum curriculum standards as are required of public schools; and attendance upon such schools, if the school refuses or neglects to keep such records or to render such reports, shall not be accepted in lieu of attendance upon the public school of the district to which the child shall be assigned: Provided, that instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

The principal or his designee shall notify the parent, guardian, or custodian of his child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal shall notify the parent, guardian, or custodian by mail that he may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and his family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance counselor may request that a law-enforcement officer accompany him if he believes that a home visit is necessary.

After 10 accumulated unexcused absences in a school year the principal shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and his parent, guardian, or custodian if possible to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal determines that parent, guardian, or custodian has not, he shall notify the district attorney. If he determines that parent, guardian, or custodian has, he

may file a complaint with the juvenile ~~intake-court~~ counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Evidence that shows that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall establish a prima facie case that the child's parent, guardian, or custodian is responsible for the absences."

SECTION 2.39. G.S. 143B-515 reads as rewritten:

"§ 143B-515. *Definitions.*

In this Article, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Chief court counselor. – The person responsible for administration and supervision of juvenile intake, probation, and post-release supervision in each judicial district, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- (2) Community-based program. – A program providing nonresidential or residential treatment to a juvenile under the jurisdiction of the juvenile court in the community where the juvenile's family lives. A community-based program may include specialized foster care, family counseling, shelter care, and other appropriate treatment.
- (3) County Councils. – Juvenile Crime Prevention Councils created under G.S. 143B-544.
- (4) Court. – The district court division of the General Court of Justice.
- (5) ~~Court counselor. – A person responsible for probation and post release supervision to juveniles under the supervision of the chief court counselor.~~
- (6) Custodian. – The person or agency that has been awarded legal custody of a juvenile by a court.
- (7) Delinquent juvenile. – Any juvenile who, while less than 16 years of age but at least 6 years of age, commits a crime or infraction under State law or under an ordinance of local government, including violation of the motor vehicle laws.
- (8) Department. – The Department of Juvenile Justice and Delinquency Prevention.
- (9) Detention. – The secure confinement of a juvenile under a court order.
- (10) Detention facility. – A facility approved to provide secure confinement and care for juveniles. Detention

facilities include both State and locally administered detention homes, centers, and facilities.

- (11) District. – Any district court district as established by G.S. 7A-133.
- (12) Judge. – Any district court judge.
- (13) Judicial district. – Any district court district as established by G.S. 7A-133.
- (14) Juvenile. – Except as provided in subdivisions (7) and (22) of this section, any person who has not reached the person's eighteenth birthday and is not married, emancipated, or a member of the armed forces of the United States. Wherever the term "juvenile" is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- (15) Juvenile court. – Any district court exercising jurisdiction under this Chapter.
- (15a) Juvenile court counselor. – A person responsible for intake services and court supervision services to juveniles under the supervision of the chief court counselor.
- (16) Post-release supervision. – The supervision of a juvenile who has been returned to the community after having been committed to the Department for placement in a training school.
- (17) Probation. – The status of a juvenile who has been adjudicated delinquent, is subject to specified conditions under the supervision of a juvenile court counselor, and may be returned to the court for violation of those conditions during the period of probation.
- (18) Protective supervision. – The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a juvenile court counselor.
- (19) Secretary. – The Secretary of Juvenile Justice and Delinquency Prevention.
- (20) State Council. – The State Advisory Council on Juvenile Justice and Delinquency Prevention established under G.S. 143B-556.
- (21) Training school. – A secure residential facility authorized to provide long-term treatment, education, and rehabilitative services for delinquent juveniles committed by the court to the Department.
- (22) Undisciplined juvenile. –
 - a. A juvenile who, while less than 16 years of age but at least 6 years of age, is unlawfully absent from

school; or is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or

- b. A juvenile who is 16 or 17 years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile's parent, guardian, or custodian; or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours."

SECTION 2.40. G.S. 143B-516(b) is amended by adding the following new subdivision to read:

"(18) Designate persons, as necessary, as State juvenile justice officers, to provide for the care and supervision of juveniles placed in the physical custody of the Department."

SECTION 2.41. G.S. 143B-536 reads as rewritten:

"§ 143B-536. *Duties and powers of juvenile court counselors.*

As the court or the chief court counselor may direct or require, all juvenile court counselors shall have the following powers and duties:

- (1) Secure or arrange for any information concerning a case that the court may require before, during, or after the hearing.
- (2) Prepare written reports for the use of the court.
- (3) Appear and testify at court hearings.
- (4) Assume custody of a juvenile as authorized by G.S. 7B-1900, or when directed by court order.
- (5) Furnish each juvenile on probation or protective supervision and that juvenile's parents, guardian, or custodian with a written statement of the juvenile's conditions of probation or protective supervision, and consult with the juvenile's parents, guardian, or custodian so that they may help the juvenile comply with the conditions.
- (6) Keep informed concerning the conduct and progress of any juvenile on probation or under protective supervision through home visits or conferences with the parents or guardian and in other ways.
- (7) See that the juvenile complies with the conditions of probation or bring to the attention of the court any juvenile who violates the juvenile's probation.

- (8) Make periodic reports to the court concerning the adjustment of any juvenile on probation or under court supervision.
- (9) Keep any records of the juvenile's work as the court may require.
- (10) Account for all funds collected from juveniles.
- (11) Serve necessary court documents pertaining to delinquent and undisciplined juvenile matters.
- (12) Assume custody of juveniles under the jurisdiction of the court when necessary for the protection of the public or the juvenile, and when necessary to carry out the responsibilities of juvenile court counselors under this section and under Chapter 7B of the General Statutes.
- (13) Use reasonable force and restraint necessary to secure custody assumed under subdivision (12) of this section.
- (14) Provide supervision for a juvenile transferred to the counselor's supervision from another court or another state, and provide supervision for any juvenile released from an institution operated by the Department when requested by the Department to do so.
- (15) Assist in the development of post-release supervision and the supervision of juveniles.
- (16) Screen and evaluate a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
- (17) Have any other duties as the court may direct.
- (18) Have any other duties as the Department may direct."

PART III. EFFECTIVE DATE

SECTION 3.1. This act becomes effective June 30, 2001.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:19 p.m. on the 19th day of December, 2001.

S.B. 166

SESSION LAW 2001-491

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE VARIOUS STUDY COMMITTEES AND COMMISSIONS, TO AUTHORIZE OR DIRECT STATE AGENCIES, LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO AMEND THE LAW REGARDING THE FURNISHING OF DATA AND INFORMATION BY STATE

AGENCIES TO LEGISLATIVE COMMITTEES AND COMMISSIONS AND REGARDING INTERIM COMMITTEE ACTIVITY.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2001".

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2001 Regular Session of the 2001 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

- (1) Governmental Agency and Personnel Issues:
 - a. Definition of "child" in G.S. 165-20(3), the Veterans' Scholarship Program (Plyler)
 - b. Restructuring the Office of State Personnel (Kinnaird)
 - c. Establish North Carolina Portrait Gallery Commission (**S.B. 1082 – Reeves**)
 - d. Efficient location of State offices (Weinstein)
 - e. Early retirement for State employees and law enforcement officers (**H.B. 4 – Hensley, H.B. 79 – Tucker, H.B. 1022 – Goodwin**)
 - f. Firefighter's and rescue squad retirement issues (**H.B. 1077, H.B. 1078 – Arnold**)
- (2) Insurance and Managed Care Issues:
 - a. High-risk insurance health pools (S.J.R. 159 – Ballantine)
 - b. Insurance availability in beach and coastal areas (**S.B. 212 – Soles, Ballantine, Jordan, Wellons, Allran; H.B. 229 – Redwine, Dedmon, Hurley, Nye, Smith**)
 - c. Moratorium on health insurance mandates (**S.B. 1044 – Hoyle; H.B. 1048 – Redwine**)
 - d. Uninsured motorist coverage (H.B. 1253 – Goodwin)
 - e. Motor vehicle insurers/no mandates/nonoriginal crash parts (Nesbitt; **H.B. 1329 – Carpenter of Haywood, Teague, West**)

- f. Workers' compensation insurance classifications (**S.B. 1084 – Berger, Foxx; Rucho**).
- (3) Environmental/Agricultural Issues:
 - a. Enhancing fairness in agricultural contracts (**S.B. 1086 – Wellons**)
 - b. Deposits on beverage containers (**H.B. 772 – Edwards**)
- (4) Government Regulatory Issues:
 - a. Visitor safety in State parks (Rand)
 - b. Clear cutting and development growth management in the City of Raleigh (Reeves)
 - c. Safety requirements in State building code (Rand)
 - d. State Medical Examiner system (**H.B. 648 – Earle**)
 - e. Naturopathy (H.B. 1091 - Hill)
 - f. Ensuring an efficient, timely, and flexible State purchasing and procurement process decentralized to the extent possible (Cole, Crawford, Fox)
 - g. Establishing a State energy program and the use of alternative financing agreements to finance energy conservation projects in State facilities (**H.B. 389 – Tolson**)
 - h. Government tort claims (**S.B. 743 – Miller of Wake; H.B. 384 – Nesbitt**)
 - i. Impact of licensure and reimbursement requirements for Licensed Psychological Associates on health care and on these practitioners (Masters level psychologists) (Kinnaird, Holliman)
 - j. Construction contracts/retainage reform (**H.B. 1224 – Nesbitt**)
- (5) Transportation Issues:
 - a. Steering and the offering of incentives with regard to motor vehicle glass repairs (Wellons; **H.B. 13 – Sherrill**)
 - b. Post-towing procedures (**H.B. 1340 – Mitchell**)
 - c. Use of cellular telephones in vehicles (H.B. 62 – McAllister, **H.B. 74 – Bowie**)
 - d. Compensation for Highway Patrol services at special events (**H.B. 455 – McCombs**)
- (6) Criminal Laws Issues:
 - a. Consolidation of law enforcement agencies (Kinnaird)
- (7) Election Issues:
 - a. Providing for a later primary date (**S.B. 372 – Thomas**)
- (8) Consumer Issues:

- a. Mandatory arbitration provisions in consumer contracts
- (9) Domestic Violence Issues:
 - a. Child abuse and neglect in child care facilities (**H.B. 456** – Hunter)
 - b. Confidentiality program for victims of domestic violence (**H.B. 1402** – Jeffus)
 - c. Establishing a domestic violence fatality review team (**S.B. 626** – Clodfelter; **H.B. 810** – Alexander)
- (10) Education-Related Issues:
 - a. Payment of costs incurred by constituent institutions of The University of North Carolina for municipal services, including issues related to stormwater systems, fire protection, and traffic congestion (Hackney)
 - b. Reporting threats of school violence (H.B. 1134 – Davis)
- (11) Civil Law:
 - a. Distribution of wrongful death proceeds (**H.B. 400** – Haire)
 - b. Use of traffic control photographic systems (**H.B. 536** – Ellis)
- (12) Juvenile Issues:
 - a. Improving academic performance of juveniles in education programs for juveniles in juvenile facilities, promoting efficiencies in government to permit funds to be redirected to these education programs, and increasing school-based decision making and parental involvement in these education programs (Nesbitt, Walend)
 - b. Establishing procedures in the juvenile code for juveniles who lack the capacity to proceed (**H.B. 138** – Baddour)
 - c. Juvenile commitment procedures (**H.B. 277** – Haire)
 - d. Allowing counties to appeal certain orders in juvenile court (**H.B. 1314** – Baddour)
- (13) Other:
 - a. Economic impact of State's tourism industry (H.J.R. 419 – Warwick, McComas, Rayfield, Redwine, Smith)
 - b. Living income for State citizens (**S.B. 1035** – Ballance; Martin of Guilford; **H.B. 1104** – Alexander, Yongue, Earle, Fox)

c. Zero-based budgeting (**H.B. 479 – Gulley of Mecklenburg**)

SECTION 2.1A. Study of Bail Bondsmen (Harris) – The Legislative Research Commission may study the authority and regulation of bail bondsmen in this State. If it undertakes the study, the Commission shall consult with the Department of Insurance to consider the following:

- (1) The current legal authority of bail bondsmen and whether that authority should be limited or restricted.
- (2) The law and policies of other states in regulating bail bondsmen.
- (3) Alternatives for strengthening the laws and regulations of this State in regard to regulating bail bondsmen.
- (4) Any other issues the Commission considers relevant to the regulation of bail bondsmen.

SECTION 2.1B. Study of Cumberland Dam/Reservoir/State Park (**S.B. 763 – Shaw of Cumberland**) – (a) The Legislative Research Commission may study the feasibility and the desirability of constructing and establishing a dam and reservoir to be located on the Cape Fear River in Cumberland County for the purpose of establishing a regional public drinking water supply and authorizing the Department of Environment and Natural Resources to add the property surrounding the dam and reservoir to the State Parks System, as provided in G.S. 113-44.14(b). The Legislative Research Commission may consider whether purchasing land and developing a State park in Cumberland County and constructing and establishing a dam and reservoir on the Cape Fear River in the State park would:

- (1) Significantly enhance and conserve water quality in the Cape Fear River and in the area.
- (2) Further the objectives of the basinwide management plans for the Cape Fear River Basin and watershed.
- (3) Promote regional integrated ecological networks insofar as they affect water quality.
- (4) Preserve resources with significant recreational or economic value and uses.
- (5) Add to the development of a network of riparian buffer greenways bordering the Cape Fear River in the State park that would serve environmental, educational, and recreational uses.

(b) The Legislative Research Commission may consider the following issues related to purchasing land and developing a State park in Cumberland County and constructing and establishing a dam and reservoir on the Cape Fear River in the State park:

- (1) Whether the Department of Environment and Natural Resources should develop for budget and planning purposes estimates of the costs of the proposed project.
 - (2) Whether the Department of Environment and Natural Resources should request the North Carolina Congressional delegation to apply to the Congress of the United States for appropriations for this water resources development project.
 - (3) Whether the Department of Environment and Natural Resources should apply for a grant from the Clean Water Management Trust Fund under Article 13A of Chapter 113 of the General Statutes to fund all or part of the proposed project being studied under subsection (a) of this section, including the purchase of land or other interests in property.
 - (4) Whether the Department of Environment and Natural Resources should use funds available for water resources development projects to assist in constructing and establishing the dam and reservoir project being studied under subsection (a) of this section.
 - (5) Whether the Department of Environment and Natural Resources, pursuant to G.S. 143-355(b), should conduct an engineering study and report of the proposed water resources project consisting of constructing and establishing the dam and reservoir project being studied under subsection (a) of this section.
- (c) The Division of Parks and Recreation of the Department of Environment and Natural Resources shall participate in each component of the study under subsection (a) of this section and in the consideration of any issues considered by the Legislative Research Commission under this section.

SECTION 2.1C. Availability of Liability Insurance for Long-Term Care Facilities, Physicians, and Hospitals – The Legislative Research Commission may study the availability of liability insurance for long-term care facilities, physicians, and hospitals in this State. If it undertakes this study, the Commission shall consider:

- (a) The factors causing and compounding reductions in underwriting capacity.
- (b) The underwriting and marketing practices of insurers and producers writing liability insurance for long-term care facilities, physicians, and hospitals.
- (c) Optional methods of risk management or risk sharing that may be utilized by long-term care facilities, physicians, and hospitals.

(d) The effects of diminished underwriting capacity in long-term care facility, physician, and hospital liability insurance on the State's economy.

(e) Any other related issues.

SECTION 2.1D. Tier 1 County Core and Essential Public Health Services Study (S.B. 949 – Ballance) – The Legislative Research Commission may study how to improve core and essential public health services in counties designated as Tier 1 counties. If it undertakes this study, the Commission shall determine:

- (1) Whether county health departments and district health departments in Tier 1 counties can coordinate the delivery of core and essential public health services through the establishment of a State-funded regional public health improvement demonstration project.
- (2) How to improve local public health departments' community health assessment functions.
- (3) How to improve the capability of local public health departments and local boards of health to impact community health issues.
- (4) How to ensure that needed quality health services are available and accessible to all residents.

SECTION 2.1E. State Personnel System (Baddour, Coates, Gibson, Russell, Sherrill, Underhill) – The Legislative Research Commission may study the State's overall system of personnel administration, including the following:

- (1) The funding and staffing of the Office of State Personnel.
- (2) The Comprehensive Compensation System for State employees.
- (3) State employee performance evaluation practices and procedures.
- (4) Whether provisions of the State Personnel Act, Chapter 126 of the General Statutes, should be revised based upon modern human resources practices.
- (5) Any other matters relative to the policies, practices, terms, and condition of State government employment.

SECTION 2.1F. Bioterrorism Preparedness (Gibson, Wright) – The Legislative Research Commission may study the ability of the State to respond in instances of suspected bioterrorism, including the ability of the State to provide laboratory and epidemiological support when bioterrorism is suspected or when there is a question of food supply safety and security.

SECTION 2.1G. Employment Security (Redwine) – The Legislative Research Commission may study issues relating to the State's Employment Security Law, Chapter 96 of the General

Statutes, with an emphasis on the unemployment insurance tax. The Legislative Research Commission is encouraged to appoint members of the public, including representatives of the employers and employees, as well as legislators to participate in the study. The study may include the following issues:

- (1) Changes in the North Carolina economy and job market and their effect on the balance of the State Unemployment Insurance Trust Fund.
- (2) What minimum and maximum balances would be most reasonable for the Fund to assure that it will be adequate but not excessive.
- (3) Recommendations from the Employment Security Commission, including specifically the appropriate low balance for the State Unemployment Trust Fund.
- (4) The average duration of unemployment in the State and its impact on the appropriate tax rate and balance of the Trust Fund.
- (5) The current reserve of the Employment Security Commission Reserve Fund created under G.S. 96-59(f), and the proper use of that reserve.
- (6) The State Unemployment Insurance Tax base rate, options for adjusting the rate, and the effect on Trust Fund revenue resulting from the various options available to adjust the rate.

SECTION 2.1H. Funding Mechanisms for Agriculture Operations Conversion (Hackney) – The Legislative Research Commission may study potential funding mechanisms to facilitate the conversion of agriculture operations in this State to environmentally superior management systems.

SECTION 2.2. Committee Membership. – For each Legislative Research Commission committee created during the 2001-2003 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.3. Reporting Date. – For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or the 2003 General Assembly.

SECTION 2.4. Funding. – From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

**PART III. JOINT LEGISLATIVE GROWTH STRATEGIES
OVERSIGHT COMMITTEE (Lee, Gulley of Durham, Hackney)**

SECTION 3.1. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12N.

"Joint Legislative Growth Strategies Oversight Committee.

"§ 120-70.120. Creation and membership of Joint Legislative Growth Strategies Oversight Committee.

The Joint Legislative Growth Strategies Oversight Committee is established. The Committee consists of 12 members as follows:

- (1) Six members of the Senate appointed by the President Pro Tempore of the Senate; and
- (2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2003 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

"§ 120-70.121. Purpose and powers of Committee.

(a) The Joint Legislative Growth Strategies Oversight Committee shall examine, on a continuing basis, growth and development issues and strategies in North Carolina in order to make ongoing recommendations to the General Assembly on ways to promote comprehensive and coordinated local, regional, and State growth planning and public investment, taking into consideration regional differences within the State. In this examination, the Committee may:

- (1) Study the recommendations of the Commission to Address Smart Growth, Growth Management, and Development Issues established pursuant to S.L. 1999-237, Section 16.7, and determine what legislation is necessary and desirable to effectuate those recommendations;
- (2) Consider strategies that help communities and regions maximize the benefits of growth by developing transportation choices, protecting natural and cultural resources, enhancing the vitality of downtowns and existing neighborhoods, removing barriers to affordable

housing and preserving housing choice while preserving a viable economic climate and industry, and building greater regional cooperation on development issues;

- (3) Analyze legislation from other states regarding local, regional, and State planning and growth management;
- (4) Assess the viability of a comprehensive statewide growth policy;
- (5) Determine how to increase the full range of affordable housing opportunities for low- and moderate-income North Carolinians;
- (6) Study the fiscal relationship between State agencies and the communities in which they are located. This study may:
 - a. Analyze the direct and indirect economic and financial benefits and relative burdens and costs of the presence of a State agency in a community to a local government.
 - b. Consistent with Article V, Section 2 of the North Carolina Constitution, which exempts State property from taxation, examine the unfunded costs associated with the expansion of a State agency in a community and recommend who should assume responsibility for those costs and the appropriate funding sources.
 - c. Discuss the requirements local governments seek to impose on State agencies and determine whether those requirements should be applied, or applied differently, to State agencies; and
- (7) Study any other matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-70.122. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Growth Strategies Oversight Committee. The Committee shall meet upon the joint call of the Strategies cochairs.

(b) A quorum of the Committee is seven members. Only recommendations, including proposed legislation, receiving at least six affirmative votes may be included in a Committee report to the General Assembly. While in the discharge of its official duties, the

Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work.

(d) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

SECTION 3.2. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Committee.

SECTION 3.3. This Part becomes effective January 15, 2002, and expires January 16, 2005. Prior to its expiration on January 16, 2005, the Committee shall report to the General Assembly on its activities conducted pursuant to this Part.

PART IV. LEGISLATIVE ALCOHOLIC BEVERAGE CONTROL STUDY COMMISSION (Lee)

SECTION 4.1. Commission Established. – There is established a Legislative Alcoholic Beverage Control Study Commission.

SECTION 4.2. Membership. – The Commission shall be composed of 13 members as follows:

- (1) Three members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Three members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Three members of the public appointed by the Governor, none of whom shall be State officials, and two of whom shall have expertise in Alcoholic Beverage Control matters.
- (4) Two members of the public appointed by the Speaker of the House of Representatives, one of whom shall be a municipal-elected official, and one of whom shall have experience in business and Alcoholic Beverage Control matters.
- (5) Two members of the public appointed by the President Pro Tempore of the Senate, one of whom shall be an elected county official, and one of whom shall have

experience in business and Alcoholic Beverage Control matters.

SECTION 4.3. Chairman of the Alcoholic Beverage Control Commission. – The Study Commission shall invite the Chairman of the Alcoholic Beverage Control Commission to attend each meeting of the Study Commission and encourage his participation in the Study Commission's deliberations.

SECTION 4.4. Duties of Commission. – The Commission shall study the following matters related to Alcoholic Beverage Control:

- (1) Benefits and costs of "control" and "license" systems, as implemented in other states, or privatization of alcoholic beverage control, with particular focus on which type of system is more efficient.
- (2) Aspects of organization, structure, and function of the North Carolina ABC Commission and local alcoholic beverage control systems. – Including statutory authority, policy-making and regulatory functions, price-setting functions, distribution functions, purchasing, budget, staffing, capital assets, and other fiscal and financial matters.
- (3) Schedule, collection, and distribution of alcohol-related taxes and fees. – Including the taxes and fees currently applicable and not applicable to the sale of alcoholic beverages.
- (4) Possible efficiency enhancements to the ABC system. – Including effects on the price paid by the consumer, the costs of distribution, regulatory costs, tax collection costs, and distribution of revenue to the State and local governments.
- (5) Other Alcoholic Beverage Control issues. – Including location and zoning of retail stores, liquor advertising, effects of price on alcohol consumption, uniformity throughout the State of alcoholic beverage availability and sales, and direct purchase of alcoholic beverages from out-of-state wholesalers.
- (6) List not exclusive. – The Commission may study any other Alcoholic Beverage Control-related issues approved by the cochairs or recommended by the Chairman of the Alcoholic Beverage Control Commission and approved by the cochairs.

SECTION 4.5. Vacancies. – A vacancy shall be filled by the officer who made the original appointment.

SECTION 4.6. Cochairs. – The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall

designate cochair of the Commission from among their respective appointees. The Commission shall meet upon the call of the cochair. A quorum of the Commission shall be seven members.

SECTION 4.7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.8. Staff. – The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses related to the clerical employees shall be borne by the Commission.

SECTION 4.9. Consultants. – The Commission may employ consultants to assist with the study as provided in G.S. 120-32.02. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 4.10. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 4.11. Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building.

SECTION 4.12. Report. – The Commission shall submit an interim report to the Joint Legislative Commission on Governmental Operations, to the Cochair of the House and Senate Appropriations Committees, to the Cochair of the House and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Fiscal Research Division on or before April 15, 2002. The Commission shall submit a final report to the recipients of the interim report on or before March 1, 2003. Upon the earlier of the filing of its final report or March 1, 2003, the Commission shall terminate.

SECTION 4.13. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of this Part.

PART V. DOT STUDY OF PIEDMONT AREA COMMUTER RAIL LINE ACQUISITION (Garrou)

SECTION 5.1. The Department of Transportation Rail Division shall study the feasibility of acquiring rail lines or usage

rights on rail lines in Forsyth County, Guilford County, and neighboring counties for commuter rail service operated by the Piedmont Authority for Regional Transportation. The Department shall consult with the Authority in conducting its study. The Department shall report its findings and recommendations to the Joint Legislative Transportation Oversight Committee by May 1, 2002.

PART VI. COMMISSION ON POSITIVE RACIAL, ETHNIC, AND FAITH RELATIONS (MARTIN OF GUILFORD)

SECTION 6.1. The Commission on Positive Racial, Ethnic, and Faith Relations is created. The purpose of the Commission is to examine and understand the factors and beliefs that influence the formation of damaging attitudes and intolerance towards persons based on race, ethnicity, and faith and to seek ideas for changing false perceptions and building tolerance and acceptance.

SECTION 6.2. The Commission shall consist of 22 members as follows:

- (1) Nine members appointed by the President Pro Tempore of the Senate, as follows:
 - a. Five members of the Senate;
 - b. Four members from the public.
- (2) Nine members appointed by the Speaker of the House of Representatives, as follows:
 - a. Five members of the House of Representatives;
 - b. Four members from the public.
- (3) Four members appointed by the Governor, none of whom shall be members of the General Assembly.

SECTION 6.3. The President Pro Tempore of the Senate shall designate one senator as cochair, and the Speaker of the House of Representatives shall designate one representative as cochair. Vacancies on the Commission shall be filled by the officer who made the initial appointment. The Commission shall terminate the earlier of the delivery of its final report or December 1, 2002.

SECTION 6.4. The Commission, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the

Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 6.5. The Commission shall have the following powers and duties:

- (1) To identify policies and practices within State government that countenance, sanction, or foster negative attitudes and perceptions of, and actions towards, persons based on their race, ethnicity, and faith.
- (2) To make recommendations for actions State government can take to eliminate and prevent policies and practices that tend to foster fear and intolerance based on race, ethnicity, and faith, and that have a negative impact upon the citizens and residents of North Carolina.
- (3) To consider the extent to which, and how, State government should attempt to become involved in changing perceptions, attitudes, and behaviors of individuals and institutions in ways that foster greater acceptance and tolerance of racial, ethnic, and faith differences among its citizens and residents.
- (4) To identify strategies for creating better cooperation between State government and non-State institutions and systems to eliminate negative perceptions, attitudes, and behaviors based on racial, ethnic, and faith differences.
- (5) To identify policies and practices within State government and non-State institutions and systems that have a positive impact on racial, ethnic, and faith relations and make recommendations for enhancing and expanding upon those policies and practices.

SECTION 6.6. The Commission on Positive Racial, Ethnic, and Religious Relations shall submit an interim report to the General Assembly not later than the convening of the 2002 Regular Session of the 2001 General Assembly. The Commission on Positive Racial, Ethnic, and Religious Relations shall submit a final report to the General Assembly December 1, 2002.

SECTION 6.7. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of this Part.

PART VII. INCEST PENALTY STUDY (Metcalf; H.B. 1276 – Nesbitt)

SECTION 7.1. The North Carolina Sentencing and Policy Advisory Commission may study the current punishments for violations of G.S. 14-178 and G.S. 14-179 to determine whether those punishments are consistent with other punishments for sex offenses.

The Commission may also study the incest statutes' application to acts between related minors.

SECTION 7.2. The Commission may report its findings and recommendations, including any proposed legislation, to the General Assembly prior to the convening of the 2002 Regular Session of the 2001 General Assembly.

PART VIII. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 8.1. The Joint Legislative Education Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

SECTION 8.2. Residential Charter Schools (Lee) - The Joint Legislative Education Oversight Committee may study whether the State should authorize and fund residential charter schools. As part of this study, the Committee shall consider what portion, if any, of the residential costs should be borne by the State, and whether nonresident students should be required to pay tuition.

SECTION 8.4. Halifax Community College Service Area (Ballance) – The Joint Legislative Education Oversight Committee may study whether additional townships in Northampton County should be included in the Halifax Community College service area. If this study is undertaken, the Committee shall consider the availability of satellite campus facilities and other services in Jackson, as well as the impact this change would have on Roanoke-Chowan Community College. At the same time it reports its findings and recommendations to the General Assembly, the Committee shall report its findings and recommendations to the State Board of Community Colleges.

SECTION 8.5. Teaching Personal Financial Literacy in Schools (**S.B. 744 – Hagan, Bingham**) – **The Committee may study** the issue of teaching personal financial literacy in the public schools and shall consider the following issues in its study:

- (1) The best methods of equipping students with the knowledge and skills they need, before they become self-supporting, to make critical decisions regarding their personal finances.
- (2) The components of a personal financial literacy curriculum, including topics such as consumer financial education, personal finance, and personal credit.
- (3) The appropriate materials and guidelines for local boards of education to use in implementing a program of instruction on personal financial literacy.

- (4) Methods of funding for local boards of education, including information on securing public and private grant funds and on using other public and private assets, to implement the instructional program.

SECTION 8.6. Classroom Experience for School Personnel (S.B. 586 – Hartsell) – **The Committee may study whether** professional employees of schools who do not have daily classroom instructional contact with students should be required to deliver instruction or to have other contact with students in classrooms during the instructional day.

SECTION 8.7. Schoolwork of Suspended Students (Kinnaird) – The Committee may study the development of standards for the acceptance by public schools of schoolwork performed by suspended students at Day Reporting Centers and other alternative schools.

SECTION 8.8. Nutrition in Public Schools (S.B. 725 – Kinnaird; H.B. 650 – Howard) – The Committee may study the public health issues related to elementary and secondary students consuming foods of minimal nutritional value and whether and to what extent those foods should be made available to students in public schools.

SECTION 8.9. Tuition Rates for Noncitizen Immigrant Students (S.B. 812 – Martin of Guilford) – **The Committee may study** State law pertaining to tuition rates for noncitizen immigrant students and consider the feasibility of extending in-State tuition status to those students. In addition to members from the Committee, the co-chairs may appoint other members from among the following categories of individuals who are not members of the General Assembly to assist the Committee in this study:

- (1) Experts in immigration law and advocacy.
- (2) Advocates for noncitizen students versed in education and immigration issues.
- (3) Representatives of organizations for refugee and immigrant populations.
- (4) Advisors for immigrant students at The University of North Carolina.
- (5) Advocates or leaders from the noncitizen immigrant community.

SECTION 8.10. Science, Mathematics, and Technology Education (Lee; H.B. 1338 – Boyd-McIntyre) – **The Committee may** study ways to improve science, mathematics, and technology education and student achievement, implement the State's vision of having the best public schools in the nation by 2010, prepare students for future science, mathematics, and technology learning and jobs, and improve support to the School of Science and Mathematics.

SECTION 8.11. Health Care Personnel Education – The Committee may study ways to address the current and projected critical shortage of health care personnel and how the educational system can assist in the development of an adequate supply of appropriately trained health care personnel. Any Committee report on this issue shall be provided to the Joint Legislative Health Care Oversight Committee. Regardless of whether the Committee undertakes this study, on or before March 1, 2002, the Board of Governors of The University of North Carolina, the State Board of Community Colleges, and the Department of Public Instruction shall submit a report to the Committee and to the Joint Legislative Health Care Oversight Committee outlining existing and future plans to address this issue, including obstacles to realizing those plans, additional plans that could be developed should additional resources be made available, numbers of current and projected students enrolled in and expected to complete health care training programs, where students become employed upon completion of the health care training programs, and any reductions in funding to programs designed to train or retain health care personnel.

SECTION 8.12. Community Colleges (Rand, Preston, Yongue) – The Committee may study the effects of requiring nine-month contracts of all full-time community college faculties. If undertaken, the study shall include a determination of the value of nine-month contracts in making national salary comparisons, the additional administrative requirements that result from nine-month contracts, the feasibility of permitting the North Carolina Community Colleges System to carry forward encumbered contract funds to a subsequent fiscal year, and the length of contract as it relates to faculty discipline.

In addition, the Committee may study the relationship between fully funding summer term instruction and moving full-time community college faculty and professional staff toward their respective national average salaries.

The Committee may also study the need for additional student services positions in the North Carolina Community Colleges System based upon changing demographics among the student population, including the need for additional counselors, financial aid specialists, special population specialists, advisors, testing and job placement specialists.

SECTION 8.13. The Prescription of Ritalin and Other Drugs to Children Diagnosed ADD/ADHD (S.J.R. 1074 – Rucho) – The Committee may study the procedure to identify amphetamine/stimulant drugs, (for example Ritalin and Adderal) based upon "Attention Deficit Disorder" (ADD) and "Attention Deficit Hyperactivity Disorder" (ADHD) in diagnosed children.

SECTION 8.14. Review of Low-Wealth School Funding Formula (**H.B. 230 – Gillespie**) – **The Committee may study the funding formula used to provide supplemental funds to schools in low-wealth counties.**

SECTION 8.15. Meeting the Needs of Students with Disabilities (**S.B. 98 – Dannelly; H.B. 248 – Boyd-McIntyre, McLawhorn**) – **The Committee may study issues relating to the education of students with disabilities.**

SECTION 8.16. High Priority School Assistance (**S.B. 1076 – Lee; H.B. 1018 – Yongue, Arnold, Rogers, Warner, Bonner**) – **The Committee may study ways to assist any continually low-performing schools.**

SECTION 8.17. Performance-Based Licensure Program (**H.B. 1256 – McLawhorn, Underhill**) – **The Committee may study the implementation of and the timetable for the Performance-Based Licensure Program for initially licensed teachers.**

SECTION 8.18. Advisory State Board of Education Members (**S.B. 394 – Miller**) – **The Committee may study the issue of changing the advisory membership of the State Board of Education.**

SECTION 8.19. Speech and Language Pathology Caseloads and Severity Rating Scales (Yongue) – **The Committee may study the implementation of caseload limits for speech and language pathologists who are serving State-identified speech and language-impaired children. The Committee may also study the implementation of a severity rating scale for speech and language-impaired children.**

SECTION 8.20. Participation of Nonpublic Students in Public School Extracurricular Activities (**H.B. 823 – Decker**) – **The Committee may study the participation of nonpublic school students and home school students in extracurricular activities at public schools.**

SECTION 8.21. Higher Education Residency Requirements (**H.B. 1279 – Allred**) – **The Committee may study the current requirements to qualify as a North Carolina resident for tuition purposes.**

PART IX. REVENUE LAWS STUDY COMMITTEE

SECTION 9.1. The Revenue Laws Study Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

SECTION 9.2. Compliance With Tax Laws - The Committee may study proposals for improving compliance with State tax laws. The study shall include an evaluation of how existing data may be used to identify businesses that underreport income or sales,

retailers that misuse certificates of resale, and taxpayers that use other methods to avoid complying with the tax laws.

SECTION 9.3. Travel and Tourism Capital Incentive Grants (**S.B. 1050 – Metcalf**) – **The Committee may study whether a travel and tourism capital incentive grant program should be established.**

SECTION 9.4. Credit Card Solicitation (**S.B. 800 – Bingham, Warren, Weinstein**) – **The Committee may study the issue of credit card solicitation in this State.**

SECTION 9.5. Apportionment Formula (**H.B. 1231 – Hensley**) – **The Committee may study the formula used to apportion the income of multistate corporations to this State, including the elimination of the double-weighted sales factor.**

PART X. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

SECTION 10.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

SECTION 10.2. Medical Services to Persons With Disabilities (**S.B. 766 – Carpenter of Macon, Lucas**) – **The Committee may study the delivery of medical services to persons with disabilities.**

SECTION 10.3. Prescription Drugs (Kinnaird, Purcell) – **The Committee may study the following issues relating to prescription drugs:**

- (1) The increasing cost of prescription drugs and approaches to controlling these costs effectively.
- (2) The impact of the increasing cost of prescription drugs on the State Medical Assistance program and other programs administered by the State that are directly or indirectly affected by the increasing costs of prescription drugs and possible approaches to reducing these costs.
- (3) The impact of increasing costs and the high utilization of prescription drugs by seniors and the disabled, the resulting decline in access to prescription drugs by seniors and the disabled, and approaches the State may adopt to make drug coverage more accessible and affordable to seniors and the disabled.
- (4) Ways to improve the health of elderly and disabled persons through reviewing their prescription drug regimens, identifying possible conflicting drugs, offering education and counseling in the use of drugs, and proposing affordable substitutes.

- (5) Ways to facilitate and enhance assessment of drug regimens by qualified persons so that individual consent is obtained and privacy protected.
- (6) Ways to fund reasonable costs associated with assessment, management, and counseling services.
- (7) How to maximize federal support for enhancing access and management assistance to elderly and disabled persons who are not currently eligible for Medicaid or receiving prescription drug coverage under Medicare or other health insurance.
- (8) How to establish public/private partnerships via cooperative agreements between and among hospitals, health care providers, and pharmacists, statewide and at the community level, to enhance access and provide assessment, management, and counseling services.
- (9) How to ensure that pharmacy services are available in rural areas where there are few retail pharmacies.
- (10) A cost-benefit analysis for providing assessment, management, and care management services for eligible elderly and disabled persons.
- (11) Where programs to improve access and management assistance could be most effectively located, such as pharmacies, community organizations, or other appropriate locations.
- (12) Ways of educating and counseling elderly and disabled persons on preventive health care measures.

SECTION 10.4. County Share of the Cost of Medicaid (Rand; **H.B. 1251 - Goodwin**) – **The Committee may study the county** share of the cost of Medicaid, including the benefits, legal implications and respective services costs of the Medicaid program, and the associated costs implications and capability by counties to generate sufficient revenue. Any findings as a result of this study shall include strategies and recommendations targeted to eliminating or equalizing county costs and lessening the State's fiscal burden.

SECTION 10.5. Long-Term Care Aide Workforce Issues (S.B. 180 – Purcell; H.B. 244 – Earle) – **The Committee may study** workforce issues pertaining to the long-term care aide workforce.

PART XI. UNDERAGE DRINKING STUDY COMMISSION
(S.B. 821 – Rand; H.B. 1275 – Alexander, Goodwin)

SECTION 11.1. Commission Established. – There is established an Underage Drinking Study Commission.

SECTION 11.2. Membership. – The Commission shall be composed of 15 members as follows:

- (1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
- (2) Four members of the Senate appointed by the President Pro Tempore of the Senate.
- (3) Three members appointed by the Governor, two of whom shall be representatives of the law enforcement community, and one of whom shall be a representative of the business community.
- (4) Two members of the public appointed by the Speaker of the House of Representatives, one of whom shall have expertise in juvenile alcohol and drug abuse and addiction, and one of whom shall be a representative of the primary or secondary education community.
- (5) Two members of the public appointed by the President Pro Tempore of the Senate, one of whom shall be familiar with how underage persons actually obtain alcoholic beverages, and one of whom shall be a representative of the primary or secondary education community.

SECTION 11.3. Secretaries of Health and Human Services, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention. – The Commission shall invite the Secretary of Health and Human Services, the Secretary of Crime Control and Public Safety, and the Secretary of Juvenile Justice and Delinquency Prevention to attend each meeting of the Commission and encourage their participation in the Commission's deliberations.

SECTION 11.4. Duties of Commission. – The Commission shall study the following matters related to alcohol consumption by persons under the age of 21:

- (1) Commercial availability. – The Commission shall review the laws regulating the sale and consumption by persons under the age of 21; types and locations of commercial outlets that are likely sites for youth purchases; serving and selling practices that reduce the likelihood of illegal sales, including server/seller licensing, minimum age to sell or serve alcohol, and minimum age to enter bars; comprehensive compliance check enforcement programs; controls on price and promotion of alcohol to discourage underage consumption; and appropriate administrative, criminal, and civil penalties for violating commercial availability statutes.
- (2) Social and public availability. – The Commission shall review the noncommercial sources of alcohol available

to persons under the age of 21, including kegs, third-party sales for underage persons, teen parties, off-campus parties, and public places; methods of reducing noncommercial settings for youth consumption; and appropriate administrative, criminal, and civil penalties for violating noncommercial availability statutes.

- (3) Restricting youth possession. – The Commission shall review restrictions on possession of alcohol by persons under the age of 21; false identification statutes; and appropriate administrative, criminal, and civil penalties for youth offenders that deter underage consumption behavior.
- (4) Other underage alcohol consumption issues. – The Commission may study any other underage drinking-related issue approved by the cochairs or recommended by either the Secretary of Health and Human Services, the Secretary of Crime Control and Public Safety, or the Secretary of Juvenile Justice and Delinquency Prevention and approved by the cochairs.
- (5) The Commission shall evaluate current laws related to the aforementioned areas, specifically as to whether the laws address high-risk settings or activities that are associated with serious harm, deter unwanted behavior, and are efficiently and effectively enforced. The Commission shall recommend changes to reduce the access and availability of alcohol to persons under the age of 21 and to deter adults from providing alcohol to underage persons.

SECTION 11.5. Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 11.6. Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eight members.

SECTION 11.7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 11.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid its work.

SECTION 11.9. Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a

consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 11.10. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 11.11. Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building.

SECTION 11.12. Report. – The Commission shall submit an interim report to the Joint Legislative Commission on Governmental Operations on or before May 1, 2002. The Commission shall submit a final report to the Joint Legislative Commission on Governmental Operations by December 1, 2002. Upon the filing of its final report or on December 1, 2002, whichever occurs earlier, the Commission shall terminate.

SECTION 11.13. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

PART XII. JOINT SELECT COMMITTEE ON INFORMATION TECHNOLOGY STUDY (S.B. 991 – Rand, Reeves; H.B. 1101 – Baddour)

SECTION 12.1. The Joint Select Committee on Information Technology may study issues related to personal privacy and security in electronic commerce. If it undertakes this study, the Committee shall examine issues related to protections for personal privacy and security, including the following:

- (1) Privacy protection and security of nonpublic personal financial information.
- (2) Privacy protection and security of personal consumer information.
- (3) Privacy protection and security of personal information collected on students by or through schools and their contractors.
- (4) Privacy protection and security of Internet use and use of electronic messaging.
- (5) Privacy protections and security for children online.
- (6) Privacy protection and security of medical records and personal health information.

- (7) Privacy protection and security of personal insurance information.
- (8) Privacy protection and security of personal information collected by the State.
- (9) Privacy protection and security of credit card numbers on credit card receipts.
- (10) Adequacy of the State's computer "hacking" laws.
- (11) The potential interplay between federal security proposals and personal privacy considerations.

SECTION 12.2. The Committee may report to the 2002 Regular Session of the 2001 General Assembly or to the 2003 General Assembly on its findings and may make any legislative recommendations it considers appropriate.

PART XIII. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 13.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

SECTION 13.2. Commission Contract Agent Study (S.B. 27 – Hoyle; **H.B. 21 – Barbee, Sutton**). – **The Committee may study** the following:

- (1) Review the history and policies that led to the enactment of G.S. 20-63(h) providing for contracts for the issuance of registration plates and certificates.
- (2) Study the current implementation and consequences of the provisions of G.S. 20-63(h).
- (3) Study how registration plates and certificates are issued in other states.
- (4) Study the implications and potential effects on the contract agents of the authority of the Division of Motor Vehicles to use electronic applications and collections authorized in G.S. 20-63(i).
- (5) Study any other factors it deems relevant related to the use of contract agents for the issuance of registration plates and certificates.
- (6) Make findings and recommendations on improving the services related to the issuance of registration plates and certificates to the citizens of North Carolina while reducing the costs to the State.

SECTION 13.3. Improving Compliance With Vehicle Registration Requirements (Rand) – The Committee may study methods to improve compliance with vehicle registration requirements. If it undertakes this study, the Committee shall:

- (1) Review requirements in other states for reissuing license plates;
- (2) Compare the cost of reissuing license plates in other states with the additional revenues raised from reissuing license plates;
- (3) Determine the cost of reissuing license plates in this State;
- (4) Examine the potential to increase revenues by reissuing license plates in this State; and
- (5) Review methods for adopting license plate design and alternatives to the current method of adopting license plate designs.

SECTION 13.4. Substandard Subdivision Roads (**H.B. 601 – Brubaker**) – The Committee may study subdivision roads that do not meet the standards for acceptance onto the State highway system to determine the cost for the Department of Transportation to minimally upgrade and maintain those roads.

SECTION 13.5. Transportation Funding Equity (**H.B. 945 – Barnhart**) – The Committee may study matters related to transportation funding, including The Highway Trust Fund Act of 1989, current planning and funding procedures, transportation system maintenance, public transportation, Highway Fund transfers, and transportation spending.

SECTION 13.6. Nonbetterment Relocation Costs (**H.B. 43 – Nesbitt, Sherrill, Walend; Crawford of Buncombe**) The Committee may study the issue of payment by the Department of Transportation of nonbetterment utility line relocation costs, including the establishment of a uniform State policy concerning payment of nonbetterment utility line relocation costs.

PART XIV. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 14.1. The Environmental Review Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

SECTION 14.2. Appointment of Local Health Directors (**S.B. 1033 – Albertson**) **The Commission, in consultation with the Public Health Study Commission,** may study issues related to the appointment of local health directors. The Environmental Review Commission may specifically examine the relationships among local health directors, local boards of health, and boards of county commissioners in the appointment and evaluation of local health directors. The Environmental Review Commission may also examine the benefits of expanding to the boards of county commissioners of

all 100 counties the authority of certain boards of county commissioners under G.S. 153A-77.

SECTION 14.3. Expanding Land and Water Conservation Options in North Carolina (Albertson, Lucas, Odom) – The Commission may study strategies to attain the State's goal of preserving a million acres of open space over the next 10 years, and the long-term protection and restoration of water quality. If it undertakes this study, the Commission shall consider:

- (1) The expansion of existing State and local incentives that will encourage private stewardship and conservation of farmland, forestland, riparian buffers, wetlands, natural areas, historic sites, open spaces, and waters.
- (2) Additional State and local incentives that will encourage private stewardship and conservation of land and water.
- (3) The adequacy of and existing coordination among the Natural Heritage Trust Fund, Parks and Recreation Trust Fund, Farmland Preservation Trust Fund, and the Clean Water Management Trust Fund in protecting water quality, preserving the natural and cultural heritage of the State, and preserving farmland and open space.
- (4) State and local alternatives for financing options to achieve the State's goal of preserving a million acres of open space, and the goals of the Natural Heritage Trust Fund, Parks and Recreation Trust Fund, Farmland Preservation Trust Fund, and the Clean Water Management Trust Fund.

SECTION 14.4. Interconnection of Public Water Systems (S.B. 1019 – Hartsell) – **The Commission may study requiring the** interconnection of public water systems or wastewater systems to regional systems and requiring that reasonable alternatives be reviewed before constructing or altering a public water system. If it undertakes this study, the Commission shall consult with the Commission to Address Smart Growth, Growth Management, and Development Issues.

SECTION 14.5. Stormwater Programs and Policies (Reeves) – The Commission may study the programs, policies, and strategies necessary to attain the State's goal of preventing environmental degradation of the State's water and groundwater resources, particularly due to stormwater impacts. If it undertakes this study, the Commission shall:

- (1) Survey the State's waters located in developed areas to identify the threat, if any, posed to those waters by sedimentation and erosion resulting from construction and other land-disturbing activities.

- (2) Determine the appropriate role of local governments in reducing surface runoff of waters and erosion of soil to waters of the State.
- (3) Survey the State's waters located in undeveloped areas for the purpose of developing a hydrographic baseline for those areas in order to establish stormwater standards for undeveloped areas that preserve the predevelopment hydrography of the area to the extent it is scientifically and economically feasible.
- (4) Determine how the General Assembly can better support the work of the Sedimentation Control Commission.
- (5) Study the current mandatory standards for land-disturbing activities and determine if any changes need to be made to those standards.
- (6) Consider other existing water quality rules, programs, plans, and permits.
- (7) Study other topics related to the State's stormwater programs and policies it considers appropriate.

SECTION 14.6. Abandoned Mobile Homes (Harris) – The Commission may study the solid waste issues related to the abandonment and improper disposal of mobile homes. In conducting this study, the Commission should develop an estimate of the number of abandoned mobile homes in the State, identify the adverse environmental and public health impacts that result from failure to properly dispose of mobile homes, and identify the preferred means of disposal of mobile homes, including environmentally friendly disposal methods such as recycling. The Commission may also evaluate the means by which the State and local governments can discourage or prevent the abandonment and improper disposal of mobile homes in the State and facilitate the environmentally friendly disposal of mobile homes.

SECTION 14.7. Alternative Energy Sources (S.B. 1007 – Albertson; H.B. 1300 – Warwick; Weiss) – **The Commission may** study the availability and use of alternative energy sources in North Carolina, including the use of biomass resources. If it undertakes this study, the Commission shall gather data and other information as may be necessary to accomplish the purposes of the Commission and shall work cooperatively with other boards, commissions, and entities, taking advantage of their resources and activities for the provision of useful information and insight. In the course of its study, the Commission may seek input and advice from the Utilities Commission, the Department of Environment and Natural Resources, the Department of Agriculture and Consumer Services, the Attorney General, the Public Staff of the Utilities Commission, and the Energy Policy Council of the Department of Administration. The

Commission may also review alternative energy activities conducted in other states and may solicit the participation of appropriate federal agencies and foreign governments.

In the course of its study and in making its recommendations, the Commission may consider the following subjects:

- (1) Methods to encourage the use of alternative energy sources, such as tax incentives, alternative energy portfolio standards, system benefit programs, and product offerings to retail electricity customers.
- (2) Barriers to distribution and market entry for alternative energy generators.
- (3) Federal and State regulatory jurisdiction with respect to electric utilities, including potential conflicts and ways to address those conflicts.
- (4) Environmental benefits and impacts associated with alternative energy generation.
- (5) Assurance of fairness and equity among all electricity customer classes and electric power providers.
- (6) Potential benefits to rural areas of the State and to agricultural economic development.
- (7) Sources of funds that could be used to encourage the use of alternative energy sources.
- (8) Other relevant and appropriate subjects, as determined by the Commission.

PART XV. COMMISSION ON GOVERNMENTAL OPERATIONS STUDY (Kinnaird)

SECTION 15.1. The Joint Legislative Commission on Governmental Operations may study reducing government costs by duplex printing, eliminating unnecessary printing, centralizing printing where possible, taking advantage of current print and mail facilities, streamlining print processes, and creating a statewide print and delivery strategy to eliminate redundant printing and delivery. The Commission may report its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly, or to the 2003 General Assembly.

PART XVI. STUDY OF CATAWBA-WATEREE RIVER BASIN WATER QUALITY AND WATER SUPPLY ISSUES (Clodfelter, Odom)

SECTION 16.1. The Secretary of the Department of Environment and Natural Resources, in cooperation with the Director of the South Carolina Department of Health and Environmental Control, shall study strategies and mechanisms to promote better coordination of the activities of the two states on water quality and water supply within the Catawba-Wataree River basin. This study may include the following topics:

- (1) The need for and development of a memorandum of agreement between North and South Carolina to ensure cooperation, coordination and integrated management in addressing issues related to the basin, all within the framework of currently existing programs and agencies of the two states.
- (2) The development of a shared model and common procedures for use by both states in collecting and reporting data and information concerning water quality and water supply within the entire basin.
- (3) The desirability and feasibility of establishing joint, basinwide goals, policies, planning and implementation tools, and the desirability of different types of decision-making structures for accomplishing the joint activities.
- (4) Any other related topics.

The Secretary shall submit a report on the results of this study, including any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly.

**PART XVII. STATE BUSINESS INFRASTRUCTURE STUDY
(Reeves, Tolson)**

SECTION 17.1. The Office of State Controller, with assistance from the Office of State Budget and Management, the Office of Information Technology Services, and the Office of State Personnel, shall engage a qualified consulting firm through the Information Technology Services Technical Services Contract to determine the feasibility of developing and implementing a new financial business infrastructure for the State. This study shall include:

- (1) A high-level inventory and assessment of the business systems and subsystems that provide financial, human resources, and payroll information and support to programs in State government.
- (2) An assessment of the existing integration capabilities of these systems and the estimated costs of the current integration, or the costs to integrate these systems where that capability does not currently exist.
- (3) The feasibility of implementing a financial business infrastructure that would include integrated operations for budgeting, accounting, payroll, human resources, revenue collection, cash management, investments, and other business functions of State government.
- (4) A preliminary risk assessment of implementing a new financial business infrastructure.

- (5) An estimate of the cost to develop a Request for Proposal and to design and implement such a financial business infrastructure.

SECTION 17.2. The Director of the Budget may identify funds to support this study. This provision shall not apply to The University of North Carolina constituent institutions or to the constituent institutions of the North Carolina Community Colleges System.

SECTION 17.3. The Office of State Controller shall present an interim report of the study prescribed in this section to the 2002 Regular Session of the 2001 General Assembly, and shall submit a final report to the 2003 General Assembly, Regular Session 2003.

PART XVIII. NATURAL HERITAGE AREA DESIGNATION COMMISSION (H.B. 1271 – Haire, Nesbitt)

SECTION 18.1. The General Assembly finds that the following physical and cultural features in the mountain region of Western North Carolina are of national significance:

- (1) The Great Smoky Mountains National Park is the most visited national park in America.
- (2) The Blue Ridge Parkway is the nation's longest scenic highway.
- (3) The Joyce Kilmer Memorial Forest is the last remaining stand of virgin timber in the eastern United States.
- (4) The Linville Gorge wilderness area is the first wilderness in the eastern United States and the deepest gorge east of the Mississippi River.
- (5) Mount Mitchell is the highest mountain in the eastern United States.
- (6) The New River is the second oldest river in the world and was designated as an American Heritage River in 1998.
- (7) Fontana Dam is the highest dam in eastern America that was built by the Tennessee Valley Authority and is known as one of the country's greatest engineering feats in history.
- (8) Grandfather Mountain is the oldest mountain in the eastern United States, was designated as an International Biosphere Reserve by the United Nations, and is the only mountain that is privately owned.
- (9) The Cherokee Indian Qualla Boundary is the home of the Eastern Band of the Cherokee Indians, and the Trail of Tears is a National Heritage Trail.
- (10) Roan Mountain is the world's largest natural Catawba rhododendron garden.

- (11) The Appalachian Trail is the longest national hiking trail in the United States.
- (12) Whiteside Mountain has the highest cliffs of perpendicular bare rock east of the Rockies.
- (13) The Nantahala River is the most popular white-water rafting river in America.
- (14) The Biltmore Estate is America's largest private residence.
- (15) The Cradle of Forestry in America National Historic Site is the first forestry school in America.
- (16) The Cherochala Skyway is a National Scenic Byway.
- (17) The Carl Sandburg Home is a National Historic Site.

SECTION 18.2. The General Assembly further finds that:

- (1) The National Park Service's definition of a National Heritage Area is a place designated by Congress where natural, cultural, historic, and scenic resources combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography. These patterns make National Heritage Areas representative of the national experience through the physical features that remain and the traditions that have evolved in them. Continued use of the National Heritage Area by people whose traditions helped to shape the landscape enhances their significance.
- (2) Designation by the United States Congress of the North Carolina Appalachian Heritage Area, the 23-county mountain region of Western North Carolina, as a National Heritage Area would recognize the nationally distinctive landscape of this area and the role of this distinctive landscape in defining the collective American cultural landscape. The natural, cultural, historic, and recreation resources in this 23-county region combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography. These patterns make the mountain region of Western North Carolina representative of the national experience through the physical features that remain and the traditions that have evolved in the area. Continued use of this area by people whose traditions helped to shape the landscape enhances its significance.
- (3) Since 1916, the National Park Service has been the federal agency responsible for preserving nationally significant natural and historic resources for present and future generations.

- (4) The National Park Service provides technical expertise to assist in all stages of the process for seeking designation as a National Heritage Area.
- (5) Congress has designated 18 National Heritage Areas.
- (6) Residents, business interests, nonprofit organizations, and governments within the proposed National Heritage Area are interested and committed to completing the suitability and feasibility study that must be completed prior to Congress's designating a National Heritage Area.
- (7) The National Heritage Area designation by the United States Congress for the 23-county mountain region of Western North Carolina would help to preserve and celebrate the uniqueness of this area and its defining landscape in North Carolina and offers the potential to ensure key educational and inspirational opportunities in perpetuity, without compromising traditional local control over, and use of, the landscape.

SECTION 18.3. As used in this act, "23-county mountain region" means the following 23 counties, which are the counties designated to be served by the Western North Carolina Regional Economic Development Commission under G.S. 158-8.1: Alleghany, Ashe, Avery, Burke, Buncombe, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, Wilkes, and Yancey.

SECTION 18.4. The National Heritage Area Designation Commission is created. This Commission shall consist of 17 members, to be appointed as follows:

- (1) Two members shall be appointed by the President Pro Tempore of the Senate.
- (2) Two members shall be appointed by the Speaker of the House of Representatives.
- (3) Two members shall be appointed by the Governor.
- (4) One member shall be appointed by the Lieutenant Governor.
- (5) One member shall be appointed by the Commissioner of Agriculture.
- (6) One member shall be appointed by the Secretary of Cultural Resources.
- (7) One member shall be appointed by the Secretary of Commerce.
- (8) Three members shall be appointed by the Western North Carolina Regional Economic Development Commission, created in G.S. 158-8.1.

- (9) Three members shall be appointed by the regional host organizations: one member from the Blue Ridge Mountain Host, Inc., one member from the North Carolina High Country Host, Inc., and one member from the Smoky Mountain Host of North Carolina, Inc.
- (10) One member shall be appointed by the Principal Chief of the Eastern Band of the Cherokee Nation.

SECTION 18.5. In addition, the following five individuals shall serve as ex officio, nonvoting members of the Commission:

- (1) The Superintendent of the Great Smoky Mountains National Park.
- (2) The Superintendent of the Blue Ridge Parkway.
- (3) The District Supervisor of each of the following: the Pisgah National Forest, the Nantahala National Forest, and the Cherokee National Forest.

SECTION 18.6. The National Heritage Area Designation Commission shall seek designation by the United States Congress of the North Carolina Appalachian Heritage Area, the 23-county mountain region of Western North Carolina, as a National Heritage Area. The Commission also shall develop and complete a suitability and feasibility study, a critical step prior to Congress's designating a National Heritage Area. The Commission shall elicit public involvement in the study and interest and commitment in the proposal by residents, business interests, nonprofit organizations, and governments within the proposed National Heritage Area.

SECTION 18.7. The Speaker of the House of Representatives shall select one member to serve as cochair. The President Pro Tempore of the Senate shall select one member to serve as cochair. A majority of the Commission shall constitute a quorum for the transaction of business.

SECTION 18.8. Members initially appointed under subdivisions (1), (4), (5), (6), and (8) of 18.4 of this part shall serve a one-year term. All other members under subsection (a) of this section shall serve a two-year term. Commission members who are also General Assembly members may complete a term of service on the Commission even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly shall result in removal from the Commission. A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days and shall be filled by the same appointing officer who made the original appointment. Members of the Commission who are State employees shall receive travel expenses under G.S. 138-6. Other members of the Commission shall receive travel expenses under G.S. 138-5.

SECTION 18.9. Notwithstanding G.S. 158-8.1, the Western North Carolina Regional Economic Development Commission shall provide administrative and funding support to the National Heritage Area Designation Commission.

SECTION 18.10. Notwithstanding G.S. 158-8.1, the Western North Carolina Regional Economic Development Commission shall develop a regional heritage tourism plan and shall present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May 1, 2002.

PART XIX. COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES STUDY OF DATE RAPE DRUG ANALOGUES (S.B. 938 – Foxx)

SECTION 19.1. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may study controlled substance analogues used as "date rape drugs". The Commission shall determine whether those substances should be added to the schedules for controlled substances as provided under G.S. 90-88, except that G.S. 90-88(e) shall not apply to this study or be a factor in the Commission's determination.

For purposes of this section, the term "analogue" means a substance other than a controlled substance that is intended for human consumption and that either has a chemical structure substantially similar to a controlled substance in Schedules I, II, or III of Chapter 90 of the General Statutes or that produces an effect substantially similar to that of a controlled substance in Schedules I, II, or III as set out in Chapter 90 of the General Statutes.

SECTION 19.2. The Commission may report its findings and recommendations to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services prior to the convening of the 2003 General Assembly.

PART XX. JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE STUDY (S.B. 367 – Hoyle)

SECTION 20.1. The Joint Legislative Administrative Procedure Oversight Committee may study the applicability of the Administrative Procedure Act to the North Carolina Federal Tax Reform Allocation Committee and the North Carolina Housing Finance Agency and may report to the 2002 Regular Session of the 2001 General Assembly and to the 2003 General Assembly.

PART XXI. SENTENCING AND POLICY ADVISORY COMMISSION STUDIES

SECTION 21.1. The North Carolina Sentencing and Policy Advisory Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to

the 2002 Regular Session of the 2001 General Assembly and to the 2003 General Assembly.

SECTION 21.2. Second Degree Arson Penalty Study (**H.B. 123 – Russell**) – **The Commission may study the State's** criminal laws with regard to arson and other burnings and whether conforming changes to the statutory medical reporting requirements regarding burn injuries that appear to result from a criminal act are needed.

SECTION 21.3. Habitual Felon Law Study (**H.B. 1151, H.B. 1152 – Michaux**) – The Commission may study the habitual felon law to determine whether any changes are needed.

SECTION 21.4. Drug Offenses (H.J.R. 1420 – Carpenter of Haywood) – The Commission may study the laws regarding drug offenses and the current sentencing guidelines for those offenses.

SECTION 21.5. Penalties for Detonation of Explosive Devices (Goodwin) – The Commission may study whether the State's penalties for detonation of explosive devices within courthouses and other public buildings should be enhanced. The Commission may include as a part of its study and recommendations all of the provisions in Article 13 of Chapter 14 of the General Statutes.

PART XXII. LONG-TERM CARE LOCAL LEAD AGENCY STUDY (S.B. 166 – Dannelly; H.B. 161 – Insko)

SECTION 22.1. The Department of Health and Human Services, Division of Aging, shall study whether counties should designate local lead agencies to organize a local long-term care planning process, as described in Recommendation #10 of the Institute of Medicine's (IOM) Long-Term Care Task Force Interim Report of June 30, 2000. In conducting the study, the Department shall consider how a lead agency for long-term care planning at the local level would relate to other requirements for county planning and long-term care. The Department shall report its findings and recommendations to the North Carolina Study Commission on Aging on or before the convening of the 2003 General Assembly. The report shall specifically address the IOM Task Force recommendation and rationale pertaining to local planning and long-term care services.

PART XXIII. DEPARTMENT OF HEALTH AND HUMAN SERVICES STUDY

SECTION 23.1. Eliminate Disparities in Health Care (**S.B. 391 – Forrester, Lucas**) – **The Department of Health and Human Services** shall study disparities among ethnic and racial minorities in the health care system and shall make recommendations on ways to eliminate disparities in and barriers to health care for ethnic and racial minorities. The Department may report to the 2002 Regular Session of the 2001 General Assembly upon its convening and shall make its report to the 2003 General Assembly. The

Department shall provide a copy of the report to the cochairs of the Health Care Oversight Committee.

PART XXIV. BOARD OF GOVERNORS STUDY

SECTION 24.1. Fayetteville State Stadium (Rand, McAllister) – The Board of Governors of The University of North Carolina shall study the feasibility of building a new stadium at Fayetteville State University. The Board may report its findings and recommendations to the Joint Legislative Education Oversight Committee by April 1, 2002.

PART XXV. HOUSE SELECT COMMITTEE ON VARIOUS ENVIRONMENTAL RULES (Warwick)

SECTION 25.1. Committee Created. – The House Select Study Committee on Various Environmental Rules is created. The purpose of the House Select Study Committee on Various Environmental Rules is to determine:

- (1) The effect of certain environmental impacts upon tourism in the State.
- (2) The involvement of appropriate locally elected officials in the rule-making process regarding the environmental rules subject to study under Section 25.3 of this part, whether there should be more involvement by locally elected officials, and, if so, what specific acts of involvement.
- (3) Whether an economic impact statement should be prepared for any proposed rule that is subject to study under Section 25.3 of this part, and, if so, whether an economic impact statement should take into account the county or the region of the State affected by the proposed rule.
- (4) The working relationships among boards, commissions, or authorities that adopt any rules subject to study under Section 25.3 of this part.
- (5) The extent to which property owners are unduly burdened by rules subject to study under Section 25.3 of this part.

SECTION 25.2. Membership. – The Speaker of the House of Representatives shall appoint 11 members of the House of Representatives to serve as members of the House Select Study Committee on Various Environmental Rules. In the event a vacancy occurs on the Committee, the Speaker of the House of Representatives shall appoint a replacement from the members of the House of Representatives.

SECTION 25.3. Study. – The House Select Study Committee on Various Environmental Rules may study any current rule adopted by, or any rule proposed by, the Environmental

Management Commission or by the Coastal Resources Commission under the Coastal Area Management Act of 1974, Article 7 of Chapter 113A of the General Statutes, regarding the following subjects as well as the process whereby any such rule is adopted:

- (1) The creation, preservation, maintenance, and restoration of riparian buffers, buffers along lake shorelines, or buffers along the North Carolina coast.
- (2) Control of erosion and sedimentation resulting from the Department of Transportation engaging in land-disturbing activities.
- (3) The process of obtaining an air quality permit.
- (4) Any other current rule adopted by, or any rule proposed by, the Environmental Management Commission or by the Coastal Resources Commission under the Coastal Area Management Act of 1974, Article 7 of Chapter 113A of the General Statutes, that the Committee determines is appropriate for study.

SECTION 25.4. Report. – The House Select Study Committee on Various Environmental Rules shall submit a final report of its findings and recommendations by February 1, 2003, to the General Assembly. The Committee may also make an interim report, including recommended legislation, to the 2002 Regular Session of the 2001 General Assembly. The report may include draft legislation to implement its recommendations along with an analysis of the fiscal impact of each recommendation. The Committee shall terminate upon filing its final report.

SECTION 25.5. Expenses of Members. – Members of the House Select Study Committee on Various Environmental Rules shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

SECTION 25.6. Cochairs; Meetings. – The Speaker of the House of Representatives shall designate two cochairs of the House Select Study Committee on Various Environmental Rules from among the respective appointees. The Committee shall meet upon the call of the cochairs. A majority of the members of the Committee shall constitute a quorum.

The Committee may meet during a regular or special session of the General Assembly, subject to approval of the Speaker of the House of Representatives. The Legislative Services Commission shall grant adequate meeting space to the Committee in the State Legislative Building or the Legislative Office Building.

SECTION 25.7. Staff. – The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the House Select Study Committee on Various Environmental Rules in its work. The House of

Representatives Supervisor of Clerks shall assign clerical staff to the Committee, and the expenses related to the clerical employees shall be borne by the Committee.

SECTION 25.8. Powers. – The House Select Study Committee on Various Environmental Rules, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4.

SECTION 25.9. Cooperation by Government Agencies. – The House Select Study Committee on Various Environmental Rules may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance.

PART XXVI. GENERAL STATUTES COMMISSION STUDY OF MOTOR VEHICLE STATUTES (Weatherly)

SECTION 26.1. The General Statutes Commission may study renumbering, rearranging, and consolidating the provisions of Chapter 20 of the General Statutes. The Commission may report its findings and recommendations to the 2003 General Assembly and to the 2005 General Assembly.

PART XXVII. LEGISLATIVE SERVICES COMMISSION STUDY OF SECURITY SURVEY (H.J.R. 1267 – Wright)

SECTION 27.1. The Legislative Services Commission shall examine the Security Survey of the North Carolina General Assembly Complex, conducted by the United States Secret Service, and make recommendations on implementing its recommendations. A report may be made to the 2002 Regular Session of the 2001 General Assembly and shall be made to the 2003 General Assembly.

PART XXVIII. PUBLIC HEALTH STUDY COMMISSION STUDIES

SECTION 28.1. The Public Health Study Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2002 Regular Session of the 2001 General Assembly or to the 2003 General Assembly.

SECTION 28.2. Public Health Impact of Hepatitis C (H.B. 1264 – Wright) – **The Commission may study the public health** impact of Hepatitis C in this State and the need for programs or policies to enhance education, awareness, detection, and prevention of the disease in the general population.

SECTION 28.3. HIV/AIDS Prevention and Care Programs (H.B. 1405 – Wright) – **The Commission may study ways** to improve HIV/AIDS prevention and care programs.

SECTION 28.4. Treatment of Rape Victims and Health Care Workers Who Risk HIV Infection (H.B. 1416 – Daughtry) – The Commission may study State law and public policy pertaining to the

treatment of rape victims and needle stick health care workers who risk HIV infection.

PART XXIX. REESTABLISH NORTH CAROLINA TAX POLICY COMMISSION

SECTION 29.1. Commission Established. – There is established a North Carolina Tax Policy Commission.

SECTION 29.2. Membership. – The Commission shall consist of 18 members who shall represent, insofar as practicable, the diverse interests and geographic regions of the State and shall include individuals with expertise in tax policy, tax administration, and professional tax practice.

The Speaker of the House of Representatives shall appoint six members, as follows: two members of the General Assembly, one individual nominated by the North Carolina League of Municipalities, one individual who represents business taxpayers, and two public members.

The President Pro Tempore of the Senate shall appoint six members, as follows: two members of the General Assembly, one individual nominated by the North Carolina Association of County Commissioners, one individual who represents nonbusiness taxpayers, and two public members.

The Governor shall appoint six members, as follows: one individual who represents tax practitioners, one individual who represents nonprofit, charitable organizations, one individual who has demonstrated leadership and expertise in tax policy, one individual who represents senior citizens, one individual who represents small business taxpayers, and one public member.

Vacancies shall be filled by the original appointing authority.

SECTION 29.3. Mission. – The mission of the Commission is to study, examine, and, if necessary, design a realignment of the State and local tax structure in accordance with a clear, consistent tax policy. This mission requires:

- (1) Establishing the principles of taxation upon which a sound State and local tax structure should be built for the 21st century.
- (2) Examining the current State and local tax structure to determine if it reflects these principles.
- (3) Recommending changes in the State and local tax structure to the extent it does, and does not, reflect these benchmark tax principles.
- (4) Recommending principles and practices to simplify and consolidate existing taxes to provide uniformity; to ease the administrative burden on the taxpayer; to maximize taxpayers' use of electronic tax payment and reporting

methods; and to reduce the costs of collecting and administering taxes.

SECTION 29.4. Duties. – The Commission shall:

- (1) Evaluate the current State and local tax base in terms of:
 - a. Responsiveness of each base to the changing and emerging economies (e.g., from farming and manufacturing to services, commerce, such as Internet sales, and technology).
 - b. Rates compared to other states.
 - c. Cost of collecting each tax.
 - d. Tax burden imposed on individuals and businesses in the State.
 - e. Principles of taxation reflected in the tax.
- (2) Examine all current tax preferences, such as lower rates, exemptions, exclusions, and refunds, to determine their public policy purpose; examine the narrowing of the tax base that is a product of these preferences; and evaluate the resulting impact on taxpayers not eligible for these preferences.
- (3) Review tax changes made in the last 10 years to determine their impact on the State compared to their projected impact, and to assess any economic or demographic conditions on the horizon that may alter their impact.
- (4) Examine the impact of changing intergovernmental (federal-State-local) relationships upon funding among levels of government and the resulting impact upon tax policy; and examine how the State, counties, and cities will share a reduced federal funding role, when, in 2003, the Balanced Budget Act takes full effect and federal domestic spending is fully capped.
- (5) Examine the impact of changing interlocal, (city/county) service systems and the resulting effect on local tax policy; and examine how area-wide services, such as fire suppression, water and sewer, and recreation, should be financed and allocated.

SECTION 29.5. Report. – The Commission shall submit a final report of its findings and recommendations by March 1, 2003, to the General Assembly, the Governor, and the citizens of the State. The Commission may also make an interim report, including recommended legislation, to the 2002 Regular Session of the 2001 General Assembly, and to the Governor and the citizens of the State. The report shall include draft legislation to implement its recommendations along with an analysis of the fiscal impact of each

recommendation. The Commission shall terminate upon filing its final report.

SECTION 29.6. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 29.7. Cochairs; Meetings. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

The Commission may meet during a regular or special session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 29.8. Subcommittees. – The Commission may appoint subcommittees of its members and other knowledgeable persons or experts to assist it. It may also appoint a Technical Advisory Board, if deemed desirable by its members to have an ongoing body of technical experts.

SECTION 29.9. Citizen Participation. – The Commission shall establish a process of citizen education and participation that assures the citizens of North Carolina of the opportunity to be informed of and contribute to the work of the Commission.

SECTION 29.10. Staff. – Within funds available, the Commission, after consultation with the Legislative Services Commission, shall employ a full-time Executive Director who shall report to the Commission and serve at its pleasure. The Executive Director shall be the Chief Executive Officer and may employ additional employees and contract for services, subject to approval of the Commission. Additional staff may be provided to the Commission by the Legislative Services Office.

SECTION 29.11. Powers. – The Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4. The Commission may contract for consultant services as provided by G.S. 120-32.02, including revenue forecasting and estimating services from the Tax Research Division of the Department of Revenue.

SECTION 29.12. Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance.

SECTION 29.13. Funding. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission. The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

PART XXX. JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE STUDIES

SECTION 30.1. Study 911 Funds (S.B. 589 – Dannelly; H.B. 125 – Hall, H.B. 130 – Edwards, H.B. 678 – Buchanan, H.B. 710 – Arnold, H.B. 725 – Culpepper, H.B. 791 – Starnes, H.B. 867 – McLawhorn) – The Joint Legislative Utility Review Committee is authorized to study clarifying and expanding the allowed uses of the money in emergency telephone system funds and making other statutory changes for the purpose of expanding the use of telecommunications systems for public safety purposes. The Committee is authorized to report its findings and recommendations, including any proposed legislation, to the 2002 Regular Session of the 2001 General Assembly and to the 2003 General Assembly.

SECTION 30.2. Improve Air Quality (S.B. 1078 – Metcalf; H.B. 1015 – Nesbitt, Haire) – The Joint Legislative Utility Review Committee is authorized to study requiring reductions in the emissions of certain pollutants from certain facilities that burn coal to generate electricity. The Committee is authorized to report its findings and recommendations, including any proposed legislation, to the 2002 Regular Session of the 2001 General Assembly and to the 2003 General Assembly.

PART XXXI. UNC BOARD OF GOVERNORS STUDY COMMISSION

SECTION 31.1. There is created the UNC Board of Governors Study Commission. The Commission shall consist of 10 members appointed as follows: five by the President Pro Tempore of the Senate and five by the Speaker of the House of Representatives. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member to serve as cochair of the Commission. Vacancies on the Commission shall be filled by the appointing authority. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

SECTION 31.2. The Commission shall study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. As part of the study, the Commission may examine the governing boards of other states' institutions of higher education. The Commission shall report its

findings and any recommendations to the 2003 Regular Session of the General Assembly.

SECTION 31.3. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 31.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with information in their possession or available to them. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to implement the provisions of this section.

SECTION 31.5. The Commission shall terminate upon the filing of its final report.

**PART XXXII. ELECTION LAWS REVISION COMMISSION
(Gulley of Durham; H.B. 260 – Alexander, Bonner)**

SECTION 32.1. There is created an Election Laws Revision Commission. The Commission shall be composed of 17 members. Twelve members shall be appointed as follows:

- (1) The President Pro Tempore of the Senate shall appoint four members, including at least one county board of elections member, with no more than three of the four affiliated with the same political party.
- (2) The Speaker of the House of Representatives shall appoint four members, including at least one county elections director, with no more than three of the four affiliated with the same political party.
- (3) The Governor shall appoint four members, including at least one county commissioner and at least one minority-party member of the State Board of Elections.

The Chair and the Executive Secretary-Director of the State Board of Elections shall be ex officio members. The State chairs of the three political parties whose nominees for Governor received the largest number of votes in the most recent general election for Governor shall be ex officio members. All members of the Commission, whether appointed or ex officio, shall be voting members.

SECTION 32.2. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Commission from their appointees.

SECTION 32.3. The Election Laws Revision Commission shall study the following:

- (1) The election laws, policies, and procedures of the State.
- (2) The administration of those laws, policies, and procedures at the State and local levels and the responsibilities of those administering these laws.
- (3) The election laws, policies, and procedures of other states and jurisdictions.
- (4) Federal and State case rulings impinging on these laws, policies, and practices.
- (5) Public funding of election campaigns, including the advisability and proper design of a system to allow public funds to be used to support the campaigns of candidates for Governor, Lieutenant Governor, other Council of State officers, and the General Assembly who agree to abide by fund-raising and spending limits.
- (6) APA exemption for the State Board of Elections.
- (7) Preference voting and instant second primaries.

SECTION 32.4. The Commission shall prepare and recommend to the General Assembly a comprehensive revision of the election laws of North Carolina that will accomplish the following:

- (1) Remove inconsistencies, inaccuracies, ambiguities, and outdated provisions in the law.
- (2) Incorporate in the law any desirable uncodified procedures, practices, and rulings of a general nature that have been implemented by the State Board of Elections or its Executive Secretary-Director.
- (3) Conform the statutory law to State and federal case law and to any requirements of federal statutory law and regulation.
- (4) Ensure the efficient and effective administration of elections in this State.
- (5) Continue the impartial, professional administration of elections, which the citizens of the State expect and demand.
- (6) Recodify the election laws, as necessary, to produce a comprehensive, clearly understandable structure of current North Carolina election law, susceptible to orderly expansion as necessary.

SECTION 32.5. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Election Laws Revision

Commission and may provide for additional staffing by the State Board of Elections, Office of the Attorney General, and the Institute of Government. With prior approval of the State Board of Elections, the Election Laws Revision Commission may hold its meetings in the offices of the State Board. With the prior approval of the Legislative Services Commission, the Election Laws Revision Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

SECTION 32.6. The Commission shall submit a final written report of its findings and recommendations on or before the convening of the 2003 Session of the General Assembly and may submit a report to the 2002 Regular Session of the 2001 General Assembly. All reports shall be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Principal Clerks of the Senate and the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

SECTION 32.7. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1.
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.
- (3) All other Commission members, at the rate established in G.S. 138-5.

SECTION 32.8. All State departments and agencies, local boards of elections, and local governments and their subdivisions shall cooperate with the Commission and, upon request, shall furnish to the Commission and its staff any information in their possession or available to them.

SECTION 32.9. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Election Laws Revision Commission.

PART XXXIII. AMEND LAW REQUIRING STATE AGENCIES TO FURNISH DATA AND INFORMATION TO LEGISLATIVE COMMITTEES AND REGARDING INTERIM COMMITTEE ACTIVITY

SECTION 33.1. G.S. 120-19 reads as rewritten:

"§ 120-19. *State officers, etc., upon request, to furnish data and information to legislative ~~committees~~ committees or commissions.*

Except as provided in G.S. 105-259, all officers, agents, agencies and departments of the State are required to give to any committee of

either house of the General Assembly, or any committee or commission whose funds are appropriated or transferred to the General Assembly or to the Legislative Services Commission for disbursement, upon request, all information and all data within their possession, or ascertainable from their records. This requirement is mandatory and shall include requests made by any individual member of the General Assembly or one of its standing committees or the chair of a standing committee."

SECTION 33.2. G.S. 120-19.6 reads as rewritten:

"§ 120-19.6. *Interim committee activity; rules.*

(a) Upon a general directive by resolution of the house in question or upon a specific authorization of either the Speaker of the House, President of the Senate, President ~~pro tempore~~ Pro Tempore of the Senate or the Speaker ~~pro tempore~~ Pro Tempore of the House, any standing committee, select committee or subcommittee of either house of the General Assembly is authorized to meet in the interim period between sessions or during recesses of the General Assembly to consider specific bills or resolutions or other matters properly before the committee. No particular form of authority is needed, but this section is intended to promote better coordination by having a system of authorization for meetings of the committees of the General Assembly between sessions or during recesses. Meetings will be held in Raleigh, but with the approval of the Speaker or Speaker ~~pro tempore~~, Pro Tempore, a House committee may meet elsewhere; and with the approval of the President or President ~~pro tempore~~, Pro Tempore, a Senate committee may meet elsewhere. In addition, committees may meet at such places as authorized by specific resolution or action of either body of the General Assembly.

(a1) The Speaker of the House or the President Pro Tempore of the Senate may authorize, in writing, the creation of interim study committees to study and investigate governmental agencies and institutions and matters of public policy to assist that chamber in performing its duties in the most efficient and effective manner. The Speaker of the House or the President Pro Tempore of the Senate may appoint members of the relevant chamber, State officers and employees, and members of the public to the interim study committee. An interim study committee created under this subsection shall be deemed a committee of the relevant chamber for the purposes of this Article. Interim study committee members who are State officers and employees or members of the public shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(b) In all other respects, committees shall function in the interim period between sessions or during recesses in the same manner and under the rules generally applicable to committees of the house in

question of the General Assembly during the session of the General Assembly.

(c) Any committee during the interim period that meets upon specific authorization of the Speaker of the House, President of the Senate, President ~~pro tempore~~ Pro Tempore of the Senate or Speaker ~~pro tempore~~ Pro Tempore of the House shall limit its activities to those matters contained in the authorization, and shall suspend its activities upon written directive of such officer. Any interim committee that meets upon a directive by resolution of the house in question of the General Assembly shall limit its activities to those matters contained in the authorization."

PART XXXIV. BILL AND RESOLUTION REFERENCES

SECTION 34.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XXXV. EFFECTIVE DATE AND APPLICABILITY

SECTION 35.1. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and the Current Operations Appropriations Act of 2001, the study shall be implemented in accordance with the Current Operations Appropriations Act of 2001 as ratified.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:20 p.m. on the 19th day of December, 2001.

S.B. 649

SESSION LAW 2001-492

AN ACT TO REQUIRE CONSPICUOUS DISCLOSURE OF MOTOR VEHICLE DEALER ADMINISTRATIVE FEES AND FINANCE YIELD CHARGES AND TO INCREASE DEALER SURETY BOND PROTECTION AND TO CLARIFY THE LAW CONCERNING SALVAGE MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-101.1. Conspicuous disclosure of dealer administrative fees.

(a) A motor vehicle dealer shall not charge an administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle, whether or not that fee relates to costs or charges that the dealer is required to pay to third parties or is attributable to the dealer's internal

overhead or profit, unless the dealer complies with all of the following requirements:

- (1) The dealer shall post a conspicuous notice in the sales or finance area of the dealership measuring at least 24 inches on each side informing customers that a fee regulated by this section may or will be charged and the amount of the fee.
- (2) The fact that the dealer charges a fee regulated by this section and the amount of the fee shall be disclosed whenever the dealer engages in the price advertising of vehicles.
- (3) The amount of a fee regulated by this section shall be separately identified on the customer's buyer's order, purchase order, or bill of sale.

(b) Nothing contained in this section or elsewhere under the law of this State shall be deemed to prohibit a dealer from, in the dealer's discretion, deciding not to charge an administrative, origination, documentary, procurement, or other similar administrative fee or reducing the amount of the fee in certain cases, as the dealer may deem appropriate.

(c) Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, manufacturer branch, distributor, or distributor branch to prevent, attempt to prevent, prohibit, coerce, or attempt to coerce, any new motor vehicle dealer located in this State from charging any administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle. It shall further be unlawful for any manufacturer, manufacturer branch, distributor, or distributor branch, notwithstanding the terms of any contract, franchise, novation, or agreement, to prevent or prohibit any new motor vehicle dealer in this State from participating in any program relating to the sale of motor vehicles or reduce the amount of compensation to be paid to any dealer in this State, based upon the dealer's willingness to refrain from charging or reduce the amount of any administrative, origination, documentary, procurement, or other similar administrative fee related to the sale or lease of a motor vehicle."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-101.2. *Conspicuous disclosure of dealer finance yield charges.*

(a) A motor vehicle dealer shall not charge a fee or receive a commission or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, unless the dealer complies with both of the following requirements:

- (1) The dealer shall post a conspicuous notice in the sales or finance area of the dealership measuring at least 24 inches on each side informing customers that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.
- (2) The dealer shall disclose conspicuously on the purchase order or buyer's order, or on a separate form provided to the purchaser at or prior to the closing on the sale of the vehicle, that the dealer may receive a fee, commission, or other compensation for providing, procuring, or arranging financing for the retail purchase or lease of a motor vehicle, for which the customer may be responsible.

(b) Nothing contained in this section or elsewhere under the law of this State shall be deemed to require that a motor vehicle dealer disclose to any actual or potential purchaser the dealer's contractual arrangements with any finance company, bank, leasing company, or other lender or financial institution, or the amount of markup, profit, or compensation that the dealer will receive in any particular transaction or series of transactions from the charging of such fees."

SECTION 3. Nothing contained in Section 1 or 2 above or elsewhere under the law of this State shall be deemed as imposing any civil or criminal liability on motor vehicle dealers located in this State for failure to disclose any of the information required to be in Sections 1 and 2 above prior to the effective date of this act.

SECTION 4. G.S. 20-288(e) reads as rewritten:

"(e) Each applicant approved by the Division for license as a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall furnish a corporate surety bond or cash bond or fixed value equivalent of the bond. The amount of the bond for an applicant for a motor vehicle dealer's license is ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) for one established salesroom of the applicant and ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) for each of the applicant's additional established salesrooms. The amount of the bond for other applicants required to furnish a bond is ~~twenty-five thousand dollars (\$25,000)~~ fifty thousand dollars (\$50,000) for one place of business of the applicant and ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) for each of the applicant's additional places of business.

A corporate surety bond shall be approved by the Commissioner as to form and shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Article and Article 15.

A cash bond or fixed value equivalent thereof shall be approved by the Commissioner as to form and terms of deposits as will secure the ultimate beneficiaries of the bond; and such bond shall not be available for delivery to any person contrary to the rules of the Commissioner. Any purchaser of a motor ~~vehicle~~ vehicle, including a motor vehicle dealer, who shall have suffered any loss or damage by the failure of any license holder subject to this subsection to deliver free and clear title to any vehicle purchased from a license holder or any other act of a license holder subject to this subsection that constitutes a violation of this Article or Article 15 of this Chapter shall have the right to institute an action to recover against the license holder and the surety. Every license holder against whom an action is instituted shall notify the Commissioner of the action within 10 days after served with process. A corporate surety bond shall remain in force and effect and may not be canceled by the surety unless the bonded person stops engaging in business or the person's license is denied, suspended, or revoked under G.S. 20-294. ~~Such~~ That cancellation may be had only upon 30 days' written notice to the Commissioner and shall not affect any liability incurred or accrued prior to the termination of such 30-day period. This subsection does not apply to a license holder who deals only in trailers having an empty weight of 4,000 pounds or less. This subsection does not apply to manufacturers of, or dealers in, mobile or manufactured homes who furnish a corporate surety bond, cash bond, or a fixed value equivalent thereof, pursuant to G.S. 143-143.12."

SECTION 5. The Division of Motor Vehicles shall issue or reissue an unbranded title for vehicles titled in this State between July 20, 2001, and November 1, 2001, pursuant to G.S. 20-71.3 if the vehicle was a motor vehicle damaged by collision or other occurrence and if the cost of repairs, including parts, did not exceed seventy-five percent (75%) of its fair market value. Transfers of vehicles issued or reissued unbranded titles pursuant to this section shall be subject to the disclosure requirements of G.S. 20-71.4.

SECTION 6. Sections 1, 2, and 3 of this act become effective December 1, 2001. Section 5 of this act becomes effective upon ratification and expires November 1, 2001. Section 4 of this act becomes effective December 31, 2001. Section 6 becomes effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of December, 2001.

Became law upon approval of the Governor at 7:21 p.m. on the 19th day of December, 2001.

S.B. 721

SESSION LAW 2001-493

AN ACT TO AUTHORIZE THE BOARD OF EXAMINERS IN OPTOMETRY AND THE STATE BOARD OF CHIROPRACTIC EXAMINERS TO INCREASE CERTAIN FEES AND TO INCREASE THE COMPENSATION OF BOARD MEMBERS AND TO AUTHORIZE THE NORTH CAROLINA MEDICAL BOARD TO INCREASE THE ANNUAL REGISTRATION FEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-122 reads as rewritten:

"§ 90-122. *Compensation and expenses of Board.*

Notwithstanding G.S. 93B-5(a), each ~~Each~~ member of the North Carolina State Board of Examiners in Optometry shall receive as compensation for his services in the performance of his duties under this Article ~~a sum not exceeding fifty-two hundred dollars (\$50.00)~~ (\$200.00) for each day actually engaged in the performance of the duties of his office, ~~said per diem to be fixed by said Board,~~ and all legitimate and necessary expenses incurred in attending meetings of the said Board.

~~The secretary treasurer shall, as compensation for his services, both as secretary treasurer of the Board and a member thereof, be allowed a reasonable annual salary to be fixed by the Board and shall, in addition thereto, receive all legitimate and necessary expenses incurred by him in attending meetings of the Board and in the discharge of the duties of his office.~~

All per diem allowances and all expenses paid as herein provided in this section shall be paid upon voucher vouchers drawn by the secretary treasurer of the Board who shall likewise draw voucher payable to himself for the salary fixed for him by the Board, by the Executive Director of the Board in accordance with Board policy.

~~The Board is authorized and empowered to expend from funds collected hereunder such additional sum or sums as it may determine necessary in the administration and enforcement of this Article, and employ such personnel as it may deem requisite to assist in carrying out the administrative functions required by this Article and by the Board."~~

SECTION 2. G.S. 90-123 reads as rewritten:

"§ 90-123. *Fees.*

~~In order to provide the means of carrying out and enforcing the provisions of this Article and the duties of devolving upon the North Carolina State Board of Examiners in Optometry, said the Board is hereby authorized to charge and collect fees established by its rules not exceeding the following: the following fees:~~

- (1) Each application for general optometry examination..... ~~\$400.00~~\$800.00
- (2) Each general optometry license renewal, which fee shall be annually fixed by the Board, and not later than December 15 of each year written notice of the amount of the renewal fee shall be given to each optometrist licensed to practice in this State by mailing the notice to the last address of record with the Board of each such optometrist..... ~~250.00~~300.00
- (3) Each certificate of license to a resident optometrist desiring to change to another state or territory..... ~~200.00~~300.00
- (4) Each license issued to a practitioner of another state or territory to practice in this State ~~250.00~~350.00
- (5) Each license to resume practice issued to an optometrist who has retired from the practice of optometry or who has removed from and returned to this State ~~250.00~~350.00
- (6) Each application for registration as an optometric assistant or renewal thereof..... ~~50.00~~100.00
- (7) Each application for registration as an optometric technician or renewal thereof..... ~~50.00~~100.00
- (8) Each duplicate license or renewal thereof for each branch office~~50.00~~100.00."

SECTION 3. G.S. 90-15.1 reads as rewritten:

"§ 90-15.1. *Registration every year with Board.*

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee ~~fixed by the Board not in excess of one hundred twenty-five dollars (\$100.00)~~(\$125.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual

registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of twenty dollars (\$20.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

SECTION 4. G.S. 90-155 reads as rewritten:

"§ 90-155. *Annual fee for renewal of license.*

Any person practicing chiropractic in this State, in order to renew his license, shall, on or before the first Tuesday after the first Monday in January in each year after a license is issued to him as herein provided, pay to the secretary of the Board of Chiropractic Examiners a renewal license fee as prescribed and set by the said Board which fee shall not be more than one hundred fifty dollars (~~\$100.00~~)(\$150.00), and shall furnish the Board evidence that he has attended two days of educational sessions or programs approved by the Board during the preceding 12 months, provided the Board may waive this educational requirement due to sickness or other hardship of applicant.

Any license or certificate granted by the Board under this Article shall automatically be canceled if the holder thereof fails to secure a renewal within 30 days from the time herein provided; but any license thus canceled may, upon evidence of good moral character and proper proficiency, be restored upon the payment of the renewal fee and an additional twenty-five dollars (\$25.00) reinstatement fee.

If any licensee of the Board retires from active practice, the licensee may renew his license annually by paying the license fee and shall not be required to furnish the Board proof of continuing education; however, if at a later time the licensee desires to resume active practice, the licensee shall first appear before the Board and the Board shall determine his competency to practice."

SECTION 5. G.S. 90-156 reads as rewritten:

"§ 90-156. *Pay of Board and authorized expenditures.*

Notwithstanding G.S. 93B-5(a), the ~~The~~ members of the Board of Chiropractic Examiners shall receive as compensation for their services a sum not to exceed two hundred dollars (\$200.00) for each day during which they are engaged in the official business of the

Board and their actual expenses, including transportation and lodging, when meeting for the purpose of holding examinations, and performing any other duties placed upon them by this Article, ~~such expenses~~ to be paid by the treasurer of the Board out of the moneys received by him as license fees, or from renewal fees. The Board shall also expend out of such fund so much as may be necessary for preparing licenses, securing seal, providing for programs for licensed doctors of chiropractic in North Carolina, and all other necessary expenses in connection with the duties of the Board."

SECTION 6. G.S. 90-149 reads as rewritten:

"§ 90-149. *Application fee.*

Each applicant shall pay the secretary of ~~said~~ the Board a fee as prescribed and set by the Board which fee shall not be more than ~~one~~ three hundred dollars (~~\$100.00~~)(\$300.00)."

SECTION 7. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:21 p.m. on the 19th day of December, 2001.

H.B. 1268

SESSION LAW 2001-494

AN ACT TO MODIFY CERTAIN EXEMPTIONS TO THE THIRTY-FOOT BUFFER REQUIREMENT ALONG PUBLIC TRUST AND ESTUARINE WATERS AND TO PROVIDE THAT FUNDS NECESSARY TO PAY PLANNING GRANTS MADE UNDER THE COASTAL AREA MANAGEMENT ACT OF 1974 MAY BE CARRIED FORWARD TO THE NEXT FISCAL YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Where application of the buffer requirement set out in 15A NCAC 7H .0209(d)(10) (North Carolina Register; Volume 16, Issue 1, Pages 8 through 14; 2 July 2001) would preclude placement of a residential structure on an undeveloped lot platted prior to 1 June 1999 that is 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 feet or less that requires an on-site septic system, development may be permitted within the buffer if all the following criteria are met:

- (1) The lot on which the proposed residential structure is to be located is located between:
 - a. Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot

and at least one of which encroaches into the buffer,
or

- b. An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot.
- (2) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities.
 - (3) Placement of the residential structure and pervious decking may be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots.
 - (4) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 2H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces will be allowed within the buffer.
 - (5) The lot must not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Environmental Health of the Department of Environment and Natural Resources.

SECTION 2. The Coastal Resources Commission may grant a variance from the provisions of Section 1 of this act as provided in G.S. 113A-120.1.

SECTION 3. The Coastal Resources Commission may adopt a temporary rule to amend 15A NCAC 7H .0209 that incorporates the provision of Section 1 of this act. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until the permanent rule that incorporates the temporary rule becomes effective. Notwithstanding G.S. 150B-21.1(a)(2), this act shall not be construed to authorize the adoption of temporary rules except as specifically provided in this section.

SECTION 4. Except as provided by Section 1 of this act, this act does not limit the authority of the Coastal Resources Commission to adopt rules regulating coastal shoreline development or development within areas of environmental concern pursuant to Chapter 113A of the General Statutes.

SECTION 5. The Environmental Review Commission may study the standards for the granting of variances under G.S. 113A-120.1 by the Coastal Resources Commission under the Coastal Area Management Act of 1974. In conducting this study, the Environmental Review Commission may consider the decision of the Court of Appeals in Williams v. North Carolina Department of Environment and Natural Resources et al. (548 S.E.2d 793, 3 July 2001) and any subsequent proceedings. The Environmental Review Commission may report its findings and recommendations, if any, to the 2002 Regular Session of the 2001 General Assembly.

SECTION 6. G.S. 113A-112 reads as rewritten:
 "§ 113A-112. *Planning grants.*

The Secretary of ~~Environment and Natural Resources~~ is authorized to make ~~annual~~ grants to local governmental units for the purpose of assisting in the development of local plans and management programs under this Article. The Secretary shall develop and administer generally applicable criteria under which local governments may qualify for such assistance. The Secretary may condition payment of a grant on the completion of the local plan or management program and may pay the grant in installments based on satisfactory completion of specific elements of the plan or program and on approval of the plan or program by the Commission. Of the funds appropriated to the Department to make grants under this section, the Department may carry forward to the next fiscal year funds in the amount necessary to pay grants awarded or extended in any fiscal year."

SECTION 7. This act is effective when it becomes law. If the Coastal Resources Commission adopts a temporary rule as provided in Section 3 of this act, Section 1 of this act expires when the temporary rule becomes effective.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

Became law upon approval of the Governor at 7:21 p.m. on the 19th day of December, 2001.

S.B. 912

SESSION LAW 2001-495

AN ACT TO PROHIBIT THE INDEXING, DOCKETING, OR RECORDING OF UNAUTHORIZED CLAIMS OF LIEN AND TO PROVIDE FOR PENALTIES FOR FILING UNAUTHORIZED STATUTORY LIENS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 44A of the General Statutes is amended by adding a new section to read:

"§ 44A-12.1. No docketing of lien unless authorized by statute.

(a) The clerk of superior court shall not index, docket, or record a claim of lien or other document purporting to claim or assert a lien on real property in such a way as to affect the title to any real property unless the document:

- (1) Is offered for filing under this Article or another statute that provides for indexing and docketing of claims of lien on real property; and
- (2) Appears on its face to contain all of the information required by the statute under which it is offered for filing.

(b) The clerk may accept, for filing only, any document that does not meet the criteria established for indexing, docketing, or recording under subsection (a) of this section. If the clerk does accept this document, the clerk shall inform the person offering the document that it will not be indexed, docketed, or recorded in any way as to affect the title to any real property.

(c) Any person who causes or attempts to cause a claim of lien or other document to be filed, knowing that the filing is not authorized by statute, or with the intent that the filing is made for an improper purpose such as to hinder, harass, or otherwise wrongfully interfere with any person, shall be guilty of a Class 1 misdemeanor."

SECTION 2. This act becomes effective January 1, 2002, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

Became law upon approval of the Governor at 7:22 p.m. on the 19th day of December, 2001.

S.B. 914

SESSION LAW 2001-496

AN ACT TO PROVIDE FOR CONSTRUCTION FLEXIBILITY FOR PUBLIC ENTITIES BY ALLOWING THE USE, WITHOUT LIMITATION, OF SEPARATE-PRIME CONTRACTING, SINGLE-PRIME CONTRACTING, DUAL BIDDING, CONSTRUCTION MANAGER AT RISK, AND ALTERNATIVE CONTRACTING METHODS AUTHORIZED BY THE STATE BUILDING COMMISSION; TO ENHANCE AND IMPROVE GOOD FAITH EFFORTS TO RECRUIT AND SELECT MINORITY BUSINESSES FOR PARTICIPATION IN PUBLIC CONSTRUCTION CONTRACTS; TO INCREASE THE MANDATORY PERFORMANCE AND PAYMENT

BOND THRESHOLD FOR PUBLIC CONSTRUCTION PROJECTS; TO PROVIDE FOR CONSTRUCTION AND DESIGN SUPERVISORY AUTHORITY FOR PROJECTS UP TO TWO MILLION DOLLARS FOR THE UNIVERSITY OF NORTH CAROLINA UNTIL DECEMBER 31, 2006; TO PROVIDE FOR EFFICIENCIES IN THE PLAN REVIEW PROCESS FOR PUBLIC BUILDINGS; TO AMEND THE LAW GOVERNING LANDSCAPE ARCHITECTURE; AND TO APPROPRIATE FUNDS TO IMPLEMENT THE PUBLIC CONSTRUCTION LAW CHANGES.

The General Assembly of North Carolina enacts:

PART I. CONSTRUCTION CHANGES

SECTION 1. G.S. 143-64.31 reads as rewritten:

"§ 143-64.31. *Declaration of public policy.*

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, ~~and surveying~~ and construction management at risk services, to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for ~~architectural, engineering, or surveying~~ those services at a fair and reasonable fee with the best qualified firm. If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm. Selection of a firm under this Article shall include the use of good faith efforts by the public entity to notify minority firms of the opportunity to submit qualifications for consideration by the public entity.

(b) Public entities that contract with a construction manager at risk under this section shall report to the Secretary of Administration the following information on all projects where a construction manager at risk is utilized:

- (1) A detailed explanation of the reason why the particular construction manager at risk was selected.
- (2) The terms of the contract with the construction manager at risk.
- (3) A list of all other firms considered but not selected as the construction manager at risk and the amount of their proposed fees for services.
- (4) A report on the form of bidding utilized by the construction manager at risk on the project.

The Secretary of Administration shall adopt rules to implement the provisions of this subsection including the format and frequency of reporting."

SECTION 2. Article 8 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-128.1. Construction management at risk contracts.

(a) For purposes of this section and G.S. 143-64.31:

(1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

(3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.

(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to G.S. 143-128.2. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the

work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with G.S. 143-128.2, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(g).

(d) The construction manager at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes."

SECTION 3. G.S. 143-128 reads as rewritten:

"§ 143-128. Requirements for certain building contracts.

(a) Preparation of specifications. – Every officer, board, department, commission or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration or repair of any buildings for the State, or for any county, municipality, or other public body, ~~must~~ shall have prepared separate specifications for each of the following subdivisions or branches of work to be performed:

- (1) Heating, ventilating, air conditioning and accessories (separately or combined into one ~~conductive system~~ and/or system), refrigeration for cold storage (where the cold storage cooling load is 15 tons or more of refrigeration), and all ~~work kindred thereto-related work~~.
- (2) Plumbing and gas fittings and accessories, and all ~~work kindred thereto-related work~~.
- (3) Electrical wiring and installations, and all ~~work kindred thereto-related work~~.
- (4) General work not included in subdivisions (1), (2), and (3) of this subsection relating to the erection, construction, alteration, or repair of any ~~building above~~

~~referred to, which work is not included in the above listed three subdivisions or branches building.~~

~~All such specifications must~~ Specifications for contracts that will be bid under the separate-prime system or dual bidding system shall be so drawn as to permit separate and independent bidding upon each of the subdivisions or branches of work enumerated above. in this subsection. The above enumeration of subdivisions or branches of work shall not be construed to prevent any officer, board, department, commission or commissions from preparing additional separate specifications for any other category of work.

(a1) Construction methods. – The State, a county, municipality, or other public body shall award contracts to erect, construct, alter, or repair buildings pursuant to any of the following methods:

- (1) Separate-prime bidding.
- (2) Single-prime bidding.
- (3) Dual bidding pursuant to subsection (d1) of this section.
- (4) Construction management at risk contracts pursuant to G.S. 143-128.1.
- (5) Alternative contracting methods authorized pursuant to G.S. 143-135.26(9).

~~(b) Building projects over five hundred thousand dollars (\$500,000); separate prime contracts.~~ Separate-prime contracts. – Except as provided in subsection (d) of this section, when the entire cost of the erection, construction, alteration, or repair of a building exceeds five hundred thousand dollars (\$500,000), ~~When the State, county, municipality, or other public body uses the separate-prime contract system, it shall accept bids for each subdivision or branch of work for which specifications are required to be prepared under subsection (a) of this section and shall award the respective work specified separately to responsible and reliable persons, firms or corporations regularly engaged in their respective lines of work. When the estimated cost of work to be performed in any single subdivision or branch for which separate bids are required by this subsection is less than twenty five thousand dollars (\$25,000), the same may be included in the contract for one of the other subdivisions or branches of the work, irrespective of total project cost.~~ The contracts shall be awarded to the lowest responsible, responsive bidders, taking into consideration quality, performance, the time specified in the bids for performance of the contract, and compliance with G.S. 143-128.2. Bids may also be accepted from and awards made to separate contractors for other categories of work.

Each separate contractor shall be directly liable to the State of North Carolina, or to the ~~county or municipality,~~ county, municipality, or other public body and to the other separate contractors for the full performance of all duties and obligations due

respectively under the terms of the separate contracts and in accordance with the plans and specifications, which shall specifically set forth the duties and obligations of each separate contractor. For the purpose of this section, "separate contractor" means any person, firm or corporation who shall enter into a contract with the State, or with any county, municipality, or other public body, entity for the erection, construction, alteration to erect, construct, alter or repair of any building or buildings, or parts thereof of any building or buildings.

~~(e) Building projects five hundred thousand dollars (\$500,000) or less. When the entire cost of the erection, construction, alteration, or repair of a building is five hundred thousand dollars (\$500,000) or less, the State, county, municipality, or other public body may accept bids under the single prime contract system, the separate prime contract system, or both. The provisions of subsection (b) of this section apply to the use of the separate prime contract system under this subsection. The provisions of subsection (d) of this section apply to the use of the single prime contract system under this section, except that bidding in the alternative between the single prime and separate prime systems is not required. Contracts bid in the alternative between the single prime and separate prime systems under this subsection must be awarded to the lowest responsible bidder or bidders, as provided in subsection (d) of this section.~~

~~(d) Single-prime and alternative contracts. – The State, a county, municipality, or other public body may accept bids under the single-prime contract system or a contracting method approved by the State Building Commission under G.S. 143-135.26.~~

~~If the State, county, municipality, or other public body accepts bids under the single prime contract system, it must also seek bids for the project under the separate prime contract system, except as otherwise authorized under G.S. 143-135.26, and award the contract to the lowest responsible bidder or bidders for the total project, taking into consideration quality, performance and the time specified in the bids for the performance of the contract.~~

~~When bids are accepted under the single prime contract system all bidders must in a single-prime project shall identify on their bid the contractors they have selected for the subdivisions or branches of work for:~~

- ~~(1) Heating, ventilating, and air conditioning;~~
- ~~(2) Plumbing;~~
- ~~(3) Electrical; and~~
- ~~(4) General.~~

~~No contractor whose bid is accepted~~The contract shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance

of the contract, and compliance with G.S. 143-128.2. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor's bid is later determined by the contractor to be nonresponsible or nonresponsive or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor. The terms, conditions, and requirements of each contract between the contractor and a subcontractor performing work under a subdivision or branch of work listed in this subsection shall be substantially the same as incorporate by reference the terms, conditions, and requirements of the contract between the contractor and the State, county, municipality, or other public body.

The requirements of this subsection governing the identification of bidders, substitution of contractors, and the terms and conditions of subcontractor's contracts apply to all single prime bidding and single prime contracts, regardless of whether bidding in the alternative between the single prime and separate prime systems has been waived by the State Building Commission. When contracts are awarded pursuant to this section, the public body shall make available to subcontractors the dispute resolution process as provided for in subsection (g) of this section.

(d1) Local school administrative units; building projects over five hundred thousand dollars (\$500,000). – Dual bidding. – When the entire cost of the building project is more than five hundred thousand dollars (\$500,000), a local school administrative unit shall seek bids as provided in subsection (b) or (d) of this section or this subsection. The local school administrative unit – The State, a county, municipality, or other public entity may accept bids to erect, construct, alter, or repair a building under both the single-prime and separate-prime contracting systems and shall award the contract to the lowest ~~responsible~~ responsible, responsive bidder under the single-prime system or to the lowest ~~responsible~~ responsible, responsive bidder under the separate-prime system, taking into consideration quality, performance, compliance with G.S. 143-128.2, and time specified in the bids ~~for performance of to perform~~ the contract. In determining the system under which the contract will be awarded to the lowest ~~responsible~~ responsible, responsive bidder, the ~~local school administrative unit~~ public entity may consider cost of construction oversight, time for completion, and other factors it ~~deems~~ considers appropriate. The local school administrative unit shall not open any bid solicited under subsection (d) of this section unless the unit receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor and unless the unit receives a bid from at least one general

~~contractor under the separate prime system. The bids received as separate-prime bids shall be submitted three hours received, but not opened, one hour prior to the deadline for the submission of single-prime bids. The amount of a bid submitted by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the local school administrative unit public entity under the separate-prime system. Each single prime bid that identifies the contractors selected to perform the three major subdivisions or branches of work described in subsection (d) of this section and that lists the contractors' respective bid prices for those branches of work shall constitute a single competitive bid, and each full set of separate prime bids for all of the branches of work described in subsection (d) of this section shall constitute a single competitive bid. If after advertisement as required by G.S. 143-129, the local school administrative unit has not received the minimum number of competitive bids as required by this subsection, the unit shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the unit may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the unit received only one bid. A contractor must provide an affidavit to the local school administrative unit that it has made the good faith effort required pursuant to G.S. 143-128(f), and failure to file the affidavit is grounds for rejection of the bid. All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to local school administrative units. The provisions of subsection (b) of this section shall apply to separate-prime contracts awarded pursuant to this section and the provisions of subsection (d) of this section shall apply to single-prime contracts awarded pursuant to this section.~~

(e) Project expeditor; scheduling; public body to resolve project disputes. – The State, county, municipality, or other public body may, if specified in the bid documents, provide for assignment of responsibility for expediting the work on ~~the a~~ project to a single responsible and reliable person, firm or corporation, which may be a prime contractor. In executing this responsibility, the designated project expeditor may recommend to the State, county, municipality, or other public body whether payment to a contractor should be approved. The project expeditor, if required by the contract documents, shall be responsible for ~~the preparation of~~preparing the project schedule and shall allow all contractors and subcontractors performing any of the branches of work listed in subsection (d) of this section equal input into the preparation of the initial schedule. Whenever separate contracts are awarded and separate contractors engaged for a project pursuant to this section, the public body may

provide in the contract documents for resolution of project disputes through alternative dispute resolution processes such as mediation or arbitration, as provided for in subsection (g) of this section.

(f) ~~Minority goals.~~—The State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each building project. Each city, county, or other public body shall adopt, after a notice and public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for each building. ~~As used in this subsection:~~

- (1) ~~The term "minority business" means a business:~~
 - a. ~~In which at least fifty one percent (51%) is owned by one or more minority persons, or in the case of a corporation, in which at least fifty one percent (51%) of the stock is owned by one or more minority persons; and~~
 - b. ~~Of which the management and daily business operations are controlled by one or more of the minority persons who own it.~~
- (2) ~~The term "minority person" means a person who is a citizen or lawful permanent resident of the United States and who is:~~
 - a. ~~Black, that is, a person having origins in any of the black racial groups in Africa;~~
 - b. ~~Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;~~
 - c. ~~Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, the Pacific Islands;~~
 - d. ~~American Indian or Alaskan Native, that is, a person having origins in any of the original peoples of North America; or~~
 - e. ~~Female.~~
- (3) ~~The term "verifiable goal" means:~~
 - a. ~~For purposes of the separate prime contract system, that the awarding authority has adopted written guidelines specifying the actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded under this section.~~
 - b. ~~For purposes of the single prime contract system, that the awarding authority has adopted written guidelines specifying the actions that the prime~~

~~contractor must take to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded under this section; the required actions must be documented in writing by the contractor to the appropriate awarding authority.~~

- e. ~~For purposes of an alternative contracting system authorized by the State Building Commission under G.S. 143-135.26(9), that the awarding authority has adopted written guidelines specifying the action to be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded under this section. The State, counties, municipalities, and all other public bodies shall award public building contracts without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3. Nothing in this section shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority business contractors or minority business subcontractors who do not submit the lowest responsible bid or bids.~~

(g) Dispute resolution. – A public entity shall use the dispute resolution process adopted by the State Building Commission pursuant to G.S. 143-135.26(12), or shall adopt another dispute resolution process, which shall include mediation, to be used as an alternative to the dispute resolution process adopted by the State Building Commission. This dispute resolution process will be available to all the parties involved in the public entity's construction project including the public entity, the architect, the construction manager, the contractors, and the first-tier and lower-tier subcontractors and shall be available for any issues arising out of the contract or construction process. The public entity may set a reasonable threshold, not to exceed fifteen thousand dollars (\$15,000), concerning the amount in controversy that must be at issue before a party may require other parties to participate in the dispute resolution process. The public entity may require that the costs of the process be divided between the parties to the dispute with at least one-third of the cost to be paid by the public entity, if the public entity is a party to the dispute. The public entity may require in its contracts that a party participate in mediation concerning a dispute as a precondition to initiating litigation concerning the dispute.

~~(g)~~(h) Exceptions. – This section shall not apply to:

- (1) The purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site.
- (2) The erection, construction, alteration, or repair of a building when the cost thereof is ~~one hundred thousand dollars (\$100,000) or less.~~ three hundred thousand dollars (\$300,000) or less.

Notwithstanding the other provisions of this subsection, subsection (g) of this section shall apply to any erection, construction, alteration, or repair of a building by a public entity."

SECTION 3.1. Article 8 of Chapter 143 is amended by adding a new section to read:

"§ 143-128.2. *Minority business participation goals.*

(a) The State shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State. A local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars (\$100,000) or more, shall have a verifiable ten percent (10%) goal for participation by minority businesses in the total value of the work; provided, however, a local government unit may apply a different verifiable goal that was adopted prior to December 1, 2001, if the local government unit had and continues to have a sufficiently strong basis in evidence to justify the use of that goal. On State building projects and building projects subject to the State goal requirement, the Secretary shall identify the appropriate percentage goal, based on adequate data, for each category of minority business as defined in G.S. 143-128.2(g)(1) based on the specific contract type.

Except as otherwise provided for in this subsection, each city, county, or other local public entity shall adopt, after a notice and public hearing, an appropriate verifiable percentage goal for participation by minority businesses in the total value of work for building projects.

Each entity required to have verifiable percentage goals under this subsection shall make a good faith effort to recruit minority participation in accordance with this section or G.S. 143-131(b), as applicable.

(b) A public entity shall establish prior to solicitation of bids the good faith efforts that it will take to make it feasible for minority businesses to submit successful bids or proposals for the contracts for building projects. Public entities shall make good faith efforts as set

forth in subsection (e) of this section. Public entities shall require contractors to make good faith efforts pursuant to subsection (f) of this section. Each first-tier subcontractor on a construction management at risk project shall comply with the requirements applicable to contractors under this subsection.

(c) Each bidder, which shall mean first-tier subcontractor for construction manager at risk projects for purposes of this subsection, on a project bid under any of the methods authorized under G.S. 143-128(a1) shall identify on its bid the minority businesses that it will use on the project and an affidavit listing the good faith efforts it has made pursuant to subsection (f) of this section and the total dollar value of the bid that will be performed by the minority businesses. A contractor, including a first-tier subcontractor on a construction manager at risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

- (1) Within the time specified in the bid documents, either:
 - a. An affidavit that includes a description of the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith effort; or
 - b. Documentation of its good faith effort to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of minority businesses for participation in the contract.
- (2) Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

(d) No subcontractor who is identified and listed pursuant to subsection (c) of this section may be replaced with a different subcontractor except:

- (1) If the subcontractor's bid is later determined by the contractor or construction manager at risk to be nonresponsible or nonresponsive, or the listed

subcontractor refuses to enter into a contract for the complete performance of the bid work, or

(2) With the approval of the public entity for good cause.

Good faith efforts as set forth in G.S. 143-131(b) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the public entity of its good faith efforts pursuant to G.S. 143-131(b).

(e) Before awarding a contract, a public entity shall do the following:

(1) Develop and implement a minority business participation outreach plan to identify minority businesses that can perform public building projects and to implement outreach efforts to encourage minority business participation in these projects to include education, recruitment, and interaction between minority businesses and nonminority businesses.

(2) Attend the scheduled prebid conference.

(3) At least 10 days prior to the scheduled day of bid opening, notify minority businesses that have requested notices from the public entity for public construction or repair work and minority businesses that otherwise indicated to the Office of Historically Underutilized Businesses an interest in the type of work being bid or the potential contracting opportunities listed in the proposal. The notification shall include the following:

a. A description of the work for which the bid is being solicited.

b. The date, time, and location where bids are to be submitted.

c. The name of the individual within the public entity who will be available to answer questions about the project.

d. Where bid documents may be reviewed.

e. Any special requirements that may exist.

(4) Utilize other media, as appropriate, likely to inform potential minority businesses of the bid being sought.

(f) A public entity shall require bidders to undertake the following good faith efforts to the extent required by the Secretary on projects subject to this section. The Secretary shall adopt rules establishing points to be awarded for taking each effort and the minimum number of points required, depending on project size, cost, type, and other factors considered relevant by the Secretary. In establishing the point system, the Secretary may not require a contractor to earn more than fifty (50) points, and the Secretary must

assign each of the efforts listed in subdivisions (1) through (10) of this subsection at least 10 points. The public entity may require that additional good faith efforts be taken, as indicated in its bid specifications. Good faith efforts include:

- (1) Contacting minority businesses that reasonably could have been expected to submit a quote and that were known to the contractor or available on State or local government maintained lists at least 10 days before the bid or proposal date and notifying them of the nature and scope of the work to be performed.
- (2) Making the construction plans, specifications and requirements available for review by prospective minority businesses, or providing these documents to them at least 10 days before the bid or proposals are due.
- (3) Breaking down or combining elements of work into economically feasible units to facilitate minority participation.
- (4) Working with minority trade, community, or contractor organizations identified by the Office of Historically Underutilized Businesses and included in the bid documents that provide assistance in recruitment of minority businesses.
- (5) Attending any prebid meetings scheduled by the public owner.
- (6) Providing assistance in getting required bonding or insurance or providing alternatives to bonding or insurance for subcontractors.
- (7) Negotiating in good faith with interested minority businesses and not rejecting them as unqualified without sound reasons based on their capabilities. Any rejection of a minority business based on lack of qualification should have the reasons documented in writing.
- (8) Providing assistance to an otherwise qualified minority business in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisting minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit.
- (9) Negotiating joint venture and partnership arrangements with minority businesses in order to increase opportunities for minority business participation on a public construction or repair project when possible.

- (10) Providing quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.
- (g) As used in this section:
- (1) The term "minority business" means a business:
- a. In which at least fifty-one percent (51%) is owned by one or more minority persons or socially and economically disadvantaged individuals, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals; and
 - b. Of which the management and daily business operations are controlled by one or more of the minority persons or socially and economically disadvantaged individuals who own it.
- (2) The term "minority person" means a person who is a citizen or lawful permanent resident of the United States and who is:
- a. Black, that is, a person having origins in any of the black racial groups in Africa;
 - b. Hispanic, that is, a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race;
 - c. Asian American, that is, a person having origins in any of the original peoples of the Far East, Southeast Asia and Asia, the Indian subcontinent, or the Pacific Islands;
 - d. American Indian, that is, a person having origins in any of the original Indian peoples of North America; or
 - e. Female.
- (3) The term "socially and economically disadvantaged individual" means the same as defined in 15 U.S.C. 637.
- (h) The State, counties, municipalities, and all other public bodies shall award public building contracts, including those awarded under G.S. 143-128.1, 143-129, and 143-131, without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition, as defined in G.S. 168A-3. Nothing in this section shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority-business contractors or minority-business subcontractors who do not submit the lowest responsible, responsive bid or bids.

(i) Notwithstanding G.S. 132-3 and G.S. 121-5, all public records created pursuant to this section shall be maintained by the public entity for a period of not less than three years from the date of the completion of the building project.

(j) Except as provided in subsections (a), (g), (h) and (i) of this section, this section shall only apply to building projects costing three hundred thousand dollars (\$300,000) or more. This section shall not apply to the purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site."

SECTION 3.2. G.S. 113-315.36 reads as rewritten:

"§ 113-315.36. *Building contracts.*

(a) The following general laws, to the extent provided below, do not apply to the North Carolina Seafood Industrial Park Authority:

- (1) Repealed by Session Laws 1999-368, s. 1.
- (2) Except for ~~G.S. 143-128(f)~~, G.S. 143-128.2, Article 8 of Chapter 143 of the General Statutes does not apply to public building contracts of the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars (\$250,000). With respect to a contract that is exempted from certain provisions of Article 8 under this subdivision, the powers and duties set out in Article 8 shall be exercised by the Authority, and the Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contract.
- (3) G.S. 143-341(3) does not apply to plans and specifications for construction or renovation authorized by the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars (\$250,000).

(b) Notwithstanding the other provisions of this section, the services of the Department of Administration may be made available to the Authority, when requested by the Authority, with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Commission on Governmental Operations on any building contract to which this exemption is applied. The quarterly report required by this subsection shall specifically include information regarding the Authority's compliance with the provisions of ~~G.S. 143-128(f)~~-G.S. 143-128.2."

SECTION 3.3. G.S. 143-129.4 reads as rewritten:

"§ 143-129.4. *Guaranteed energy savings contracts.*

The solicitation and evaluation of proposals for guaranteed energy savings contracts, as defined in Part 2 of Article 3B of this Chapter, and the letting of contracts for these proposals are governed solely by the provisions of that Part; except that guaranteed energy savings contracts are subject to the requirements of ~~G.S. 143-128(f)~~. G.S. 143-128.2."

SECTION 3.4. G.S. 143B-437.29 reads as rewritten:
 "§ 143B-437.29. *Contracting with minority businesses.*

The Authority must comply with the policies regarding contracting with minority businesses as set out in G.S. 143-48, ~~143-128(f)~~, 143-128.2, and 143-135.5 and with any other applicable laws. The Authority is subject to Executive Order Number 150, issued April 20, 1999, regarding contracting with historically underutilized businesses."

SECTION 3.5. G.S. 158-35(a), as amended by Section 20.13(a) of S.L. 2001-424, reads as rewritten:

"(a) Commission Membership. – The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

- (1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(f)(2)~~ G.S. 143-128.2(g)(2) and one of whom may be a member of the board of commissioners.
- (2) The Commission shall appoint at least three but no more than seven voting members. By the appointment of these members, the Commission shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(f)(2)~~ G.S. 143-128.2(g)(2). The Commission shall appoint the fewest number of members necessary to achieve these minimums.
- (3) Four nonvoting members shall be appointed as follows:
 - a. One appointed by the Chancellor of East Carolina University to represent the University.
 - b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.
 - c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.
 - d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

SECTION 3.6. Article 8 of Chapter 143 is amended by adding a new section to read:

"§ 143-128.3. *Minority business participation administration.*

(a) All public entities subject to G.S. 143-128.2 shall report to the Department of Administration, Office of Historically Underutilized Business, the following with respect to each building project:

- (1) The verifiable percentage goal.
- (2) The type and total dollar value of the project, minority business utilization by minority business category, trade, total dollar value of contracts awarded to each minority group for each project, the applicable good faith effort guidelines or rules used to recruit minority business participation, and good faith documentation accepted by the public entity from the successful bidder.
- (3) The utilization of minority businesses under the various construction methods under G.S. 143-128(a1).

The reports shall be in the format and contain the data prescribed by the Secretary of Administration. The University of North Carolina and the State Board of Community Colleges shall report quarterly and all other public entities shall report semiannually. The Secretary of the Department of Administration shall make reports every six months to the Joint Legislative Committee on Governmental Operations on information reported pursuant to this subsection.

(b) A public entity that has been notified by the Secretary of its failure to comply with G.S. 143-128.2 on a project shall develop a plan of compliance that addresses the deficiencies identified by the Secretary. The corrective plan shall apply to the current project or to subsequent projects under G.S. 143-128, as appropriate, provided that the plan must be implemented, at a minimum, on the current project to the extent feasible. If the public entity, after notification from the Secretary, fails to file a corrective plan, or if the public entity does not implement the corrective plan in accordance with its terms, the Secretary shall require one or both of the following:

- (1) That the public entity consult with the Department of Administration, Office of Historically Underutilized Businesses on the development of a new corrective plan, subject to the approval of the Department and the Attorney General. The public entity may designate a representative to appear on its behalf, provided that the representative has managerial responsibility for the construction project.
- (2) That the public entity not bid another contract under G.S. 143-128 without prior review by the Department and the Attorney General of a good faith compliance

plan developed pursuant to subdivision (1) of this subsection. The public entity shall be subject to the review and approval of its good faith compliance plan under this subdivision with respect to any projects bid pursuant to G.S. 143-128 during a period of time determined by the Secretary, not to exceed one year.

A public entity aggrieved by the decision of the Secretary may file a contested case proceeding under Chapter 150B of the General Statutes.

(c) The Secretary shall study and recommend to the General Assembly and other State agencies ways to improve the effectiveness and efficiency of the State capital facilities development, minority business participation program and good faith efforts in utilizing minority businesses as set forth in G.S. 143-128.2, and other appropriate good faith efforts that may result in the increased utilization of minority businesses.

(d) The Secretary shall appoint an advisory board to develop recommendations to improve the recruitment and utilization of minority businesses. The Secretary, with the input of its advisory board, shall review the State's programs for promoting the recruitment and utilization of minority businesses involved in State capital projects and shall recommend to the General Assembly, the State Construction Office, The University of North Carolina, and the community colleges system changes in the terms and conditions of State laws, rules, and policies that will enhance opportunities for utilization of minority businesses on these projects. The Secretary shall provide guidance to these agencies on identifying types of projects likely to attract increased participation by minority businesses and breaking down or combining elements of work into economically feasible units to facilitate minority business participation.

(e) The Secretary shall adopt rules for State entities, The University of North Carolina, and community colleges and shall adopt guidelines for local government units to implement the provisions of G.S. 143-128.2.

(f) The Secretary shall provide the following information to the Attorney General:

- (1) Failure by a public entity to report data to the Secretary in accordance with this section.
- (2) Upon the request of the Attorney General, any data or other information collected under this section.
- (3) False statements knowingly provided in any affidavit or documentation under G.S. 143-128.2 to the State or other public entity. Public entities shall provide to the Secretary information concerning any false information

knowingly provided to the public entity pursuant to G.S. 143-128.2.

(g) The Secretary shall report findings and recommendations as required under this section to the Joint Legislative Committee on Governmental Operations annually on or before June 1, beginning June 1, 2002."

SECTION 4. G.S. 143-129(a), as amended by S.L. 2001-328, reads as rewritten:

"(a) Bidding Required. – No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than ~~one hundred thousand dollars (\$100,000)~~ three hundred thousand dollars (\$300,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ~~fifty thousand dollars (\$50,000)~~ ninety thousand dollars (\$90,000) may be performed, nor may any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any political subdivision of the State, unless the provisions of this section are complied with.

For purchases of apparatus, supplies, materials, or equipment, the governing body of any political subdivision of the State may, subject to any restriction as to dollar amount, or other conditions that the governing body elects to impose, delegate to the manager or the chief purchasing official, or both, the authority to award contracts, reject bids, or readvertise to receive bids on behalf of the unit. Any person to whom authority is delegated under this subsection shall comply with the requirements of this Article that would otherwise apply to the governing body."

SECTION 4.1. S.L. 1999-52 is repealed.

SECTION 5. G.S. 143-129(e), as amended by S.L. 2001-328, is amended by adding a new subdivision to read:

"(11) Contracts by a public entity with a construction manager at risk executed pursuant to G.S. 143-128.1."

SECTION 5.1. G.S. 143-131 reads as rewritten:

"§ 143-131. When counties, cities, towns and other subdivisions may let contracts on informal bids.

(a) All contracts for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment, involving the expenditure of public money in the amount of five thousand dollars (\$5,000) or more, but less than the limits prescribed in G.S. 143-129, made by any officer, department, board, or commission of any county, city, town, or other subdivision of this State shall be made after informal bids have been secured. All such contracts shall be awarded to the lowest ~~responsible~~ responsible, responsive bidder, taking into consideration quality, performance, and the time specified

in the bids for the performance of the contract. It shall be the duty of any officer, department, board, or commission entering into such contract to keep a record of all bids submitted, and such record shall not be subject to public inspection until the contract has been awarded.

(b) All public entities shall solicit minority participation in contracts for the erection, construction, alteration or repair of any building awarded pursuant to this section. The public entity shall maintain a record of contractors solicited and shall document efforts to recruit minority business participation in those contracts. Nothing in this section shall be construed to require formal advertisement of bids. All data, including the type of project, total dollar value of the project, dollar value of minority business participation on each project, and documentation of efforts to recruit minority participation shall be reported to the Department of Administration, Office for Historically Underutilized Business, upon the completion of the project."

SECTION 5.2. G.S. 143-135.5 reads as rewritten:

"§ 143-135.5. *State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose.*

(a) It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State construction projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of small, minority, physically handicapped and women contractors in achieving the purpose of this Article, which is the effective and economical construction of public buildings.

(b) It is the policy of this State not to accept bids or proposals from, nor to engage in business with, any business that, within the last two years, has been finally found by a court or an administrative agency of competent jurisdiction to have unlawfully discriminated on the basis of race, gender, religion, national origin, age, physical disability, or any other unlawful basis in its solicitation, selection, hiring, or treatment of another business."

SECTION 6. G.S. 133-1.1(a) reads as rewritten:

"(a) In the interest of public health, safety and economy, every officer, board, department, or commission charged with the duty of approving plans and specifications or awarding or entering into contracts involving the expenditure of public funds in excess of:

- (1) ~~One~~ Three hundred thousand dollars
~~(\$100,000)~~ (\$300,000) for the repair of public buildings

where such repair does not include major structural change in framing or foundation support systems,

- (1a) One hundred thousand dollars (\$100,000) for the repair of public buildings affecting life safety systems,
- (2) ~~Forty five thousand dollars (\$45,000)~~One hundred thirty-five thousand dollars (\$135,000) for the repair of public buildings where such repair includes major structural change in framing or foundation support systems, or
- (3) ~~Forty five thousand dollars (\$45,000)~~One hundred thirty-five thousand dollars (\$135,000) for the construction of, or additions to, public buildings or State-owned and operated utilities,

shall require that such plans and specifications be prepared by a registered architect, in accordance with the provisions of Chapter 83A of the General Statutes, or by a registered engineer, in accordance with the provisions of Chapter 89C of the General Statutes, or by both architect and engineer, particularly qualified by training and experience for the type of work involved, and that the North Carolina seal of such architect or engineer together with the name and address of such architect or engineer, or both, be placed on all ~~such~~these plans and specifications."

SECTION 7. G.S. 44A-26(a) reads as rewritten:

"(a) When the total amount of construction contracts awarded for any one project exceeds ~~one~~three hundred thousand dollars (~~\$100,000~~)(\$300,000), a performance and payment bond as set forth in (1) and (2) is required by the contracting body from any contractor or construction manager at risk with a contract more than ~~fifteen thousand dollars (\$15,000)~~fifty thousand dollars (\$50,000). In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:

- (1) A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of the contracting body ~~which awarded the contract~~that is constructing the project.
- (2) A payment bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for

which a ~~contractor or subcontractor~~contractor, subcontractor, or construction manager at risk is liable."

SECTION 8.(a) G.S. 116-31.11, as enacted and expired by S.L. 1997-412, is reenacted and reads as rewritten:

"§ 116-31.11. Powers of Board regarding certain fee negotiations, contracts, and capital improvements.

(a) Notwithstanding G.S. 143-341(3) and G.S. 143-135.1, the Board shall, with respect to the design, construction, or renovation of buildings, utilities, and other property developments of The University of North Carolina requiring the estimated expenditure of public money of ~~five hundred thousand dollars (\$500,000)~~two million dollars (\$2,000,000) or less:

- (1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.
- (2) Develop procedures governing the responsibilities of The University of North Carolina and its affiliated and constituent institutions to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).
- (3) Develop procedures and reasonable limitations governing the use of open-end design agreements, subject to G.S. 143-64.34 and the approval of the State Building Commission.

(b) The Board may delegate its authority under subsection (a) of this section to a constituent or affiliated institution if the institution is qualified under guidelines adopted by the Board and approved by the State Building Commission and the Director of the Budget.

(c) The University shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(d) A contract may not be divided for the purpose of evading the monetary limit under this section.

(e) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded pursuant to this section."

SECTION 8.(b) Section 5.1 of S.L. 1997-412 is repealed.

SECTION 8.(c) Sections 5, 7, 8, and 10 of S.L. 1997-412 are reenacted.

SECTION 8.(d) G.S. 143-341(3) reads as rewritten:

"(3) Architecture and Engineering:

- a. To examine and approve all plans and specifications for the construction or renovation of:

1. All State ~~buildings;~~ buildings or buildings located on State lands, except those buildings over which a local building code inspection department has and exercises jurisdiction; and
 2. All community college buildings requiring the estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129 prior to the awarding of a contract for such work; and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded.
- b. To assist, as necessary, all agencies in the preparation of requests for appropriations for the construction or renovation of all State buildings.
 - b1. To certify that a statement of needs pursuant to G.S. 143-6 is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars (\$100,000).
 - c. To supervise the letting of all contracts for the design, construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision.
 - d. To supervise and inspect all work done and materials used in the construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision; and no such work may be accepted by the State or by any State agency until it has been approved by the Department.

Except for sub-subdivisions b. and b1. of this subdivision, this subdivision does not apply to the design, construction, or renovation of projects by The

University of North Carolina pursuant to G.S. 116-31.11."

SECTION 8.(e) G.S. 133-1.1(d) reads as rewritten:

"(d) On projects on which no registered architect or engineer is required pursuant to the provisions of this section, the governing board or awarding authority shall require a certificate of compliance with the State Building Code from the city or county inspector for the specific trade or trades involved or from a registered architect or engineer, except that the provisions of this subsection shall not apply ~~on~~ to projects where any of the following apply:

- (1) ~~wherein~~ The plans and specifications are approved by the Department of Administration, Division of State Construction, and the completed project is inspected by the Division of State Construction and the State Electrical Inspector, or on projects ~~Inspector.~~
- (2) The project is exempt from the State Building Code.
- (3) The project has a total projected cost of less than \$100,000 and does not alter life safety systems."

SECTION 9. G.S. 143-132(b) reads as rewritten:

"(b) For purposes of contracts bid in the alternative between the separate-prime and single-prime contracts, pursuant to ~~G.S. 143-128(e) or (d)~~, G.S. 143-128(d1) each single-prime bid shall constitute a competitive bid in each of the four subdivisions or branches of work listed in G.S. 143-128(a), and each full set of separate-prime bids shall constitute a competitive single-prime bid in meeting the requirements of subsection (a) of this section. If there are at least three single-prime bids but there is not at least one full set of separate-prime bids, no separate-prime bids shall be opened."

SECTION 10.(a) Section 2 of S.L. 1999-102 is repealed.

SECTION 10.(b) Section 3 of S.L. 1999-102 reads as rewritten:

"Section 3. This act is effective when it becomes ~~law and shall expire on June 30, 2003~~ law."

SECTION 10.(c) Section 8 of S.L. 1999-207 reads as rewritten:

"Section 8. This act is effective when it becomes ~~law and expires July 1, 2002~~ law."

SECTION 10.(d) Notwithstanding Article 8 of Chapter 143 of the General Statutes, New Hanover Regional Medical Center may use force account qualified personnel on its payroll to maintain, repair, renovate, and improve hospital and medical facilities that it owns, operates, or manages under the following conditions:

- (1) The work is primarily for purposes of ensuring compliance with the Life Safety Code and other applicable codes, including requirements of the Joint

Commission on the Accreditation of Healthcare Organizations, or involves work to the same or related components or areas of the building at the time of the compliance work.

- (2) The force account labor is qualified to perform and is capable of performing the work in an active patient environment.

This subsection 10(d) expires December 31, 2007.

PART II. CONSTRUCTION AND DESIGN ADMINISTRATION

SECTION 11. G.S. 143-135.26 reads as rewritten:

"§ 143-135.26. *Powers and duties of the Commission.*

The State Building Commission shall have the following powers and duties with regard to the State's capital facilities development and management program:

- (1) To adopt rules establishing standard procedures and criteria to assure that the designer selected for each State capital improvement ~~project and project~~, the consultant selected for planning and studies of an architectural and engineering nature associated with a capital improvement project or a future capital improvement project and a construction manager at risk selected for each capital improvement project has the qualifications and experience necessary for that capital improvement project or the proposed planning or study project. The rules shall provide that the State Building Commission, after consulting with the funded agency, is responsible and accountable for the final selection of the ~~designer and the final selection of the designer, consultant or construction manager at risk~~ except when the General Assembly or The University of North Carolina is the funded agency. When the General Assembly is the funded agency, the Legislative Services Commission is responsible and accountable for the final selection of the designer and the final selection of the designer, consultant, or the construction manager at risk and when the University is the funded agency, it shall be subject to the rules adopted hereunder, except it is responsible and accountable for the final selection of the ~~designer and the final selection of the consultant, designer, consultant, or construction manager at risk.~~ All designers and consultants shall be selected within 60 days of the date funds are appropriated for a project by the General Assembly or the date of project authorization by the

Director of the Budget; provided, however, the State Building Commission may grant an exception to this requirement upon written request of the funded agency if (i) no site was selected for the project before the funds were appropriated or (ii) funds were appropriated for advance planning only; provided, further, the Director of the Budget, after consultation with the State Construction Office, may waive the 60-day requirement for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects. The Director of the Budget also may, after consultation with the State Construction Office, schedule the availability of design and construction funds for capital improvement projects for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects.

The State Building Commission shall submit a written report to the Joint Legislative Commission on Governmental Operations on the Commission's selection of a designer for a project within 30 days of selecting the designer.

- (2) To adopt rules for coordinating the plan review, approval, and permit process for State capital improvement ~~projects, and community college buildings,~~ as defined in subdivision (4) of this section. The rules shall provide for a specific time frame for plan review and approval and permit issuance by each agency, consistent with applicable laws. The time frames shall be established to provide for expeditious review, approval, and permitting of State capital improvement projects and community college buildings.
- (2a) To adopt rules exempting specified types of State capital improvement projects, including community college buildings as defined in subdivision (4) of this section, from plan review.
- (3) To adopt rules for establishing a post-occupancy evaluation, annual inspection and preventive maintenance program for all State buildings.
- (4) To develop procedures for evaluating the work performed by designers and contractors on State capital improvement projects and those community college buildings, as defined in G.S. 143-336, requiring the

estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129, and for use of the evaluations as a factor affecting designer selections and determining qualification of contractors to bid on State capital improvement projects and community college buildings.

- (5) To continuously study and recommend ways to improve the effectiveness and efficiency of the State's capital facilities development and management program.
- (6) To request designers selected prior to April 14, 1987, whose plans for the projects have not been approved to report to the Commission on their progress on the projects. The Department of Administration shall provide the Commission with a list of all such projects.
- (7) To appoint an advisory board, if the Commission deems it necessary, to assist the Commission in its work. No one other than the Commission may appoint an advisory board to assist or advise it in its ~~work; and work.~~
- (8) To review the State's provisions for ensuring the safety and health of employees involved with State capital improvement projects, and to recommend to the appropriate agencies and to the General Assembly, after consultation with the Commissioner of Labor, changes in the terms and conditions of construction contracts, State regulations, or State laws that will enhance employee safety and health on these projects.
- (9) ~~Effective July 1, 1996, to~~ To authorize a State agency, a local governmental unit, or any other entity subject to the provisions of G.S. 143-129 to use a method of contracting not authorized under ~~G.S. 143-128, including the use of the single prime contracting system without soliciting bids under both the single and separate prime contract systems.~~ G.S. 143-128. An authorization under this subdivision for an alternative contracting method shall be granted only under the following conditions:
 - a. An authorization shall apply only to a single project.
 - b. The entity seeking authorization must demonstrate to the Commission that the alternative contracting method is necessary because the project cannot be reasonably completed under the methods authorized under G.S. 143-128 or for such other reasons as the Commission, pursuant to its rules and criteria, deems appropriate and in the public's interest.

- b1. The entity includes in its bid or proposal requirements that the contractor will file a plan for making a good faith effort to reach the minority participation goal set out in G.S. 143-128.2.
- c. The authorization must be approved by ~~two-thirds~~ a majority of the members of the Commission present and voting.

The Commission shall not waive the requirements of G.S. 143-129 or G.S. 143-132 for public contracts unless otherwise authorized by law.

- (10) To adopt rules governing review and final approval of plans that are submitted to the State Construction Office pursuant to G.S. 58-31-40. The rules shall provide for the manner of submission of the plan by the owner, the type of structural work that may be completed by the owner pursuant to G.S. 58-31-40(c), and the expeditious review or completion of review of the plan in a manner that ensures that the building will meet the fire safety requirements of G.S. 58-31-40(b).
- (11) To develop dispute resolution procedures, including mediation, for subcontractors under any of the construction methods authorized under G.S. 143-128(a1) on State capital improvement projects, including building projects of The University of North Carolina, and community college buildings as defined in subdivision (4) of this section, for use by any public entity that has not developed its own dispute resolution process.
- (12) To adopt rules governing the use of open-end design agreements for State capital improvement projects and community college buildings as defined in subdivision (4) of this section, where the fee does not exceed the amount specified in G.S. 143-64.34(b).
- (13) ~~The Commission shall~~ To submit an annual report of its activities to the Governor and the Joint Legislative Commission on Governmental Operations."

SECTION 11.1. G.S. 58-31-40 is amended by adding the following new subsection to read:

"(c) The Commissioner shall review a plan subject to subsection (b) of this section within 30 days of submission, provided that the Commissioner may require one additional 30-day extension if necessary to complete the review. If the Commissioner has neither approved nor denied the plan during the initial 30-day review period, the owner may proceed with the building site preparation, the building foundation, and any structural components of the building

that are not subject to inspection for the purposes set forth in subsection (b) of this section. If the Commissioner has neither approved nor denied the plan within 60 days of submission, the owner may request review and final approval under subsection (b) of this section by the Department of Administration, State Construction Office, pursuant to rules adopted under G.S. 143-135.26."

PART III. LANDSCAPE ARCHITECTURE LAW CHANGES

SECTION 12.1.(a) G.S. 89A-1(3) reads as rewritten:

"(3) Landscape architecture or the practice of landscape architecture. – The performance of services in connection with the development of land areas where, and to the extent that the dominant purpose of the services is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to the erosion, wear and tear, blight or other hazards. This practice shall include the preparation of plans and specifications and supervising the execution of projects involving the arranging of land and the elements set forth in this subsection used ~~thereon~~ in connection with the land for public and private use and enjoyment, embracing the following, all drainage, soil conservation, grading and planting plans and erosion control, in accordance with the accepted professional standards of public health, safety and ~~welfare-welfare:~~

- a. The location and orientation of buildings and other similar site elements.
- b. The location, routing and design of public and private streets, residential and commercial subdivision roads, or roads in and providing access to private or public developments. This does not include the preparation of construction plans for proposed roads classified as major thoroughfares or a higher classification.
- c. The location, routing and design of private and public pathways and other travelways.
- d. The preparation of planting plans.
- e. The design of surface or incidental subsurface drainage systems, soil conservation and erosion

control measures necessary to an overall landscape plan and site design."

SECTION 12.1.(b) The State Board of Examiners for Engineers and Surveyors and the Board of Landscape Architects shall agree to a Memorandum of Understanding that identifies areas of overlap or common practice regarding the scope of their respective professions and means for resolving disputes concerning standards of practice, qualifications, and jurisdiction regarding the identified areas of overlap. The parties shall send a joint written report to the General Assembly no later than April 30, 2002, concerning the Memorandum of Understanding and whether the changes in Section 13.1(a) of this act should be repealed or modified, and the General Assembly may consider and take action on the report during its session in 2002 or at any other time as it may consider appropriate.

SECTION 12.1.(c) The Legislative Research Commission is authorized to study the relationship between the professions of engineering and landscape architecture.

This study shall include an examination of:

- (1) The qualifications and education of landscape architects.
- (2) The definition of landscape architecture in G.S. 89A-1(3), as amended by subsection 13.1(a) of this act, and whether the changes made in subsection 13.1(a) of this act should be repealed or modified.
- (3) The areas of overlap or common practice regarding the scope of the professions of engineering and landscape architecture.
- (4) The governance and procedures of the State Board of Examiners for Engineers and Surveyors and the Board of Landscape Architects in their respective roles in protecting the public health, safety, and welfare of the people of the State.

In considering appointees to the committee to study this matter, the appointing authorities shall consider inclusion of representatives of the following groups:

- (1) The State Board of Landscape Architects.
- (2) The State Board of Examiners for Engineers and Surveyors.
- (3) The Consulting Engineers Council of North Carolina.
- (4) The North Carolina Chapter of the American Society of Landscape Architects.
- (5) The Professional Engineers of North Carolina, Inc.
- (6) The North Carolina League of Landscape Architects.
- (7) The academic community involved in instruction in the area of engineering and landscape architecture.

The Legislative Research Commission may make an interim report to the 2001 General Assembly, Regular Session 2002, and shall make a final report to the 2003 General Assembly upon its convening. The reports may include proposed legislation to carry out the recommendations of the study.

SECTION 12.1.(d) This section is effective when this act becomes law.

PART IV. MISCELLANEOUS PROVISIONS

SECTION 13. Annually, on or before April 1st, beginning April 1, 2003, The University of North Carolina and all other public entities shall report to the Secretary of the Department of Administration on the effectiveness and cost-benefit of utilization of each of the construction methods authorized in G.S. 143-128(a1) that are used by the public entity. The reports, which shall be initially filed in the year in which the project is completed, shall be in the format and contain the data prescribed by the Secretary of Administration and shall include at least the following:

- (1) The type of construction method used on the project.
- (2) The total dollar value of building projects by specific project with costs.
- (3) The bid costs and relevant post-bid costs.
- (4) A detailed listing of all contractors and subcontractors used on the project indicating whether the contractor or subcontractor was an out-of-state contractor or subcontractor.
- (5) If any contractor or subcontractor was an out-of-state contractor or subcontractor, the reasons why the contractor or subcontractor was selected.

The Secretary of the Department of Administration shall report to the General Assembly on or before May 1st each year on the information collected pursuant to this section.

SECTION 13.1. The provisions of this act are severable. In the event that any provision of this act shall be declared invalid, that invalidity shall not affect the remaining provisions of this act.

SECTION 13.2. The Legislative Research Commission may authorize a study of the issue of certification of minority businesses for public construction purposes and the problem of substitution of nonminority businesses in place of minority businesses in public construction projects and the effect of frustrating the public purpose of attempting to lawfully increase minority business participation in public construction projects. The Legislative Research Commission may file an interim report to the 2002 Session of the 2001 General Assembly and shall file a final report to the 2003 General Assembly.

SECTION 13.3.(a) There is appropriated from the General Fund to the Department of Administration the sum of seven hundred seventy-one thousand two hundred sixty-four dollars (\$771,264) for the 2001-2002 fiscal year and the sum of seven hundred forty-eight thousand four hundred seventy-eight dollars (\$748,478) for the 2002-2003 fiscal year to implement the provisions of this act. The funds shall be allocated as follows:

	<u>Fiscal Year</u> <u>2001-2002</u>	<u>Fiscal Year</u> <u>2002-2003</u>
Office of the Secretary	\$ 32,396	\$ 64,791
State Construction Office	\$232,800	\$349,810
Office of Historically Underutilized Business	\$506,098	\$333,877.

SECTION 13.3.(b) There is appropriated from the General Fund to the Department of Justice the sum of sixty-four thousand seven hundred ninety-one dollars (\$64,791) for the 2002-2003 fiscal year to implement the provisions of this act.

PART V. EFFECTIVE DATE

SECTION 14.(a) Sections 8(a) through 8(e) of this act become effective July 1, 2001. Section 11.1 of this act becomes effective March 1, 2002. The remaining sections of Parts I and II of this act become effective January 1, 2002, and apply to construction projects for which bids or proposals are solicited on or after that date. The remainder of this act is effective when it becomes law. Sections 8(a) through 8(e) of this act expire December 31, 2006.

SECTION 14.(b) The State Building Commission shall adopt temporary rules to implement G.S. 143-135.26(10) and G.S. 143-135.26(11) as enacted by Section 11 of this act no later than 60 days following the effective date of Section 11 of this act. The Secretary of Administration shall adopt rules to implement G.S. 143-128.2(f) as enacted by Section 3.1 of this act no later than June 30, 2002. A bidder must show compliance with at least five of the 10 efforts, as set forth in G.S. 143-128.2(f) as enacted by Section 3.1 of this act, until 60 days following the adoption of rules to implement G.S. 143-128.2(f) by the Secretary of Administration as required in this section.

SECTION 14.(c) A city, county, or other public entity, other than the State, may apply verifiable percentage goals enacted prior to the effective date of Section 3.1 of this act to building projects undertaken on or after the effective date of Section 3.1 of this act.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:23 p.m. on the 19th day of December, 2001.

H.B. 72 SESSION LAW 2001-497

AN ACT TO EXTEND THE DEADLINE FOR APPLYING FOR A RELEASE OR REFUND OF PROPERTY TAXES AFTER THE OWNER HAS SURRENDERED THE VEHICLE LICENSE PLATE, AND TO CAP THE HIGHWAY USE TAX ON CERTAIN RECREATIONAL VEHICLES AT \$1,500 PER VEHICLE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-330.6(c), as amended by S.L. 2001-406, reads as rewritten:

"(c) Surrender of Plates. – If the owner of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) either transfers the motor vehicle to a new owner or moves out-of-state and registers the vehicle in another jurisdiction, and the owner surrenders the registration plates from the listed vehicle to the Division of Motor Vehicles, then the owner may apply for a release or refund of taxes on the vehicle for any full calendar months remaining in the vehicle's tax year after the date of surrender. To apply for a release or refund, the owner must present to the county tax collector within 120 days one year after surrendering the plates the receipt received from the Division of Motor Vehicles accepting surrender of the registration plates. The county tax collector shall then multiply the amount of the taxes for the tax year on the vehicle by a fraction, the denominator of which is 12 and the numerator of which is the number of full calendar months remaining in the vehicle's tax year after the date of surrender of the registration plates. The product of the multiplication is the amount of taxes to be released or refunded. If the taxes have not been paid at the date of application, the county tax collector shall make a release of the prorated taxes and credit the owner's tax notice with the amount of the release. If the taxes have been paid at the date of application, the county tax collector shall direct an order for a refund of the prorated taxes to the county finance officer, and the finance officer shall issue a refund to the vehicle owner."

SECTION 1.(b) This section is effective when it becomes law.

SECTION 2.(a) G.S. 105-187.3(a), as amended by Section 34.24 of S.L. 2001-424, reads as rewritten:

"(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S.

105-187.4. ~~The tax may not be more than~~ maximum tax is one thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars (\$1,500) for each certificate of title issued for a recreational vehicle that is not subject to the one thousand dollar (\$1,000) maximum tax.

SECTION 2.(b) G.S. 105-187.1, as amended by Section 34.24 of S.L. 2001-424, reads as rewritten:

"§ 105-187.1. *Definitions.*

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- (1) Commissioner. – The Commissioner of Motor Vehicles.
- (2) Division. – The Division of Motor Vehicles, Department of Transportation.
- (3) Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
- ~~(3a) Rescue squad. – An organization that provides rescue services, emergency medical services, or both.~~
- ~~(3b) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.~~
- ~~(4) Short term lease or rental. – A lease or rental that is not a long term lease or rental.~~
- (4) Recreational vehicle. – A motorized or towable vehicle that combines transportation and temporary living quarters for travel, recreation, and camping. To qualify as a motorized recreational vehicle, the vehicle must be a camping and travel vehicle built on or as an integral part of a self-propelled motor vehicle chassis. If a towable vehicle is of such size or weight as to require a special highway movement permit, it is not a recreational vehicle. Towable recreational vehicles include travel trailers, fifth-wheel travel trailers, folding camping trailers, and truck campers.
- (5) Rescue squad. – An organization that provides rescue services, emergency medical services, or both.
- (6) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.
- (7) Short-term lease or rental. – A lease or rental that is not a long-term lease or rental."

SECTION 2.(c) G.S. 105-187.5(b), as amended by Section 34.24 of S.L. 2001-424, reads as rewritten:

"(b) Rate. – The tax rate on the gross receipts from the short-term lease or rental of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long-term lease or rental of a motor vehicle is three percent (3%). Gross receipts does not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the lease or rental price. The maximum tax in G.S. 105-187.3(a) on certain ~~commercial~~ motor vehicles applies to a continuous lease or rental of such a motor vehicle to the same person."

SECTION 2.(d) This section is effective when it becomes law and applies retroactively to certificates of title issued on or after October 1, 2001.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:24 p.m. on the 19th day of December, 2001.

H.B. 110 SESSION LAW 2001-498

AN ACT TO ESTABLISH A TRAFFIC CITATION PROCEDURE INVOLVING INDIVIDUALS CLAIMING DIPLOMATIC IMMUNITY AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: AUDUBON NORTH CAROLINA; FIRST IN FORESTRY; MILITARY VETERAN; WORLD WAR II VETERAN, KOREAN CONFLICT VETERAN, AND OTHER MILITARY WARTIME VETERANS FOR WHICH THE U.S. DEPARTMENT OF DEFENSE HAS AUTHORIZED A CAMPAIGN BADGE OR MEDAL; SPECIAL FORCES ASSOCIATION; U.S. NAVY SPECIALTY; THE V FOUNDATION FOR CANCER RESEARCH; HARLEY OWNERS' GROUP; ROCKY MOUNTAIN ELK FOUNDATION; AND SAVE THE SEA TURTLES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...
(3b) Audubon North Carolina. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the National Audubon Society, Inc., logo and a representation of a bird native to North Carolina.

...

(15a) First in Forestry. – Issuable to the registered owner of a motor vehicle. The plate shall bear the words 'First in Forestry'. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(27a) Military Veteran. – Issuable to an individual who served honorably in the armed services of the United States. The plate shall bear the words "U.S. Military Veteran" and the name and insignia of the branch of service in which the individual served. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

(27b) Military Wartime Veteran. – Issuable to either a member or veteran of the armed services of the United States who served during a period of war. If the person is a veteran of the armed services, then the veteran must be separated from the armed services under honorable conditions. The plate shall bear a word or phrase identifying the period of war and a replica of the campaign badge or medal awarded for that war. The Division may not issue a plate authorized by this subdivision unless it receives at least 300 applications for that plate. A "period of war" is any of the following:

- a. World War I, meaning the period beginning April 16, 1917, and ending November 11, 1918.
- b. World War II, meaning the period beginning December 7, 1941, and ending December 31, 1946.
- c. The Korean Conflict, meaning the period beginning June 27, 1950, and ending January 31, 1955.
- d. The Vietnam Era, meaning the period beginning August 5, 1964, and ending May 7, 1975.
- e. Desert Storm, meaning the period beginning August 2, 1990, and ending April 11, 1991.
- f. Any other campaign, expedition, or engagement for which the United States Department of Defense authorizes a campaign badge or medal.

...

(36c) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Save the Sea Turtles" and a representation related to sea turtles.

...

(40a) Special Forces Association. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-

81.12. The plate shall bear a representation of the Special Forces Association shoulder patch with tabs and shall bear the words 'Special Forces Association.'

...

(46a) U.S. Navy Specialty. – Issuable to a veteran of the United States Navy Submariner Service. The plate shall bear the phrase "Silent Service Veteran" and shall bear a representation of the Submarine Service Qualification pin. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(48b) The V Foundation for Cancer Research. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase and insignia representing The V Foundation for Cancer Research."

SECTION 1.(b) G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(16a) Harley Owners' Group. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall be designed in consultation with and approved by the Harley-Davidson Motor Company, Inc., and shall bear the words and trademark of the 'Harley Owners' Group'. The Division shall not develop this plate unless the Harley-Davidson Motor Company, Inc., licenses, without charge, the State to use the words and trademark of the Harley Owners' Group on the plate.

...

(36b) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase 'Rocky Mountain Elk Foundation' and a replica of the 'Walking Bull' logo of the Rocky Mountain Elk Foundation, Inc. The Division shall not develop this plate unless the Rocky Mountain Elk Foundation, Inc. licenses, without charge, the State to use the 'Walking Bull' logo on the plate."

SECTION 2. G.S. 20-79.4(b)(11a), as enacted by S.L. 2001-40, and G.S. 20-79.4(b)(50) are repealed.

SECTION 3.(a) G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
Special Olympics	\$25.00
<u>The V Foundation for Cancer</u>	
<u>Research Division</u>	<u>\$25.00</u>
University Health Systems of Eastern Carolina	\$25.00
Animal Lovers	\$20.00
<u>Audubon North Carolina</u>	<u>\$20.00</u>
Ducks Unlimited	\$20.00
<u>First in Forestry</u>	<u>\$20.00</u>
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
<u>Save the Sea Turtles</u>	<u>\$20.00</u>
Scenic Rivers	\$20.00
School Technology	\$20.00
Soil and Water Conservation	\$20.00
<u>Special Forces Association</u>	<u>\$20.00</u>
Support Public Schools	\$20.00
Wildlife Resources	\$20.00
Personalized	\$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

SECTION 3.(b) G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

<u>Special Plate</u>	<u>Additional Fee Amount</u>
Historical Attraction	\$30.00
State Attraction	\$30.00
Collegiate Insignia	\$25.00
Goodness Grows	\$25.00
Kids First	\$25.00
Olympic Games	\$25.00
Special Olympics	\$25.00
University Health Systems of Eastern Carolina	\$25.00
Animal Lovers	\$20.00
Ducks Unlimited	\$20.00
<u>Harley Owners' Group</u>	<u>\$20.00</u>
Litter Prevention	\$20.00
March of Dimes	\$20.00
Omega Psi Phi Fraternity	\$20.00
<u>Rocky Mountain Elk Foundation</u>	<u>\$25.00</u>
Scenic Rivers	\$20.00
School Technology	\$20.00
Soil and Water Conservation	\$20.00
Support Public Schools	\$20.00
Wildlife Resources	\$20.00
Personalized	\$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	\$10.00."

SECTION 4.(a) G.S. 20-79.7(b), as amended by S.L. 2001-414, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in

subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Animal Lovers	\$10	\$10	0
<u>Audubon North Carolina</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
Ducks Unlimited	\$10	\$10	0
<u>First in Forestry</u>	<u>\$10</u>	<u>0</u>	<u>\$10</u>
Goodness Grows	\$10	\$15	0
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Kids First	\$10	\$15	0
Litter Prevention	\$10	\$10	0
March of Dimes	\$10	\$10	0
Olympic Games	\$10	\$15	0
Omega Psi Phi Fraternity	\$10	\$10	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
<u>Save the Sea Turtles</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Soil and Water Conservation	\$10	\$10	0
<u>Special Forces Association</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
Special Olympics	\$10	\$10	0
State Attraction	\$10	\$20	0
Support Public Schools	\$10	\$10	0
<u>The V Foundation for</u> <u>Cancer Research</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>
University Health Systems of Eastern Carolina	\$10	\$15	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0."

SECTION 4.(b) G.S. 20-79.7(b), as amended by S.L. 2001-414, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>NHTF</u>
Animal Lovers	\$10	\$10	0
Ducks Unlimited	\$10	\$10	0
Goodness Grows	\$10	\$10	0
<u>Harley Owners' Group</u>	<u>\$10</u>	<u>\$10</u>	<u>0</u>
Historical Attraction	\$10	\$20	0
In-State Collegiate Insignia	\$10	\$15	0
Kids First	\$10	\$15	0
Litter Prevention	\$10	\$10	0
March of Dimes	\$10	\$10	0
Olympic Games	\$10	\$15	0
Omega Psi Phi Fraternity	\$10	\$10	0
Out-of-state Collegiate Insignia	\$10	0	\$15
Personalized	\$10	0	\$10
<u>Rocky Mountain Elk Foundation</u>	<u>\$10</u>	<u>\$15</u>	<u>0</u>
Scenic Rivers	\$10	\$10	0
School Technology	\$10	\$10	0
Soil and Water Conservation	\$10	\$10	0
Special Olympics	\$10	\$10	0
State Attraction	\$10	\$20	0
Support Public Schools	\$10	\$10	0
University Health Systems of Eastern Carolina	\$10	\$15	0
Wildlife Resources	\$10	\$10	0
All other Special Plates	\$10	0	0 ₂ "

SECTION 6.(a) G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b17) Audubon North Carolina Plates. – The Division must receive 300 or more applications for an Audubon North Carolina plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Audubon North Carolina plates to the National Audubon Society, Inc., a nonprofit corporation, for the account of the NC State Office to be used for bird and other wildlife conservation and educational activities in the State of North Carolina.

(b18) Special Forces Association. – The Division must receive 300 or more applications for a Special Forces Association plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Special Forces Association plates to the Airborne & Special Operations Museum in Fayetteville, North Carolina.

(b19) The V Foundation for Cancer Research. – The Division must receive 300 or more applications for a V Foundation plate

before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of V Foundation plates to The V Foundation for Cancer Research to fund cancer research grants.

(b20) Save the Sea Turtles. – The Division must receive 300 or more applications for a Save the Sea Turtles plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Save the Sea Turtles plates to The Karen Beasley Sea Turtle Rescue and Rehabilitation Center."

SECTION 6.(b) G.S. 20-81.12 is amended by adding the following new subsections to read:

"(b21) Harley Owners' Group. – The Division must receive 300 or more applications for a Harley Owners' Group plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Harley Owners' Group plates to the State Board of Community Colleges to support the motorcycle safety instruction program established pursuant to G.S. 115D-72.

(b22) Rocky Mountain Elk Foundation. – The Division must receive 300 or more applications for a Rocky Mountain Elk Foundation plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Account derived from the sale of Rocky Mountain Elk Foundation plates to Rocky Mountain Elk Foundation, Inc."

SECTION 7. G.S. 20-37.20 reads as rewritten:
"§ 20-37.20. Notification of traffic convictions.

(a) Out-of-state Resident. – Within 10 days after receiving a report of the conviction of any nonresident holder of a commercial driver license for any violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial vehicle, the Division shall notify the driver licensing authority in the licensing state of the conviction.

(b) Foreign Diplomat. – The Division must notify the United States Department of State within 15 days after it receives one of or more of the following reports for a holder of a driver's license issued by the United States Department of State:

- (1) A report of a conviction for a violation of State law or local ordinance relating to motor vehicle traffic control, other than parking violations.
- (2) A report of a civil revocation order."

SECTION 8. Section 7 of this act becomes effective at the earliest practical date, but no later than January 1, 2003. The remainder of this act is effective when it becomes law. Sections 1(b), 3(b), 4(b), and 6(b) expire on June 30, 2006.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

Became law upon approval of the Governor at 7:24 p.m. on the 19th day of December, 2001.

H.B. 1427 SESSION LAW 2001-499

**AN ACT TO AMEND THE PRESENT-USE VALUE STATUTES
AND TO ESTABLISH THE PROPERTY TAX STUDY
COMMISSION.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.3(b2) reads as rewritten:

"(b2) Exception to Ownership Requirements. – G.S. 105-277.4(c) provides that deferred taxes are payable if land fails to meet any condition or requirement for classification. Accordingly, if land fails to meet an ownership requirement due to a change of ownership, G.S. 105-277.4(c) applies. Despite this failure and the resulting liability for taxes under G.S. 105-277.4(c), the land may qualify for classification in the hands of the new owner if both of the ~~following~~ conditions listed in this subsection are met, even if the new owner does not meet all of the ownership requirements of subsections (b) and (b1) of this section with respect to the ~~land~~ land. If the land qualifies for classification in the hands of the new owner under the provisions of this subsection, then the new owner becomes liable for the deferred taxes, and the deferred taxes become payable if the land fails to meet any other condition or requirement for classification.

- (1) The land was appraised at its present use value or was eligible for appraisal at its present use value at the time title to the land passed to the new owner.
- (2) At the time title to the land passed to the new owner, the new owner acquires the land for the purposes of and continues to use the land for the purposes it was owned ~~other land~~ classified under subsection (a)-(a) of this section while under previous ownership."

SECTION 2. G.S. 105-277.4(c) reads as rewritten:

"(c) Deferred Taxes. – Land meeting the conditions for classification under G.S. 105-277.3 shall be taxed on the basis of the value of the land for its present use. The difference between the taxes due on the present-use basis and the taxes that would have been payable in the absence of this classification, together with any interest, penalties, or costs that may accrue thereon, are a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The difference in taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The taxes become due and

payable when the land fails to meet any condition or requirement for classification. The tax for the fiscal year that opens in the calendar year in which deferred taxes become due is computed as if the land had not been classified for that year, and taxes for the preceding three fiscal years that have been deferred are immediately payable, together with interest as provided in G.S. 105-360 for unpaid taxes. Interest accrues on the deferred taxes due as if they had been payable on the dates on which they originally became due. If only a part of the qualifying tract of land fails to meet a condition or requirement for classification, a determination shall be made of the amount of deferred taxes applicable to that part and that amount becomes payable with interest as provided above. Upon the payment of any taxes deferred in accordance with this section for the three years immediately preceding a disqualification, all liens arising under this subsection are extinguished. The deferred taxes for any given year may be paid in that year without the qualifying tract of land becoming ineligible for deferred status."

SECTION 3.(a) Commission Established. – There is established the Property Tax Study Commission.

SECTION 3.(b) Membership. – The Commission shall consist of 16 members who shall be appointed as follows:

- (1) The President Pro Tempore of the Senate shall appoint eight members, four of whom shall be members of the Senate and four of whom shall be public members.
- (2) The Speaker of the House of Representatives shall appoint eight members, four of whom shall be members of the House of Representatives and four of whom shall be public members.

SECTION 3.(c) Duties. – The Commission shall study, examine, and, if necessary, recommend changes to the property tax system. The Commission shall include in its study an examination of all classes of property, including the taxability of nonprofit charitable hospitals, as well as other exemptions and exclusions of property from the property tax base. The Commission shall also study the present-use value system, including the following:

- (1) Examine the implementation and application of the current present-use value statutes.
- (2) Evaluate other tax credits, including adjustments to and credits for ad valorem taxes, to encourage agricultural, forestry, and horticultural use of land.
- (3) Evaluate the treatment of undeveloped land in ad valorem tax.
- (4) Evaluate the possibility of tax incentives to encourage conservation and environmental protection of land. The study shall include the feasibility of allowing forestland

managed for conservation purposes and the preservation of wildlife habitats to be taxed at its present-use value.

- (5) Review other issues related to the taxation of agricultural land, horticultural land, and forestland, including reducing the acreage requirement for land to qualify as forestland.

SECTION 3.(d) Report. – The Commission shall submit a final written report of its findings and recommendations to the 2003 General Assembly and may submit a report to the 2002 Regular Session of the 2001 General Assembly. The final report shall include recommendations for changes in the property tax system, including any legislative proposals necessary to implement those recommendations and an analysis of the fiscal impact of each recommendation. The Commission shall terminate upon filing its final report.

SECTION 3.(e) Expenses of Members. – Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6;
- (3) All other Commission members, at the rate established in G.S. 138-5.

SECTION 3.(f) Cochairs; Meetings. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum. The Commission may meet during a regular or special session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The Legislative Services Commission shall provide adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 3.(g) Staff. – With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Commission.

SECTION 3.(h) Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and

agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish to the Commission and its staff any information in their possession or available to them.

SECTION 3.(i) Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

SECTION 4. Sections 1 through 3 of this act are effective for taxes imposed for taxable years beginning on or after January 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

Became law upon approval of the Governor at 7:24 p.m. on the 19th day of December, 2001.

S.B. 990**SESSION LAW 2001-500**

AN ACT TO PROHIBIT PERSONS CONTRACTING WITH THE PUBLIC SCHOOLS FROM DISCLOSING PERSONALLY IDENTIFIABLE INFORMATION ABOUT STUDENTS, TO AUTHORIZE SUSPENSIONS OF UP TO 365 DAYS FOR STUDENTS WHO MAKE CERTAIN FALSE THREATS, PERPETRATE CERTAIN HOAXES, OR THREATEN AN ACT OF TERRORISM, AND TO MAKE EMERGENCY RESPONSE PLANS CONFIDENTIAL.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-401.1. Prohibition on the disclosure of information about students.

(a) It is unlawful for a person who enters into a contract with a local board of education or its designee to sell any personally identifiable information that is obtained from a student as a result of the person's performance under the contract. This prohibition does not apply if the person obtains the prior written authorization of the student's parent or guardian. This authorization shall include the parent's or guardian's original signature. The person shall not solicit this authorization and signature through the school's personnel or equipment or on school grounds.

(b) The following definitions apply in this section:

- (1) 'Contract' means a contract for the provision of goods or services.
- (2) 'Personally identifiable information' means any information directly related to a student, including the

student's name, birthdate, address, social security number, individual purchasing behavior or preferences, parents' names, telephone number, or any other information or identification number that would provide information about a specific student.

(3) 'Sell' means sell or otherwise use for a business or marketing purpose.

(c) A violation of subsection (a) of this section shall be punished as a Class 2 misdemeanor, and when the defendant is an organization as defined in G.S. 15A-773(c) the fine shall be five thousand dollars (\$5,000) for the first violation, ten thousand dollars (\$10,000) for a second violation, and twenty-five thousand dollars (\$25,000) for a third or subsequent violation.

(d) Nothing in this section shall preclude the enforcement of civil remedies as otherwise provided by law.

(e) Nothing in this section prohibits the identification and disclosure of directory information in compliance with federal law and local board of education policy or procedure."

SECTION 2. G.S. 143-318.11 is amended by adding a new subdivision to read:

"(8) To formulate plans by a local board of education relating to emergency response to incidents of school violence."

SECTION 3. G.S. 115C-47 is amended by adding a new subdivision to read:

"(40) To adopt emergency response plans. – Local boards of education may adopt emergency response plans relating to incidents of school violence. These plans are not a public record as the term 'public record' is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

SECTION 3.1. Chapter 132 of the General Statutes is amended by adding the following new section to read:

"§ 132-1.6. Emergency response plans.

Emergency response plans adopted by a constituent institution of The University of North Carolina, a community college, or a public hospital as defined in G.S. 159-39 and the records related to the planning and development of these emergency response plans are not public records as defined by G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

SECTION 4. G.S. 115C-391 is amended by adding the following new subsection to read:

"(d4) A local board of education or superintendent may suspend for up to 365 days any student who:

- (1) By any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that there is located on educational property or at a school-sponsored curricular or extracurricular activity off educational property any device, substance, or material designed to cause harmful or life-threatening illness or injury to another person;
- (2) With intent to perpetrate a hoax, conceals, places, disseminates, or displays on educational property or at a school-sponsored curricular or extracurricular activity off educational property any device, machine, instrument, artifact, letter, package, material, or substance, so as to cause any person reasonably to believe the same to be a substance or material capable of causing harmful or life-threatening illness or injury to another person;
- (3) Threatens to commit on educational property or at a school-sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that threat is intended to cause a significant disruption to the instructional day or a school-sponsored activity or causes that disruption;
- (4) Makes a report, knowing or having reason to know the report is false, that there is about to occur or is occurring on educational property or at a school-sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that report is intended to cause a significant disruption to the instructional day or a school-sponsored activity or causes that disruption; or
- (5) Conspires to commit any of the acts described in this subsection."

SECTION 5. G.S. 115C-391(e) reads as rewritten:

"(e) A decision of a superintendent under subsection (c), (d1), (d2), ~~or (d3)-(d3)~~, or (d4) of this section may be appealed to the local board of education. A decision of the local board upon this appeal or of the local board under subsection (d) or (d1) of this section is final and, except as provided in this subsection, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision."

SECTION 6. G.S. 115C-45(c), as amended by S.L. 2001-260, reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

- (1) The discipline of a student under G.S. 115C-391(c), (d), (d1), (d2), ~~or (d3);~~(d3), or (d4);
- (2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;
- (3) The terms or conditions of employment or employment status of a school employee; and
- (4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), (3), or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. However, the right of a noncertified employee to appeal decisions of a local board under subdivision (3) of this subsection shall only apply to decisions concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A noncertified employee may request and shall be entitled to receive written notice as to the reasons for the

employee's dismissal, demotion, or suspension without pay. The notice shall be provided to the employee prior to any local board of education hearing on the issue. This subsection shall not alter the employment status of a noncertified employee."

SECTION 6.1. G.S. 115C-391(d4) as enacted by S.L. 2001-244 is recodified as G.S. 115C-391(d5).

SECTION 7. Section 1 of this act is effective when it becomes law and applies to contracts entered into, renewed, or modified after that date. Sections 4-6 of this act become effective February 1, 2002. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:25 p.m. on the 19th day of December, 2001.

S.B. 1038**SESSION LAW 2001-501**

AN ACT TO AUTHORIZE LANDOWNERS TO INITIATE A SPECIAL PROCEEDING TO CLARIFY THE EXISTENCE OF A RIGHT-OF-WAY OPEN TO THE PUBLIC ADJACENT TO THEIR PROPERTY WHEN THE PUBLIC RECORDS ARE UNCLEAR CONCERNING THE ACTUAL EXISTENCE OF THE RIGHT-OF-WAY AND TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CONDEMN LAND FOR SECONDARY ROAD PAVING OR MAINTENANCE PROJECTS WHEN SEVENTY-FIVE PERCENT OF THE ADJACENT LANDOWNERS AGREE TO PROVIDE NECESSARY RIGHT-OF-WAY FOR THE PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-96.1. Special proceeding to declare a right-of-way dedicated to public use.

(a) A special proceeding under Article 3, Chapter 1 of the General Statutes may be brought to declare a right-of-way dedicated to public use if:

- (1) The landowners of tracts constituting two-thirds of the road frontage of the land abutting the right-of-way in question join in the action;
- (2) The right-of-way is depicted on an unrecorded map, plat, or survey;

- (3) The right-of-way has been actually open and used by the public; and
- (4) Recorded deeds for at least three separate parcels abutting the right-of-way recite the existence of the right-of-way as a named street or road.

(b) In a special proceeding brought pursuant to this section, the clerk of court shall issue an order declaring the right-of-way to be dedicated to public use upon finding that the provisions of subsection (a) of this section have been proven.

(c) Any right-of-way found to be dedicated to public use pursuant to this section that is proposed for addition to the State highway system shall meet the requirements of G.S. 136-102.6.

(d) This section shall not apply to any right-of-way established by adverse possession or by cartway proceeding."

SECTION 2. G.S. 136-44.7 is amended by adding a new subsection to read:

"(c) When it is necessary for the Department of Transportation to acquire a right-of-way in accordance with (a) and (b) of this section in order to pave a secondary road or undertake a maintenance project, the Department shall negotiate the acquisition of the right-of-way for a period of up to six months. At the end of that period, if one or more property owners have not dedicated the necessary right-of-way and at least seventy-five percent (75%) of the property owners adjacent to the project and the owners of seventy-five percent (75%) of the road frontage adjacent to the project have dedicated the necessary property for the right-of-way and have provided funds required by Department rule to the Department to cover the costs of condemning the remaining property, the Department shall initiate condemnation proceedings pursuant to Article 9 of this Chapter to acquire the remaining property necessary for the project."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:25 p.m. on the 19th day of December, 2001.

H.B. 1061

SESSION LAW 2001-502

AN ACT TO CLARIFY THE PROCEDURE UNDER WHICH A LESSOR, IN ORDER TO ENCOURAGE WATER CONSERVATION, MAY ALLOCATE THE COST OF PROVIDING WATER AND SEWER SERVICE AS RENT ON A METERED USE BASIS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-110(g) reads as rewritten:

"(g) ~~In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission shall be authorized, For the purpose of encouraging water conservation, the Commission may, consistent with the public interest, to adopt procedures for the purpose of allowing resale of water and sewer service provided that allow a lessor, pursuant to a written rental agreement, to allocate the costs for providing water and sewer service on a metered use basis to persons who occupy the same contiguous premises (as such term shall be defined by the Commission) premises. A written rental agreement shall specify a monthly rent that shall be the sum of the base rent plus additional rent at a rate or charge which that does not exceed the actual purchase price of such the water and sewer service to the provider plus a reasonable administrative fee. The Commission shall issue rules to define contiguous premises and to implement the services authorized by this subsection and, this subsection, notwithstanding Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which such the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates charged that may be allocated for such the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing such water and sewer services and their customers under any other provision of law.~~"

SECTION 2. G.S. 42-3 reads as rewritten:

"§ 42-3. *Term forfeited for nonpayment of rent.*

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease. Where a written lease establishes a monthly rent that includes water and sewer services under G.S. 62-110(g), the terms 'rent' and 'rental payment', as used in this Chapter, mean base rent only."

SECTION 3. G.S. 42-26 reads as rewritten:

"§ 42-26. *Tenant holding over may be dispossessed in certain cases.*

(a) Any tenant or lessee of any house or land, and the assigns under the tenant or legal representatives of such tenant or lessee, who holds over and continues in the possession of the demised premises, or any part thereof, without the permission of the landlord, and after demand made for its surrender, may be removed from such premises in the manner hereinafter prescribed in any of the following cases:

- (1) When a tenant in possession of real estate holds over after his term has expired.
- (2) When the tenant or lessee, or other person under him, has done or omitted any act by which, according to the stipulations of the lease, his estate has ceased.
- (3) When any tenant or lessee of lands or tenements, who is in arrear for rent or has agreed to cultivate the demised premises and to pay a part of the crop to be made thereon as rent, or who has given to the lessor a lien on such crop as a security for the rent, deserts the demised premises, and leaves them unoccupied and uncultivated.

(b) An arrearage in additional rent owed by a tenant for water and sewer services pursuant to G.S. 62-110(g) shall not be used as a basis for termination of a lease. Any partial payment of monthly rent shall be applied first to the base rent."

SECTION 4. G.S. 42-46 is amended by adding a new subsection to read:

"(d) A lessor shall not charge a late fee to a lessee because of the lessee's failure to pay additional rent for water and sewer services provided pursuant to G.S. 62-110(g)."

SECTION 5. G.S. 42-51 reads as rewritten:
 "§ 42-51. *Permitted uses of the deposit.*

Security deposits for residential dwelling units shall be permitted only for the tenant's possible nonpayment of ~~rent, base rent and additional rent for water and sewer services provided pursuant to G.S. 62-110(g),~~ damage to the premises, nonfulfillment of rental period, any unpaid bills which become a lien against the demised property due to the tenant's occupancy, costs of re-renting the premises after breach by the tenant, costs of removal and storage of tenant's property after a summary ejectment proceeding or court costs in connection with terminating a tenancy. ~~Such~~ The security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-52."

SECTION 6. G.S. 130A-315(d) reads as rewritten:

"(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to install sub-meters and ~~resell water~~ allocate the costs for providing water service to persons who occupy the same contiguous premises, that person shall be regulated as a consecutive water system. The monitoring, analysis, and record-keeping requirements applicable to consecutive water systems under this section shall be satisfied by the monitoring, analysis, and record keeping performed

by the supplying water system and submitted to the Department in compliance with this section. The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the person that receives the water had not been authorized to ~~resell water~~ allocate the costs for providing water service under G.S. 62-110(g), but the supplying water system shall not be required to perform additional monitoring, analysis, and record keeping. A supplying water system is not responsible for operation, maintenance, or repair of the consecutive water system."

SECTION 7. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of December, 2001.

Became law upon approval of the Governor at 7:26 p.m. on the 19th day of December, 2001.

H.B. 1144**SESSION LAW 2001-503**

AN ACT TO REVISE THE PROCEDURE BY WHICH THE GENERAL ASSEMBLY ELECTS THE MEMBERS OF THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-6 reads as rewritten:

"§ 116-6. *Election and terms of members of Board of Governors.*

(a) As the terms of members of the Board of Governors provided for in G.S. 116-5 expire, their successors shall be elected by the Senate and House of Representatives. Sixteen members shall be elected at the regular legislative session in 1993 and every two years thereafter. The Senate and the House of Representatives shall each elect one-half of the persons necessary to fill the vacancies on the Board of Governors. ~~Of the 16 members elected every two years beginning in 1993, at least two shall be women, at least two other members shall be members of a minority race, and at least two other members shall be members of the political party to which the largest minority of the members of the General Assembly belongs.~~

(b) ~~In 1993 and every four years thereafter the Senate shall elect at least two women and two members of a minority race, and the House of Representatives shall elect at least two members of the political party to which the largest minority of the members of the General Assembly belongs. In 1995 and every four years thereafter the Senate shall elect at least two members of the political party to which the largest minority of the members of the General Assembly~~

~~belongs, and the House of Representatives shall elect at least two women and two members of a minority race.~~

(c) In electing members to the Board of Governors, the Senate and the House of Representatives shall select from a slate of candidates made in each house. The slate shall be prepared as provided by resolution of each house. If a sufficient number of nominees who are legally qualified are ~~submitted in a category for which members of the Board of Governors are to be elected,~~ submitted, then the slate of candidates shall list at least twice the number of candidates for the total seats ~~open in a category.~~ open. All qualified candidates ~~in a category~~ shall compete against all other qualified ~~candidates in a category.~~ candidates. In 1993 and biennially thereafter, each house shall hold their elections within 30 legislative days after appointments to their education committees are complete.

(d) All terms shall commence on July 1 of odd-numbered years and all members shall serve for four-year overlapping terms.

(e) No person may be elected to:

- (1) More than three full four-year terms in succession;
- (2) A four-year term if preceded immediately by election to two full eight-year terms in succession; or
- (3) A four-year term if preceded immediately by election to an eight-year term and a four-year term in succession.

Resignation from a term of office does not constitute a break in service for the purpose of this subsection. Service prior to the beginning of those terms in 1989 shall be included in the limitations.

(f) Any person who has served at least one full term as chairman of the Board of Governors shall be a member emeritus of the Board of Governors for one four-year term beginning at the expiration of that member's regular elected term. Any person already serving as an emeritus member may serve an additional four-year term beginning July 1, 1991. Members emeriti have all the rights and privileges of membership except they do not have a vote.

(g) Effective July 1, 1991, and thereafter, any person who has served at least one term as a member of the Board of Governors after having served as Governor of North Carolina shall be a member emeritus of the Board of Governors, with all the rights and privileges of membership as in G.S. 116-6."

SECTION 2. G.S. 116-7(a) reads as rewritten:

"§ 116-7. *General provisions concerning members of the Board of Governors.*

(a) All members of the Board of Governors shall be selected for their interest in, and their ability to contribute to the fulfillment of, the purposes of the Board of Governors, and all members shall be deemed members-at-large, charged with the responsibility of serving the best interests of the whole State. In electing members, the

objective shall be to obtain the services of the ~~best qualified~~ citizens of the State, ~~taking into consideration the need for representation on the Board by the different races, sexes and political parties.~~ State who are qualified by training and experience to administer the affairs of The University of North Carolina. Members shall be selected based upon their ability to further the educational mission of The University through their knowledge and understanding of the educational needs and desires of all the State's citizens, and their economic, geographic, political, racial, gender, and ethnic diversity."

SECTION 3. This act is effective when it becomes law. Sections 1 and 2 apply to elections held on and after that date.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:27 p.m. on the 19th day of December, 2001.

H.B. 969**SESSION LAW 2001-504**

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE AMBIENT AIR QUALITY IMPROVEMENT ACT OF 1999, AS AMENDED BY S.L. 2000-134, BY INCREASING THE FEES CHARGED FOR MOTOR VEHICLE EMISSIONS AND SAFETY INSPECTIONS, AND TO MAKE OTHER AMENDMENTS TO THE LAWS GOVERNING MOTOR VEHICLE SAFETY AND EMISSIONS INSPECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-183.7 reads as rewritten:
"§ 20-183.7. *Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.*

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

<u>Type</u>	<u>Inspection</u>	<u>Sticker</u>
Safety Only	\$ 8.25	\$ 4.00 1.05
Emissions and Safety	17.00 23.50	2.40 6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars (\$10.00), and the fee

applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for putting an inspection sticker on a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for inspection stickers are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

<u>Recipient</u>	<u>Safety Only Sticker</u>	<u>Emissions and Safety Sticker</u>
Highway Fund	.75	.00
Emissions Program Account	.00	1.80 <u>3.80</u>
<u>Telecommunications Account</u>	<u>.00</u>	<u>1.75</u>
Volunteer Rescue/EMS Fund	15.18	15.18
Rescue Squad Workers' Relief Fund	10.12	10.12
Division of Air Quality	.00	35.65

(d) Emissions Program Account. – The Emissions Program Account is created as a nonreverting account within the Highway

Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle emissions inspection and maintenance program.

(d1) Telecommunications Account. – The Telecommunications Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to provide equipment and telecommunications services associated with the vehicle emissions inspection and maintenance program.

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the station for inspection. The sign shall include the following information:

- (1) The maximum and minimum amounts of the inspection fee authorized by this section.
- (2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for performing the inspection, and that the inspection fee is not paid to the State.
- (3) The amount of the sticker fee, if the motor vehicle passes the inspection, a statement that the sticker fee is paid to the State, and a brief summary of the purposes for which the sticker fee is collected.
- (4) The total fee to be charged if the motor vehicle passes the inspection.
- (5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 30 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections."

SECTION 2. G.S. 20-183.7, as amended by Section 1 of this act, reads as rewritten:

"§ 20-183.7. *Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.*

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

<u>Type</u>	<u>Inspection</u>	<u>Sticker</u>
Safety Only	\$ 8.25	\$ 4.05 .85
Emissions and Safety	23.50	6.50.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting after-factory tinted windows shall be ten dollars (\$10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for putting an inspection sticker on a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for inspection stickers are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection

(d1) of this section, the Highway Trust Fund Repayment Fee established in subsection (d2) of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

<u>Recipient</u>	<u>Safety Only Sticker</u>	<u>Emissions and Safety Sticker</u>
Highway Fund	<u>.75.55</u>	<u>.00 .55</u>
Emissions Program Account	.00	<u>3.803.00</u>
Telecommunications Account	.00	1.75
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	<u>.65.65</u>
<u>Highway Trust Fund Repayment Fee</u>	<u>.00</u>	<u>.25.</u>

(d) Emissions Program Account. – The Emissions Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle emissions inspection and maintenance program.

(d1) Telecommunications Account. – The Telecommunications Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to provide equipment and telecommunications services associated with the vehicle emissions inspection and maintenance program.

(d2) Highway Trust Fund Repayment Fee. – The Highway Trust Fund Repayment Fee shall be credited to the Highway Trust Fund on a quarterly basis in order to repay certain funds allocated from the Highway Trust Fund to the Division for the implementation of the vehicle emissions and maintenance program.

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the

station for inspection. The sign shall include the following information:

- (1) The maximum and minimum amounts of the inspection fee authorized by this section.
- (2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for performing the inspection, and that the inspection fee is not paid to the State.
- (3) The amount of the sticker fee, if the motor vehicle passes the inspection, a statement that the sticker fee is paid to the State, and a brief summary of the purposes for which the sticker fee is collected.
- (4) The total fee to be charged if the motor vehicle passes the inspection.
- (5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 30 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections."

SECTION 3. G.S. 20-183.7, as amended by Sections 1 and 2 of this act, reads as rewritten:

"§ 20-183.7. *Fees for performing an inspection and putting an inspection sticker on a vehicle; use of civil penalties.*

(a) Fee Amount. – When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

<u>Type</u>	<u>Inspection</u>	<u>Sticker</u>
Safety Only	\$ 8.25	\$.85
Emissions and Safety	23.50 <u>23.75</u>	6.50 <u>6.25</u>

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for inspecting

after-factory tinted windows shall be ten dollars (\$10.00), and the fee applies only to an inspection performed with a light meter after a safety inspection mechanic determined that the window had after-factory tint. A safety inspection mechanic shall not inspect an after-factory tinted window of a vehicle for which the Division has issued a medical exception permit pursuant to G.S. 20-127(f).

A vehicle that is inspected at an inspection station and fails the inspection is entitled to be reinspected at the same station at any time within 30 days of the failed inspection without paying another inspection fee.

The inspection fee for an emissions and safety inspection set out in this subsection is the maximum amount that an inspection station or an inspection mechanic may charge for an emissions and safety inspection of a vehicle. An inspection station or an inspection mechanic may charge the maximum amount or any lesser amount for an emissions and safety inspection of a vehicle. The inspection fee for a safety only inspection set out in this subsection may not be increased or decreased. The sticker fees set out in this subsection may not be increased or decreased.

(b) Self-Inspector. – The fee for an inspection does not apply to an inspection performed by a self-inspector. The fee for putting an inspection sticker on a vehicle applies to an inspection performed by a self-inspector.

(c) Fee Distribution. – Fees collected for inspection stickers are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Telecommunications Account established in subsection (d1) of this section, ~~the Highway Trust Fund Repayment Fee established in subsection (d2) of this section,~~ the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of Air Quality of the Department of Environment and Natural Resources:

<u>Recipient</u>	<u>Safety Only Sticker</u>	<u>Emissions and Safety Sticker</u>
Highway Fund	.55	.55
Emissions Program Account	.00	3.00
Telecommunications Account	.00	1.75
Volunteer Rescue/EMS Fund	.18	.18
Rescue Squad Workers' Relief Fund	.12	.12
Division of Air Quality	.00	.65 .65.

~~Highway Trust Fund Repayment Fee .00 .25.~~

(d) Emissions Program Account. – The Emissions Program Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to fund the vehicle emissions inspection and maintenance program.

(d1) Telecommunications Account. – The Telecommunications Account is created as a nonreverting account within the Highway Fund. The Division shall administer the Account. Revenue in the Account may be used only to provide equipment and telecommunications services associated with the vehicle emissions inspection and maintenance program.

~~(d2) Highway Trust Fund Repayment Fee. – The Highway Trust Fund Repayment Fee shall be credited to the Highway Trust Fund on a quarterly basis in order to repay certain funds allocated from the Highway Trust Fund to the Division for the implementation of the vehicle emissions and maintenance program.~~

(e) Civil Penalties. – Civil penalties collected under this Part shall be credited to the Highway Fund as nontax revenue.

(f) Inspection Stations Required to Post Fee Information. – The Division shall approve the form and style of one or more standard signs to be used to display the information required by this subsection. The Division shall require that one or more of the standard signs be conspicuously posted at each inspection station in a manner reasonably calculated to make the information on the sign readily available to each person who presents a motor vehicle to the station for inspection. The sign shall include the following information:

- (1) The maximum and minimum amounts of the inspection fee authorized by this section.
- (2) The amount of the inspection fee charged by the inspection station and a statement that clearly indicates that the amount of the inspection fee is determined by the inspection station, that the inspection fee is retained by the inspection station to compensate the station for performing the inspection, and that the inspection fee is not paid to the State.
- (3) The amount of the sticker fee, if the motor vehicle passes the inspection, a statement that the sticker fee is paid to the State, and a brief summary of the purposes for which the sticker fee is collected.
- (4) The total fee to be charged if the motor vehicle passes the inspection.

(5) A statement that a vehicle that fails an inspection may be reinspected at the same station within 30 days of the inspection without payment of another inspection fee.

(g) Information on Receipt. – The information set out in subdivisions (1) through (5) of subsection (f) of this section shall be set out in not smaller than 12 point type and shall be shown graphically in the form of a pie chart on the inspection receipt.

(h) Subsections (f) and (g) of this section apply only to inspection stations that perform both emissions and safety inspections."

SECTION 4. G.S. 20-183.2(b)(3) reads as rewritten:

"(3) It is a ~~1975 or later model~~ fewer than 25 model years old."

SECTION 5. G.S. 20-183.2(b)(3) reads as rewritten:

"(3) ~~It is fewer than 25 model years old.~~ Except as provided in G.S. 20-183.3(b), it is a 1996 or later model."

SECTION 6. Section 9 of S.L. 2000-134 is repealed.

SECTION 7. G.S. 20-183.3(b), as amended by Section 8 of S.L. 2000-134, reads as rewritten:

"(b) Emissions. – An emissions inspection of a motor vehicle consists of a visual inspection of the vehicle's emissions control devices to determine if the devices are present, are properly connected, and are the correct type for the vehicle and, if the vehicle is a ~~1975 through 1995~~ fewer than 25 model years old and not a 1996 or later model, an analysis of the exhaust emissions of the vehicle to determine if the exhaust emissions meet the standards for the model year of the vehicle set by the Environmental Management Commission or, if the vehicle is a 1996 or later model, an analysis of data provided by the on-board diagnostic (OBD) equipment installed by the vehicle manufacturer to identify any deterioration or malfunction in the operation of the vehicle that violates standards for the model year of the vehicle set by the Environmental Management Commission. To pass an emissions inspection a vehicle must pass both the visual inspection and, if the vehicle is a ~~1975 through 1995~~ fewer than 25 model years old and not a 1996 or later model, the exhaust emissions analysis or, if the vehicle is a 1996 or later model, the OBD analysis. When an emissions inspection is performed on a vehicle, a safety inspection must be performed on the vehicle as well."

SECTION 8. Section 20 of S.L. 2000-134 reads as rewritten:

"Section 20. During the period 1 July 2002 through 31 December 2005, in the counties of Cabarrus, Durham, Forsyth, Gaston, Guilford, Mecklenburg, Orange, Union, and Wake, an emissions inspection station, an emissions inspection mechanic, and an emissions

self-inspector, as those terms are used in G.S. 20-183.4A, may elect to perform emissions inspections: (i) only on ~~1975 through~~ 1995 and older model vehicles that are fewer than 25 model years old using an emissions analyzer; (ii) only on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment, or (iii) both on ~~1975 through~~ 1995 and older model vehicles that are fewer than 25 model years old using an emissions analyzer and on 1996 or later model vehicles using equipment to analyze data provided by the on-board diagnostic (OBD) equipment. This section shall not be construed to authorize an emissions inspection station or an emissions self-inspector to perform an emissions inspection on a vehicle of a model year for which the emissions inspection station or emissions self-inspector does not have the equipment necessary to perform an emissions inspection of vehicles of that model year. This section shall not be construed to authorize an emissions inspection mechanic to perform an emissions inspection on a vehicle unless the emissions inspection mechanic has successfully completed a course, as required by G.S. 20-183.4A(2) or G.S. 20-183.4A(2a), that includes training on the use of the equipment necessary to perform an emissions inspection on vehicles of that model year."

SECTION 9. Part 2 of Article 3A of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-183.5A. When a vehicle that fails a safety inspection because of missing emissions control devices may obtain a waiver.

(a) Requirements. – The Division may issue a waiver for a vehicle that meets all of the following requirements:

- (1) Fails a safety inspection because it does not have one or more emissions control devices.
- (2) Has documented repairs within the previous calendar year to replace missing emissions control devices costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981 model and is two hundred dollars (\$200.00) if the vehicle is a 1981 or newer model.

(b) Procedure. – To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a

waiver is issued must present the waiver to the self-inspector or inspection station performing the inspection to obtain an inspection sticker.

(c) Repairs. – The following repairs and their costs cannot be considered in determining whether the cost of repairs made to a vehicle equals or exceeds the waiver amount:

- (1) Repairs covered by a warranty that applies to the vehicle.
- (2) Repairs needed as a result of tampering with an emission control device of the vehicle.
- (3) If the vehicle is a 1981 or newer model, repairs made by an individual who is not engaged in the business of repairing vehicles.

(d) Sticker Expiration. – An inspection sticker put on a vehicle after the vehicle receives a waiver from the requirement of passing the safety inspection expires at the same time it would if the vehicle had passed the safety inspection."

SECTION 10. G.S. 20-183.2(b) is amended by adding a new subdivision to read:

- "(8) It is not a privately owned, nonfleet motor home or house car, as defined in G.S. 20-4.01(27)d2., that is built on a single chassis, has a gross vehicle weight of more than 10,000 pounds, and is designed primarily for recreational use."

SECTION 11. G.S. 20-183.4C(a) is amended by adding a new subdivision to read:

- "(5a) If the registration of a vehicle is transferred from a county that is not an emissions county to an emissions county, the vehicle must be inspected in accordance with this Part within 60 days of the transfer of registration."

SECTION 12. Part 1 of Article 3A of Chapter 20 of the General Statutes is amended by adding two new sections to read:

"§ 20-183.7A. Penalties applicable to license holders and suspension or revocation of license for safety violations.

(a) Kinds of Violations. – The civil penalty schedule established in this section applies to safety self-inspectors, safety inspection stations, and safety inspection mechanics. The schedule categorizes safety violations into serious (Type I), minor (Type II), and technical (Type III) violations. A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the safety or emissions reduction benefits of the safety inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting a safety inspection or complying with the safety

inspection requirements but does not directly affect the safety benefits or emission reduction benefits of the safety inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. – The Division must take the following action for a violation:

- (1) Type I. – For a first or second Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for six months. For a third or subsequent Type I violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years. For a first or second Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for six months. For a third or subsequent Type I violation within seven years by a safety inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.
- (2) Type II. – For a first or second Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within three years by a safety self-inspector or a safety inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days. For a first or second Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or subsequent Type II violation within seven years by a safety inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.
- (3) Type III. – For a first or second Type III violation within seven years by a safety self-inspector, a safety inspection station, or a safety inspection mechanic, send a warning letter. For a third or subsequent Type III violation within seven years by the same safety license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) Station or Self-Inspector Responsibility. – It is the responsibility of a safety inspection station and a safety self-inspector

to supervise the safety inspection mechanics it employs. A violation by a safety inspection mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed.

(d) Multiple Violations. – If a safety self-inspector, a safety inspection station, or a safety inspection mechanic commits two or more violations in the course of a single safety inspection, the Division shall take only the action specified for the most significant violation.

(e) Mechanic Training. – A safety inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4 and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully.

"§ 20-183.7B. Acts that are Type I, II, or III safety violations.

(a) Type I. – It is a Type I violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

- (1) Put a safety inspection sticker on a vehicle without performing a safety inspection of the vehicle.
- (2) Put a safety inspection sticker on a vehicle after performing a safety inspection of the vehicle and determining that the vehicle did not pass the inspection.
- (3) Allow a person who is not licensed as a safety inspection mechanic to perform a safety inspection for a self-inspector or at a safety inspection station.
- (4) Sell or otherwise give an inspection sticker to another, other than as the result of a vehicle inspection in which the vehicle passed the inspection.
- (5) Be unable to account for five or more inspection stickers at any one time upon the request of an officer of the Division.
- (6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
- (7) Transfer an inspection sticker from one vehicle to another.
- (8) Conduct a safety inspection of a vehicle without driving the vehicle and without raising the vehicle and without opening the hood of the vehicle to check equipment located therein.
- (9) Solicit or accept anything of value to pass a vehicle other than as provided in this Part.

(b) Type II. – It is a Type II violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

- (1) Put a safety inspection sticker on a vehicle without driving the vehicle and checking the vehicle's braking reaction, foot brake pedal reserve, and steering free play.
- (2) Put a safety inspection sticker on a vehicle without raising the vehicle to free each wheel and checking the vehicle's tires, brake lines, parking brake cables, wheel drums, exhaust system, and the emissions equipment.
- (3) Put a safety inspection sticker on a vehicle without raising the hood and checking the master cylinder, horn mounting, power steering, and emissions equipment.
- (4) Conduct a safety inspection of a vehicle outside the designated inspection area.
- (5) Put a safety inspection sticker on a vehicle with inoperative equipment, or with equipment that does not conform to the vehicle's original equipment or design specifications, or with equipment that is prohibited by any provision of law.
- (6) Put a safety inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system.
- (7) Put a safety inspection sticker on a vehicle without checking the exhaust system for leaks.
- (8) Put a safety inspection sticker on a vehicle that is required to have any of the following emissions control devices but does not have the device:
 - a. Catalytic converter.
 - b. PCV valve.
 - c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap.
 - g. Air injection system.
 - h. Evaporative emissions system.
 - i. Exhaust gas recirculation (EGR) valve.
- (9) Put a safety inspection sticker on a vehicle after failing to inspect four or more of the following:
 - a. Emergency brake.
 - b. Horn.
 - c. Headlight high beam indicator.
 - d. Inside rearview mirror.
 - e. Outside rearview mirror.
 - f. Turn signals.
 - g. Parking lights.
 - h. Headlights – operation and lens.
 - i. Headlights – aim.

- j. Stoplights.
- k. Taillights.
- l. License plate lights.
- m. Windshield wiper.
- n. Windshield wiper blades.
- o. Window tint.

(10) Impose no fee for a safety inspection of a vehicle or the issuance of a safety inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7.

(c) Type III. – It is a Type III violation for a safety self-inspector, a safety inspection station, or a safety inspection mechanic to do any of the following:

- (1) Fail to post a safety inspection station license issued by the Division.
- (2) Fail to send information on safety inspections to the Division at the time or in the form required by the Division.
- (3) Fail to post all safety information required by federal law and by the Division.
- (4) Fail to put the required information on an inspection sticker or inspection receipt in a legible manner using ink.
- (5) Issue a receipt that is signed by a person other than the safety inspection mechanic.
- (6) Place an incorrect expiration date on an inspection sticker.
- (7) Put a safety inspection sticker on a vehicle after having failed to inspect three or fewer of the following:
 - a. Emergency brake.
 - b. Horn.
 - c. Headlight high beam indicator.
 - d. Inside rearview mirror.
 - e. Outside rearview mirror.
 - f. Turn signals.
 - g. Parking lights.
 - h. Headlights – operation and lens.
 - i. Headlights – aim.
 - j. Stoplights.
 - k. Taillights.
 - l. License plate lights.
 - m. Windshield wiper.
 - n. Windshield wiper blades.
 - o. Window tint.

(d) Other Acts. – The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation."

SECTION 13. G.S. 20-183.8 reads as rewritten:

"§ 20-183.8. *Infractions and criminal offenses for violations of inspection requirements.*

(a) **Infractions.** – A person who does any of the following commits an infraction and, if found responsible, is liable for a penalty of up to fifty dollars (\$50.00):

- (1) Operates a motor vehicle that is subject to inspection under this Part on a highway or public vehicular area in the State when the vehicle has not been inspected in accordance with this Part, as evidenced by the vehicle's lack of a current inspection sticker or otherwise.
- (2) Allows an inspection sticker to be put on a vehicle owned or operated by that person, knowing that the vehicle was not inspected before the sticker was attached or was not inspected properly.
- (3) Puts an inspection sticker on a vehicle, knowing or having reasonable grounds to know that an inspection of the vehicle was not performed or was performed improperly. A person who is cited for a civil penalty under G.S. 20-183.8B for an emissions violation involving the inspection of a vehicle may not be charged with an infraction under this subdivision based on that same vehicle.
- (4) Alters the original certified configuration or data link connectors of a vehicle in such a way as to make an emissions inspection by analysis of data provided by on-board diagnostic (OBD) equipment inaccurate or impossible.

(b) **Defenses to Infractions.** – Any of the following is a defense to a violation under subsection (a) of this section:

- (1) The vehicle was continuously out of State for at least the 30 days preceding the date the inspection sticker expired and a current inspection sticker was obtained within 10 days after the vehicle came back to the State.
- (2) The vehicle displays a dealer license plate or a transporter plate, the dealer repossessed the vehicle or otherwise acquired the vehicle within the last 10 days, and the vehicle is being driven from its place of acquisition to the dealer's place of business or to an inspection station.
- (3) Repealed by Session Laws 1997-29, s. 5.

- (4) The charged infraction is described in subdivision (a)(1) of this section, the vehicle is subject to a safety inspection or an emissions inspection and the vehicle owner establishes in court that the vehicle was inspected after the citation was issued and within 30 days of the expiration date of the inspection sticker that was on the vehicle when the citation was issued.

(c) Felony. – A person who does any of the following commits a Class I felony:

- (1) Forges an inspection sticker.
- (2) Buys, sells, or possesses a forged inspection sticker.
- (3) Buys, sells, or possesses an inspection sticker other than as the result of either of the following:
 - a. Having a license as an inspection station, a self-inspector, or an inspection mechanic and obtaining the inspection sticker from the Division in the course of business.
 - b. A vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.

(4) Solicits or accepts anything of value in order to pass a vehicle that fails a safety or emissions inspection.

(5) Fails a vehicle for any reason not authorized by law."

SECTION 14. G.S. 20-183.8B(d) reads as rewritten:

"(d) Missing Stickers. – The Division must assess a civil penalty against an emissions inspection ~~station~~ station, a windshield replacement station, or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station or self-inspector cannot establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another accident.

(d1) Penalty for Missing Stickers. – The amount of the penalty is twenty-five dollars (\$25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as the result of missing stickers, the monetary penalty that applies is the higher of the penalties required under this subsection and subsection (b); the Division may not assess a monetary penalty as a result of missing stickers under both this subsection and subsection ~~(b)~~. (b) of this section. Imposition of a monetary penalty under this subsection does not affect suspension or revocation of a license required under subsection ~~(b)~~. (b) of this section."

SECTION 15. G.S. 20-183.8C(a) reads as rewritten:

"(a) Type I. – It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the vehicle.
- (1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.
- (2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, ~~or~~ changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year year, or using data provided by the on-board diagnostic (OBD) equipment of another vehicle to achieve a passing result.
- (3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.
- (4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.
- (5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.
- (6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
- (7) Transfer an inspection sticker from one vehicle to another."

SECTION 16. G.S. 20-183.8C(b) reads as rewritten:

"(b) Type II. – It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Use the identification code of another to gain access to an emissions analyzer or to equipment to analyze data provided by on-board diagnostic (OBD) equipment.
- (2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.
- (3) Put a safety inspection sticker or an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:

- a. Catalytic converter.
 - b. PCV valve.
 - c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap.
 - g. Air injection system.
 - h. Evaporative emissions system.
 - i. Exhaust gas recirculation (EGR) valve.
- (4) Put a safety inspection sticker or an emissions inspection sticker on a vehicle without performing a visual inspection of the vehicle's exhaust system and checking the exhaust system for leaks.
 - (5) Impose no fee for an emissions inspection of a vehicle or the issuance of an emissions inspection sticker or impose a fee for one of these actions in an amount that differs from the amount set in G.S. 20-183.7."

SECTION 17. G.S. 20-183.8F reads as rewritten:

"§ 20-183.8F. *Requirements for giving license holders notice of violations and for taking summary action.*

(a) Finding of Violation. – When an auditor of the Division finds that a violation has occurred that could result in the suspension or revocation of an inspection station license, a self-inspector license, ~~or a mechanic license,~~a mechanic license, or the registration of a person engaged in the business of replacing windshields, the auditor must give the affected license holder written notice of the finding. The notice must be given within five business days after the ~~violation occurred.~~completion of the investigation that resulted in the discovery of the violation. The notice must state the period of suspension or revocation that could apply to the violation and any monetary penalty that could apply to the violation. The notice must also inform the license holder of the right to a hearing if the Division charges the license holder with the violation.

(b) Notice of Charges. – When the Division decides to charge an inspection station, a self-inspector, ~~or a mechanic~~a mechanic, or a person who is engaged in the business of replacing windshields with a violation that could result in the suspension or revocation of the person's license, an auditor of the Division must deliver a written statement of the charges to the affected license holder. The statement of charges must inform the license holder of this right, instruct the person on how to obtain a hearing, and inform the license holder of the effect of not requesting a hearing. The license holder has the right to a hearing before the license is suspended or revoked. G.S. 20-183.8E sets out the procedure for obtaining a hearing.

(c) Exception for Summary Action. – The right granted by subsection (b) of this section to have a hearing before a license is suspended or revoked does not apply if the Division summarily suspends or revokes the license after a judge has reviewed and authorized the proposed action. A license issued to an inspection station, a self-inspector, or a mechanic is a substantial property interest that cannot be summarily suspended or revoked without judicial review.

(d) A notice or statement prepared pursuant to this section or an order of the Division that is directed to a mechanic may be served on the mechanic by delivering a copy of the notice, statement, or order to the station or to the place of business of the self-inspector where the mechanic is employed."

SECTION 18. In order to detect and remedy any deficiency in the equipment, computer software, or procedures used to analyze the data provided by on-board diagnostic (OBD) equipment in connection with an emissions inspection, the Division of Motor Vehicles of the Department of Transportation and the Division of Air Quality of the Department of Environment and Natural Resources may conduct field trials of the equipment, computer software, and procedures to be used during the six-month period immediately prior to the implementation of OBD-based emissions testing in any county. Field trials shall be conducted in accordance with Part 2 of Article 3A of Chapter 20 of the General Statutes, as amended to provide for the use of OBD equipment, at emissions inspection stations or by emissions self-inspectors that have volunteered to conduct field trials and that have been approved by the Division of Motor Vehicles to conduct the trials. A vehicle that passes a field trial emissions inspection and a safety inspection shall be deemed to have met the requirements of Part 2 of Article 3A of Chapter 20 of the General Statutes in effect at the time the vehicle is inspected and shall be issued an inspection sticker unless the vehicle improperly passes the emissions inspection as a result of a defect in equipment, computer software, or procedures, and the emissions inspection mechanic is aware of the defect.

SECTION 19. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Environmental Management Commission and the Division of Motor Vehicles of the Department of Transportation may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 20. The Environmental Review Commission shall review the motor vehicle emissions inspection and maintenance program to determine ways in which the cost of the program to vehicle owners could be reduced. In particular, the Commission shall consider the advantages and disadvantages of requiring that vehicles undergo an emissions inspection no more frequently than once every two years. The Commission may report its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly and shall report its findings and recommendations to the 2003 General Assembly.

SECTION 21. The Joint Legislative Transportation Oversight Committee shall study the motor vehicle safety inspection program administered pursuant to Part 2 of Article 3A of Chapter 20 of the General Statutes. The Committee shall evaluate the current implementation of the safety inspection program and its effectiveness in reducing the operation of unsafe vehicles and in preventing motor vehicle accidents and resulting property loss, personal injury, and death. The Committee shall determine the cost and benefits of the safety program to the public and to the State. As a part of its study of the motor vehicle safety inspection program, the Committee shall review the policies and experience of other states; evaluate other studies of this topic; evaluate the impact of the safety inspection programs on insurance rates in this and other states; evaluate the impact on the expansion of the emissions inspection program to additional counties, including the impact on the Telecommunications Fund, if the current safety inspection program were reduced or eliminated; determine the impact on the Highway Fund, the Volunteer Rescue/EMS Fund, and the Rescue Squad Workers' Relief Fund if the current safety inspection program were reduced or eliminated; evaluate the advantages and disadvantages of the use of an online data system if the safety inspection program is retained; and investigate other considerations that may be relevant. The Committee may present an interim report of its findings and recommendations to the 2002 Regular Session of the 2001 General Assembly and shall present a final report of its findings and recommendations to the 2003 General Assembly.

SECTION 22. The Department of Transportation may transfer up to two million seven hundred thousand dollars (\$2,700,000) from the Highway Trust Fund to the Division of Motor Vehicles. The Division of Motor Vehicles shall use these funds only to pay the charges for telecommunications services associated with the emissions inspection and maintenance program that have accrued during the 2001 calendar year. These funds shall be repaid to the Highway Trust Fund with fees collected pursuant to the Highway Trust Fund Repayment Fee established in G.S. 20-183.7, as amended

by Sections 1, 2, and 3 of this act. Interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the average annual yield that the State Treasurer obtains on investment of funds in the Highway Trust Fund pursuant to G.S. 147-69.1. Any funds collected pursuant to the Highway Trust Fund Repayment Fee prior to the effective date of Sections 3 and 4 of this act that are not required to repay the Highway Trust Fund as provided in this section shall be credited to the Emissions Program Account established by G.S. 20-183.7(c).

SECTION 23. Sections 1, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 of this act become effective 1 January 2002. Section 7 of this act becomes effective 1 July 2002. Section 2 of this act becomes effective 1 January 2003. Sections 5 and 6 of this act become effective 1 July 2003. Section 3 of this act becomes effective 1 July 2007. Sections 8, 19, 20, 21, 22, and 23, of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:28 p.m. on the 19th day of December, 2001.

H.B. 1019**SESSION LAW 2001-505**

AN ACT TO AMEND THE LAWS GOVERNING THE SEPTAGE MANAGEMENT PROGRAM AND TO INCREASE CERTAIN PERMIT FEES UNDER THAT PROGRAM, TO IMPROVE THE PROCESS BY WHICH ON-SITE SUBSURFACE WASTEWATER DISPOSAL SYSTEMS ARE APPROVED AND TO ESTABLISH A SCHEDULE OF FEES APPLICABLE TO APPROVAL OF THOSE SYSTEMS, AND TO REQUIRE THAT ENVIRONMENTAL HEALTH SPECIALIST BE COVERED UNDER THE STATE'S EXCESS LIABILITY INSURANCE POLICY.

The General Assembly of North Carolina enacts:

SECTION 1.1. G.S. 130A-291.1 reads as rewritten:

"§ 130A-291.1. *Septage management ~~program~~ program; permit fees.*

(a) The Department shall establish and administer a septage management program in accordance with the provisions of this section.

(b) For the protection of the public health, the Commission shall adopt rules governing the management of septage. The rules shall include, but ~~are not be~~ limited to, criteria for the sanitary management of septage, including standards for the transportation, storage, ~~treatment~~ treatment, and ~~disposal~~ disposal of septage; operator

registration and training; the issuance, ~~suspension~~-suspension, and revocation of permits; and procedures for the payment of annual fees.

(c) No septage management firm shall commence or continue operation that does not have a permit issued by the Department. The permit shall be issued only when the septage management firm satisfies all of the requirements of the rules adopted by the Commission. A septage management firm that commences operation without first having obtained a permit shall cease to operate until the firm obtains a permit under this section and shall pay an initial annual fee equal to twice the amount of the annual fee that would otherwise be applicable under subsection (e) of this section.

(d) Septage shall be treated and disposed only at a wastewater system that has been approved by the Department under rules adopted by the Commission or by the Environmental Management Commission or at a site that is permitted by the Department under this section. A permit shall be issued only if the site satisfies all of the requirements of the rules adopted by the Commission.

(e) A septage management firm that operates one pumper truck shall pay an annual fee of ~~three hundred dollars (\$300.00)~~ five hundred fifty dollars (\$550.00) to the Department. A septage management firm that operates two or more pumper trucks shall pay an annual fee of ~~four hundred dollars (\$400.00)~~ eight hundred dollars (\$800.00) to the Department.

(e1) An individual who operates a septage treatment or disposal facility but who does not engage in the business of pumping, transporting, or disposing of septage shall pay an annual fee of two hundred dollars (\$200.00).

(e2) The fee is A properly completed application for a permit and the annual fee under this section are due by 1 January 1 of each year. The Department shall mail a notice of the annual fees to each permitted septage management firm and each individual who operates a septage treatment or disposal facility prior to 1 November of each calendar year. A late fee in the amount equal to fifty percent (50%) of the annual permit fee under this section shall be submitted when a properly completed application and annual permit fee are not submitted by 1 January following the 1 November notice.

(e3) The Septage Management Account is established as a nonreverting account within the Department. Fees collected under this subsection-section shall be placed in the Septage Management Account and shall be applied only to the costs of the septage management program.

(e4) Permits for new septage management firm operators and permits for septage management firm operators that have not operated a septage management firm in the 24 months immediately preceding the submittal of an application shall be considered probationary for 12

months. The Department may revoke any probationary permit of a firm or an individual that violates any provision of this section, G.S. 130A-291.2, G.S. 130A-291.3, or any rule adopted under these sections. If the Department revokes a probationary permit issued to a firm or individual, the Department shall not issue another permit to that firm or individual, and the firm or individual may not engage in any septage management activity for a period of 12 months.

(e5) The Department shall provide technical and regulatory assistance to permit applicants and permit holders. Assistance may include, but is not limited to, taking soil samples on proposed and permitted septage land application sites and providing required training to permit applicants and permit holders.

(f) All wastewater systems designed to discharge effluent to the surface waters may accept, ~~treat~~ treat, and dispose septage from permitted septage management firms, unless acceptance of the septage would constitute a violation of the permit conditions of the wastewater system. The wastewater system may charge a reasonable fee for acceptance, treatment, and disposal of ~~septage~~ septage based on a fee schedule that takes into account septage composition and quantity and that is consistent with other charges for use of that system.

(g) Production of a crop in accordance with an approved nutrient management plan on land that is permitted as a septage land application site is a bona fide farm purpose under G.S. 153A-340.

(h) The Department shall inspect each septage land application site at least twice a year and shall inspect the records associated with each septage land application site at least annually. The Department shall inspect each pump truck used for septage management at least once every two years.

(i) The Department shall approve innovative or alternative septage treatment or storage methods that are demonstrated to protect the public health and the environment."

SECTION 1.2. Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding two new sections to read:
"§ 130A-291.2. *Temporary domestic wastewater holding tanks.*

When a permanent domestic wastewater collection and treatment system is not available at a construction site or a temporary special event, a temporary wastewater holding tank of adequate capacity to prevent overflow may be used under a mobile or modular office to accommodate domestic wastewater from a commode and sink. The wastewater shall be removed often enough to prevent the temporary domestic wastewater holding tank from overflowing. The owner or lessee of a temporary construction trailer shall contract with a registered septage management firm or registered portable toilet sanitation firm for the removal of domestic waste. The wastewater

shall be removed from the temporary domestic wastewater holding tank by a septage management firm holding a current permit to operate a septage management firm.

"§ 130A-291.3. *Septage operator training required.*

(a) Each septage management firm operator shall attend a training course approved pursuant to subsection (d) of this section of no less than four hours of instruction per year. New septage management firm operators and those that have not operated a septage management firm in the 24 months preceding the submittal of an application shall complete the training before commencing operation.

(b) Each septage land application site operator shall attend a training course approved pursuant to subsection (d) of this section of no less than three hours of instruction per year. New septage land application site operators and those that have not operated a septage land application site in the 24 months preceding the submittal of an application shall complete the training before commencing operation.

(c) Upon the completion of the permit requirements under G.S. 130A-291.1 and the training requirements under this section, the Department shall issue the septage management firm a certificate to operate as a registered portable sanitation firm or a registered septage management firm, or both.

(d) The Department shall establish educational committees to develop and approve a training curriculum to satisfy the training requirements under this section. A training committee shall be established to develop a training program for portable sanitation waste; a training committee shall be established to develop a training program for septic tank waste and grease septage; and a training committee shall be established to develop a training program for land application of septage. Each committee shall consist of four industry members, one public health member, two employees of the Department, and one representative of the North Carolina Cooperative Extension Service."

SECTION 1.3. The Commission for Health Services shall adopt temporary and permanent rules to implement Sections 1.1 and 1.2 of this act. The Commission for Health Services and the Department of Environment and Natural Resources shall initiate temporary rule-making proceedings within 30 days of the date this act becomes effective. Temporary rules to implement the provisions of Sections 1.1 and 1.2 of this act become effective 1 January 2002.

SECTION 1.4. The Department of Environment and Natural Resources shall mail annual notices of fees as required by G.S. 130A-291.1(e2), as amended by Section 1.1 of this act, prior to 1 November 2001. Notices of fees shall state the amount of the fee due

under subsections (e) and (e1) of G.S. 130A-291.1, as amended by Section 1.1 of this act.

SECTION 2.1. G.S. 130A-342 reads as rewritten:

"§ 130A-342. ~~Aerobic systems.~~Residential wastewater treatment systems.

(a) Individual ~~aerobic sewage treatment plants~~residential wastewater treatment systems that are approved and listed in accordance with the standards adopted by the National Sanitation Foundation, Inc. for Class I ~~sewage treatment plants~~residential wastewater treatment systems, as set out in Standard ~~40,40~~ of the National Sanitation Foundation, Inc., (as approved 13 January 2001) as amended, shall be permitted under rules ~~promulgated~~adopted by the Commission. The Commission may establish standards in addition to those set by the National Sanitation Foundation, Inc.

(b) A permitted ~~plant~~system shall be operated and maintained by a certified wastewater treatment facility operator.

(c) ~~The~~Each county, in which one or more residential wastewater treatment systems permitted pursuant to this section are in use, shall document the performance of individual aerobic treatment plants~~each system is to be documented by the counties and sent and report the results to the Department annually."~~

SECTION 2.2. G.S. 130A-343 reads as rewritten:

"§ 130A-343. ~~Experimental and innovative systems permitted.~~Approval of on-site subsurface wastewater systems.

(a) Definitions. – As used in this section:

(1) 'Accepted wastewater system' means any wastewater system, other than a conventional wastewater system, or any technology, device, or component of a wastewater system that: (i) has been previously approved as an innovative wastewater system by the Department; (ii) has been in general use in this State as an innovative wastewater system for more than five years; and (iii) has been approved by the Commission for general use or use in one or more specific applications. An accepted wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Commission may impose any design, operation, maintenance, monitoring, and management requirements on the use of an accepted wastewater system that it determines to be appropriate.

(2) 'Controlled demonstration wastewater system' means any wastewater system or any technology, device, or component of a wastewater system that, on the basis of acceptable research, is approved by the Department for research, testing, or trial use under actual field

conditions in this State pursuant to a protocol that has been approved by the Department.

- (3) 'Conventional wastewater system', 'conventional sewage system', or 'conventional septic tank system' means a wastewater system that consists of a traditional septic or settling tank and a gravity-fed subsurface disposal field that uses washed gravel or crushed stone to distribute effluent to soil in one or more nitrification trenches and that does not include any other appurtenance.
- (4) 'Experimental wastewater system' means any wastewater system or any technology, device, or component of a wastewater system that is approved by the Department for research, testing, or limited trial use under actual field conditions in this State pursuant to a protocol that has been approved by the Department.
- (5) 'Innovative wastewater system' means any wastewater system, or any technology, device, or component of a wastewater system that: (i) has been demonstrated to perform in a manner equal or superior to a conventional wastewater system; (ii) is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; and (iii) has been approved by the Department for general use or for one or more specific applications. An innovative wastewater system may be approved for use in applications for which a conventional wastewater system is unsuitable. The Department may impose any design, operation, maintenance, monitoring, and management requirements on the use of an innovative wastewater system that it determines to be appropriate.

~~(a)~~(b) Adoption of Rules Governing Approvals. – The Commission shall adopt rules for the approval and permitting of ~~experimental and innovative~~ experimental, controlled demonstration, innovative, and accepted wastewater systems. The rules shall address the criteria to be considered prior to issuing a permit for ~~such~~ a system, requirements for preliminary design plans and specifications that must be submitted, methodology to be used, standards for monitoring and evaluating the system, research evaluation of the system, the plan of work for monitoring system performance and maintenance, and any additional matters the Commission deems appropriate.

~~(b) The Commission shall adopt rules governing the operation and maintenance of experimental and innovative wastewater systems approved and permitted under subsection (a) of this section.~~

(c) Approved Systems. – The Department may modify, suspend, or revoke the approval of a wastewater system if the Department determines that the approval is based on false, incomplete, or misleading information or if the Department finds that modification, suspension, or revocation is necessary to protect public health, safety, or welfare. The Department shall provide a listing of all approved ~~experimental and innovative~~ experimental, controlled demonstration, innovative, and accepted wastewater systems to the local health departments annually, and more frequently, when the Department makes a final agency decision ~~on a new system~~ related to the approval of a wastewater system or the Commission adopts rules related to the approval of a wastewater system.

(d) Evaluation Protocols. – The Department shall approve one or more nationally recognized protocols for the evaluation of on-site subsurface wastewater systems. Any protocol approved by the Department shall specify a minimum number of sites that must be evaluated and the duration of the evaluation period. At the request of a manufacturer of a wastewater system, the Department may approve an alternative protocol for use in the evaluation of the performance of the manufacturer's wastewater system. A protocol for the evaluation of an on-site subsurface wastewater system is a scientific standard within the meaning of G.S. 150B-2(8a)h.

(e) Experimental Systems. – A manufacturer of a wastewater system that is intended for on-site subsurface use may apply to the Department to have the system evaluated as an experimental wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the experimental wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 50 experimental systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow

installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the experimental wastewater system fails to perform properly.

(f) Controlled Demonstration Systems. – A manufacturer of a wastewater system intended for on-site subsurface use may apply to the Department to have the system evaluated as a controlled demonstration wastewater system as provided in this subsection. The manufacturer shall submit a proposal for evaluation of the system to the Department. The proposal for evaluation shall include the design of the system, a description of any laboratory or field research or testing that will be used to evaluate the system, a description of the research or testing protocol, and the credentials of the independent laboratory, consultant, or other entity that will be conducting the research or testing on the system. If the system was evaluated as an experimental system under subsection (e) of this section, the proposal shall include the results of the evaluation. The proposal may include an evaluation of research and testing conducted in other states to the extent that the research and testing involves soil types, climate, hydrology, and other relevant conditions that are comparable to conditions in this State and if the research or testing was conducted pursuant to a protocol acceptable to the Department. The manufacturer shall enter into a contract for an evaluation of the performance of the controlled demonstration wastewater system with an independent laboratory, consultant, or other entity that has expertise in the evaluation of wastewater systems and that is approved by the Department. The manufacturer may install up to 200 controlled demonstration wastewater systems pursuant to a protocol approved by the Department on sites that are suitable for a conventional wastewater system and that have a repair area of sufficient size to allow installation of a conventional wastewater system, an approved innovative wastewater system, or an accepted wastewater system if the controlled demonstration wastewater system fails to perform properly. If the controlled demonstration wastewater system is intended for use on sites that are not suitable, or that are provisionally suitable, for a conventional wastewater system, the Department may approve the installation of the controlled demonstration wastewater system if the Department determines that the manufacturer can provide an acceptable alternative method for collection, treatment, and disposal of the wastewater.

(g) Innovative Systems. – A manufacturer of a wastewater system for on-site subsurface use that has been evaluated as an experimental wastewater system as provided in subsection (e) of this section or that has been evaluated as a controlled demonstration wastewater system as provided in subsection (f) of this section may apply to the Department to have the system approved as an innovative

wastewater system as provided in this subsection. A manufacturer of a wastewater system for on-site subsurface use that has not been evaluated as an experimental wastewater system or as a controlled demonstration wastewater system may also apply to the Department to have the system approved as an innovative wastewater system on the basis of research and testing conducted in other states. The manufacturer shall provide the Department with the data and findings of all evaluations of the performance of the system that have been conducted in any state by or on behalf of the manufacturer. The manufacturer shall also provide the Department with a summary of the data and findings of all other evaluations of the performance of the system that are known to the manufacturer. The Department shall publish a notice that the manufacturer has submitted an application under this subsection in the North Carolina Register and may provide additional notice to the public via the Internet or by other means. The Department shall receive public comment on the application for at least 30 days after the date the notice is published in the North Carolina Register. In making a determination under this subsection, the Department shall consider the data, findings, and recommendations submitted by the manufacturer and all public comment. The Department may also consider any other information that the Department determines to be relevant. The Department shall determine: (i) whether the system performs in a manner equal or superior to a conventional wastewater system; (ii) whether the system is constructed of materials whose physical and chemical properties provide the strength, durability, and chemical resistance to allow the system to withstand loads and conditions as required by rules adopted by the Commission; (iii) the circumstances in which use of the system is appropriate; and (iv) any conditions and limitations related to the use of the system. The Department shall make the determinations required by this subsection and approve or deny the application within 180 days after the Department receives a complete application from a manufacturer. If the Department fails to act on the application within 180 days, the manufacturer may treat the application as denied and challenge the denial by filing a contested case as provided in Article 3 of Chapter 150B of the General Statutes. If the Department approves an innovative wastewater system, the Department shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(h) Accepted Systems. – A manufacturer of an innovative wastewater system that has been in general use in this State for more than five years may petition the Commission to have the system designated as an accepted wastewater system as provided in this subsection. The manufacturer shall provide the Commission with the data and findings of all prior evaluations of the performance of the

system. In addition, the manufacturer shall provide the Commission with information sufficient to enable the Commission to fully evaluate the performance of the system in this State for at least the five-year period immediately preceding the petition. The Commission shall designate a wastewater system as an accepted wastewater system only if it finds that there is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at the time the Department approved the system as an innovative wastewater system and (ii) that the system performs in a manner that is equal or superior to a conventional wastewater system under actual field conditions in this State. The Commission shall specify the circumstances in which use of the system is appropriate and any conditions and limitations related to the use of the system.

(i) Miscellaneous Provisions. –

(1) In evaluating applications for approval under this section, the Department may consult with persons who have special training and experience related to on-site subsurface wastewater systems and may form a technical advisory committee for this purpose. However, the Department is responsible for making timely and appropriate determinations under this section.

(2) The Department may initiate a review of a nonproprietary wastewater system and approve the system for on-site subsurface use as an experimental wastewater system, a controlled demonstration wastewater system, or an innovative wastewater system without having received an application from a manufacturer. The Department may recommend that the Commission designate a nonproprietary wastewater system as an accepted wastewater system without having received a petition from a manufacturer.

(j) Warranty Required in Certain Circumstances. – The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system or accepted wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system unless the manufacturer of the innovative wastewater system or accepted wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the system for a warranty period of at least five years from the date on which the wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to provide a fully functional wastewater system. The Commission shall establish minimum terms and

conditions for the warranty required by this subsection. This subsection shall not be construed to require that a manufacturer warrant a wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.

(k) Fees. – The Department shall collect the following fees under this section:

- | | |
|--|-------------------|
| <u>(1) Review of an alternative protocol under subsection (d) of this section</u> | <u>\$1,000.00</u> |
| <u>(2) Review of an experimental system</u> | <u>\$3,000.00</u> |
| <u>(3) Review of a controlled demonstration system</u> | <u>\$3,000.00</u> |
| <u>(4) Review of an innovative system</u> | <u>\$3,000.00</u> |
| <u>(5) Review of an accepted system</u> | <u>\$3,000.00</u> |
| <u>(6) Review of a residential wastewater treatment system pursuant to G.S. 130A-342</u> | <u>\$1,500.00</u> |
| <u>(7) Review of a component of a system</u> | <u>\$ 100.00</u> |
| <u>(8) Modification to approved innovative system</u> | <u>\$1,000.00</u> |

(l) On-Site Wastewater System Account. – The On-Site Wastewater System Account is established as a nonreverting account within the Department. Fees collected pursuant to this section shall be placed in the On-Site Wastewater System Account and shall be applied only to the costs of implementing this section."

SECTION 2.3. Until the Department approves an evaluation protocol as provided in G.S. 130A-343(d), as amended by Section 2.2 of this act, the Department may accept for review the data and findings of evaluations of performance of experimental, controlled demonstration, and innovative wastewater systems that are conducted as provided in: (i) "Protocol for the Verification of Wastewater Treatment Technologies" prepared by NSF International for the United States Environmental Protection Agency (April 2001); (ii) "Protocol for the Verification of Residential Wastewater Treatment Technologies for Nutrient Reduction" prepared by NSF International for the United States Environmental Protection Agency (27 November 2000); and (iii) "A Protocol for Testing, Assessing, and Approving Innovative or Alternative On-Site Wastewater Disposal Systems" prepared by New Jersey Department of Environmental Protection (24 July 2001).

SECTION 2.4. The Department of Environment and Natural Resources shall not accept an application for approval of an innovative wastewater system until it has acted on all applications for approval of innovative wastewater systems that were submitted to the Department prior to 1 October 2001. The Department shall act on all applications for approval of innovative wastewater systems that were submitted to the Department prior to 1 October 2001 within 120 days of the date on which this act becomes effective. The Department may

act on an application for a reduction of the total nitrification trench length for an innovative wastewater system handling untreated septic tank effluent as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system that was submitted to the Department prior to 1 October 2001 only as provided in this section. The Department may approve a reduction of the total nitrification trench length for an innovative wastewater system handling untreated septic tank effluent of not more than thirty-five percent (35%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system. The Department shall not approve a reduction of the total nitrification trench length for an innovative wastewater system handling untreated septic tank effluent of more than twenty-five percent (25%) as compared to the total nitrification trench length required for a 36-inch-wide conventional wastewater system unless the manufacturer of the innovative wastewater system provides a performance warranty for the nitrification trench system to each owner or purchaser of the innovative wastewater system for a warranty period of at least five years from the date on which the innovative wastewater system is placed in operation. The warranty shall provide that the manufacturer shall provide all material and labor that may be necessary to provide a fully functional wastewater system. The Department shall approve the terms and conditions of the warranty. This section shall not be construed to require that a manufacturer warrant an innovative wastewater system that is not properly sized to meet the design load required for a particular use, that is improperly installed, or that is improperly operated and maintained.

SECTION 2.5. The Commission for Health Services shall adopt temporary and permanent rules to implement the provisions of Sections 2.1 and 2.2 of this act. The Commission may review its current rules to determine whether any wastewater system, as defined by G.S. 130A-334, that is described in its rules should be designated as an accepted wastewater system or approved as an innovative wastewater system, as those terms are defined in G.S. 130A-343, as amended by Section 2.2 of this act. Notwithstanding G.S. 130A-343, as amended by Section 2.2 of this act, the Commission may designate a wastewater system that, prior to 1 October 2001, is described in its rules as an accepted wastewater system whether or not the wastewater system was described or approved as an innovative wastewater system prior to 1 October 2001. If the Commission determines that a wastewater system that is described in its rules prior to 1 October 2001 should not be designated as an accepted wastewater system, the Commission may amend its rules to remove the description of the wastewater system. If the Commission amends its rules to remove a

description of a wastewater system pursuant to this section, the wastewater system shall be deemed to be an approved innovative wastewater system without further action by the Department of Environment and Natural Resources. This section shall not be construed to require the Commission or the Department to change the current designation or approval status of any wastewater system.

SECTION 3. The Public Officers and Employees Liability Insurance Commission in the Department of Insurance shall effect and place professional liability insurance coverage for local health department sanitarians defened by the State under G.S. 143-300.8 under G.S. 58-32-15. For insurance purposes only under G.S. 58-32-15, local health department sanitarians are considered to be employees of the Department of Environment and Natural Resources.

SECTION 4. Sections 1.1, 1.2 and 3 of this act become effective 1 January 2002. All other sections of this act become effective when this act becomes law.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:28 p.m. on the 19th day of December, 2001.

H.B. 253**SESSION LAW 2001-506**

AN ACT TO PROVIDE THAT MANUFACTURED HOMES NEED NOT HAVE MULTIPLE SECTIONS TO QUALIFY AS REAL PROPERTY FOR PROPERTY TAX PURPOSES, TO REQUIRE AN OWNER TO SURRENDER CERTIFICATE OF TITLE WHEN THE MANUFACTURED HOME BECOMES REAL PROPERTY, AND TO REQUIRE AN OWNER TO FILE EVIDENCE OF THE SURRENDER OF TITLE WITH THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-273(13) reads as rewritten:
"§ 105-273. *Definitions.*

When used in this Subchapter (unless the context requires a different meaning):

- ...
- (13) 'Real property,' 'real estate,' and 'land' mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures ~~thereon~~, on the land, and all rights and privileges belonging or in any ~~wise~~ way appertaining ~~thereto~~ to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a ~~multi-section~~ residential ~~structure~~

~~(consisting of two or more sections); structure;~~ has the moving hitch, wheels, and axles removed; and is placed upon a permanent ~~enclosed~~ foundation on land owned by the owner of the manufactured home. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."

SECTION 2. Article 3 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"§ 20-109.2. Surrender of title to manufactured home.

(a) Surrender of Title. – If a title has been issued for a manufactured home and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

- (1) The manufacturer and, if applicable, the model name of the manufactured home.
- (2) The vehicle identification number and serial number of the manufactured home.
- (3) The legal description of the real property on which the manufactured home is placed, stating that the owner of the manufactured home also owns the real property.
- (4) A description of any security interests in the manufactured home.
- (5) A section for the Division's notation or statement that the title has been surrendered and cancelled by the Division.

(c) Cancellation. – Upon compliance by the owner with the procedure for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of title, the Division may not cancel the title without written consent from all secured parties. After cancelling the title, the Division shall return the original of the affidavit to the owner, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The owner or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located.

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit

containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is authorized to issue a new title for the manufactured home.

(e) Sanctions. – Any person who violates this section is subject to a civil penalty of up to one hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner."

SECTION 3. Article 2 of Chapter 47 of the General Statutes is amended by adding the following new sections to read:

"§ 47-20.6. Affidavit for permanent attachment of titled manufactured home to real property.

(a) If the owner of real property has surrendered the title to a manufactured home that is placed on the real property and the title has been cancelled by the Division of Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first security interest in the manufactured home at time of surrender, shall record the affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county where the real property is located. Upon recordation, the affidavit shall be indexed on the grantor index in the name of the owner of the manufactured home and on the grantee index in the name of the secured party or lienholder, if any.

(b) After the affidavit is recorded, the manufactured home becomes an improvement to real property. Any lien on the manufactured home shall be perfected and given priority in the manner provided for a lien on real property.

(c) Following recordation of the affidavit, all existing liens on the real property are considered to include the manufactured home. Thereafter, no conveyance of any interest, lien, or encumbrance shall attach to the manufactured home, unless the interest, lien, or encumbrance is applicable to the real property on which the home is located and is recorded in the office of the register of deeds of the county where the real property is located in accordance with the applicable sections of this Chapter.

(d) The provisions of this section control over the provisions of G.S. 25-9-334 relating to the priority of a security interest in fixtures, as applied to manufactured homes.

"§ 47-20.7. Declaration of intent to affix manufactured home; transfer of real property with manufactured home attached.

(a) A person who owns real property on which a manufactured home has been, or will be placed, as defined in G.S. 105-273(13), and either where the manufactured home has never been titled by the Division of Motor Vehicles or where the title to the manufactured home has been surrendered and cancelled by the Division, may record in the office of the register of deeds of the county where the real property is located a declaration of intent to affix the manufactured home to the property and may convey or encumber the real property, including the manufactured home, by a deed, deed of trust, or other instrument recorded in the office of the register of deeds.

(b) The declaration of intent, deed, deed of trust, or other instrument shall contain a description of the manufactured home, including the name of the manufacturer, the model name, if applicable, the serial number, and a statement of the owner's intention that the manufactured home be treated as real property.

(c) On or after the filing of the instrument with the office of the register of deeds pursuant to subsection (a) of this section, the manufactured home placed, or to be placed, on the property becomes an improvement to real property. Any lien on the manufactured home shall be perfected and have priority in the manner provided for a lien on real property.

(d) The provisions of this section control over the provisions of G.S. 25-9-334 relating to the priority of a security interest in fixtures, as applied to manufactured homes."

SECTION 4. Section 1 of this act is effective for taxes imposed for taxable years beginning on or after July 1, 2002. Sections 2 and 3 of this act become effective January 1, 2002, and apply to manufactured home title cancellations and to declarations of intent, deeds, deeds of trust, and other instruments recorded after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 3rd day of December, 2001.

Became law upon approval of the Governor at 7:29 p.m. on the 19th day of December, 2001.

H.B. 1195**SESSION LAW 2001-507**

AN ACT TO GIVE ILL AND DISABLED CIVILIANS THE SAME RIGHT AS MILITARY PERSONNEL TO REQUEST ABSENTEE BALLOTS FOR AN ENTIRE CALENDAR YEAR, AND TO REALIGN THE SUPERIOR COURT DISTRICTS IN FORSYTH COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 163-226 is amended by adding a new subsection to read:

"(a2) Annual Request by Person With Sickness or Physical Disability. – If the applicant so requests and reports in the application that the voter has a sickness or physical disability that is expected to last the remainder of the calendar year, the application shall constitute a request for an absentee ballot for all of the primaries and elections held during the calendar year when the application is received."

SECTION 3. G.S. 7A-41(b) reads as rewritten:

"(b) For superior court districts of less than a whole county, or with part of one county with part of another, the composition of the district and the number of judges is as follows:

- (1) Superior Court District 7B consists of County Commissioner Districts 1, 2 and 3 of Wilson County, Blocks 127 and 128 of Census Tract 6 of Wilson County, and Townships 12 and 14 of Edgecombe County. It has one judge.
- (2) Superior Court District 7C consists of the remainder of Edgecombe and Wilson Counties not in Judicial District 7B. It has one judge.
- (3) Superior Court District 10A consists of Wake County Precincts 01-12, 01-13, 01-14, 01-18, 01-19, 01-20, 01-22, 01-25, 01-26, 01-28, 01-34, 01-35, 01-40, 01-50, 17-03, and 17-07. It has two judges.
- (4) Superior Court District 10B consists of Wake County Precincts 01-01, 01-02, 01-03, 01-04, 01-05, 01-06, 01-07, 01-07A, 01-09, 01-10, 01-11, 01-16, 01-21, 01-23, 01-27, 01-29, 01-31, 01-32, 01-33, 01-36, 01-41, 01-48, 01-49, 03-00, 04-01, 04-02, 04-03, 04-04, 04-05, 04-06, 04-07, 04-08, 04-09, 04-10, 04-11, 04-12, 04-13, 04-14, 04-15, 04-16, 04-17, 04-18, 04-19, 04-20, 05-01, 05-02, 06-01, 06-02, 06-03, 07-01, 07-10, 11-01, 11-02, 12-01, 12-02, 12-03, 12-04, 12-05, 12-06, 18-01, 18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-08, 20-01, 20-02, 20-03, 20-04, 20-05, 20-06, 20-07, 20-08, 20-09, and 20-10. It has two judges.
- (5) Superior Court District 10C consists of Wake County Precincts 02-01, 02-02, 02-03, 02-04, 02-05, 02-06, 07-02, 07-12, 08-01, 08-02, 08-03, 08-04, 08-05, 08-06, 08-07, 08-08, 09-01, 09-02, 09-03, 10-01, 10-02, 10-03, 10-04, 14-01, 14-02, 15-01, 15-02, 15-03, 15-04, 16-01, 16-02, 16-03, 16-04, 16-05, 16-06, 16-07, 19-01, 19-02, 19-03, 19-04, 19-05, 19-06, 19-07, and 19-08. It has one judge.

- (6) Superior Court District 10D consists of Wake County Precincts 01-15, 01-17, 01-30, 01-37, 01-38, 01-39, 01-42, 01-43, 01-44, 01-45, 01-46, 01-47, 01-51, 07-03, 07-04, 07-05, 07-06, 07-07, 07-07A, 07-09, 07-11, 13-01, 13-02, 13-03, 13-04, 13-05, 17-01, 17-02, 17-04, 17-05, 17-06, and 17-08. It has one judge.
- (7) Superior Court District 12A consists of that part of Cross Creek Precinct #18 north of Raeford Road, Montclair Precinct, that part of Precinct 71-1 not in Judicial District 12B, Precinct 71-2, Morganton #2 Precinct, Cottonade Precinct, Cumberland Precincts 1 and 2, and Brentwood Precinct. It has one judge.
- (8) Superior Court District 12B consists of all of State House of Representatives District 17, except for Westarea Precinct, and it also includes that part of Cross Creek Precinct #15 east of Village Drive. It has one judge.
- (9) Superior Court District 12C consists of the remainder of Cumberland County not in Superior Court Districts 12A or 12B. It has two judges.
- (10) Superior Court District 14A consists of Durham Precincts 9, 11, 12, 13, 14, 15, 18, 34, 40, 41, and 42, and that part of Durham Precinct 39 east of North Carolina Highway #751. It has one judge.
- (11) Superior Court District 14B consists of the remainder of Durham County not in Superior Court District 14A. It has three judges.
- (12) Superior Court District 18A consists of Fentress Precincts 1 and 2; Greensboro Precincts 4, 5, 6, 46, 52, 67, 68, 69, 70, 71, 72, 73, 74, and 75; North Clay Precinct; Pleasant Garden Precincts 1 and 2; and South Clay Precinct. It has one judge.
- (13) Superior Court District 18B consists of High Point Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27; HP Precinct; Jamestown Precincts 1 and 5; North Deep River Precinct; and South Deep River Precinct. It has one judge.
- (14) Superior Court District 18C consists of Center Grove Precincts 1, 2, and 3; Friendship Precincts 1, 2, 3, 4, and 5; Greensboro Precincts 17, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40A, 40B, 41, 42, 43, 64, 65, and 66; Jamestown Precincts 2, 3, and 4; Monroe Precinct 3; North Center Grove Precinct; Oak Ridge Precincts 1 and 2;

- Summerfield Precincts 1, 2, 3, and 4; and Stokesdale Precinct. It has one judge.
- (15) Superior Court District 18D consists of Greensboro Precincts 1, 11, 12, 13, 14, 15, 16, 19, 35, 44, 45, 47, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and 63; and Sumner Precincts 1, 2, 3, and 4. It has one judge.
- (16) Superior Court District 18E consists of Gibsonville Precinct; Greene Precinct; Greensboro Precincts 2, 3, 7, 8, 9, 10, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; Jefferson Precincts 1, 2, 3, and 4; Monroe Precincts 1 and 2; North Madison Precinct; North Washington Precinct; Rock Creek Precincts 1 and 2; South Madison Precinct; and South Washington Precinct. It has one judge.
- (17) Superior Court District 21A consists of ~~the Southwest Ward of Winston Salem, and Precincts 80 6, 80 7, 80 8, 3 1, 9 1, 13 1, 13 2, 13 3, 7 1, 7 2, 7 3, 5 1, 5 2, 5 3, 12 2, and 12 3.~~ Forsyth County Precincts 051, 052, 053, 054, 055, 071, 072, 073, 074, 075, 091, 092, 122, 123, 131, 132, 133, 701, 702, 703, 704, 705, 706, 707, 708, 709, 806, 807, and 808. It has one judge.
- (18) Superior Court District 21B consists of ~~the Northwest Ward, the South Ward, and the Southeast Ward of Winston Salem, and Precincts 4 1 and 4 2.~~ Forsyth County Precincts 042, 043, 501, 502, 503, 504, 505, 506, 507, 601, 602, 603, 604, 605, 606, 607, 901, 902, 903, 904, 905, and 907. It has one judge.
- (19) Superior Court District 21C consists of ~~Precincts 80 1, 80 2, 80 3, 80 4, 80 5, 80 9, 10 2, 10 3, 3 2, 3 3, 11 1, 11 2, 2 1, 6 1, 6 2, 6 3, 6 4, 1 1, 1 2, and 1 3.~~ Forsyth County Precincts 011, 012, 013, 014, 015, 021, 031, 032, 033, 034, 061, 062, 063, 064, 065, 066, 067, 068, 101, 111, 112, 801, 802, 803, 804, 805, 809, 906, 908, and 909. It has one judge.
- (20) Superior Court District 21D consists of ~~the North Ward, the Northeast Ward, and the East Ward of Winston Salem, and Precincts 8 2 and 8 3.~~ Forsyth County Precincts 081, 082, 083, 201, 203, 204, 205, 206, 207, 301, 302, 303, 304, 305, 306, 401, 402, 403, 404, and 405. It has one judge.
- (21) Superior Court District 26A consists of Charlotte Precincts 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, 27, 31, 33, 39, 41, 42, 46, 52, 54, 55, 56, 58, 60, 77, 78, and 82, and Long Creek Precinct #2 of Mecklenburg County. It has two judges.

- (22) Superior Court District 26B consists of Charlotte Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 20, 21, 28, 29, 30, 32, 34, 35, 36, 37, 38, 43, 44, 45, 47, 51, 61, 62, 63, 65, 66, 67, 68, 69, 71, 74, 83, 84, and 86, Crab Orchard Precincts 1 and 2, and Mallard Creek Precinct 1. It has two judges.
- (23) Superior Court District 26C consists of the remainder of Mecklenburg County not in Superior Court Districts 26A or 26B. It has two judges.
- (24) Superior Court District 19B1 consists of all of Montgomery County except for Star Precinct, the following precincts of Moore County: #8 West End, #9 Eastwood, #11 Vass, #12 Little River, #14 Taylortown, #17 South Southern Pines, #19 North Southern Pines; #20 West Aberdeen, #21 East Aberdeen, #22 Pinedene, #23 Pinebluff, and the remainder of Randolph County not in Superior Court District 19B2. It has one judge.
- (25) Superior Court District 19B2 consists of Star Precinct in Montgomery County, the remainder of Moore County not in Superior Court District 19B1, and the following precincts of Randolph County: Archdale I, Archdale II, Archdale III, Brower, Coleridge, Franklinville, Grant, Level Cross, Liberty, New Market North, New Market South, Pleasant Grove, Prospect, Providence, Ramseur, Richland, Staley, Trinity East, and Trinity West. It has one judge."

SECTION 4. G.S. 7A-41(c) reads as rewritten:

"(c) In subsection (b) above:

- (1) The names and boundaries of townships are as they were legally defined and in effect as of January 1, 1980, and recognized in the 1980 U.S. Census;
- (2) For Guilford County, the precincts are as they were legally defined and recognized as voting districts of the same name in the 2000 U.S. Census, except Greensboro Precincts 40A and 40B are as they were modified by the Guilford County Board of Elections and are as shown on the Legislative Services Office's redistricting computer database on May 1, 2001;
- (2a) For Wake County, the precincts are as they were adopted by the Wake County Board of Elections and in effect as of January 1, 2001.
- (3) For Mecklenburg and Durham Counties, precinct boundaries are as shown on the current maps in use by the appropriate county board of elections as of January 31, 1984, in accordance with G.S. 163-128(b);

- (4) For Wilson County, commissioner districts are those in use for election of members of the county board of commissioners as of January 1, 1987;
- (5) For Cumberland County, House District 17 is in accordance with the boundaries in effect on January 1, 1987. Precincts are in accordance with those as approved by the United States Department of Justice on February 28, 1986;
- (6) For Forsyth County, ~~the boundaries of wards and precincts are those in effect on "WARD MAP 1985", published November 1985 by the City of Winston-Salem and Forsyth County;~~ the precincts are as they were legally defined and recognized in the 2000 U.S. Census as of January 1, 2001; and
- (7) The names and boundaries of precincts in Montgomery, Moore, and Randolph Counties are those in existence on March 15, 1999.

If any changes in precinct boundaries, wards, commissioner districts, or House of Representative districts have been made since the dates specified, or are made, those changes shall not change the boundaries of the superior court districts; provided that if any of those boundaries have changed, a precinct is divided by a superior court judicial district boundary, and the precinct was not so divided at the time of enactment of this section in 1987, the boundaries of the superior court judicial district are changed to place the entirety of the precinct in the superior court judicial district where the majority of the residents of the precinct reside, according to the 1990 Federal Census if:

- (1) Such change does not result in placing a superior court judge in another superior court district;
- (2) Such change does not make a district that has an effective racial minority electorate not have an effective racial minority electorate; and
- (3) The change is approved by the county board of elections where the precinct is located, State Board of Elections and by the Secretary of State upon finding that the change:
 - a. Will improve election administration; and
 - b. Complies with subdivisions (1) and (2) of this subsection."

SECTION 5. This act is effective when it becomes law. Sections 3 and 4 of this act apply to appointments made on or after January 1, 2002, and primaries and elections held on or after January 1, 2002. The remainder of this act applies to primaries and elections held on or after January 1, 2002.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 7:29 p.m. on the 19th day of December, 2001.

H.B. 168 SESSION LAW 2001-508

AN ACT TO PERMIT A CORPORATION TO TRANSFER ASSETS TO A WHOLLY OWNED UNINCORPORATED ENTITY, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO AMEND THE INDEMNIFICATION PROVISIONS OF THE PATIENT'S BILL OF RIGHTS, TO SUPPORT TROOPS PARTICIPATING IN OPERATIONS ENDURING FREEDOM AND NOBLE EAGLE, AND TO PERMIT LEAVE FOR DISASTER SERVICE VOLUNTEERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 55-12-01 reads as rewritten:

"§ 55-12-01. *Sale of assets in regular course of business and mortgage of assets.*

(a) A mortgage of or other security interest in all or any part of the property of a corporation may be made by authority of the board of directors without approval of the shareholders, unless otherwise provided in the articles of incorporation or in bylaws adopted by the shareholders.

(b) Unless otherwise provided in the articles of incorporation or in bylaws adopted by the shareholders, a corporation may, on the terms and conditions and for the consideration determined by the board of directors, and without approval by the shareholders:

- (1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business; or
- (2) Transfer any or all of its property to a corporation or an unincorporated entity all the shares or ownership interests of which are owned by the corporation."

SECTION 2. Effective July 1, 2002, G.S. 90-21.52(c), as enacted by Section 4.7 of S.L. 2001-446, reads as rewritten:

"(c) This Article does not create any liability on the part of a physician or health care provider in addition to that otherwise imposed under existing law. No managed care entity held liable under this Article shall be entitled to contribution under Chapter 1B of the General Statutes. No managed care entity held liable under this Article shall have a right to indemnity against physicians, health care

providers, or entities wholly owned by physicians or health care providers or any combination thereof, except when:

- (1) The liability of the managed care entity is based on a-an administrative decision to approve or disapprove payment or reimbursement ~~for~~-for, or denial, reduction, or termination of coverage, for a health care service and the ~~physicians, physician organizations,~~ health care providers, or entities wholly owned by physicians or health care providers or any combination thereof, which have made the decision at issue, have agreed explicitly, in a written contract with the managed care entity to assume responsibility for these specific decisions; and addendum or agreement separate from the managed care organization's standard professional service agreement, to assume responsibility for making noncertification decisions under G.S. 58-50-61(13) with respect to certain insureds or enrollees; and
- (2) The managed care entity has not controlled or influenced or advocated for the decision regarding whether or when payment or reimbursement should be made or whether or when the insured or enrollee should receive a health care service.

The right to indemnity set forth herein shall not apply to professional medical or health care services provided by a physician or health care provider, and shall only apply where the agreement to assume responsibility for making noncertification decisions for the managed care entity is shown to have been undertaken voluntarily and the managed care organization has not adversely affected the terms and conditions of the relationship with the health care provider based upon the willingness to execute or refusal to execute an agreement under G.S. 58-50-61(13)."

SECTION 3. Definitions. – As used in this act:

- (1) "Military personnel" includes both of the following:
 - a. A member of the armed forces or the armed forces reserves of the United States on active duty in support of Operation Enduring Freedom or Operation Noble Eagle on or after September 11, 2001.
 - b. A member of the North Carolina Army National Guard or the North Carolina Air National Guard called to active duty in support of Operation Enduring Freedom or Operation Noble Eagle on or after September 11, 2001.

A copy of the soldier's military orders specifying deployment is conclusive evidence of the soldier's deployment.

- (2) "Operation Enduring Freedom" or "Operation Noble Eagle" include any other operations with differing names arising out of the same occurrence.

SECTION 4. Waiver of Deadlines, Fees, and Penalties. – Except as prohibited by the Constitution, the Governor may extend deadlines and waive penalties or fees as is necessary to alleviate hardship created for deployed military personnel serving in either Operation Enduring Freedom or Operation Noble Eagle. Such authority includes, but is not limited to, the authority to:

- (1) Extend for up to 90 days from the end of deployment the validity of a permanent or temporary drivers license issued under G.S. 20-7 to deployed military personnel;
- (2) Waive civil penalties and restoration fees under G.S. 20-309 for any deployed military personnel whose motor vehicle liability insurance lapsed during the period of deployment or within 90 days after the soldier returned to North Carolina if the soldier certifies to the Division of Motor Vehicles that the motor vehicle was not driven on the highway by anyone during the period in which the motor vehicle was uninsured and that the owner now has liability insurance on the motor vehicle;
- (3) Allow up to 90 days from the end of deployment for any deployed military personnel to renew a license as defined in G.S. 93B-1. During the period of deployment or active duty and until the expiration of the 90-day period provided for in this subsection, expired licenses that are within the scope of this act shall remain valid, as if they had not expired; and
- (4) Require that any renewal fee applicable to the renewal of a license under subdivision (3) of this section be prorated over the period covered by the license and reduced in proportion to the period of time that the licensee was deployed outside the State.

SECTION 5.(a) Property Taxes. – Notwithstanding G.S. 105-360 or G.S. 105-330.4, deployed military personnel are allowed 90 days after the end of the individual's deployment to pay property taxes at par, for any property taxes that became due or delinquent during the term of the deployment. For these individuals, the taxes for the relevant tax year do not become delinquent until after the end of the 90-day period provided in this section, and an individual who pays the property taxes before the end of the 90-day period is not liable for interest on the taxes for the relevant tax year. If the

individual does not pay the taxes before the end of the 90-day period, interest shall accrue on the taxes according to the schedule provided in G.S. 105-360 or G.S. 105-330.4, as applicable, as though the taxes were unpaid as of the date the taxes would have become delinquent if not for this section.

SECTION 5.(b) Notwithstanding G.S. 105-307, deployed military personnel required to list property for taxation while deployed are allowed 90 days after the end of the deployment to list the property. For these individuals, the listing period for the relevant tax year is extended until the end of the 90-day period provided in this act, and an individual who lists the property before the end of the 90-day period is not subject to civil or criminal penalties for failure to list the property required to be listed during deployment.

SECTION 6. Leave for Volunteers. – G.S. 166A-32 reads as rewritten:

"§ 166A-32. *Disaster service volunteer leave.*

An employee of a State agency who is a ~~certified~~ disaster service volunteer of the American Red Cross may be granted leave from his work with pay for a time not to exceed 15 work days in any 12-month period to participate in specialized disaster relief services for the American Red Cross. To be granted leave, the request for the services of that employee must come from the American Red Cross. The decision to grant the employee leave rests in the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this Article shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this Article at the regular rate of pay for those regular work hours during which the employee is absent from his work. Leave under this ~~act~~ Article shall be granted only for services related to a disaster occurring within the ~~State of North Carolina~~ United States.

The State of North Carolina shall not be liable for workers compensation claims arising from accident or injury while the State employee is on assignment as a ~~certified~~ disaster service volunteer for the American Red Cross. Duties performed while on disaster leave shall not be considered to be a work assignment by a state agency. The employee is granted leave based on the need for the ~~expertise in his or her certified area~~ employee's area of expertise. Job functions although similar or related are performed on behalf of and for the benefit of the American Red Cross.

SECTION 7.(a) Community College Refunds. – Upon request of the student, each community college shall:

- (1) Grant a full refund of curriculum tuition and fees to military reserve and national guard personnel called to

active duty or active personnel who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and

- (2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

SECTION 7.(b) Upon request of the student, each community college shall:

- (1) Grant a full refund of extension registration fees to military reserve and national guard personnel called to active duty or active personnel who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and
- (2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

SECTION 7.(c) This section applies to the 2001-2002 academic year only.

SECTION 8.(a) UNC System Refunds. – This section is intended to assist the constituent institutions of The University of North Carolina in situations in which students request refunds of tuition or fees because of involuntary or voluntary service in the military or because of circumstances related to national emergencies.

Upon request of the student, all constituent institutions may issue a full refund of tuition and required fees to students who are involuntarily called to active duty in the military after a semester or term begins.

All constituent institutions should have a process for determining on a case-by-case basis whether to grant a full refund of tuition and required fees to students who volunteer for military service or who request to withdraw because of circumstances related to a national emergency.

Constituent institutions should determine under what circumstances students who withdraw because of military service or circumstances related to national emergencies should be given the option of receiving incompletes in their courses instead of receiving tuition and fee refunds.

Constituent institutions should determine whether or not to give full or pro rata refunds of housing, parking, and other optional fees to students to whom they give tuition and required fee refunds.

Constituent institutions which offer courses on military bases should defer to their contracts with the military in making determinations concerning withdrawal from courses due to changes in assignments of military personnel.

It is recommended that every campus review its policy on tuition refunds and make modifications necessary to cover the circumstances described in this section.

SECTION 8.(b) Legislative Tuition Grants. – Students who are receiving the North Carolina Legislative Tuition Grant who lose their full-time student status due to a call to active military duty or circumstances related to national emergencies shall not be required to repay the Legislative Tuition Grant for that semester. The North Carolina State Education Assistance Authority shall implement this subsection.

SECTION 8.(c) This section applies to the 2001-2002 academic year only.

SECTION 9. Section 2 of this act becomes effective July 1, 2002. The remainder of this act is effective when it becomes law, and Section 1 of this act applies to transfers occurring on or after that date.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 7:30 p.m. on the 19th day of December, 2001.

S.B. 400

SESSION LAW 2001-509

AN ACT TO TREAT NEWSPAPER VENDING MACHINES AS STREET VENDORS FOR SALES TAX PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(28) reads as rewritten:

"(28) Sales of newspapers by newspaper street ~~vendors and vendors,~~ by newspaper carriers making door-to-door ~~deliveries—deliveries,~~ and by means of vending machines and sales of magazines by magazine vendors making door-to-door sales."

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 4:30 p.m. on the 4th day of January, 2002.

AN ACT TO AMEND THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAWS TO REQUIRE NOTICE OF ADDITIONAL CHARGES AGAINST DEALER'S ACCOUNTS; TO PROHIBIT A MANUFACTURER FROM VARYING THE PRICE OF NEW MOTOR VEHICLES BASED UPON VARIOUS FACTORS; TO ESTABLISH STANDARDS FOR MANUFACTURER REBATES AND INCENTIVES; TO PROHIBIT A MANUFACTURER OF RECREATION VEHICLES FROM OWNING A DEALERSHIP; TO PROHIBIT A MANUFACTURER FROM DISCRIMINATING AGAINST DEALERS; TO PROVIDE THAT PUNITIVE DAMAGES, ATTORNEYS' FEES, AND COSTS MAY BE AWARDED WHERE A VIOLATION OF THE LICENSING LAWS IS WILLFUL; TO PROVIDE THAT AN ASSOCIATION REPRESENTING DEALERS HAS STANDING; TO PROHIBIT THE ARBITRARY CHANGING OF A DEALER'S AREA OF RESPONSIBILITY; AND TO PROTECT DEALERS FROM REQUIREMENTS OR COERCION TO BUY SIGNS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-301.1. Notice of additional charges against dealer's account; informal appeals procedure.

(a) Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch to charge or assess one of its franchised motor vehicle dealers located in this State, or to charge or debit the account of the franchised motor vehicle dealer for merchandise, tools, or equipment, other than the published cost of new motor vehicles, and merchandise, tools, or equipment specifically ordered by the franchised motor vehicle dealer, unless the franchised motor vehicle dealer receives a detailed itemized description of the nature and amount of each charge in writing at least 10 days prior to the date the charge or account debit is to become effective or due. For purposes of this subsection, prior written notice is required for the following charges or debits: advertising or advertising materials; advertising or showroom displays; customer informational materials; computer or communications hardware or software; special tools; equipment; dealership operation guides; Internet programs; and any additional charges or surcharges made or proposed for merchandise, tools, or equipment previously charged to the dealer.

(b) Any franchised new motor vehicle dealer who seeks to challenge an actual or proposed charge, debit, payment, reimbursement, or credit to the franchised new motor vehicle dealer or to the franchised new motor vehicle dealer's account in an amount less than or equal to ten thousand dollars (\$10,000) and that is in violation of this Article or contrary to the terms of the franchise may, prior to filing a formal petition before the Commissioner as provided in G.S. 20-301(b) or a civil action in any court of competent jurisdiction under G.S. 20-308.1, request and obtain a mediated settlement conference as provided in this subsection. Unless objection to the timeliness of the franchised new motor vehicle dealer's request for mediation under this subsection is waived in writing by the affected manufacturer, factory branch, distributor, or distributor branch, a franchised new motor vehicle dealer's request to mediate must be sent to the Commissioner within 75 days after the franchised new motor vehicle dealer's receipt of written notice from a manufacturer, factory branch, distributor, or distributor branch of the charges, debits, payments, reimbursements, or credits challenged by the franchised new motor vehicle dealer. If the franchised new motor vehicle dealer has requested in writing that the manufacturer, factory branch, distributor, or distributor branch review the questioned charges, debits, payments, reimbursements, or credits, a franchised new motor vehicle dealer's request to mediate must be sent to the Commissioner within 30 days after the franchised new motor vehicle dealer's receipt of the final written determination on the issue from the manufacturer, factory branch, distributor, or distributor branch.

- (1) It is the policy and purpose of this subsection to implement a system of settlement events that are designed to reduce the cost of litigation under this Article to the general public and the parties, to focus the parties' attention on settlement rather than on trial preparation, and to provide a structured opportunity for settlement negotiations to take place.
- (2) The franchised new motor vehicle dealer shall send a letter to the Commissioner by certified or registered mail, return receipt requested, identifying the actual or proposed charges the franchised new motor vehicle dealer seeks to challenge and the reason or basis for the challenge. The charges, debits, payments, reimbursements, or credits challenged by the franchised new motor vehicle dealer need not be related, and multiple issues may be resolved in a single proceeding. The franchised new motor vehicle dealer shall send a copy of the letter to the affected manufacturer, factory branch, distributor, or distributor branch, addressed to

the current district, zone, or regional manager in charge of overseeing the dealer's operations, or the registered agent for acceptance of legal process in this State. Upon the mailing of a letter to the Commissioner and the manufacturer, factory branch, distributor, or distributor branch pursuant to this subsection, any chargeback to or any payment required of a franchised new motor vehicle dealer by a manufacturer, factory branch, distributor, or distributor branch shall be stayed during the pendency of the mediation. Upon the mailing of a letter to the Commissioner and manufacturer, factory branch, distributor, or distributor branch pursuant to this subsection, any statute of limitation or other time limitation for filing a petition before the Commissioner or civil action shall be tolled during the pendency of the mediation.

- (3) Upon receipt of the written request of the franchised new motor vehicle dealer, the Commissioner shall appoint a mediator and send notice of that appointment to the parties. A person is qualified to serve as mediator as provided by this subdivision if the person is certified to serve as a mediator under Rule 8 of the North Carolina Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions and does not represent motor vehicle dealers or manufacturers, factory branches, distributors, or distributor branches. A mediator acting pursuant to this subdivision shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice.
- (4) The parties shall by written agreement select a venue and schedule for the mediated settlement conference conducted under this subsection. If the parties are unable to agree on a venue and schedule, the mediator shall select a venue and schedule. Except by written agreement of all parties, a mediation proceeding and mediated settlement conference under this subsection shall be held in North Carolina.
- (5) In this subsection, 'mediation' means a nonbinding forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. A mediator may not impose his or her own judgment on the issues for that of the parties.
- (6) At least 10 days prior to the mediated settlement conference, the affected manufacturer, factory branch,

distributor, or distributor branch shall, by certified or registered mail, return receipt requested, send the mediator and the franchised new motor vehicle dealer a detailed response to the allegations raised in the franchised new motor vehicle dealer's written request. The mediation may be conducted by officers or employees of the parties themselves without the appearance of legal counsel. However, at least 10 days prior to the mediated settlement conference, either party may give notice to the other and to the mediator of its intention to appear at the mediation with legal counsel, in which event either party may appear at the mediation with legal counsel.

- (7) A mediation proceeding conducted pursuant to this subsection shall be complete not later than the sixtieth day after the date of the Commissioner's notice of the appointment of the mediator; this deadline may be extended by written agreement of the parties. The parties shall be solely responsible for the compensation and expenses of the mediator on a 50/50 basis. The Commissioner is not liable for the compensation paid or to be paid a mediator employed pursuant to this subsection.
- (8) A party may attend a mediated settlement conference telephonically in lieu of personal appearance. If a party or other person required to attend a mediated settlement conference fails to attend without good cause, the Commissioner may impose upon the party or person any appropriate monetary sanction, including the payment of fines, attorneys' fees, mediator fees, expenses, and loss of earnings incurred by persons attending the conference.
- (9) If the mediation fails to result in a resolution of the dispute, the franchised new motor vehicle dealer may proceed as provided in G.S. 20-301(b) and G.S. 20-308.1. Upon the filing of a petition pursuant to G.S. 20-301(b) or a civil action pursuant to G.S. 20-308.1, the affected manufacturer, factory branch, distributor, or distributor branch shall not require payment from the dealer, or debit or charge the dealer's account, unless and until a final judgment supporting the payment or charge has been rendered by the Commissioner or court. All communications made during a mediation proceeding, including, but not limited to, those communications made during a mediated settlement

conference are presumed to be made in compromise negotiation and shall be governed by Rule 408 of the North Carolina Rules of Evidence."

SECTION 2. G.S. 20-305(30) reads as rewritten:

"(30) To vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer, the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility, ~~or upon the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer.~~ manufacturer, whether or not the dealer is dualed with one or more other line makes of new motor vehicles, or the dealer's sales penetration. Except as provided in this subdivision, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them to vary the price charged to any of its franchised new motor vehicle dealers located in this State for new motor vehicles based on the dealer's sales volume, the dealer's level of sales or customer service satisfaction, the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings, or the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer.

The price of the vehicle, for purposes of this subdivision shall include the manufacturer's use of rebates, credits, or other consideration which has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the State.

Notwithstanding the foregoing, nothing in this subdivision shall be deemed to preclude a manufacturer from establishing sales contests or promotions which provide or award dealers or consumers rebates or ~~incentives.~~ incentives; provided, however, that the manufacturer complies with all of the following conditions:

a. With respect to manufacturer to consumer rebates and incentives, the manufacturer's criteria for determining eligibility shall:

1. Permit all of the manufacturer's franchised new motor vehicle dealers in this State to offer the rebate or incentive; and
 2. Be uniformly applied and administered to all eligible consumers.
- b. With respect to manufacturer to dealer rebates and incentives, the rebate or incentive program shall:
1. Be based solely on the dealer's actual or reasonably anticipated sales volume or on a uniform per vehicle sold or leased basis;
 2. Be uniformly available, applied, and administered to all of the manufacturer's franchised new motor vehicle dealers in this State; and
 3. Provide that any of the manufacturer's franchised new motor vehicle dealers in this State may, upon written request, obtain the method or formula used by the manufacturer in establishing the sales volumes for receiving the rebates or incentives and the specific calculations for determining the required sales volumes of the inquiring dealer and any of the manufacturer's other franchised new motor vehicle dealers located within 75 miles of the inquiring dealer.

Nothing contained in this subdivision shall prohibit a manufacturer from providing assistance or encouragement to a franchised dealer to remodel, renovate, recondition, or relocate the dealer's existing facilities, provided that this assistance, encouragement, or rewards are not determined on a per vehicle basis.

It is unlawful for any manufacturer to charge or include the cost of any program or policy prohibited under this subdivision in the price of new motor vehicles that the manufacturer sells to its franchised dealers or purchasers located in this State.

In the event that at the time of the ratification of this act as of October 1, 1999, a manufacturer is currently was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or has had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner which that would violate this subdivision after October

~~1, 1999, subdivision, it shall be lawful for that program or policy, including amendments to that program or policy that are consistent with the purpose and provisions of the existing program or policy, or a program or policy similar thereto implemented after the effective date of this act, October 1, 1999, to continue in effect as to the manufacturer's franchised dealers located in this State until December 31, 2002.~~ June 30, 2006.

In the event that as of June 30, 2001, a manufacturer was operating a program that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, or had in effect a documented policy that had been conveyed to its franchised dealers in this State and that varied the price charged to its franchised dealers in this State in a manner that would violate this subdivision, and the program or policy was implemented in this State subsequent to October 1, 1999, and prior to June 30, 2001, and provided that the program or policy is in compliance with this subdivision as it existed as of June 30, 2001, it shall be lawful for that program or policy, including amendments to that program or policy that comply with this subdivision as it existed as of June 30, 2001, to continue in effect as to the manufacturer's franchised dealers located in this State until June 30, 2006.

Any manufacturer shall be required to pay or otherwise compensate any franchise dealer who has earned the right to receive payment or other compensation under a program in accordance with the manufacturer's program or policy.

The provisions of this subdivision shall not be applicable to multiple or repeated sales of new motor vehicles made by a new motor vehicle dealer to a single purchaser under a bona fide fleet sales policy of a manufacturer, factory branch, distributor, or distributor branch."

SECTION 3. G.S. 20-305.2 reads as rewritten:

"§ 20-305.2. *Unfair methods of competition.*

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

...

(7) The ownership, operation, or control of a dealership that sells primarily recreation vehicles as defined in G.S. 20-4.01(32a) by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) This section shall not apply to manufacturers or distributors of ~~trailers, motor homes, or semitrailers.~~ trailers or semitrailers that are not recreation vehicles as defined in G.S. 20-4.01(32a)."

SECTION 4. Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-305.6. Unlawful for manufacturers to unfairly discriminate among dealers.

Notwithstanding the terms of any contract, franchise, novation, or agreement, it shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch to do any of the following:

- (1) Discriminate against any similarly situated franchised new motor vehicle dealers in this State.
- (2) Unfairly discriminate against franchised new motor vehicle dealers located in this State who have dual facilities at which the vehicles distributed by the manufacturer, factory branch, distributor, or distributor branch are sold or serviced with one or more other line makes of vehicles.
- (3) Unfairly discriminate against one of its franchised new motor vehicle dealers in this State with respect to any aspect of the franchise agreement.
- (4) Use any financial services company or leasing company owned or controlled by the manufacturer or distributor to accomplish what would otherwise be illegal conduct on the part of the manufacturer or distributor pursuant to this section. This section shall not limit the right of the financial services or leasing company to engage in business practices in accordance with the trade."

SECTION 5. G.S. 20-308.1 reads as rewritten:

"§ 20-308.1. Civil actions for violations.

(a) Notwithstanding the terms, provisions or conditions of any agreement or franchise or other terms or provisions of any novation, waiver or other written instrument, any person who is or may be injured by a violation of a provision of this Article, or any party to a franchise who is so injured in his business or property by a violation of a provision of this Article relating to that franchise, or an arrangement which, if consummated, would be in violation of this Article may, notwithstanding the initiation or pendency of, or failure

to initiate an administrative proceeding before the Commissioner concerning the same parties or subject matter, bring an action for damages and equitable relief, including injunctive relief, in any court of competent jurisdiction with regard to any matter not within the jurisdiction of the Commissioner or that seeks relief wholly outside the authority or jurisdiction of the Commissioner to award.

(b) Where the violation of a provision of this Article can be shown to be willful, ~~malicious~~ malicious, or wanton, or if continued multiple violations of a provision or provisions of this Article occur, the court may award punitive damages, attorneys' fees and costs in addition to any other damages under this Article.

(c) A new motor vehicle dealer, if he has not suffered any loss of money or property, may obtain final equitable relief if it can be shown that the violation of a provision of this Article by a manufacturer or distributor may have the effect of causing ~~such a~~ loss of money or property.

~~(d) Where there are continued violations of a provision or provisions of this Article and it can be shown that the violations are willful or wanton, the court, in addition to any other remedy or awards of damages under this Article may assess monetary penalties. Any association that is comprised of a minimum of 400 new motor vehicle dealers, or a minimum of 10 motorcycle dealers, substantially all of whom are new motor vehicle dealers located within North Carolina, and which represents the collective interests of its members, shall have standing to file a petition before the Commissioner or a cause of action in any court of competent jurisdiction for itself, or on behalf of any or all of its members, seeking declaratory and injunctive relief. Prior to bringing an action, the association and manufacturer, factory branch, distributor, or distributor branch shall initiate mediation as set forth in G.S. 20-301.1(b). An action brought pursuant to this subsection may seek a determination whether one or more manufacturers, factory branches, distributors, or distributor branches doing business in this State have violated any of the provisions of this Article, or for the determination of any rights created or defined by this Article, so long as the association alleges an injury to the collective interest of its members cognizable under this section. A cognizable injury to the collective interest of the members of the association shall be deemed to occur if a manufacturer, factory branch, distributor, or distributor branch doing business in this State has engaged in any conduct or taken any action which actually harms or affects all of the franchised new motor vehicle dealers holding franchises with that manufacturer, factory branch, distributor, or distributor branch in this State. With respect to any administrative or civil action filed by an association pursuant to this subsection, the relief granted shall be limited to declaratory and injunctive relief and~~

in no event shall the Commissioner or court enter an award of monetary damages."

SECTION 6. G.S. 20-305 reads as rewritten:

"§ 20-305. *Coercing dealer to accept commodities not ordered; threatening to cancel franchise; preventing transfer of ownership; granting additional franchises; terminating franchises without good cause; preventing family succession.*

It shall be unlawful for any manufacturer, factory branch, distributor, or distributor branch, or any field representative, officer, agent, or any representative whatsoever of any of them:

- ...
- (38) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to assign or change a franchised new motor vehicle dealer's area of responsibility under the franchise arbitrarily or without due regard to the present or projected future pattern of motor vehicle sales and registrations within the dealer's market. A franchised new motor vehicle dealer who believes that a manufacturer, factory branch, distributor, or distributor branch with whom the dealer has entered into a franchise has violated this subdivision may file a petition before the Commissioner as provided in G.S. 20-301(b) contesting the franchised new motor vehicle dealer's assigned area of responsibility. At the hearing before the Commissioner, the affected manufacturer, factory branch, distributor, or distributor branch shall have the burden of proving that all portions of its current or proposed area of responsibility for the petitioning franchised new motor vehicle dealer are reasonable in light of the present or projected future pattern of motor vehicle sales and registrations within the franchised new motor vehicle dealer's market. If a protest is or has been filed under G.S. 20-305(5) and the franchised new motor vehicle dealer's area of responsibility is included in the relevant market area under the protest, any protest filed under this subdivision shall be consolidated with that protest for hearing and joint disposition of all of the protests.
- (39) Notwithstanding the terms, provisions, or conditions of any agreement, franchise, novation, waiver, or other written instrument, to require, coerce, or attempt to coerce any of its franchised motor vehicle dealers in this State to purchase or lease one or more signs displaying the name of the manufacturer or franchised motor

vehicle dealer upon unreasonable and onerous terms or conditions or if installation of the additional signage would violate local signage or zoning laws to which the franchised motor vehicle dealer is subject. Any term, provision, or condition of any agreement, franchise, waiver, novation, or any other written instrument which is in violation of this subdivision shall be deemed null and void and without force and effect."

SECTION 7. If any clause or provision contained in this act shall be determined to be unconstitutional or unenforceable, that unconstitutionality or unenforceability shall not affect the validity of all remaining clauses or provisions not specifically determined to be unconstitutional or unenforceable.

SECTION 8. This act is effective when it becomes law and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 4:31 p.m. on the 4th day of January, 2002.

S.B. 772**SESSION LAW 2001-511**

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF DENTAL EXAMINERS TO ESTABLISH REGULATORY STANDARDS FOR THE ADMINISTRATION AND MONITORING OF ENTERAL SEDATION FOR OUTPATIENTS IN THE DENTAL SETTING IN ADDITION TO EXISTING STANDARDS FOR GENERAL ANESTHESIA AND PARENTERAL SEDATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-30.1 reads as rewritten:

"§ 90-30.1. *Standards for general anesthesia and enteral and parenteral sedation; fees authorized.*

The North Carolina Board of Dental Examiners may establish by regulation reasonable education, training, and equipment standards for safe administration and monitoring of general anesthesia and enteral and parenteral sedation for outpatients in the dental setting. Regulatory standards may include a permit process for general anesthesia and enteral and parenteral sedation by dentists. The requirements of any permit process adopted under the authority of this section ~~must~~shall include provisions that will allow a dentist to qualify for continued use of ~~general anesthesia, enteral sedation,~~ general anesthesia, enteral sedation, if he or she is licensed to practice dentistry in North Carolina and shows the Board that he or she has been utilizing ~~general anesthesia, enteral~~

sedation in a competent manner for the five years preceding ~~July 1, 1988,~~ January 1, 2002, and his or her office facilities pass an on-site examination and inspection by qualified representatives of the Board. For purposes of this section, oral premedication administered for minimal sedation (anxiolysis) shall not be included in the definition of enteral sedation. In order to provide the means of regulating general anesthesia and enteral and parenteral sedation, including examination and inspection of dental offices involved, the Board may charge and collect fees established by its rules for each permit application, each annual permit renewal, and each office inspection in an amount not to exceed the maximum fee amounts set forth in G.S. 90-39."

SECTION 2. This act becomes effective January 1, 2002.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 4:32 p.m. on the 4th day of January, 2002.

S.B. 1014 SESSION LAW 2001-512

AN ACT TO STRENGTHEN THE LITTERING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-399 reads as rewritten:

"§ 14-399. *Littering.*

(a) No person, including ~~but not limited to,~~ any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by ~~him~~ the person within this State or in the waters of this State ~~including, but not limited to,~~ including any public highway, public park, lake, river, ocean, beach, campground, ~~forest land, forestland,~~ recreational area, trailer park, highway, road, street or alley except:

- (1) When ~~such~~ the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and ~~such~~ the person is authorized to use ~~such~~ the property for ~~such~~ this purpose; or
- (2) Into a litter receptacle in ~~such~~ a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of ~~such~~ the private or public property or waters.

(a1) No person, including any firm, organization, private corporation, or governing body, agents, or employees of any municipal corporation shall scatter, spill, or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

- (1) When the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and the person is authorized to use the property for this purpose; or
- (2) Into a litter receptacle in a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the private or public property or waters.

(a2) Subsection (a1) of this section does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed ~~such the~~ offense. This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply. ~~nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.~~

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent ~~offense violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes~~ within three years after the date of a prior ~~offense violation~~ is a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In

addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a prior violation is an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

(d) Any person who violates subsection (a) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court shall require the violator to perform community service of not less than 24 hours nor more than 100 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other community service commensurate with the offense committed.

(d1) Any person who violates subsection (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than three hundred dollars (\$300.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e2) ~~In addition,~~ If any person violates subsection (a) or (a1) of this section in an amount exceeding 15 pounds or in any quantity for commercial purposes, or discards litter that is a hazardous waste as defined in G.S. 130A-290, the court shall order the violator to:

- (1) Remove, or render harmless, the litter that he discarded in violation of this section;
- (2) Repair or restore property damaged by, or pay damages for any damage arising out of, his discarding litter in violation of this section; or
- (3) Perform community public service relating to the removal of litter discarded in violation of this section or to the restoration of an area polluted by litter discarded in violation of this section.

(f) A court may enjoin a violation of this section.

(f1) If a violation of subsection (a) of this section involves the operation of a motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of one point on the violator's drivers license pursuant to the point system established by G.S. 20-16. There shall be no insurance premium surcharge or assessment of points under the classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

(g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than 500 pounds of litter in violation of subsection (a) of this section is declared contraband and is subject to seizure and summary forfeiture to the State.

(h) If a person sustains damages arising out of a violation of subsection (a) of this section that is punishable as a felony, a court, in a civil action for ~~such the~~ damages, shall order the person to pay the injured party threefold the actual damages or two hundred dollars (\$200.00), whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees.

(i) For the purpose of the section, unless the context requires otherwise:

- (1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.
- (2) Repealed by Session Laws 1999-454, s. 1.
- (2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of ~~such~~ the entity.
- (3) "~~Law enforcement officer" means any officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission. law enforcement officer sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer, ~~officer~~; or wildlife protectors as defined in G.S. 113-128(9);~~"
- (4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. "Litter" While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other ~~such~~ similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.
- (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49);~~ G.S. 20-4.01(49). and

(6) "Watercraft" means any boat or vessel used for transportation across the water.

(j) It shall be the duty of all law enforcement officers to enforce the provisions of this section.

(k) This section does not limit the authority of any State or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management."

SECTION 2. G.S. 20-116(g) reads as rewritten:

"(g) (1) No vehicle shall be driven or moved on any highway unless ~~such~~the vehicle is ~~so~~~~constructed~~ ~~or~~~~and~~ loaded as to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, except that ~~and~~ the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled ~~sprinkled, dumped, or spread~~ on a roadway in cleaning or maintaining ~~such~~the roadway. For purposes of this subsection, load does not include water accumulated from precipitation.

(2) ~~Trucks, trailers or other vehicles when~~ A truck, trailer, or other vehicle licensed for more than 7,500 pounds gross vehicle weight that is loaded with rock, gravel, stone, stone, or any other similar substances which substance, other than sand, that could fall, blow, leak, sift ~~sift, or drop shall not be driven or moved on any highway unless~~ unless:

a. ~~the~~ The height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading ~~point, or if not so loaded, unless~~ point; and

b. ~~the~~ The load ~~shall be~~ is securely covered by tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~ covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.

(3) A truck, trailer, or other vehicle:

a. Licensed for any gross vehicle weight and loaded with sand; or

b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;

shall not be driven or moved on any highway unless:

- a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;
 - b. The load is securely covered by tarpaulin or some other suitable covering; or
 - c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- (4) ~~Provided this~~ This section shall not be applicable to or in any manner restrict the transportation of seed cotton, ~~of poultry or livestock~~ poultry or livestock, or silage or other feed grain used in the feeding of poultry or livestock."

SECTION 3. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-28.12. Litter removal coordinated with mowing of highway rights-of-way.

The Department of Transportation shall, to the extent practicable, schedule the removal of debris, trash, and litter from highways and highway rights-of-way prior to the mowing of highway rights-of-way. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right-of-way that the contracting party shall, to the extent practicable, coordinate with the scheduled removal of debris, trash, and litter from the highway and highway right-of-way prior to the mowing of the highway right-of-way."

SECTION 4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-32.3. Litter enforcement signs.

The Department of Transportation shall place signs on the Interstate Highway System notifying motorists of the penalties for littering. The signs shall include the amount of the maximum penalty for littering. The Department of Transportation shall determine the locations of and distance between the signs."

SECTION 5. G.S. 153A-136 reads as rewritten:
"§ 153A-136. Regulation of solid wastes.

(a) A county may by ordinance regulate the storage, collection, transportation, use, disposal, and other disposition of solid wastes. Such an ordinance may:

- (1) Regulate the activities of persons, firms, and corporations, both public and private.
- (2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially

collecting or disposing of solid wastes without a license. A fee may be charged for a license.

- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.
- (4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.
- (5) Require the source separation of materials prior to collection of solid waste for disposal.
- (6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.
- (6a) Regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by county employees specially appointed as environmental enforcement officers.
- (7) Include any other proper matter.

(b) Any ordinance adopted pursuant to this section shall be consistent with and supplementary to any rules adopted by the Commission for Health Services or the Department of Environment and Natural Resources.

(c) The board of commissioners of a county shall consider alternative sites and socioeconomic and demographic data and shall hold a public hearing prior to selecting or approving a site for a new sanitary landfill that receives residential solid waste that is located within one mile of an existing sanitary landfill within the State. The distance between an existing and a proposed site shall be determined by measurement between the closest points on the outer boundary of each site. The definitions set out in G.S. 130A-290 apply to this subsection. As used in this subsection:

- (1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).
- (2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.
- (3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.
- (4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

(d) As used in this section, "solid waste" means nonhazardous solid waste, that is, solid waste as defined in G.S. 130A-290 but not including hazardous waste."

SECTION 6. G.S. 160A-185 reads as rewritten:

"§ 160A-185. *Emission of pollutants or contaminants.*

A city may by ordinance regulate, restrict, or prohibit the emission or disposal of substances or effluents that tend to pollute or contaminate land, water, or air, rendering or tending to render it injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property. A city may by ordinance regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be enforced by city employees specially appointed as environmental enforcement officers. Any such ordinance shall be consistent with and supplementary to State and federal laws and regulations."

SECTION 7. Article 3 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-22.3. *State Board of Elections littering notification.*

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18."

SECTION 8. Article 4 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-33.3. County board of elections littering notification.

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, the county board of elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

SECTION 9. The text of G.S. 147-12 is designated as subsection (a) of that section, and G.S. 147-12 is further amended by adding a new subsection to read:

"(b) The Department of Transportation, the Department of Correction, the Department of Crime Control and Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 and August 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor by February 1 and August 1 of each year detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated semiannual report on or before March 1 and September 1 of each year

to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 10. The first reports required to be delivered by the Department of Transportation, the Department of Correction, the Department of Crime Control and Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 10 of this act, shall be due February 1, 2002. The first report required to be delivered by the Governor to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted by Section 10 of this act, shall be due March 1, 2002.

SECTION 11. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Environmental Review Commission by December 15 of the years 2003 through 2007, on the recycling efforts of the public schools in the State. These reports shall include information provided by local school administrative units on the number of public schools that have recycling programs and the types of recyclable materials that are collected. If the Joint Legislative Education Oversight Committee or the Environmental Review Commission determines that sufficient progress in establishing recycling programs in the public schools of the State has not been made by January 1, 2008, the Committee or Commission shall recommend legislation to the 2008 Regular Session of the 2007 General Assembly to continue the reporting requirement established by this section.

SECTION 12. G.S. 115C-47 is amended by adding a new subdivision to read:

"(40) To Encourage Recycling in Public Schools. – Local boards of education shall encourage recycling in public schools and may develop and implement recycling programs at public schools."

SECTION 13. G.S. 130A-309.14 is amended by adding a new subsection to read:

"(k) The Department of Transportation shall provide and maintain recycling containers at each rest area located in this State on a highway in the Interstate Highway System or in the State highway

system for the collection of each of the following recyclable materials for which recycling is feasible:

- (1) Aluminum.
- (2) Newspaper.
- (3) Recyclable glass.
- (4) Plastic bottles.

For each rest area that has recycling containers, the Department of Transportation shall install signs, or modify existing signs, that are proximately located to the rest area to notify motorists that the rest area has recycling containers."

SECTION 14. G.S. 130A-309.14(a)(1) reads as rewritten:

"(1) Establish a program in cooperation with the Department and the Department of ~~Administration~~, ~~Administration~~ for the collection of all recyclable ~~aluminum and wastepaper~~ materials generated in State offices throughout the State, including, at a minimum, high-grade office paper and corrugated paper. State. The program shall provide that recycling containers are readily accessible on each floor where State employees are located in a building occupied by a State agency. Recycling containers required pursuant to this subdivision shall be clearly labeled to identify the types of recyclable materials to be deposited in each container and, to the extent practicable, recycling containers for glass, plastic, and aluminum shall be located near trash receptacles. The program shall provide for the collection of all of the following recyclable materials.

- a. Aluminum.
- b. Newspaper.
- c. Sorted office paper.
- d. Recyclable glass.
- e. Plastic bottles.

As used in this subdivision, the term 'sorted office paper' means paper used in offices that is of a high quality for purposes of recycling and includes copier paper, computer paper, letterhead, ledger, white envelopes, and bond paper."

SECTION 15. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to the agency.

SECTION 16. Section 1 of this act becomes effective March 1, 2002, and applies to offenses committed on or after that date. Section 2 of this act becomes effective June 1, 2002, and applies to offenses committed on or after that date. Sections 5, 6, 7,

2001]

S.L. 2001-513

8, 9, 10, 11, 12, 15, and 16 of this act are effective when it becomes law. Sections 3, 4, 13, and 14 of this act become effective January 1, 2002.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 4:34 p.m. on the 4th day of January, 2002.

H.B. 231

SESSION LAW 2001-513

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE APPROPRIATIONS ACT OF 2001 AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

TECHNICAL CORRECTIONS TO THE HEALTH AND HUMAN SERVICES PROVISIONS.

SECTION 1.(a) Section 5.1(t) of S.L. 2001-424 reads as rewritten:

"SECTION 5.1.(t) The sum of one million five hundred thousand dollars (\$1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal ~~year and year~~, the sum of seven hundred thousand dollars (\$700,000) appropriated in this section in the Substance Abuse Prevention and Treatment Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal ~~year~~year, and the sum of seven hundred fifty thousand dollars (\$750,000) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2001-2002 fiscal year shall be used to continue a Comprehensive Treatment Services Program in accordance with Section 21.60 of this act."

SECTION 1.(b) G.S. 143-26, as amended by Section 6.7 of S.L. 2001-424, reads as rewritten:

"§ 143-26. Director to have discretion as to manner of paying annual appropriations.

(a) Except as provided in subsection (b) of this section or as otherwise provided by State or federal law, it shall be discretionary with the Director of the Budget whether any annual appropriation shall be paid in monthly, quarterly or semiannual installments or in a single payment.

(b) Except as otherwise provided by State or federal law, an annual appropriation of one hundred thousand dollars (\$100,000) or less to or for the use of a nonprofit corporation shall be paid in a single annual payment. An annual appropriation of more than one hundred thousand dollars (\$100,000) to or for the use of a nonprofit corporation shall be paid in quarterly or monthly installments, in the discretion of the Director of the Budget."

SECTION 1.(c) The "Requested by" text of Section 5.1 of S.L. 2001-424 is rewritten to read:

"Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Easterling, Oldham, Redwine, Thompson".

SECTION 1.(d) The "Requested by" text of Section 21.58 of S.L. 2001-424 is rewritten to read:

"Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Esposito, Insko, Alexander, Easterling, Oldham, Redwine, Thompson".

SECTION 1.(e) The MENTAL HEALTH SERVICES BLOCK GRANT section of Section 5.1 of S.L. 2001-424 is amended by deleting "Establish Child Residential Treatment Services Program" and substituting "Comprehensive Treatment Services Program".

SECTION 1.(f) The SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT section of Section 5.1 of S.L. 2001-424 is amended by deleting "Child Residential Treatment Services Program" and substituting "Comprehensive Treatment Services Program".

SECTION 1.(g) The "Requested by" text of Section 21.76B of S.L. 2001-424 is rewritten to read:

"Requested by: Senators Martin of Guilford, Dannelly, Metcalf, Purcell, Wellons, Plyler, Odom, Lee; Representatives Earle, Nye, Baddour, Easterling, Oldham, Redwine, Thompson".

SECTION 1.(h) S.L. 2001-424 is amended by adding the following new section to read:

"Requested by: Senators Martin of Guilford, Plyler, Odom, Lee; Representatives Earle, Nye, Easterling, Oldham, Redwine, Thompson
TECHNICAL CORRECTION TO POSITION NUMBERS FOR CERTAIN POSITION REDUCTIONS IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

SECTION 6.21. The following positions and position numbers for position reductions in the Department of Health and Human Services, as provided in the Joint Conference Committee Report on the Continuation, Expansion, and Capital Budgets, September 19, 2001, are amended as follows: In the Division of Central Administration, delete "4410-1420-1103-122" (Personnel

Technician III) and substitute "4401-1420-1103-122"; and delete "Artist Illustrator II 4410-0106-0200-517" and substitute "Artist Illustrator III 4410-0106-0200-515"; and delete "4410-0106-0300-521" the second time it appears; and delete "Printing Equipment Operator II 4410-0106-0155-032" and substitute "Printing Equipment Operator III 4410-0106-0155-029"; and in the Division of Child Development, delete "4420-1123-0001-161" (Deputy Director) and substitute "4420-1110-0001-161"; and delete "4420-1117-0001-108" (Policy/Planning Con.) and substitute "4420-1172-0001-108"; and delete "4420-1141-0001-153" (SS Program Coordinator) and substitute "4420-1146-0001-153"; and delete "4420-1141-0001-1322" (SS Program Coordinator) and substitute "4420-1146-0001-322"; and delete "4420-1141-0001-1598" (CDC Program Specialist) and substitute "4420-1154-0001-598"; and in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, delete "4460-0000-2000-814" (Primary Care Systems Associate) and substitute "4460-8010-2000-814"; and delete "4460-6020-2000-614" (Social Worker II) and substitute "4460-6020-0000-614"; and in the Division of Medical Assistance, delete "445-0000-0009-177" (Processing Assistant V) and substitute "4445-0000-0009-177"; and delete "4445-0000-006-420" (SS Program Administrator) and substitute "4445-0000-0006-420"; and delete "Comp. Consult. II 4445-0000-009-145" and substitute "App. Analyst Prog. I 4445-0000-0009-145"; and in the Division of Early Intervention and Education, delete "1132-5255-0032-449" (Audiologist) and substitute "4432-5255-0032-449"; and in the Division of Public Health, insert "4431-0000-0055-221" (Deputy Director)."

SECTION 1.(i) Section 21.56 of S.L. 2001-424 reads as rewritten:

"SECTION 21.56. To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with two or more area programs, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost ~~finding in accordance with G.S. 122C 143.2(a) and G.S. 122C 147.2.~~ finding. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding."

SECTION 1.(j) The heading to Section 21.24 of S.L. 2001-424 is rewritten to read:

"MEDICAID COST-CONTAINMENT AND GROWTH REDUCTION".

SECTION 1.(k) The heading to Section 21.53 of S.L. 2001-424 is rewritten to read:

"CHILD SUPPORT PROGRAM/ENHANCED STANDARDS".

SECTION 1.(l) The heading to Section 21.59 of S.L. 2001-424 is rewritten to read:

"NONMEDICAID REIMBURSEMENT".

SECTION 1.(m) Section 21.29(a) of S.L. 2001-424 is amended by deleting "June 30, 2001," and substituting "~~June 30, 2001,~~ June 30, 2002,".

REVISIONS TO SPONSORS NAMES.

SECTION 2. The "Requested by" texts for Sections 30.5, 31.5, 31.6, 31.7, 31.10, and 31.12 of S.L. 2001-424 are rewritten to read:

"Requested by: Senators Dalton, Lucas, Garrou, Plyler, Odom, Lee; Representatives Boyd-McIntyre, Rogers, Yongue, Easterling, Oldham, Redwine, Thompson".

SECTION 3. The "Requested by" text of Section 31.8 of S.L. 2001-424 is rewritten to read:

"Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Thompson".

OTHER TECHNICAL CORRECTIONS.

SECTION 4. Section 14D.3 of S.L. 2001-424 reads as rewritten:

"SECTION 14D.3. The Department of Revenue may ~~used~~ use up to two hundred thirty thousand one hundred sixty dollars (\$230,160) in lapsed salary funds for the 2001-2002 fiscal year to hire temporary personnel to implement the change in the State sales tax rate effective October 16, 2001, as enacted by this act. In addition, the Department of Revenue may draw up to two hundred thirty thousand dollars (\$230,000) from collections under Article 5 of Chapter 105 of the General Statutes for the 2001-2002 fiscal year to pay for printing, mailing, and other one-time costs necessary to implement the changes in the State sales tax effective October 16, 2001, as enacted by this act."

SECTION 5. Section 24.11 of S.L. 2001-424 reads as rewritten:

"SECTION 24.11. Of the funds appropriated in this act for the 2001-2003 biennium, the Department of Juvenile Justice and Delinquency Prevention may use up to three hundred fifty-one thousand two hundred thirty-three dollars (\$351,233) each year of the

biennium in available funds to increase the number of juveniles who can be served under the contract with Eckerd Wilderness Camp."

SECTION 6. Section 31.12(d) and Section 30.15A of S.L. 2001-424 are repealed.

SECTION 7. Section 30.5(i) of S.L. 2001-424, is amended by adding a quotation mark immediately before "d5".

SECTION 8. Section 6.11(d) of S.L. 2001-424 reads as rewritten:

"SECTION 6.11.(d) The Office of State Budget and Management shall report on the strategic plan developed pursuant to this section to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Information Technology, the Joint Legislative Commission on Governmental Operations, and the Fiscal Research Division by ~~October 1, 2001~~January 1, 2002."

SECTION 9. S.L. 2001-424 is amended by adding the following new section to read:

"Requested by: Senators Jordan, Ballance, Rand, Clodfelter, Plyler, Odom, Lee; Representatives Culpepper, Haire, Justus, Luebke, Easterling, Oldham, Redwine, Thompson

POSITIONS FOR TRAFFIC LAW ENFORCEMENT STATISTICS

SECTION 23.12. The Department of Justice may use funds appropriated to the Department for the 2001-2003 biennium to create up to three full-time permanent positions to implement the collection of traffic law enforcement information by certain local law enforcement agencies, as required under G.S. 114-10(2a) as amended by Section 23.7(a) of this act."

DOBBS CENTER FUNDS

SECTION 10. Notwithstanding Chapter 146 of the General Statutes and any other provision of law, the net proceeds derived from the sale of right-of-ways and associated easements from the Department of Juvenile Justice and Delinquency Prevention to the Department of Transportation in the amount of one hundred seventy-two thousand fifty dollars (\$172,050) shall be deposited with the State Treasurer in a capital improvement and repair and renovation account to the credit of the Department of Juvenile Justice and Delinquency Prevention. The Department shall use the funds to

construct a maintenance and storage facility at Dobbs Youth Development Center.

CRIMINAL JUSTICE PARTNERSHIP

SECTION 11. Subsection (b) of Section 25.16 of S.L. 2001-424 reads as rewritten:

"SECTION 25.16.(b) Notwithstanding the provisions of ~~G.S. 143B-273.5~~, the sum of one million dollars (\$1,000,000) of the unexpended cash balance of the State County Criminal Justice Partnership Account shall revert to the General Fund on June 30, 2002, and the sum of one million dollars (\$1,000,000) of the unexpended cash balance of the State County Criminal Justice Partnership Account shall revert to the General Fund on June 30, 2003. G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years."

CLARIFY COMMUNITY COLLEGE GENERIC FEE

SECTION 12.(a) The State Board of Community Colleges may adopt temporary rules clarifying the provisions of 23NCAC2(D).0201(c)(1) and (c)(2) pertaining to the definition of generic fees and specific fees charged to students attending community colleges.

SECTION 12.(b) This section becomes effective when this act becomes law and expires six months after that date.

ECONOMIC DEVELOPMENT BOARD MEMBERSHIP

SECTION 13. G.S. 143B-434(b) reads as rewritten:

"(b) Membership. – The Economic Development Board shall consist of ~~36~~37 members. The Secretary of Commerce shall serve ex officio as a member and as the secretary of the Economic Development Board. The Secretary of Revenue shall serve as an ex officio, nonvoting member. Four members of the House of Representatives appointed by the Speaker of the House of Representatives, four members of the Senate appointed by the President Pro Tempore of the Senate, the President of The University of North Carolina, or designee, the President of the North Carolina Community College System, or designee, the Secretary of State, and the President of the Senate (or the designee of the President of the Senate), shall serve as members of the Board. The Governor shall

appoint the remaining 23 members of the Board, provided that effective with the terms beginning July 1, 1997, one of those appointees shall be a representative of a nonprofit organization involved in economic development and two of those appointees shall be county economic development representatives. The Governor shall designate a chair and a vice-chair from among the members of the Board. Appointments to the Board made by the Governor for terms beginning July 1, 1997, and appointments to the Board made by the Speaker of the House of Representatives and the President Pro Tempore of the Senate for terms beginning July 9, 1993, should reflect the ethnic and gender diversity of the State as nearly as practical.

The initial appointments to the Board shall be for terms beginning on July 9, 1993. Of the initial appointments made by the Governor, the terms shall expire July 1, 1997. Of the initial appointments made by the Speaker of the House of Representatives and by the President Pro Tempore of the Senate two appointments of each shall be designated to expire on July 1, 1995; the remaining terms shall expire July 1, 1997. Thereafter, all appointments shall be for a term of four years.

The appointing officer shall make a replacement appointment to serve for the unexpired term in the case of a vacancy.

The members of the Economic Development Board shall receive per diem and necessary travel and subsistence expenses payable to members of State Boards and agencies generally pursuant to G.S. 138-5 and ~~{G.S.}~~G.S. 138-6, as the case may be. The members of the Economic Development Board who are members of the General Assembly shall not receive per diem but shall receive necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1."

DELINQUENT TAX ENFORCEMENT

SECTION 14. As enacted by S.L. 2001-464, G.S. 161-31(b) reads as rewritten:

"(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Cabarrus, Camden, Carteret, Cherokee, Chowan, Cleveland, Currituck, Davidson, Forsyth, Gaston, Graham, Granville, Harnett, Haywood, Iredell, Jackson, Lee, Madison, Martin, Montgomery, Pasquotank, Perquimans, Person, Pitt, Rockingham, Rowan, Stanly, Swain, Vance, Warren, Washington, and Yadkin Counties."

DISPOSITION OF TAX PROCEEDS

SECTION 15. G.S. 105-187.9, as amended by S.L. 2001-424, reads as rewritten:

"§ 105-187.9. *Disposition of tax proceeds.*

(a) Distribution. – Taxes collected under this Article at the rate of eight percent (8%) shall be credited to the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund.

(b) Transfer. – In each fiscal year the State Treasurer shall transfer the amounts provided below from the taxes deposited in the Trust Fund to the General Fund. The transfer of funds authorized by this section may be made by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by transferring the full amount annually on July 1 of each fiscal year, subject to the availability of revenue.

(1) The sum of one hundred seventy million dollars (\$170,000,000).

(2) In addition to the amount transferred under subdivision (1) of this subsection, in the 2001-2002 fiscal year, the sum of one million seven hundred thousand dollars (\$1,700,000)-(\$1,700,000) shall be transferred in the 2001-2002 fiscal year. The amount distributed under this subdivision shall increase in in the 2002-2003 fiscal year, year to the sum of two million four hundred thousand dollars (\$2,400,000). In each fiscal year thereafter, the sum transferred under this subdivision shall be the amount distributed in the previous fiscal year plus or minus a percentage of this sum equal to the percentage by which tax collections under this Article increased or decreased for the most recent 12-month period for which data are available."

JOURNAL PUBLICATION CHANGE

SECTION 16.(a) G.S. 147-45 reads as rewritten:

"§ 147-45. *Distribution of copies of State publications.*

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is ~~set out in the table below:~~ determined by the Legislative Services Commission in consultation with the Principal Clerks of the House of Representatives and the Senate. These publications shall be made available in hardbound and electronic format. Each agency or institution entitled to more than one copy shall receive only one of the copies in hardbound format with the remainder in electronic format, unless that agency or institution requests additional hardbound copies from the Secretary of State by August 1 of the calendar year. The Legislative Services Commission, in consultation with the Principal

Clerks of the House of Representatives and the Senate, shall determine each year the total number of bound volumes of each publication to be printed and the total number of the electronic copies of each publication to be produced.

Agency or Institution	Session -Laws	Assembly Journals
Governor, Office of the	3	2
Lieutenant Governor, Office of the	1	1
Secretary of State, Department of the	3	3
Auditor, Department of the State	3	1
Treasurer, Department of the State	3	1
Local Government Commission	2	0
State Board of Education	1	0
Department of Public Instruction	3	1
Controller	1	0
Technical Assistance Centers	1 ea.	0
Department of Community Colleges	3	1
Justice, Department of		
Office of the Attorney General	25	3
Budget Bureau (Administration)	1	0
Property Control (Administration)	1	1
State Bureau of Investigation	1	0
Agriculture and Consumer Services,		
Department of	3	1
Labor, Department of	5	1
Insurance, Department of	5	1
Administration, Department of	1	1
Budget Bureau	2	1
Controller	1	0
Property Control	1	0
Purchase and Contract	2	0
Policy and Development	1	0
Veterans Affairs Commission	1	0
Environment and Natural Resources,		
Department of	6	0
Wildlife Resources Commission	2	0
Revenue, Department of	5	1
Health and Human Services, Department of	6	0
Mental Health, Developmental Disabilities, —and Substance Abuse Services,		
—Division of	1	0
Social Services, Division of	3	0
Facilities Services, Division of	1	0

S.L. 2001-513

[SESSION LAWS

Hospitals and Institutions	1 ea.	0
Juvenile Justice and Delinquency Prevention, Department of	3	0
Transportation, Department of	1	0
Board of Transportation	3	0
Motor Vehicles, Division of	1	0
Commerce, Department of	1	0
Economic Development, Division of	2	0
State Ports Authority	1	0
Alcoholic Beverage Control Commission, —North Carolina	2	0
Banking Commission	2	0
Utilities Commission	8	1
Industrial Commission	7	0
Labor Force Development Council	1	0
Milk Commission	5	0
Employment Security Commission	1	1
Correction, Department of	1	0
Department of Correction	2	0
Parole Commission	2	0
State Prison	1	0
Correctional Institutions	1 ea.	0
Cultural Resources, Department of	1	0
Archives and History, Division of	5	1
State Library	5	5
Publications Division	1	1
Crime Control and Public Safety, Department of	2	1
North Carolina Crime Commission	1	0
Adjutant General	2	0
Elections, State Board of	2	0
Office of Administrative Hearings	2	0
State Personnel Commission	1	0
Office of State Personnel	1	1
Legislative Branch		
State Senators	1 ea.	1 ea.
State Representatives	1 ea.	1 ea.
Principal Clerk—Senate	1	1
Principal Clerk—House	1	1
Reading Clerk—Senate	1	1
Reading Clerk—House	1	1
Sergeant at Arms—House	1	1
Sergeant at Arms—Senate	1	1
Enrolling Clerk	1	0
Engrossing Clerk	1	0
Indexer of the Laws	1	0

Legislative Building Library	35	15
Judicial System		
Justices of the Supreme Court	1 ea.	1 ea.
Judges of the Court of Appeals	1 ea.	1 ea.
Judges of the Superior Court	1 ea.—	0
Emergency and Special Judges of the Superior Court	1 ea.—	0
District Court Judges	1 ea.	0
District Attorneys	1 ea.—	0
Clerk of the Supreme Court	1	1
Clerk of the Court of Appeals	1—	1
Administrative Office of the Courts	4—	1
Supreme Court Library	AS MANY AS REQUESTED	
Colleges and Universities		
The University of North Carolina System		
Administrative Offices	3-	0
University of North Carolina, Chapel Hill	65	25
University of North Carolina, Charlotte	3—	1
University of North Carolina, Greensboro	3—	1
University of North Carolina, Asheville	2—	1
University of North Carolina, Wilmington	2—	1
North Carolina State University, Raleigh	5-	3
Appalachian State University	2—	1
East Carolina University	3—	2
Elizabeth City State University	2—	1
Fayetteville State University	2—	1
North Carolina Agricultural and Technical University	2—	1
North Carolina Central University	5—	5
Western Carolina University	2—	1
University of North Carolina, Pembroke	2—	1
Winston-Salem State University	2—	1
North Carolina School of the Arts	1	1
Private Institutions		
Duke University	6—	6
Davidson College	3—	2
Wake Forest University	5—	5
Lenoir Rhyne College	1—	1

Elon College	1—	1
Guilford College	1—	1
Campbell University	5—	5
Wingate College	1—	1
Pfeiffer College	1—	1
Barber-Scotia College	1—	1
Barton College	1—	1
Shaw University	1—	1
St. Augustine's College	1—	1
Johnson C. Smith University	1—	1
Belmont Abbey College	1—	1
Bennett College	1—	1
Catawba College	1—	1
Gardner-Webb College	1—	1
Greensboro College	1—	1
High Point University	1—	1
Livingstone College	1—	1
Mars Hill College	1—	1
Meredith College	1—	1
Methodist College	1—	1
North Carolina Wesleyan College	1—	1
Queens College	1—	1
Sacred Heart College	1—	1
St. Andrews Presbyterian College	1—	1
Salem College	1—	1
Warren Wilson College	1—	1
County and Local Officials		
Clerks of the Superior Court	1 ea.	1 ea.
Register of Deeds	1 ea.	1 ea.
Federal, Out of State and Foreign		
Secretary to the President	1—	0
- Secretary of State	1—	1
- Secretary of Defense	1—	0
- Secretary of Agriculture	1—	0
- Secretary of the Interior	1—	0
- Secretary of Labor	1—	1
- Secretary of Commerce	1—	1
- Secretary of the Treasury	1—	0
- Secretary of Health, Education and Welfare	1—	0
Secretary of Housing and Urban Development	1—	0
- Secretary of Transportation	1—	0
- Attorney General	1—	0
- Postmaster General	1—	0

- Bureau of Census	1—	0
- Bureau of Public Roads	1—	0
- Department of Justice	1—	0
- Department of Internal Revenue	1—	0
- Veterans' Administration	1—	0
- Farm Credit Administration	1—	0
- Securities and Exchange Commission	1—	0
- Social Security Board	1—	0
- Environmental Protection Agency	1—	0
- Library of Congress	8—	2
- Federal Judges resident in North Carolina	1 ea.—	0
- Federal District Attorneys resident in North Carolina	1 ea.—	0
- Marshal of the United States Supreme Court	1—	0
- Federal Clerks of Court resident in North Carolina	1 ea.—	0
- Supreme Court Library exchange list	1 ea.—	0

One copy of the Session Laws shall be furnished the head of any department of State government created in the future.

State agencies, institutions, etc., not found in or covered by this list may, Any State agency, department, institution, commission, committee, board, division, bureau, officer, or official that does not receive a copy of the Session Laws may, upon written request from their respective department head to the Secretary of State, and upon the discretion of the Secretary of State as to need, be issued copies of the Session Laws on a permanent loan basis with the understanding that should said copies be needed they will be recalled. "

SECTION 16.(b) Each agency or institution entitled to receive more than one copy of a hardbound volume of the Session Laws and of the House of Representatives and Senate journal publications for the year 2001 desiring additional hardbound copies of those publications to which it is entitled shall so notify the Secretary of State not later than 30 days after this act becomes law; and each State Senator and each State Representative is entitled to receive the 2001 journal of a house only if he or she so requests in writing to the principal clerk of that house no later than 30 days after this act becomes law.

SECTION 16.(c) G.S. 120-32 reads as rewritten:
"§ 120-32. *Commission duties.*

The Legislative Services Commission is hereby authorized to:

...

- (7) a. Provide for the indexing and printing of the session laws of each regular, extra or special session of the General Assembly and provide for the printing of the journal of each house of the General Assembly,
- b. Provide and supply to the Secretary of State such bound volumes of the journals and session laws and of these publications in electronic format as may be required by ~~him~~ the Secretary of State to be distributed under the provisions of G.S. 147-45, 147-46.1 and 147-48."

SECTION 16.(d) G.S. 120-34(a) reads as rewritten:

"(a) The Legislative Services Commission shall publish all laws and joint resolutions passed at each session of the General ~~Assembly.~~ Assembly and the executive orders of the Governor issued since the adjournment of the prior session of the General Assembly. The laws and joint resolutions shall be kept separate and indexed separately. Each volume shall contain a certificate from the Secretary of State stating that the volume was printed under the direction of the Legislative Services Commission from ratified acts and ~~resolutions~~ resolutions and executive orders of the Governor on file in the Office of the Secretary of State. The Commission may publish the Session Laws and House and Senate Journals of extra and special sessions of the General Assembly in the same volume or volumes as those of regular sessions of the General Assembly. ~~In printing.~~ In printing the ratified acts and resolutions, the signatures of the presiding officers and the Governor shall be omitted.

The enrolling clerk or the Legislative Services Office shall assign to each bill that becomes law a number in the order the bill became law, and the laws shall be printed in the Session Laws in that order. The number shall be preceded by the phrase "Session Law" or the letters "S.L." followed by the calendar year it was ordered enrolled, followed by a hyphen and the sequential law number. Laws of Extra Sessions shall so indicate. In the case of any bill required to be presented to the Governor, and which became law, the Session Laws shall carry, below the date of ratification, editorial notes as to what time and what date the bill became law. In any case where the Governor has returned a bill to the General Assembly with objections, those objections shall be printed verbatim in the Session Laws, regardless of whether or not the bill became law notwithstanding the objections."

SECTION 16.(e) The Legislative Research Commission shall study the issue of further changes in agencies and institutions entitled to copies of State publications, and shall report to the General Assembly in 2002 on its findings.

COMPREHENSIVE SERVICES/FOSTER CARE

SECTION 17. Section 21.60(g) of S.L. 2001-424 reads as rewritten:

"SECTION 21.60.(g) The Department of Health and Human Services, in conjunction with the Department of Juvenile Justice and Delinquency Prevention, the Department of Public Instruction, and other affected agencies, shall report on the following Program information:

- (1) The number and other demographic information of children served.
- (2) The amount and source of funds expended to implement the Program.
- (3) Information regarding the number of children screened, specific placement of children including the placement of children in programs or facilities outside of the child's home county, and treatment needs of children served.
- (4) The average length of stay in residential treatment, transition, and return to home.
- (5) The number of children diverted from institutions or other out-of-home placements such as ~~training schools~~ foster care, training schools, and State psychiatric hospitals and a description of the services provided.
- (6) Recommendations on other areas of the Program that need to be improved.
- (7) Other information relevant to successful implementation of the Program."

DHHS DATE CHANGE

SECTION 18. Section 21.66(d) of S.L. 2001-424 reads as rewritten:

"SECTION 21.66.(d) The Department shall submit a progress report on implementation of this section not later than February 1, ~~2001,~~ 2002, and a final report not later than May 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division."

CIRCUMCISION FUNDS

SECTION 19. Notwithstanding any other provision of law to the contrary, from funds available in the General Fund, there is appropriated to the Department of Health and Human Services, Division of Medical Assistance, the sum of two hundred forty-six thousand, seven hundred sixty-two dollars (\$246,762) for the 2001-2002 fiscal year and the sum of four hundred thousand dollars (\$400,000) for the 2002-2003 fiscal year. These funds shall be used

to provide optional circumcision procedures for newborns eligible for Medicaid.

COORDINATION OF ACCESS TO PHARMACEUTICAL COMPANY PRESCRIPTION DRUG PROGRAMS

SECTION 20. Section 21.6 of S.L. 2001-424 reads as rewritten:

"SECTION 21.6.(a) Of the funds appropriated in this act to the Department of Health and Human Services, ~~Division of Public Health~~, the sum of two hundred thousand dollars (\$200,000) for the 2001-2002 fiscal year and the sum of two hundred thousand dollars (\$200,000) for the 2002-2003 fiscal year shall be used to initiate the development of a system to assist eligible individuals in obtaining prescription drugs at no cost or for a nominal fee through pharmaceutical company programs or initiatives. programs. The system will be designed to minimize the efforts of patients and their health care providers in securing needed drugs. The required patient and health care provider data will be maintained and orders tracked in order to initiate timely reorders of needed drugs to assure continuity of medication intake. Coordination of access shall be provided through a central location that maintains documentation of an individual's eligibility provided by the individual and prescription orders from the individual's physician to facilitate the provision of no cost or nominal cost drugs under the pharmaceutical company program. The coordination of access shall be implemented in a way that encourages physician, patient, and pharmacy participation by reducing time-consuming procedural requirements. The Department may contract with a private nonprofit organization to eordinate access-assist in the development of the system as provided under this section.

SECTION 21.6.(b) ~~The eoordination of access effort development of the system shall be jointly managed by the Office of Research, Demonstrations and Rural Health Development and the Office of Pharmacy Services, Division of Public Health. under this section shall be consistent with other prescription drug assistance programs throughout the Department, including the AIDS Drug Assistance Program and the Prescription Drug Assistance Program, in identifying program participants.~~

SECTION 21.6.(c) The Department shall work with pharmaceutical companies in obtaining access to company applications for assistance and making those applications available to the general public. The Department shall ensure that pharmaceutical company programs are registered with the Department and shall obtain the application forms of each pharmaceutical program.

SECTION 21.6.(d) The Department shall report on the implementation of this section on ~~December 1, 2001,~~ January 1, 2002, April 1, 2002, and October 1, 2002, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division."

RETIREMENT PAYMENT

SECTION 21. It is the intent of the General Assembly to appropriate funds to make the contribution to the Teachers' and State Employees' Retirement System ("System") that would have been made for the fiscal period beginning February 28, 2001, and ending June 30, 2001. Further, it is the intent of the General Assembly that the payment be made with interest at rates determined by the General Assembly to be consistent with the performance and earnings of the System. Subject to the availability of funds, it is also the intent of the General Assembly to make the payment by appropriations over a five-year period beginning July 1, 2003.

HEALTH PLAN CO-PAYMENT

SECTION 22.(a) G.S. 135-40.8(c3), as enacted by Section 1(m) of S.L. 2001-253, reads as rewritten:

"(c3) Notwithstanding any other provision of this Article, the Plan does not pay for the first fifteen dollars (\$15.00) of allowable charges for each home, office, or skilled nursing facility visit under the provisions of G.S. 135-40.6(7)a. and b., G.S. 135-40.6(4), ~~G.S. 135-40.6(8)e. (IV therapy),~~ G.S. 135-40.6(8)i., j., k., n., r., and s., and G.S. 135-40.5(e). The ~~copayment~~ co-payment assessed by this subsection shall be assessed only once per person per provider per day and shall not apply to laboratory, pathology, and radiology ~~services.~~ services, or to charges for injected medications. The exclusion made under this subsection shall not count toward the deductible nor toward the maximum amount of coinsurance out-of-pocket costs."

SECTION 22.(b) In accordance with G.S. 135-40.8(c3), enacted by Section 1(m) of Session Law 2001-253, the first fifteen dollars (\$15.00) of allowable charges not paid by the Plan does not apply to cardiac rehabilitation benefits.

MILITARY LEAVE

SECTION 23.(a) The caption for Article 9 of Chapter 127A reads as rewritten: "Privilege of Organized Militia, State Militia and Reserve Components of the United States Armed Forces."

SECTION 23.(b) G.S. 127A-116 reads as rewritten:
"§ 127A-116. *Leaves of absence for State officers and employees.*

The Governor or ~~his~~ the Governor's designee shall promulgate appropriate policy and regulations relating to leaves of absence for short periods of military training and for State or federal military duty or special emergency management service of all officers and employees of the State and its political subdivisions, including officers and employees of public educational facilities under the sponsorship of the State, without loss of pay, time or efficiency rating."

SECTION 23.(c) This section is effective September 1, 2001.

OPTIONAL RETIREMENT PROGRAM/NCCCS

SECTION 24. Section 32.24(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 32.24.(c)** This section becomes effective ~~January 1, 2002.~~ January 1, 2003."

FLOODPLAIN MAPPING

SECTION 25. The Department of Crime Control and Public Safety shall complete Phase 1 of the floodplain mapping for the Cape Fear River Basin by December 30, 2002. The Department of Crime Control and Public Safety shall use available federal funds to complete Phase 1 of the floodplain mapping for the Cape Fear River Basin; however, if the federal funds are insufficient to complete Phase 1, then the Department may use up to six million dollars (\$6,000,000) from the Reserve for Disaster Relief (Budget Code 19930) to complete Phase 1 of the floodplain mapping.

The Department of Crime Control and Public Safety may use up to three million dollars (\$3,000,000) from the Reserve for Disaster Relief (Budget Code 19930) to initiate Phase 2 of the floodplain mapping for the Catawba River Basin and for the Yadkin River Basin.

SICKLE CELL SYNDROME PURCHASE OF MEDICAL CARE FUNDS

SECTION 26. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Public Health, the sum of four hundred sixty thousand dollars (\$460,000) for the 2001-2002 fiscal year for the Sickle Cell Syndrome Purchase of Medical Care.

CULTURAL RESOURCES/DIGITAL ARCHIVES

SECTION 27. Section 11.1 of S.L. 2001-424 reads as rewritten:

"**SECTION 11.1.** Of the funds appropriated to the Department of Cultural Resources, the sum of fifty thousand dollars (\$50,000) shall be used to complete the planning for the Information Technology Expansion Project ~~and the Information Resource Management Commission (IRMC) Project Certification.~~ and to aid in computerizing certain archival records in the State Archives so that the records will be available to the public via the Internet. The Department shall not expend any additional funds for information technology expansion prior to review of the IRMC Project Certification by the Joint Select Committee on Information Technology. The results of the IRMC Project Certification shall be presented to the Joint Select Committee on Information Technology no later than March 1, 2002."

E-PROCUREMENT

SECTION 28.(a) G.S. 143-48.3, as rewritten by Section 15.6(b) of S.L. 2001-424, reads as rewritten:

"§ 143-48.3. *Electronic procurement.*

(a) The Department of Administration and the Office of the State Controller, in conjunction with the Office of Information Technology Services (ITS), the Department of State Auditor, the Department of State Treasurer, the University of North Carolina General Administration, the Community Colleges System Office, and the Department of Public Instruction shall collaborate to develop electronic or digital procurement standards.

(b) The Department of Administration, in conjunction with the Office of the State Controller and the Office of Information Technology Services may, upon request, provide to all State agencies, universities, local school administrative units, and the community colleges, training in the use of the electronic procurement system.

(c) The Office of Information Technology Services shall act as an Application Service Provider for an electronic procurement system and shall establish, manage, and operate this electronic procurement system and shall establish, manage, and operate, through State ownership or commercial leasing, in accordance with the requirements and operating standards developed by the Department of Administration, the Office of the State Controller, and ITS.

(d) This section does not otherwise modify existing law relating to procurement between The University of North Carolina, UNC Health Care, local school administrative units, community colleges, and the Department of Administration.

(e) The Board of Governors of The University of North Carolina ~~may~~ shall exempt North Carolina State University and the University of North Carolina at Chapel Hill from the electronic procurement system authorized by this Article until May 1, 2003, ~~if the Board of~~

~~Governors determines that each exemption is in the best interest of the respective constituent institutions. 2003.~~ Each exemption shall be subject to the Board of Governors' annual review and reconsideration. Exempted constituent institutions shall continue working with the North Carolina E-Procurement Service as that system evolves and shall ensure that their proposed procurement systems are compatible with the North Carolina E-Procurement Service so that they may take advantage of this service to the greatest degree possible. Before an exempted institution expands any electronic procurement system, that institution shall consult with the Joint Legislative Commission on Governmental Operations and the Joint Select Committee on Information Technology. By May 1, 2003, the General Assembly shall evaluate the efficacy of the State's electronic procurement system and the inclusion and participation of entities in the system.

(f) Any State entity, local school administrative unit, or community college operating a functional electronic procurement system established prior to September 1, 2001, may until May 1, 2003, continue to operate that system independently or may opt into the North Carolina E-Procurement Service. Each entity subject to this section shall notify the Information Resources Management Commission by January 1, 2002, and annually thereafter, of its intent to participate in the North Carolina E-Procurement Service."

SECTION 28.(b) G.S. 143-49(8), as enacted by Section 15.6(d) of S.L. 2001-424, reads as rewritten:

"(8) To establish and maintain a procurement card program for use by State agencies, community colleges, nonexempted constituent institutions of The University of North Carolina, and local school administrative units. The Secretary of Administration may adopt temporary rules for the implementation and operation of the program in accordance with the payment policies of the State Controller, after consultation with the Office of Information Technology Services. These rules would include the establishment of appropriate order limits that leverage the cost savings and efficiencies of the procurement card program in conjunction with the fullest possible use of the North Carolina E-Procurement Service. ~~Procurement cards shall be utilized only through the E-Procurement Service. North Carolina State University and the University of North Carolina at Chapel Hill may use procurement cards consistent with the rules adopted by the Secretary, provided that the procurement cards have a purchase limit of two hundred fifty dollars (\$250.00) per month. Prior to implementing the program, the Secretary shall~~

consult with the State Controller, the UNC General Administration, the Community Colleges System Office, the State Auditor, the Department of Public Instruction, a representative chosen by the local school administrative units, and the Office of Information Technology Services. The Secretary may periodically adjust the order limit authorized in this section after consulting with the State Controller, the UNC General Administration, the Community Colleges System Office, the Department of Public Instruction, and the Office of Information Technology Services."

CHEROKEE COMPACT

SECTION 29.(a) G.S. 147-12 is amended by adding a new subdivision to read:

"(14) To negotiate and enter into Class III Tribal-State gaming compacts, and amendments thereto, on behalf of the State consistent with State law and the Indian Gaming Regulatory Act, Public Law 100-497, as necessary to allow a federally recognized Indian tribe to operate gaming activities in this State as permitted under federal law."

SECTION 29.(b) Chapter 71A of the General Statutes is amended by adding a new section to read:

"§ 71A-8. Authorization for federally recognized Indian tribes.

In recognition of the governmental relationship between the State, federally recognized Indian tribes and the United States, a federally recognized Indian tribe may conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497, that are in accordance with a valid Tribal-State compact executed by the Governor pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the Indian Gaming Regulatory Act, and such games shall not be unlawful or against the public policy of the State if the State permits such gaming for any purpose by any person, organization, or entity."

SECTION 29.(c) This section is effective August 1, 1994, and applies to compacts and amendments thereto executed on or after that date.

ADVANCE HEALTH CARE DIRECTIVE REGISTRY FUNDS

SECTION 30.(a) There is appropriated from the General Fund to the Department of Secretary of State the sum of seventy-five thousand dollars (\$75,000) for the 2001-2002 fiscal year to fund the Advance Health Care Directive Registry established under Article 21 of Chapter 130A of the General Statutes.

SECTION 30.(b) Section 8 of S.L. 2001-455 reads as rewritten:

"**SECTION 8.** Sections 1 through 6 of this act become effective ~~January 1, 2002.~~ May 1, 2002. The remainder of this act is effective when it becomes law."

DMV ADVERTISING

SECTION 31. The Legislative Research Commission shall study the issue of sale of advertising to be placed in official mailings or publications of the Division of Motor Vehicles and shall report to the General Assembly in 2002. The Commissioner of Motor Vehicles shall not contract for the sale of advertising to be placed in official mailings or publications of the Division of Motor Vehicles until authorized by the General Assembly.

DMV MAY ISSUE LICENSES OF LIMITED DURATION

SECTION 32.(a) G.S. 20-7(f) reads as rewritten:

"(f) Expiration and Temporary License. – The first drivers license the Division issues to a person expires on the person's fourth or subsequent birthday that occurs after the license is issued and on which the individual's age is evenly divisible by five, unless this subsection sets a different expiration date. A first drivers license may be issued for a shorter duration if the Division determines that a license of shorter duration should be issued when the applicant holds a visa of limited duration issued by the United States Department of State. The first drivers license the Division issues to a person who is at least 17 years old but is less than 18 years old expires on the person's twentieth birthday. The first drivers license the Division issues to a person who is at least 62 years old expires on the person's birthday in the fifth year after the license is issued, whether or not the person's age on that birthday is evenly divisible by five.

A drivers license that was issued by the Division and is renewed by the Division expires five years after the expiration date of the license that is ~~renewed.~~ renewed unless the Division determines that a license of shorter duration should be issued when the applicant holds a visa of limited duration from the United States Department of State. A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.

The Division may renew by mail a drivers license issued by the Division to a person who meets any of the following descriptions:

- (1) Is serving on active duty in the armed forces of the United States and is stationed outside this State.
- (2) Is a resident of this State and has been residing outside the State for at least 30 continuous days.

When renewing a license by mail, the Division may waive the examination that would otherwise be required for the renewal and may impose any conditions it finds advisable. A license renewed by mail is a temporary license that expires 60 days after the person to whom it is issued returns to this State."

SECTION 32.(b) This section is effective when it becomes law.

CASH ASSISTANCE PAYMENTS

SECTION 33. Section 5.1 of S.L. 2001-424 is amended by adding a new subsection to read:

"**SECTION 5.1.(bb)** If the Department of Health and Human Services determines that sufficient funds are not available within the Work First Cash Assistance Program and the Cash Assistance Reserve to provide cash assistance payments to all eligible families in the 2001-2002 fiscal year, the Department may reduce the allocations under the TANF Block Grant in this section to non cash assistance programs and services in order to ensure that cash assistance payments to all eligible families continue throughout the 2001-2002 fiscal year."

EFFECTIVE DATE

SECTION 34. Unless otherwise provided in this act, this act is effective July 1, 2001.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 4:35 p.m. on the 4th day of January, 2002.

H.B. 688

SESSION LAW 2001-514

AN ACT TO TAX THE SALES OF FERTILIZERS AND SEED TO NONFARMERS AND TO APPROPRIATE REVENUES FOR TURFGRASS RESEARCH AND EDUCATION AND THE SAVINGS RESERVE ACCOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(1) and (2) reads as rewritten:

"§ 105-164.13. *Retail sales and use tax.*

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

Agricultural Group.

- (1) ~~Commercial fertilizer on which the inspection tax is paid and lime and land plaster used fertilizer, lime, land plaster, and seeds sold to a farmer for agricultural purposes whether the inspection tax is paid or not purposes.~~
- (2) ~~Seeds.~~

...."

SECTION 2.(a) There is appropriated from the General Fund to the Board of Governors of The University of North Carolina the sum of six hundred thousand dollars (\$600,000) for the 2001-2002 fiscal year and the sum of six hundred thousand dollars (\$600,000) for the 2002-2003 fiscal year to be allocated to North Carolina State University. North Carolina State University must use all of the funds allocated to it under this section for the purpose of providing funds to the Center for Turfgrass Environmental Research and Education for research initiatives. The Center may receive proposals for research funding consideration from North Carolina State University and North Carolina Agricultural and Technical State University. The Industry Advisory Board of the Center shall review each proposal for research funding consideration submitted to the Center. The Industry Advisory Board must include representatives from North Carolina State University and North Carolina Agricultural and Technical State University. The funds allocated to the Center under this section may be used only for research and extension concerning the following:

- (1) Turfgrass production and maintenance.
- (2) The impact of turfgrass fertilizer on the environment.
- (3) Ways to reduce any adverse environmental impacts resulting from the use of turfgrass fertilizer and to promote environmental benefits.

SECTION 2.(b) There is appropriated from the General Fund to the Department of Agriculture and Consumer Services the sum of one hundred thousand dollars (\$100,000) for the 2001-2002 fiscal year and the sum of one hundred thousand dollars (\$100,000) for the 2002-2003 fiscal year for the purpose of educating the public on the results of the research conducted by the Center for Turfgrass Environmental Research and Education at North Carolina State University.

SECTION 2.(c) The Board of Governors of The University of North Carolina and the Commissioner of Agriculture shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office by November 1, 2002, on the use of the funds allocated to the Center for Turfgrass Environmental Research and Education and the sharing of the research with the other constituent institutions.

SECTION 3. No later than June 30, 2002, the State Controller shall credit the sum of seven hundred fifty thousand dollars (\$750,000) from the General Fund to the Savings Reserve Account established in G.S. 143-15.3. This allocation of revenue is not an "appropriation made by law" as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution.

SECTION 4. This act becomes effective February 1, 2002.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 4:37 p.m. on the 4th day of January, 2002.

H.B. 948**SESSION LAW 2001-515**

AN ACT TO MAKE CHANGES IN THE LAW REGARDING THE DEFINITION OF "SPECIAL ABC AREA", TO AUTHORIZE THE SUMMARY REVOCATION OR SUSPENSION OF AN ABC PERMIT FOR VIOLATIONS RELATING TO ALCOHOLIC BEVERAGE SALES IN URBAN REDEVELOPMENT AREAS, AND TO MODIFY THE LAW CONCERNING MIXED BEVERAGE ELECTIONS ON BARRIER ISLANDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101(13a) reads as rewritten:
"§ 18B-101. *Definitions.*

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

...

(13a) "Special ABC area" means an area that meets the following requirements:

Either:

- a. ~~1. Has. The area has~~ fewer than 500 permanent ~~residents; residents, and the area:~~
- ~~2.1.~~ 1. Is located in a county that borders another state, that has at least one city that has approved the operation of an ABC store, and in which the sale of unfortified wine and malt beverages is permitted countywide or in ~~at least two cities; one city;~~ and
- ~~3.2.~~ 2. Contains more than 500 contiguous acres made up of privately-owned land and land owned by an association or a club that is exempt from income tax on its membership income under Article 4 of Chapter 105 of the General

Statutes, has more than 200 members, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal services; or

- b. ~~4.~~ Has The area has more than 500 permanent residents; residents, and the area:

~~2.~~1. Is located in a county:

- I. Where ABC stores have heretofore been established but in which the sale of mixed beverages has not been approved;
- II. That borders on a county that has approved the sale of alcoholic beverages countywide and contains an international airport; and
- III. Borders on a county where ABC stores have heretofore been established by petition pursuant to law; and

~~3.~~2. Contains more than 500 contiguous acres made up of privately-owned land and land owned by an association or a club that is exempt from income tax on its membership income under Article 4 of Chapter 105 of the General Statutes, has more than 200 members, was created for municipal and recreational purposes, and, for three or more years, has levied assessments or dues and provided municipal ~~services.~~ services; or

- c. The area is an area of a county where the following requirements are met:

1. The county borders on the Atlantic Ocean and has a seaport supporting oceangoing vessels;
2. ABC stores have been established in the county and the sale of mixed beverages is allowed in six or more municipalities;
3. The population of the county, according to the 2000 census, exceeds 52,000;
4. The tourism economy of the county is made up of more than 3,000 tourism-related jobs; and
5. Tourism expenditures within the county exceed two hundred million dollars (\$200,000,000) annually."

SECTION 2. Section 1 of this act does not apply in Graham and Swain Counties.

SECTION 3.(a) G.S. 18B-309 reads as rewritten:

"§ 18B-309. *Alcoholic beverage sales in Urban Redevelopment Areas.*

(a) A food business as defined in G.S. 18B-1000(3), a retail business as defined in G.S. 18B-1000(7), or an eating establishment as defined in G.S. 18B-1000(2) that holds an ABC permit under this Chapter and is located in a part of a city that has been designated as an Urban Redevelopment Area under Article 22 of Chapter 160A of the General Statutes shall not have alcoholic beverage sales in excess of fifty percent (50%) of the business's total annual sales. The city council, or its designee, shall file a certified copy of the official action and original documents, including a map or similar information, designating the area as an Urban Redevelopment Area. The Commission shall make this information available to any permittee who makes a request for this information to the Commission.

(b) Upon request of a city, the Commission shall investigate the total annual alcohol sales and total sales of a business as defined in this section. The Commission shall report the results of such an investigation to the city council, and the report shall contain only the percentage of annual alcohol sales in proportion to the business's total annual sales. A city may request an investigation of a particular business by the Commission only once in each calendar year. These audits may be conducted by the Commission only upon the request of the city council.

(c) Businesses covered by this section shall maintain full and accurate monthly records of their finances, separately indicating each of the following:

- (1) Amounts expended by the business for the purchase of alcoholic beverages and the quantity of alcoholic beverages purchased;
- (2) Amounts collected from the sale of alcoholic beverages sold; and
- (3) Amounts collected from the sale of food, nonalcoholic beverages, and all other items sold by the business.

Records of purchases of alcoholic beverages and sales of alcoholic beverages shall be filed separate and apart from all other records maintained on the premises, and all records related to alcoholic beverages, including original invoices, shall be maintained on the premises for three years and shall be open for inspection and audit pursuant to G.S. 18B-502."

SECTION 3.(b) G.S. 18B-904(e) reads as rewritten:

"(e) Business or Location No Longer Suitable. –

- (1) The Commission may suspend or revoke a permit issued by it if, after compliance with the provisions of Chapter 150B of the General Statutes, it finds that the location occupied by the permittee is no longer a suitable place to

hold ABC permits or that the operation of the business with an ABC permit at that location is detrimental to the neighborhood. No order revoking or suspending an ABC permit pursuant to this section may be made except upon substantial evidence admissible under G.S. 150B-29(a).

- (2) The Commission shall suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309. Notwithstanding subdivision (e)(1) of this section, the Commission shall, by order and without prior hearing, summarily suspend or revoke a permit issued by it if a permittee is in violation of G.S. 18B-309(c) when, prior to the period of time for which the audit is to be conducted, the city council has filed information designating the location of the Urban Redevelopment Area as required under G.S. 14-309(a) and has provided actual notice to permittees located in the Urban Redevelopment Area that they are located in such an area and must abide by G.S. 18B-309(c). Upon entry of a summary order under this subdivision, the Commission shall promptly notify all interested parties that the order has been entered and of the reasons therefore. The order will remain in effect until it is modified or vacated by the Commission. The permittee may, within 30 days after receipt of notice of the order, make written request to the Commission for a hearing on the matter. If a hearing is requested, after compliance with the provisions of Chapter 150B of the General Statutes, the Commission shall issue an order to affirm, reverse, or modify its previous action."

SECTION 4. G.S. 18B-600(f) reads as rewritten:

"(f) Township Elections. — In a An election may be called on any of the propositions listed in G.S. 18B-602 in any township located within:

- (1) A county where ABC stores have heretofore been established by petition pursuant to law, an election may be called in any township on any of the propositions listed in G.S. 18B-602 law.
- (2) A county where ABC stores have been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars (\$400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller

islands not making up more than one percent (1%) of the total land area of the two townships) where that island:

- a. Has a population of 4,000 or over according to the most recent decennial federal census;
- b. Is located with one side facing the ocean and another side facing a coastal sound.

In the case of subdivision (2) of this section, an election may be called in the two townships voting together on the proposition contained in G.S. 18B-602(h).

The election shall be held by the county board of elections upon request of the county board of commissioners or upon petition of twenty-five percent (25%) of the registered voters of the ~~township~~ township, or in the case of subdivision (2) of this section, of the two townships taken together. The election shall be conducted and the results determined in the same manner as county elections held under this Article. For purposes of this Article, townships holding any election under this subsection shall be treated on the same basis as counties, and municipalities located within those townships shall be treated on the same basis as cities. In the case of an election under subdivision (2) of this subsection, the votes of the two townships counted together shall determine the result of the election.

In order for an establishment to qualify for a permit under this subsection, the establishment's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages."

SECTION 5. G.S. 95-25.5(j) reads as rewritten:

"(j) No person who holds any ABC permit issued pursuant to the provisions of Chapter 18B of the General Statutes for the on-premises sale or consumption of alcoholic beverages, including any mixed beverages, shall employ a youth:

- (1) Under 16 years of age on the premises for any ~~purpose;~~purpose, unless the youth is at least 14 years of age and each of the following conditions is met:
 - a. The person obtains the written consent of a parent or guardian of the youth.
 - b. The youth is employed to work on the outside grounds of the premises for a purpose that does not involve the preparation, serving, dispensing, or sale of alcoholic beverages.
- (2) Under 18 years of age to prepare, serve, dispense or sell any alcoholic beverages, including mixed beverages."

SECTION 6. In the event that a court of competent jurisdiction holds that any provision of this act is unconstitutional or otherwise invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid

provisions or application, and to this end the provisions of each section of this act are severable one from the other and from the remainder of this act.

SECTION 7. This act is effective when it becomes law. Subsection 3(b) of this act applies to violations occurring on or after the effective date of this act.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

Became law upon approval of the Governor at 4:38 p.m. on the 4th day of January, 2002.

H.B. 1284**SESSION LAW 2001-516**

AN ACT TO CREATE A CIVIL PROCEDURE FOR ASSERTING A RIGHT OF ACCESS TO A JUDICIAL PROCEEDING OR TO A JUDICIAL RECORD; TO CREATE A NEW FEE FOR FILING A MOTION UNDER G.S. 1-72.1; TO PROTECT CERTAIN RECORDS AND PROCEEDINGS DEALING WITH SENSITIVE PUBLIC SECURITY AND PROTECTION ISSUES; TO PROVIDE THAT CERTAIN TERMS OF CONTRACTS BETWEEN HOSPITALS, HOSPITAL AUTHORITIES, PHYSICIAN OR OTHER MEDICAL PROVIDERS, OR A PHARMACY BENEFIT MANAGER AND THE PLAN ARE NOT A PUBLIC RECORD; AND TO PROVIDE FOR THE CONFIDENTIALITY OF COMPETITIVE HEALTH CARE INFORMATION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 1 of the General Statutes is amended by adding a new section to read:

"§ 1-72.1. Procedure to assert right of access.

(a) Any person asserting a right of access to a civil judicial proceeding or to a judicial record in that proceeding may file a motion in the proceeding for the limited purpose of determining the person's right of access. The motion shall not constitute a request to intervene under the provisions of Rule 24 of the Rules of Civil Procedure and shall instead be governed by the procedure set forth in this statute. The movant shall not be considered a party to the action solely by virtue of filing a motion under this section or participating in proceedings on the motion. An order of the court granting a motion for access made pursuant to this section shall not make the movant a party to the action for any purpose.

(b) The movant shall serve a copy of its motion on all parties to the proceeding in any manner provided in Rule 5 of the Rules of Civil Procedure. Upon receipt of a motion filed pursuant to this section, the

court shall establish the date and location of the hearing on the motion that shall be set at a time before conducting any further proceedings relative to the matter for which access is sought under the motion. The court shall cause notice of the hearing date and location to be posted at the courthouse where the hearing is scheduled. The movant shall serve a copy of the notice of the date, time, and location of the hearing on all parties to the proceeding in any manner provided in Rule 5 of the Rules of Civil Procedure.

(c) The court shall rule on the motion after consideration of such facts, legal authority, and argument as the movant and any other party to the action desire to present. The court shall issue a written ruling on the motion that shall contain a statement of reasons for the ruling sufficiently specific to permit appellate review. The order may also specify any conditions or limitations on the movant's right of access that the court determines to be warranted under the facts and applicable law.

(d) A party seeking to seal a document or testimony to be used in a court proceeding may submit the document or testimony to the court to be reviewed in camera. This subsection also applies to (i) any document or testimony that is the subject of a motion made under this section and that is submitted for review for the purposes of the court's consideration of the motion to seal, and (ii) to any document or testimony that is the subject of a motion made under this section and that was submitted under seal or offered in closed session prior to the filing of a motion under this section. Submission of the document or proffer of testimony to the court pursuant to this section shall not in itself result in the document or testimony thereby becoming a judicial record subject to constitutional, common law, or statutory rights of access unless the document or testimony is thereafter introduced into evidence after a motion to seal or to restrict access is denied.

(e) A ruling on a motion made pursuant to this section may be the subject of an immediate interlocutory appeal by the movant or any party to the proceeding. Notice of appeal must be given in writing, filed with the court, and served on all parties no later than 10 days after entry of the court's ruling. If notice of appeal is timely given and given before further proceedings are held in the court that might be affected by appellate review of the matter, the court, on its own motion or on the motion of the movant or any party, shall consider whether to stay any proceedings that could be affected by appellate review of the court's ruling on the motion. If notice of appeal is timely given but is given only after further proceedings in the trial court that could be affected by appellate review of the ruling on a motion made pursuant to this section, or if a request for stay of proceedings is made and is denied, then the sole relief that shall be available on any appeal in the event the appellate court determines that the ruling of the trial

court was erroneous shall be reversal of the trial court's ruling on the motion and remand for rehearing or retrial. On appeal the court may determine that a ruling of the trial court sealing a document or restricting access to proceedings or refusing to unseal documents or open proceedings was erroneously entered, but it may not retroactively order the unsealing of documents or the opening of testimony that was sealed or closed by the trial court's order.

(f) This section is intended to establish a civil procedure for hearing and determining claims of access to documents and to testimony in civil judicial proceedings and shall not be deemed or construed to limit, expand, change, or otherwise preempt any provisions of substantive law that define or declare the rights and restrictions with respect to claims of access. Without in any way limiting the generality of the foregoing provision, this section shall not apply to juvenile proceedings or court records of juvenile proceedings conducted pursuant to Chapters 7A, 7B, 90, or any other Chapter of the General Statutes dealing with juvenile proceedings.

(g) Nothing in this section diminishes the rights of a movant or any party to seek appropriate relief at any time from the Supreme Court or Court of Appeals through the use of the prerogative writs of mandamus or supersedeas."

SECTION 2. G.S. 7A-308(a) reads as rewritten:

"(a) The following miscellaneous fees and commissions shall be collected by the clerk of superior court and remitted to the State for the support of the General Court of Justice:

- (1) Foreclosure under power of sale in deed of trust or mortgage.....\$40.00
If the property is sold under the power of sale, an additional amount will be charged, determined by the following formula: thirty cents (30¢) per one hundred dollars (\$100.00), or major fraction thereof, of the final sale price. If the amount determined by the formula is less than ten dollars (\$10.00), a minimum ten dollar (\$10.00) fee will be collected. If the amount determined by the formula is more than two hundred dollars (\$200.00), a maximum two hundred dollar (\$200.00) fee will be collected.
- (2) Proceeding supplemental to execution.....20.00
- (3) Confession of judgment15.00
- (4) Taking a deposition5.00
- (5) Execution.....15.00
- (6) Notice of resumption of former name5.00
- (7) Taking an acknowledgment or administering an oath, or both, with or without seal, each certificate (except that

- oaths of office shall be administered to public officials without charge).....\$1.00
- (8) Bond, taking justification or approving.....5.00
- (9) Certificate, under seal.....2.00
- (10) Exemplification of records5.00
- (11) Recording or docketing (including indexing) any document
 - first page.....4.00
 - each additional page or fraction thereof25
- (12) Preparation of copies
 - first page.....1.00
 - each additional page or fraction thereof25
- (13) Preparation and docketing of transcript of judgment .5.00
- (14) Substitution of trustee in deed of trust5.00
- (15) Execution of passport application – the amount allowed by federal law
- (16) Repealed by Session Laws 1989, c. 783, s. 2.
- (17) Criminal record search except if search is requested by an agency of the State or any of its political subdivisions or by an agency of the United States or by a petitioner in a proceeding under Article 2 of General Statutes Chapter 20.....5.00
- (18) Filing the affirmations, acknowledgments, agreements and resulting orders entered into under the provisions of G.S. 110-132 and G.S. 110-1334.00
- (19) Repealed by Session Laws 1989, c. 783, s. 3.
- (20) Filing a motion to assert a right of access under G.S. 1-72.1..... 20.00."

SECTION 3. Chapter 132 of the General Statutes is amended by adding the following new section to read:

"§ 132-1.6. Sensitive public security information.

Public records, as defined in G.S. 132-1, shall not include information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities. Information relating to the general adoption of public security plans and arrangements, and budgetary information concerning the authorization or expenditure of public funds to implement public security plans and arrangements, or for the construction, renovation, or repair of public buildings and infrastructure facilities shall be public records."

SECTION 4. G.S. 135-40.4(a), as amended by S.L. 2001-253, reads as rewritten:

"(a) In the event a covered person, as a result of accidental bodily injury, disease or pregnancy, incurs covered expenses, the Plan will

pay benefits up to the amounts described in G.S. 135-40.5 through G.S. 135-40.9.

The Plan is divided into two parts. The first part includes certain benefits which are not subject to a deductible or coinsurance. The second part is a comprehensive plan and includes those benefits which are subject to both a three hundred fifty dollar (\$350.00) deductible for each covered individual to an aggregate maximum of one thousand fifty dollars (\$1,050) per employee and child(ren) or employee and family coverage contract and coinsurance of 80%/20%. There is a limit on out-of-pocket expenses under the second part.

Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan may contract with providers of institutional and professional medical care and services to established preferred provider networks. The terms pertaining to reimbursement rates or other terms of consideration of any contract between hospitals, hospital authorities, doctors or other medical providers, or a pharmacy benefit manager and the Plan shall not be a public record under Chapter 132 of the General Statutes for a period of thirty months after the date of the expiration of the contract. Provided, however, nothing in this subsection shall be deemed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities. The design, adoption, and implementation of ~~such~~the preferred provider contracts and networks are not subject to the requirements of Chapter 143 of the General Statutes, provided that for any hospital preferred provider network all hospitals will have an opportunity to contract with the Plan if they meet the contract requirements. The Executive Administrator and Board of Trustees shall, under the provisions of G.S. 135-39.5(12), pursue such preferred provider contracts on a timely basis and shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits on its progress in negotiating ~~such~~the preferred provider contracts. The Executive Administrator and Board of Trustees shall implement a refined diagnostic-related grouping or diagnostic-related grouping-based reimbursement system for hospitals as soon as practicable, but no later than January 1, 1995."

SECTION 5. G.S. 131E-97.3 reads as rewritten:

"§ 131E-97.3. *Confidentiality of competitive health care information.*

(a) Information relating to competitive health care activities by or on behalf of hospitals and public hospital authorities shall be confidential and not a public record under Chapter 132 of the General Statutes; provided that any contract entered into by or on behalf of a public hospital or public hospital authority, as defined in G.S. 159-39, shall be a public record unless otherwise exempted by ~~law~~ law, or the contract contains competitive health care information, the determination of which shall be as provided in subsection (b) of this section.

(b) If a public hospital or public hospital authority is requested to disclose any contract which the hospital or hospital authority believes in good faith contains or constitutes competitive health care information, the hospital or hospital authority may either redact the portions of the contract believed to constitute competitive health care information prior to disclosure, or if the entire contract constitutes competitive health care information, refuse disclosure of the contract. The person requesting disclosure of the contract may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any redacted portion thereof. In any action brought under this subsection, the issue for decision by the court shall be whether the contract, or portions of the contract withheld, constitutes competitive health care information, and in making its determination, the court shall be guided by the procedures and standards applicable to protective orders requested under Rule 26(c)(7) of the Rules of Civil Procedure. Before rendering a decision, the court shall review the contract in camera and hear arguments from the parties. If the court finds that the contract constitutes or contains competitive health care information, the court may either deny disclosure or may make such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

(c) Nothing in this section shall be deemed to prevent an elected public body, in closed session, which has responsibility for the hospital, the Attorney General, or the State Auditor from having access to this confidential information. The disclosure to any public entity does not affect the confidentiality of the information. Members of the public entity shall have a duty not to further disclose the confidential information."

SECTION 6. Sections 1 and 2 of this act become effective January 1, 2002, and apply to court records filed on or after that date and apply to judicial proceedings commenced or pending on or after that date. The remainder of this act is effective when it becomes law. Section 3 of this act applies to public records in existence on or after the effective date.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 4:40 p.m. on the 4th day of January, 2002.

H.B. 1388 SESSION LAW 2001-517

AN ACT TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of Chapter 977 of the 1991 Session Laws, as amended by Section 3 of Chapter 495 of the 1995 Session Laws and by Section 29.1 of S.L. 1997-443, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after March 1, ~~1992, and ending on or before February 28, 2001. 1992, and expires for taxable years beginning on or after January 1, 2003.~~"

SECTION 2. Section 4 of Chapter 681 of the 1993 Session Laws, as amended by Section 17 of Chapter 17 of the 1995 Session Laws, by Section 4 of Chapter 495 of the 1995 Session Laws, and by Section 29.1 of S.L. 1997-443, reads as rewritten:

"Sec. 4. This act is effective for taxable years beginning on or after January 1, ~~1994, and ending on or before February 28, 2001. 1994, and expires for taxable years beginning on or after January 1, 2003.~~"

SECTION 3. This act is effective for taxable years beginning on or after March 2, 2000.

In the General Assembly read three times and ratified this the 4th day of December, 2001.

Became law upon approval of the Governor at 4:41 p.m. on the 4th day of January, 2002.

S.B. 346 SESSION LAW 2001-518

AN ACT AMENDING THE LAW REGARDING THE CRIMINAL OFFENSE OF STALKING AND CERTAIN DOMESTIC VIOLENCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-277.3 reads as rewritten:

"§ 14-277.3. *Stalking.*

(a) Offense. – A person commits the offense of stalking if the person willfully on more than one occasion follows or is in the presence ~~of~~ of, or otherwise harasses, another person without legal purpose and with the intent to ~~cause death or bodily injury or with the intent to cause emotional distress by placing that person in reasonable fear of death or bodily injury.~~ do any of the following:

- (1) Place that person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.
- (2) Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment, and that in fact causes that person substantial emotional distress.

(b) Classification. – A violation of this section is a Class ~~A1~~ misdemeanor. A person who commits the offense of stalking when there is a court order in effect prohibiting similar behavior by that person is guilty of a Class ~~A1~~ misdemeanor. ~~A second or subsequent conviction for stalking occurring within five years of a prior conviction of the same defendant is punishable as a Class I felony. H felony.~~ A person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class ~~F~~ felony.

(c) Definition. – For the purposes of this section, the term 'harasses' or 'harassment' means knowing conduct, including written or printed communication or transmission, telephone or cellular or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or electronic transmissions, directed at a specific person that torments, terrorizes, or terrifies that person and that serves no legitimate purpose."

SECTION 2. G.S. 15A-534.1(a) reads as rewritten:

"(a) In all cases in which the defendant is charged with assault ~~on~~ on, communicating a threat ~~to~~ to, or committing a felony provided in Articles 7A, 8, 10, or 15 of Chapter 14 of the General Statutes upon a spouse or former spouse or a person with whom the defendant lives or has lived as if married, with domestic criminal trespass, or with violation of an order entered pursuant to Chapter 50B, Domestic Violence, of the General Statutes, the judicial official who determines the conditions of pretrial release shall be a judge, and the following provisions shall apply in addition to the provisions of G.S. 15A-534:

- (1) Upon a determination by the judge that the immediate release of the defendant will pose a danger of injury to the alleged victim or to any other person or is likely to result in intimidation of the alleged victim and upon a determination that the execution of an appearance bond as required by G.S. 15A-534 will not reasonably assure that such injury or intimidation will not occur, a judge may retain the defendant in custody for a reasonable period of time while determining the conditions of pretrial release.

- (2) A judge may impose the following conditions on pretrial release:
- a. That the defendant stay away from the home, school, business or place of employment of the alleged victim;
 - b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;
 - c. That the defendant refrain from removing, damaging or injuring specifically identified property;
 - d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond.

- (3) Should the defendant be mentally ill and dangerous to himself or others or a substance abuser and dangerous to himself or others, the provisions of Article 5 of Chapter 122C of the General Statutes shall apply."

SECTION 2A. G.S. 15A-830(a)(7) reads as rewritten:

"(7) Victim. – A person against whom there is probable cause to believe one of the following crimes was committed:

- a. A Class A, B1, B2, C, D, or E felony.
- b. A Class F felony if it is a violation of one of the following: G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3); 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.2; 14-43.3; 14-190.17; 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.
- c. A Class G felony if it is a violation of one of the following: G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.
- d. A Class H felony if it is a violation of one of the following: G.S. 14-32.3(a); 14-32.3(c); ~~or 14-33.2, 14-33.2, or 14-277.3.~~
- e. A Class I felony if it is a violation of one of the following: G.S. ~~14-277.3~~; 14-32.3(b); 14-34.6(b); or 14-190.17A.
- f. An attempt of any of the felonies listed in this subdivision if the attempted felony is punishable as a felony.
- g. Any of the following misdemeanor offenses when the offense is committed between persons who have a personal relationship as defined in G.S. 50B-1(b):

G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a); 14-34; 14-134.3; or 14-277.3."

SECTION 3. G.S. 50B-1(a) reads as rewritten:

"(a) Domestic violence means the commission of one or more of the following acts upon an aggrieved party or upon a minor child residing with or in the custody of the aggrieved party by a person with whom the aggrieved party has or has had a personal relationship, but does not include acts of self-defense:

- (1) Attempting to cause bodily injury, or intentionally causing bodily injury; or
- (2) Placing the aggrieved party or a member of the aggrieved party's family or household in fear of imminent serious bodily ~~injury~~; injury or continued harassment, as defined in G.S. 14-277.3, that rises to such a level as to inflict substantial emotional distress; or
- (3) Committing any act defined in G.S. 14-27.2 through G.S. 14-27.7."

SECTION 4. G.S. 50B-2(c1) reads as rewritten:

"(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter such orders as it deems necessary to protect the aggrieved party or minor children from such acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of bodily injury or sexual abuse. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge ~~within 72 hours of the filing for relief under this subsection, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever occurs first.~~filed. A party who has paid court costs due for seeking an order from the magistrate under this subsection shall not be liable for court costs for a hearing before the district court judge scheduled and heard pursuant to an order entered by the magistrate under this subsection. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section."

SECTION 5. G.S. 50B-4.1 reads as rewritten:

"§ 50B-4.1. ~~Violation of valid protective order a misdemeanor order.~~

(a) ~~A~~ Except as otherwise provided by law, a person who knowingly violates a valid protective order entered pursuant to this Chapter or who knowingly violates a valid protective order entered by the courts of another state or the courts of an Indian tribe shall be guilty of a Class A1 misdemeanor.

(b) A law enforcement officer shall arrest and take a person into custody without a warrant or other process if the officer has probable cause to believe that the person knowingly has violated a valid protective order excluding the person from the residence or household occupied by a victim of domestic violence or directing the person to refrain from doing any or all of the acts specified in G.S. 50B-3(a)(9).

(c) When a law enforcement officer makes an arrest under this section without a warrant, and the party arrested contests that the out-of-state order or the order issued by an Indian court remains in full force and effect, the party arrested shall be promptly provided with a copy of the information applicable to the party which appears on the National Crime Information Center registry by the sheriff of the county in which the arrest occurs.

(d) Unless covered under some other provision of law providing greater punishment, a person who commits a felony at a time when the person knows the behavior is prohibited by a valid protective order as provided in subsection (a) of this section shall be guilty of a felony one class higher than the principal felony described in the charging document. This subsection shall not apply to a person who is charged with or convicted of a Class A or B1 felony or to a person charged under subsection (f) of this section.

(e) An indictment or information that charges a person with committing felonious conduct as described in subsection (d) of this section shall also allege that the person knowingly violated a valid protective order as described in subsection (a) of this section in the course of the conduct constituting the underlying felony. In order for a person to be punished as described in subsection (d) of this section, a finding shall be made that the person knowingly violated the protective order in the course of conduct constituting the underlying felony.

(f) Unless covered under some other provision of law providing greater punishment, any person who knowingly violates a valid protective order as provided in subsection (a) of this section, after having been previously convicted of three offenses under this Chapter, shall be guilty of a Class H felony."

SECTION 6. This act becomes effective March 1, 2002, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law upon approval of the Governor at 11:52 a.m. on the 5th day of January, 2002.

H.B. 599**SESSION LAW 2001-519**

AN ACT TO MODIFY THE CONSUMER FINANCE ACT TO INCREASE THE AMOUNT OF LOANABLE ASSETS REQUIRED BEFORE AN ENTITY IS LICENSED TO ENGAGE IN BUSINESS IN THE STATE, TO REVISE THE COLLECTION OF INTEREST UNDER CERTAIN CIRCUMSTANCES, TO ESTABLISH A LOAN PROCESSING FEE, TO ALLOW LENDERS TO CHARGE A LATE PAYMENT PENALTY UNDER CERTAIN CIRCUMSTANCES, TO REQUIRE DISCLOSURE ON SOLICITATION OF LOANS BY FACSIMILE OR NEGOTIABLE CHECKS, TO ALLOW LENDERS TO MAINTAIN CERTAIN RECORDS IN THE FORM OF OPTICAL IMAGE DISKS, TO REPEAL OBSOLETE PROVISIONS OF THE GENERAL STATUTES, AND TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-165(a) reads as rewritten:

"(a) "Amount of the loan" shall mean the aggregate of the cash advance and the charges authorized by ~~G.S. 53-173~~G.S. 53-173 and G.S. 53-176."

SECTION 2. G.S. 53-168 reads as rewritten:

"§ 53-168. *License required; showing of convenience, advantage and financial responsibility; investigation of applicants; hearings; existing businesses; contents of license; transfer; posting.*

(a) Necessity for License; Prerequisites to Issuance. – No person shall engage in or offer to engage in the business regulated by this Article unless and until a license has been issued by the Commissioner of Banks, and the Commissioner shall not issue any such license unless and until ~~he~~ the Commissioner finds:

- (1) That authorizing the applicant to engage in such business will promote the convenience and advantage of the community in which the applicant proposes to engage in business; and
- (2) That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant the

belief that the business will be operated lawfully and fairly, within the purposes of this Article; and

- (3) That the applicant has available for the operation of such business at the specified location loanable assets of at least ~~twenty five thousand dollars (\$25,000)~~: fifty thousand dollars (\$50,000).

(b) Investigation of Applicants. – Upon the receipt of an application, the Commissioner shall investigate the facts. If the Commissioner determines from such preliminary investigation that the applicant does not satisfy the conditions set forth in subsection (a), ~~he~~ the Commissioner shall so notify the applicant who shall then be entitled to an informal hearing thereon provided he so requests in writing within 30 days after the Commissioner has caused the above-referred to notification to be mailed to the applicant. In the event of a hearing, to be held in the offices of the Commissioner of Banks in Raleigh, the Commissioner shall reconsider the application and, after the hearing, issue a written order granting or denying such application. At the time of making such application, the applicant shall pay the Banking Department the sum of two hundred fifty dollars (\$250.00) as a fee for investigating the application, which shall be retained irrespective of whether or not a license is granted the applicant.

(c) Existing Business. — Notwithstanding the provisions of this section, any person, firm or corporation which, on December 31, 1973, was a licensee under this Article either as a licensee to make loans under the provisions of G.S. 53-173 or as a motor vehicle lender under G.S. 53-176.1, may surrender such license to the Commissioner within 90 days after May 25, 1974, and elect to become a licensee to make loans under either G.S. 53-173 or 53-176.1 but not both. Such license shall be issued by the Commissioner without further application or investigation and the licensee shall be deemed a licensee under the category that it elects upon the surrender of its current license and the election.

(d) Required Assets Available. – Each licensee shall continue at all times to have available for the operation of the business at the specified location loanable assets of at least ~~twenty five thousand dollars (\$25,000)~~: fifty thousand dollars (\$50,000). The requirements and standards of this subsection and subsection (a)(2) of this section shall be maintained throughout the period of the license and failure to maintain such requirements or standards shall be grounds for the revocation of a license under the provisions of G.S. 53-171 of this Article.

(e) License, Posting, Continuing. – Each license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership, or

association, the names of the members thereof, and if a corporation, the date and place of its incorporation. Transfer or assignment of a license by one person to another by sale or otherwise is prohibited without the prior approval of the Commissioner. Each license shall be kept posted in the licensed place of business. Each license shall remain in full force and effect until surrendered, revoked, or suspended as hereinafter provided."

SECTION 3. G.S. 53-173 reads as rewritten:

"§ 53-173. *Maximum rate of ~~charge; interest and fee; computation of charges; interest; limitation on interest after judgment; limitation on interest after maturity of the loan.~~*

(a) Maximum Rate of ~~Charge; Interest.~~ – Every licensee ~~hereunder~~ under this section may ~~contract for, compute, and receive on any loan of money, make loans in installments~~ not exceeding three thousand dollars (\$3,000) in amount, ~~charges~~ at interest rates not exceeding thirty-six percent (36%) per annum on ~~that part of the unpaid the outstanding~~ principal balance of any loan not in excess of six hundred dollars (\$600.00) and fifteen percent (15%) per annum on any remainder of such unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.

(a1) Maximum Fee. – In addition to the interest authorized in subsection (a) of this section, a licensee making loans under this section may collect from the borrower a fee for processing the loan equal to five percent (5%) of the loan amount not to exceed twenty-five dollars (\$25.00), provided that such charges may not be assessed more than twice in any 12-month period.

(b) Computation of ~~Charges; Interest.~~ – Charges Interest on loans made pursuant to this section shall not be paid, deducted, or received in advance. Such ~~charges interest~~ shall not be compounded but ~~charges interest~~ on loans shall (i) be computed and paid only as a percentage of the unpaid principal balance or portion thereof and (ii) computed on the basis of the number of days actually elapsed; provided, however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, then the principal amount payable under the loan contract may include any unpaid ~~charges interest~~ on the prior loan which have accrued within 90 days before the making of the new loan contract. For the purpose of computing ~~charges, interest,~~ a day shall equal 1/365th of a year. Any payment made on a loan shall be applied first to any accrued interest and then to principal, and any portion or all of the principal balance may be prepaid at any time without penalty.

(c) Limitation on Interest after Judgment. – If a money judgment ~~be is~~ obtained against any party on any loan made under the

provisions of this section neither the judgment nor the loan shall carry, from the date of the judgment, any interest in excess of eight percent (8%) per annum.

(d) **Limitation of Interest after Maturity of Loan.** – After the maturity date of any loan contract made under the provisions of this section and until the loan contract is paid in full by cash, new loan, refinancing or otherwise, no charges other than interest at eight percent (8%) per annum shall be computed or collected from any party to the loan upon the unpaid principal balance of the loan.

(e) Repealed by Session Laws 1989, c. 17, s. 3.

~~(f) Subject to the limitations contained in this Article as to maximum rates, the Commission may from time to time, upon the basis of changed conditions or facts, redetermine and refix any such maximum rates of charge, but, before determining or redetermining any such maximum rates, the Commission shall give reasonable notice of its intention to consider doing so to all licensees and a reasonable opportunity to be heard and introduce evidence with respect thereto. The notice herein required may be given by mailing such notice to the offices of the licensees as shown in the records of the Commissioner of Banks. Any such changed maximum rates of charge shall not affect preexisting loan contracts lawfully entered into between any licensee and any borrower."~~

SECTION 4. G.S. 53-176 reads as rewritten:

"§ 53-176. *Optional rates, maturities and amounts.*

(a) In lieu of making loans in the amount and at the ~~charges~~ interest stated in G.S. 53-173 and for the terms stated in G.S. 53-180, a licensee may at any time elect to make loans in installments not exceeding ten thousand dollars (\$10,000) and which shall not be repayable in less than six months or more than 84 months and which shall not be secured by deeds of trust or mortgages on real estate and which are repayable in substantially equal consecutive monthly payments and to charge and collect interest in connection therewith which shall not exceed the following actuarial rates:

- (1) With respect to a loan not exceeding seven thousand five hundred dollars (\$7,500), thirty percent (30%) per annum on that part of the unpaid principal balance not exceeding one thousand dollars (\$1,000) and eighteen percent (18%) per annum on the remainder of the unpaid principal balance. Interest shall be contracted for and collected at the single simple interest rate applied to the outstanding balance that would earn the same amount of interest as the above rates for payment according to schedule.

- (2) With respect to a loan exceeding seven thousand five hundred dollars (\$7,500), eighteen percent (18%) per annum on the outstanding principal balance.

(b) In addition to the interest permitted in this section, a licensee may assess at closing a ~~reasonable credit investigation charge fee for processing the loan~~ as agreed upon by the parties, not to exceed ~~the actual cost of the credit investigation;~~ twenty-five dollars (\$25.00) for loans up to two thousand five hundred dollars (\$2,500) and one percent (1%) of the cash advance for loans above two thousand five hundred dollars (\$2,500), not to exceed a total fee of forty dollars (\$40.00), provided that such charges may not be assessed more than twice in any 12-month period. ~~The Commissioner of Banks may review charges assessed pursuant to this section and may adopt appropriate rules in accordance with G.S. 53-185.~~

(c) The provisions of G.S. 53-173(b), (c) and (d) and G.S. 53-180(b), (c), (d), (e), (f), (g), (h) and (i) shall apply to loans made pursuant to this section.

(d) Any licensee under this Article shall have the right to elect to make loans in accordance with this section by the filing of a written statement to that effect with the Commissioner and ~~on no sooner than 30 days from the date of such notification begin making loans regulated by this section for the following 12 months.~~ section. Annually after After such election a licensee may ~~elect continue~~ to make loans in accordance with this section unless the licensee notifies ~~in writing the Commissioner in writing~~ of its intention to terminate such ~~election.~~ election on a date not sooner than 30 days from the notification.

(e) The due date of the first monthly payment shall not be more than 45 days following the disbursement of funds under any such installment loan. A borrower under this section may prepay all or any part of a loan made under this section without penalty. Except as otherwise provided for pursuant to G.S. 75-20(a), no more than twice in a 12-month period, a borrower may cancel a loan with the same licensee within three business days after disbursement of the loan proceeds without incurring or paying interest so long as the amount financed, minus any fees or charges, is returned to and received by the licensee within that time.

(f) No individual, partnership, or corporate licensee and no corporation which is the parent, subsidiary or affiliate of a corporate licensee that is making loans under this Article except as authorized in this section, shall be permitted to make loans under the provisions of this section. Any corporate licensee or individual or partnership licensee that elects to make loans in accordance with the provisions of this section shall be bound by that election with respect to all of its offices and locations in this State and all offices and locations in this

State of its parent, subsidiary or affiliated corporate licensee, or with respect to all of his or their offices and locations in this State."

SECTION 5. G.S. 53-180 is amended by adding a new subsection to read:

"(k) Loans made pursuant to this Article solicited using a facsimile or negotiable check shall be subject to the provisions of G.S. 75-20(a)."

SECTION 6. G.S. 53-181(a) is amended by adding a new subdivision to read:

"(10) In addition to any disclosures otherwise provided by law, a licensee soliciting loans using a facsimile or negotiable check shall provide the disclosures required by G.S. 75-20(a)."

SECTION 7. G.S. 53-182(b) reads as rewritten:

"(b) Upon payment of any loan in full, a licensee shall cancel and return to the borrower, within a reasonable length of time, originals or copies of any note, assignment, mortgage, deed of trust, or other instrument securing such loan, which no longer secures any indebtedness of the borrower to the licensee."

SECTION 8. G.S. 53-184(a) reads as rewritten:

"(a) Each licensee shall maintain all books and records relating to loans made under this Article required by the Commissioner of Banks to be kept, and the Commissioner, his deputy, or duly authorized examiner or agent or employee is authorized and empowered to examine such records at any reasonable time. Such books and records may be maintained in the form of magnetic tape, magnetic ~~disk~~ disk, optical disk, or other form of computer, electronic or microfilm media available for examination on the basis of computer printed reproduction, video display or other medium acceptable to the Commissioner of Banks; provided, however, that such books and records so kept must be convertible into clearly legible tangible documents within a reasonable time. Any licensee having more than one licensed office may maintain such books and records at a location other than the licensed office location if such location is approved by the Commissioner; provided that, upon such requirements as may be imposed by the Commissioner of Banks, there shall be available to the borrower at each licensed location or such other location convenient to the borrower, as designated by the licensee, complete loan information; and provided further that such books and records of each licensed office shall be clearly segregated. When a licensee maintains its books and records outside of North Carolina, the licensee shall make them available for examination at the place where they are maintained and shall pay for all reasonable and necessary expenses incurred by the Commissioner in conducting such examination. Where the data processing for any licensee is performed

by a person other than the licensee, the licensee shall provide to the Commissioner of Banks a copy of a binding agreement between the licensee and the data processor which allows the Commissioner of Banks, his deputy, or duly authorized examiner or agent or employee to examine that particular data processor's activities pertaining to the licensee to the same extent as if such services were being performed by the licensee on its own premises; and, notwithstanding the provisions of G.S. 53-167 and 53-122, when billed by the Commissioner of Banks, the licensee shall reimburse the Commissioner of Banks for all costs and expenses incurred by ~~him~~ the Commissioner in such examination."

SECTION 9. This act becomes effective January 1, 2002, and applies to loans made on or after that date.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

Became law on the date it was ratified.

S.J.R. 19

RESOLUTION 2001-1

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF BISCOE ON THE TOWN'S CENTENNIAL ANNIVERSARY.

Whereas, the Town of Biscoe was first known as "Filo", but was named "Biscoe" after Major Biscoe, a respected Philadelphia lumber and grain merchant, who bought such large amounts of lumber and grain from the region; and

Whereas, the General Assembly ratified an act to incorporate the Town of Biscoe on January 29, 1901; and

Whereas, the first officers of the Town of Biscoe were Mayor William B. Hicks, Commissioners Frank K. Sturdivant, William H. Thompson, Junius R. Page, Arthur W. Burt, Sr., Charles C. Martin, and Town Marshall J. William Ewing; and

Whereas, the founding fathers of the Town of Biscoe included many members of the prominent Page family, including Robert N. Page, who donated the land on which the first school was built and served as a United States Congressman; Frank Page, who was manager of the Aberdeen and Asheboro Railway Company and later played a significant role in making North Carolina known as the "Good Roads State"; Walter H. Page, who was Ambassador to Great Britain; and Junius R. Page who was one of the first Town Commissioners; and

Whereas, due in great part to the railroad owned and operated by the Page family, industry and economic growth surged and the Town of Biscoe soon prospered; and

Whereas, several of the industries formed in the early days of the Town of Biscoe, most notably the cotton mill, the foundry, and various machine industries continue to be major employers in the area; and

Whereas, because of the dedication of Town leaders to the education of the citizens of Biscoe, the Town of Biscoe is home to one of the first State-supported high schools in North Carolina and is the site of one of the oldest existing school buildings erected specifically to house a State-supported high school; and

Whereas, for years, children traveled more than 20 miles from Randolph and Moore Counties by rail to attend school in the Town of Biscoe; and

Whereas, as in the early days, the schools are still the center for social activity in the Town; and

Resolutions – 2001

Whereas, the Town of Biscoe's citizens have always been in the forefront when it was necessary to send young men and women to serve in time of war and several of the Town's finest and brightest young men have given their lives for our country; and

Whereas, the Town of Biscoe is known as the "Crossroads of the World" and will continue to grow and prosper through the next century because of the dedication and insight of its leaders and citizens in making wise decisions just as their founding fathers did in 1901; and

Whereas, the citizens of the Town of Biscoe wish to celebrate its centennial event by honoring those from the past who worked so hard or gave their lives to make sure that the Town would always be a great place to live; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly wishes to honor the founders of the Town of Biscoe and extends its sincere congratulations and best wishes to the Town of Biscoe upon the Town's centennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Biscoe.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of February, 2001.

S.J.R. 128

RESOLUTION 2001-2

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR MICHAEL F. EASLEY, THAT THE GENERAL ASSEMBLY IS ORGANIZED AND READY TO PROCEED WITH PUBLIC BUSINESS AND INVITING THE GOVERNOR TO ADDRESS A JOINT SESSION OF THE SENATE AND HOUSE OF REPRESENTATIVES.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. A committee of five Senators appointed by the President Pro Tempore of the Senate and five Representatives appointed by the Speaker of the House of Representatives shall notify His Excellency, Governor Michael F. Easley, that the General Assembly is organized and is ready to proceed with public business

Resolutions – 2001

and to invite him to address a joint session of the Senate and House of Representatives in the Hall of the House of Representatives at 7:00 P.M. on Monday, February 19, 2001.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of February, 2001.

H.J.R. 273

RESOLUTION 2001-3

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF ANGIER ON THE TOWN'S 100TH ANNIVERSARY.

Whereas, the Town of Angier was founded on the farm of J.C. "Jake" Williams, who according to the census of Harnett County in 1860 had approximately 1,300 acres of land; and

Whereas, around 1899, a railroad built by Colonel Jonathan Cicero Angier was completed from Apex to Jake Williams' farm in order to haul lumber and logs; and

Whereas, a railroad station house was erected and after much discussion, was named Angier, in honor of Jonathan Cicero Angier; and

Whereas, in July of 1899, Jake Williams obtained the services of a surveyor, Daniel E. Green, to map out and plot the streets for the Town of Angier; and

Whereas, the Town of Angier was incorporated by the General Assembly on March 1, 1901; and

Whereas, the first Mayor was Jake Williams, the first Board of Commissioners was composed of B.F. Williams, W.H. Gregory, and C.S. Adams, and the first Chief of Police was M.W. Denning; and

Whereas, the Town began to grow due to the lumber, sawmill, and farming businesses, with cotton as the major money crop and later tobacco; and

Whereas, as a result of the concern and dedication of its progressive citizens, the Town of Angier achieved several store buildings, gas lamps and eventually electric lights, a water and sewer system, paved streets, one of the best municipal buildings in the area, many churches, one of the first, if not the first, high school buildings in Harnett County, and a Chamber of Commerce; and

Whereas, the Town of Angier became known as "The Town of the Crepe Myrtles" because the Angier Woman's Club planted crepe myrtles along the roadways in the 1930s; and

Resolutions – 2001

Whereas, the Town of Angier is continuing to grow, improve, and prosper through the continued dedication, insight, and planning of concerned leaders and citizens; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the founders of the Town of Angier and extends its sincere congratulations and best wishes to the Town of Angier upon the Town's 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Angier.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of March, 2001.

H.J.R. 139

RESOLUTION 2001-4

A JOINT RESOLUTION HONORING THE MEMORY OF THE BUFFALO SOLDIERS OF THE FRONTIER.

Whereas, more than 180,000 African-Americans served in the Union Army during the Civil War; and

Whereas, in 1866, Congress enacted legislation that established two cavalry and four infantry regiments whose enlisted members were to be composed of African-Americans; and

Whereas, the two cavalries and four regiments were later consolidated into the 9th and 10th Cavalries; and

Whereas, the 9th and 10th Cavalries served in the Native American campaigns in the West, fought in the Spanish American War, saw tours of duty in the Philippine Islands, enforced neutrality laws along the United States' border with Mexico, protected mail and travel routes, erected hundreds of miles of telegraph lines, explored and mapped terrain in the Southwest, built and repaired frontier outposts and roads, protected the crews who built the railroads, and enforced law and order; and

Whereas, these African-American soldiers were nicknamed "Buffalo Soldiers" by the Comanche because the soldiers' fierce fighting spirit and dogged trail skills reminded the Comanche of the rugged and revered buffalo; and

Whereas, North Carolinians, Sgt. William McBryar of Elizabethtown, Frank Pullen of Enfield, and Wade H. Hammond of Durham, served as Buffalo Soldiers; and

Resolutions – 2001

Whereas, Buffalo Soldiers earned 25 Medals of Honor, also referred to as the Congressional Medal of Honor, the highest distinction a soldier can earn for valor on the battlefield; and

Whereas, during peacetime, from 1920 through 1941, Buffalo Soldiers formed efficient horse and marksmanship units; and

Whereas, as the United States entered World War II, new wartime technology and the gradual desegregation of the military eventually brought an end to the 9th and 10th Cavalries; and

Whereas, the United States owes a great debt of gratitude to the bravery and sacrifice of the Buffalo Soldiers; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of William McBryar, Frank Pullen, and Wade H. Hammond and wishes to pay tribute to the Buffalo Soldiers of the 9th and 10th Cavalries who gave their lives while rendering service to our country.

SECTION 2. The General Assembly encourages the citizens of this State to remember these heroic soldiers for their role in helping to shape our country.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of March, 2001.

H.J.R. 228

RESOLUTION 2001-5

A JOINT RESOLUTION SETTING THE DATE FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the House of Representatives and the Senate shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Thursday, March 22, 2001. At that time the House of Representatives shall elect one member to the State Board for a term of six years beginning July 1, 2001. The Senate shall elect one member to the State Board for a term of six years beginning July 1, 2001. The Senate also shall elect one member to fill an unexpired term expiring June 30, 2005.

Resolutions – 2001

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 12th day of March, 2001.

H.J.R. 376

RESOLUTION 2001-6

A JOINT RESOLUTION INVITING THE HONORABLE I. BEVERLY LAKE, JR., CHIEF JUSTICE OF THE SUPREME COURT, TO ADDRESS A JOINT SESSION OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The Honorable I. Beverly Lake, Jr., Chief Justice of the Supreme Court, is invited to address a joint session of the House of Representatives and the Senate in the Hall of the House of Representatives at 7:00 P.M., Monday, March 26, 2001.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Honorable I. Beverly Lake, Jr.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of March, 2001.

H.J.R. 481

RESOLUTION 2001-7

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF LORINZO LITTLE JOYNER MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy has occurred on the North Carolina Utilities Commission because of the resignation of William R. Pittman; and

Resolutions – 2001

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee Lorinzo Little Joyner to serve the remainder of the unexpired term of William R. Pittman on the North Carolina Utilities Commission, which will expire June 30, 2001, and to serve a full term on the North Carolina Utilities Commission, which will begin July 1, 2001, and expire June 30, 2009; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointment of Lorinzo Little Joyner to the North Carolina Utilities Commission to complete the term of William R. Pittman, to expire June 30, 2001, is confirmed.

SECTION 2. The appointment of Lorinzo Little Joyner to the North Carolina Utilities Commission for a term to begin July 1, 2001, and expire June 30, 2009, is confirmed.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 2nd day of April, 2001.

H.J.R. 1034

RESOLUTION 2001-8

A JOINT RESOLUTION HONORING THE MEMORY OF MEMBERS OF PAST GENERAL ASSEMBLIES AND THE FIRST TRYON PALACE COMMISSION.

Whereas, the first session of the General Assembly of the State of North Carolina was convened on April 7, 1777, in the Town of New Bern, in the government house generally known as the Palace, which was built by British Governor William Tryon as the first permanent capital of the Colony of North Carolina; and

Whereas, legislators attending this session began the monumental task of creating a free and independent State, unprecedented in the history of the world; and

Whereas, their actions created the legal framework within which our great State operates today; and

Whereas, the Palace was the site of the inauguration of the State's first four Governors and functioned as the government house until the City of Raleigh was designated as the official State Capital in 1794; and

Resolutions – 2001

Whereas, President George Washington visited the Town of New Bern and the Palace in April 1791, as part of his Southern Tour; and

Whereas, the original Palace was destroyed by fire in February 1798; and

Whereas, in 1939, the original plans for the Palace drawn by the English architect John Hawks were discovered in New York City by Gertrude Carraway of New Bern, the first director of the Tryon Palace Restoration Project; and

Whereas, the Latham and Kellenberger families of Greensboro pledged financial support for the restoration of Tryon Palace and challenged the State of North Carolina to join in this private/public partnership for the common good; and

Whereas, in 1945, the General Assembly appropriated funds for the purchase of the Palace site and created the Tryon Palace Commission, which was composed of 25 members representing every part of the State and chaired by Mrs. Maude Moore Latham; and

Whereas, under the leadership of the Tryon Palace Commission and with the full support of the General Assembly, the Palace was restored in 1959 and returned to the citizens of this State as a living legacy recalling our distinguished past; and

Whereas, today the site has grown to 22 acres, with 38 structures and dependencies, including 12 historically important buildings, 14 acres of gardens, and museum collections encompassing 4,800 historic objects and 1,700 rare books; and

Whereas, attendance has grown to more than 80,000 visitors annually, including 18,000 school children, as well as visitors from all 100 North Carolina counties, all 50 states of the United States, and more than 20 foreign countries; and

Whereas, these visitors learn about North Carolina and American history spanning two centuries and encompassing the lifestyles of all classes of society; and

Whereas, a major African-American History Project has been launched to incorporate the stories of people of color, free and enslaved, into the site and to honor their many contributions to our shared legacy; and

Whereas, nearly 1,000 citizens have joined in support of the Palace through membership in the Tryon Palace Council of Friends; and

Whereas, Tryon Palace has purchased a six-acre tract on the Trent River adjacent to the Palace grounds to be used for a History Education and Visitors Center; and

Resolutions – 2001

Whereas, the center will lead the nation in its innovative design and use of technology to enhance and expand our understanding of the past; and

Whereas, the center will encourage family participation and highlight the role of waterways in the early development of North Carolina and the nation and will teach ecological and environmental lessons for today's world; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of the great patriots of past eras: the members of the General Assembly who convened at Tryon Palace in 1777 and began the arduous task of creating a free and independent State; the members of the General Assembly of 1945 who had the foresight to begin restoration of the Palace in order to return to the State this place of historical significance; and the members of the first Tryon Palace Commission who through their leadership, devotion, and generosity brought to fruition the restoration of the Palace.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Tryon Palace Commission.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of April, 2001.

H.J.R. 701

RESOLUTION 2001-9

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF PERSONS WHO WERE INSTRUMENTAL IN THE DEVELOPMENT OF THE ELIZABETHAN GARDENS, A CULTURAL TREASURE IN THE STATE OF NORTH CAROLINA.

Whereas, Sir Evelyn Wrench, founder of the English Speaking Union, had the vision and foresight to suggest the idea of building an Elizabethan garden at Fort Raleigh as a tribute to the Roanoke colonists; and

Whereas, Mrs. Charles Cannon and Mrs. Inglis Fletcher worked with much energy and zeal to promote the idea to the Garden Club of North Carolina; and

Resolutions – 2001

Whereas, the Garden Club of North Carolina formally adopted the project in the spring of 1951 and worked tirelessly to gain support and solicit contributions for the Elizabethan Gardens; and

Whereas, the Roanoke Island Historical Association entered into a 99-year lease with the Garden Club of North Carolina for the use of 10.5 acres of land within the Fort Raleigh National Historic Site for the development of the Elizabethan Gardens; and

Whereas, the Elizabethan Gardens committee and its chairs, including Mrs. James M. Tyler, Mrs. Glenn Long, Mrs. Roy M. Homewood, and Mrs. Corbett E. Howard, led the effort to create and develop the Elizabethan Gardens from 1951 through 1964; and

Whereas, the Elizabethan Gardens committee had the vision and wisdom to secure the services of the nationally renowned landscape architects Umberto Innocenti and Richard K. Webel to design the Elizabethan Gardens; and

Whereas, outstanding builders and craftsmen, including Mr. E.W. Reinecke, Mr. Albert Q. "Skipper" Bell, and others, were hired to build the Elizabethan Gardens; and

Whereas, during the last 50 years, the Honorable John Hay Whitney, Mr. Paul Green, The Honorable and Mrs. C. Douglas Dillon, and numerous other garden club members, citizens, and State agencies have contributed plants, statuary, in-kind services, and funds to continue improving the Elizabethan Gardens; and

Whereas, the Elizabethan Gardens trustees, including Mrs. H.R. Totten, Mrs. J.R. Bennett, and Mrs. Roscoe D. McMillan, worked with great commitment to benefit the Elizabethan Gardens from 1958 until 1974; and

Whereas, Mr. Louis Midgette, Sr. and numerous other staff members and volunteers worked tirelessly to care for and develop the Elizabethan Gardens; and

Whereas, the Elizabethan Gardens Board of Governors, along with numerous consultants, horticulturists, craftsmen, architects, and landscape architects, has carried on the work of its predecessors since 1974; and

Whereas, the Garden Club of North Carolina and all of its member clubs continue to support the Elizabethan Gardens; and

Whereas, the efforts of the people named herein have resulted in the creation of a public garden widely celebrated and acclaimed for its beauty and educational efforts; and

Whereas, the Elizabethan Gardens have been enjoyed by visitors from all 50 states and over 40 foreign countries; Now, therefore,

Resolutions – 2001

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the life and memory of all the individuals named in this resolution for their role in the development of the Elizabethan Gardens. The General Assembly congratulates the Garden Club of North Carolina for 50 years of exemplary service to the State of North Carolina by creating and cultivating the Elizabethan Gardens and encourages the citizens of this State to visit the Elizabethan Gardens.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Garden Club of North Carolina and the Elizabethan Gardens.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of April, 2001.

H.J.R. 652

RESOLUTION 2001-10

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF MACCLESFIELD ON THE TOWN'S CENTENNIAL ANNIVERSARY.

Whereas, the Town of Macclesfield was founded in 1900 by Henry Clark Bridgers, founder of the East Carolina Railroad, and named for Macclesfield, England, Henry Clark Bridgers' ancestral home; and

Whereas, the Town of Macclesfield was incorporated by the General Assembly on May 11, 1901; and

Whereas, the first officers of the Town of Macclesfield were Mayor Henry Clark Bridgers and Commissioners W.L. Foxhall, I.A. Lindsay, and W.W. Windley; and

Whereas, the Town of Macclesfield has always been a farming community and serves as an integral part of our nation's agriculture industry; and

Whereas, the citizens of the Town of Macclesfield have always been in the forefront, when necessary have sent young men and women to serve in time of war, and several have given their lives for our country; and

Whereas, because of the dedication and insight of its leaders and citizens in making wise decisions for the Town, the Town of Macclesfield will continue to be a nice place to live; and

Resolutions – 2001

Whereas, the citizens of the Town of Macclesfield wish to celebrate its centennial by honoring those who have made the Town of Macclesfield what it is today; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly wishes to honor the founders of the Town of Macclesfield and extends its sincere congratulations and best wishes to the Town of Macclesfield upon the Town's centennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Macclesfield.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 8th day of May, 2001.

S.J.R. 689

RESOLUTION 2001-11

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE CITY OF RAEFORD ON THE CITY'S ONE HUNDREDTH ANNIVERSARY.

Whereas, in 1885, John McRae and A.A. Williford, owners of a store and turpentine distillery, applied to run a post office in the central part of what is known today as Hoke County; and

Whereas, the name chosen for the post office was "Raeford", a combination of John McRae's and A.A. Williford's names; and

Whereas, in 1889, Dr. A.P. Dickson and his wife, along with J.W. McLaughlin and others established a school known as the Raeford Institute; and

Whereas, the Raeford Presbyterian and Raeford Baptist Churches were built in 1899 and the Raeford Methodist Church was built in 1900; and

Whereas, during this time, a number of businesses were established and more people moved into the area; and

Whereas, the Town of Raeford was incorporated by the General Assembly on February 22, 1901; and

Whereas, the Town's first officers were B.F. Moore, Mayor, and J.W. McLaughlin, Neill McGill, Daniel MacKethan, J.W. Johnson, and Neill S. Blue, commissioners; and

Whereas, the Town became a city in 1973; and

Resolutions – 2001

Whereas, the City of Raeford has grown from 150 people to more than 4,200; and

Whereas, the City of Raeford is known for its textile and lumber products and poultry processing industry; and

Whereas, the citizens of the City of Raeford have been actively planning celebrations to commemorate its centennial; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of the founders of the City of Raeford and congratulates the City on its one hundredth anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the City of Raeford.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 10th day of May, 2001.

S.J.R. 770

RESOLUTION 2001-12

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HERMAN HARLEY "BULL" WEST, ONE OF WESTERN NORTH CAROLINA'S MOST DISTINGUISHED CITIZENS.

Whereas, Herman Harley West was born in a log cabin on Taylor's Creek in Cherokee County, North Carolina, on July 30, 1910, to David Bruce West and Nina Ensley West; and

Whereas, Herman Harley West left school at a tender age to become his father's "right arm" in the farming and timber business; and

Whereas, through hard work and ingeniousness, Herman Harley West founded and became president of Herman H. West and Company, America's oldest and largest wholly owned land clearing company; and

Whereas, during his career, Herman Harley West came to be known as "Bull" West; and

Whereas, Herman Harley West's company performed many projects, including the monumental task of clearing the huge Flaming Gorge Reservoir in Utah and Wyoming and the Libby Dam Reservoir on the Kooteni River in Montana; and

Resolutions – 2001

Whereas, Herman Harley West provided many jobs for the people of Western North Carolina at a time when there were few jobs available; and

Whereas, Herman Harley West was the first person in Cherokee County to fly his own plane for business purposes from the Murphy-Andrews Airport; and

Whereas, Herman Harley West exhibited a keen interest in politics on the local and national levels; and

Whereas, Herman Harley West served with honor and distinction in the North Carolina House of Representatives in 1961 and 1963; and

Whereas, in 1968, Herman Harley West was elected to the State Senate, becoming the first Republican in 40 years, and the second Republican Senator elected from his district since the Civil War; and

Whereas, while in the legislature, Herman Harley West helped secure funding for Tri-County Community College in Murphy, making it the first community college to receive an appropriation for capital improvements; and

Whereas, Herman Harley West played an instrumental role in the redistricting of Cherokee County, making it possible for the people of the county to elect members of the school board instead of their being appointed; and

Whereas, Herman Harley West served on the Advisory Board of the North Carolina Department of Transportation in 1987, the Board of the North Carolina Department of Transportation in 1975 through 1976, and the State Board of Social Services in 1960; and

Whereas, Herman Harley West made possible the establishment of the Cherokee County Historical Museum by loaning the museum his large collection of artifacts and providing his unwavering support of its projects; and

Whereas, Herman Harley West was always interested and ready to help in any endeavor that would benefit his mountain people, his State, and his nation; and

Whereas, Herman Harley West died on July 12, 1998; and

Whereas, Herman Harley West was a true patriot and a devoted husband, loving father and grandfather; and

Whereas, Herman Harley West is survived by his wife, Margie Bryson West, five sons, Maurice E. West, Marlin B. West, Wallace A. West, Robert West, and Representative Roger West, 19 grandchildren and 23 great-grandchildren; Now, therefore,

Resolutions – 2001

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses high regard for the life and service of Herman Harley "Bull" West and mourns the loss of one of North Carolina's beloved and respected citizens.

SECTION 2. The General Assembly extends its sincere sympathy to the family of Herman Harley West for the loss of its family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Herman Harley West.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 15th day of May, 2001.

H.J.R. 1161

RESOLUTION 2001-13

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the North Carolina Constitution and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the House of Representatives and the Senate the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2009; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. Upon the call of the Speaker of the House of Representatives and the President Pro Tempore of the Senate, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

Resolutions – 2001

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of May, 2001.

H.J.R. 1163

RESOLUTION 2001-14

A JOINT RESOLUTION CONGRATULATING FORT BRAGG, CAMP LEJEUNE, AND SEYMOUR JOHNSON AIR FORCE BASE AS RECIPIENTS OF THE 2001 COMMANDER IN CHIEF'S AWARD FOR INSTALLATION EXCELLENCE AND HONORING THE MEMORY OF BRAXTON BRAGG, JOHN A. LEJEUNE, SEYMOUR JOHNSON, AND THE MEN AND WOMEN ASSIGNED TO THESE MILITARY INSTALLATIONS WHO DIED IN THE LINE OF DUTY.

Whereas, on March 23, 2001, Secretary of Defense, Donald H. Rumsfeld, announced the winners of the 2001 Commander In Chief's Award for Installation Excellence, which included three installations in North Carolina; and

Whereas, Fort Bragg of Fayetteville, home of the 18th Airborne Corps, the 82nd Airborne Division, and the Army's Special Forces, won the Army award; and

Whereas, Camp Lejeune of Jacksonville, home of the 2nd Marine Division, captured the Marine Corps award; and

Whereas, Seymour Johnson Air Force Base of Goldsboro, home of the 4th Fighter Wing and the 916th Air Reserve Wing, was honored with the Air Force award; and

Whereas, the Commander In Chief's Award for Installation Excellence recognizes "the outstanding and innovative efforts of the people who operate and maintain United States military installations"; and

Whereas, each installation excelled in working, housing, and recreational conditions; and

Whereas, each installation will receive additional funds to enable better mission performance and to enhance the quality of life for military personnel; and

Whereas, the Commander In Chief's Award for Installation Excellence reflects favorably on the late military leaders for whom these installations are named: General Braxton Bragg, a Confederate commander and Warren County native; Major General John A. Lejeune, World War I Marine Commandant; and Lt. Seymour Johnson, a Navy test pilot and Goldsboro native; and

Resolutions – 2001

Whereas, the award is a fitting testimonial and memorial to the commitment and dedication of the men and women who served at Fort Bragg, Camp Lejeune, and Seymour Johnson and died while in the line of duty; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Braxton Bragg, John A. Lejeune, and Seymour Johnson and the many men and women assigned to Fort Bragg, Camp Lejeune, and Seymour Johnson who gave their lives in the line of duty.

SECTION 2. The General Assembly wishes to congratulate Fort Bragg, Camp Lejeune, and Seymour Johnson Air Force Base on becoming the 2001 recipients of the Commander In Chief's Award for Installation Excellence.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the commander of Fort Bragg, Camp Lejeune, and Seymour Johnson Air Force Base.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of May, 2001.

H.J.R. 758

RESOLUTION 2001-15

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES CALLOWAY "C.C." ROSS, CIVIC LEADER, BUSINESS OWNER, POLITICIAN, AND EDUCATOR.

Whereas, Charles Calloway "C.C." Ross, Sr. was a native of Mound Bayou, Mississippi; and

Whereas, C.C. Ross received a Bachelors of Science degree from Hampton Institute; and

Whereas, C.C. Ross taught at Atkins High School in Winston-Salem and later at West Virginia State College; and

Whereas, C.C. Ross was the owner and operator of C.C. Ross Painting and Decorating Company; and

Whereas, in 1965, C.C. Ross was the first alderman to represent the East Ward of the City of Winston-Salem and was elected to three additional terms, during which time he served as Mayor Pro Tempore, Chair of the Finance Committee, and as a member of the Public Safety Committee and Recreation Committee; and

Resolutions – 2001

Whereas, from 1969 to 1982, C.C. Ross served as a member of the Winston-Salem State University Board of Trustees, during which time he became the first African-American to be named Chair; and

Whereas, C.C. Ross helped secure funding to improve classroom facilities at Winston-Salem State University and to have the university included in the City's downtown corridor; and

Whereas, in 1979, Southern National Bank, formerly Forsyth Bank & Trust Co., endowed a merit scholarship in honor of C.C. Ross, who was a charter member of the bank, at Winston-Salem State University's School of Business; and

Whereas, in 1983, C.C. Ross received an honorary Doctor of Humane Letters from Winston-Salem State University; and

Whereas, C.C. Ross was a fair housing advocate and served on the Board of Directors of the Winston-Salem Housing Foundation, Inc., for more than 24 years; and

Whereas, in 1992, the Board of Directors of the Winston-Salem Housing Foundation, Inc., renamed a residence facility for the elderly in honor of C.C. Ross; and

Whereas, C.C. Ross served as vice president and member of the Executive Committee of the local chapter of the NAACP; and

Whereas, C.C. Ross served as a member of the Bowman Gray Stadium Commission, Salem Lake Fishing Commission, Coliseum and Convention Center Commission, Model Cities Committee, Personnel Advisory Committee, and the Winston-Salem Advisory Committee on Transportation; and

Whereas, C.C. Ross served his country as a member of the United States Army; and

Whereas, C.C. Ross was a member of the Our Lady of Mercy Catholic Church; and

Whereas, C.C. Ross died on November 9, 1996; and

Whereas, C.C. Ross is survived by his wife, Dorothy Walls Ross, a son, Charles Ross, Jr., and a daughter, Denise B. Eaton; and

Whereas, C.C. Ross will be remembered as a dedicated community leader, a staunch supporter of Winston-Salem State University, and a beloved husband, father, and friend; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Charles Calloway "C.C." Ross, Sr. and extends its appreciation for the service he rendered to the City of Winston-Salem, Winston-Salem State University, and his community.

Resolutions – 2001

SECTION 2. The General Assembly expresses its deepest sympathy to the family of Charles Calloway "C.C." Ross, Sr. for the loss of their family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Charles Calloway "C.C." Ross, Sr.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of May, 2001.

S.J.R. 1101

RESOLUTION 2001-16

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENTS OF JAMES YANCEY KERR, II AND MICHAEL SATTERFIELD WILKINS TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION AND THE APPOINTMENT OF ROBERT P. GRUBER AS EXECUTIVE DIRECTOR OF THE PUBLIC STAFF OF THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, vacancies will occur on the North Carolina Utilities Commission on June 30, 2001; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees, James Yancey Kerr, II and Michael Satterfield Wilkins, to serve terms on the North Carolina Utilities Commission, which will begin July 1, 2001, and expire June 30, 2009; and

Whereas, under the provisions of G.S. 62-15, the appointment made by the Governor of the Executive Director of the Public Staff of the North Carolina Utilities Commission is subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy will occur in the office of Executive Director of the Public Staff of the North Carolina Utilities Commission on June 30, 2001; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee, Robert P. Gruber, to serve as Executive Director of the

Resolutions – 2001

Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2001, and expire June 30, 2007; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The appointments of James Yancey Kerr, II and Michael Satterfield Wilkins to the North Carolina Utilities Commission for terms to begin July 1, 2001, and expire June 30, 2009, are confirmed.

SECTION 2. The appointment of Robert P. Gruber as Executive Director of the Public Staff of the North Carolina Utilities Commission for a term to begin July 1, 2001, and expire June 30, 2007, is confirmed.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of June, 2001.

H.J.R. 990

RESOLUTION 2001-17

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS OF MICHELLE HOWARD-VITAL, WAYNE MCDEVITT, AND PATRICIA WILLOUGHBY TO MEMBERSHIP ON THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor has transmitted to the presiding officers of the House of Representatives and the Senate, the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2009; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The appointments of Michelle Howard-Vital, Wayne McDevitt, and Patricia Willoughby to membership on the State Board of Education for terms to expire March 31, 2009, are confirmed.

Resolutions – 2001

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of June, 2001.

S.J.R. 853

RESOLUTION 2001-18

A JOINT RESOLUTION ACCEPTING PROPERTIES OWNED BY THE STATE OF NORTH CAROLINA FOR INCLUSION IN THE STATE NATURE AND HISTORIC PRESERVE.

Whereas, Article XIV, Section 5 of the North Carolina Constitution authorizes the dedication of State and local government properties as part of the State Nature and Historic Preserve upon acceptance by resolution adopted by a vote of three-fifths of the members of each house of the General Assembly and the removal of properties from that Preserve by law adopted by three-fifths of the members of each house of the General Assembly; and

Whereas, the General Assembly enacted the State Nature and Historic Preserve Dedication Act, Chapter 443, 1973 Session Laws, to prescribe the conditions and procedures under which properties may be specifically dedicated for the purposes enumerated by Article XIV, Section 5 of the North Carolina Constitution; and

Whereas, in accordance with G.S. 143-260.8, the Council of State has petitioned the General Assembly to adopt a resolution pursuant to Article XIV, Section 5 of the North Carolina Constitution accepting properties added to the State Parks System since the last dedication of lands on June 30, 1999, and designated in the petition for inclusion in the State Nature and Historic Preserve; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly dedicates and accepts all the following lands and waters to constitute components of the State Nature and Historic Preserve:

- (1) All lands and waters within the boundaries of the following units of the State Parks System as of April 3, 2001: Boone's Cave State Natural Area, Bullhead Mountain State Natural Area, Eno River State Park, Gorges State Park, Hammocks Beach State Park, Lake Norman State Park, Lumber River State Park, Medoc Mountain State Park, Mount Jefferson State Natural

Resolutions – 2001

Area, Mount Mitchell State Park, Pettigrew State Park, Raven Rock State Park, and Weymouth Woods-Sandhills Nature Preserve.

- (2) All lands and waters within the boundaries of William B. Umstead State Park as of April 3, 2001, with the exception of Tract Number 65, containing 22.93140 acres as shown on a survey prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS), entitled "Property of The State of North Carolina William B. Umstead State Park", dated January 14, 1977, and filed in the State Property Office, which was removed from the State Nature and Historic Preserve by Chapter 450, Section 1 of the 1985 Session Laws.
- (3) All land within the boundaries of Crowders Mountain State Park as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Crowders Mountain State Park in Gaston County, Crowders Mountain Township, described in Deed Book 1939, Page 800, and containing 757.28 square feet and as shown in a survey by Tanner and McConnaughey, P.A., dated July 22, 1988, and filed in the State Property Office.
- (4) All lands owned in fee simple by the State within the boundaries of New River State Park as of April 3, 2001.
- (5) All lands and waters within the boundaries of Stone Mountain State Park as of April 3, 2001, with the exception of the following tracts: The portion of that certain tract or parcel of land at Stone Mountain State Park in Wilkes County, Traphill Township, described as parcel 33-02 in Deed Book 633-193, and more particularly described as all of the land in this parcel lying to the west of the eastern edge of the Air Bellows Road, as shown on the National Park Service Land Status Map 33 dated March 24, 1981, and filed in the State Property Office, containing approximately 72 acres; and the portion of that certain tract or parcel of land at Stone Mountain State Park in Alleghany County, Cherry Lane Township, described in Deed Book 219, Page 543, and more particularly described as all of the land in this parcel lying north of the new division line on the survey by Andrews and Hobson Surveyors dated August 15, 2000, and entitled "Property Exchange

Resolutions – 2001

- Agreement for State of North Carolina & the United States of America" and filed in the State Property Office.
- (6) All lands and waters located within the boundaries of Hanging Rock State Park as of April 3, 2001, with the exception of the following tract: The portion of that tract or property at Hanging Rock State Park in Stokes County, Danbury Township, described in Deed Book 360, Page 160, for a 30-foot-wide right-of-way beginning approximately 183 feet south of SR 1001 and extending in a southerly direction approximately 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and more particularly shown on a survey entitled "J. Spot Taylor Heirs Survey, Danbury Township, Stokes County, N.C." by Grinski Surveying Company, dated June 1985 and filed in the State Property Office.
 - (7) All lands and waters located within the boundaries of South Mountains State Park as of April 3, 2001, with the exception of the following tracts: The portion of that tract or property at South Mountains State Park in Burke County, Lower Creek Township, described in Deed Book 862, Page 1471, required for the right-of-way and easements for the relocation of SR 1904 within the park and lying generally between the Rutherford Electric Membership Corporation right-of-way and the southern property boundary of the park, as described in the drawing entitled "Survey for State of North Carolina", dated January 28, 1999, prepared by Suttles Surveying, P.A., bearing the preparer's file name 12455.dwg and filed in the State Property Office; and the portions of land at South Mountains State Park that lie south of the centerline of the CCC road as shown on the drawing entitled "Land Trade between South Mountains State Park and Adjacent Game Lands along CCC Road" prepared by the Division of Parks and Recreation, dated March 15, 1999, and filed in the State Property Office and that lie within: (i) the tract or property in Burke County, Lower Fork Township, described in Deed Book 495, Page 501; (ii) the tract or property in Burke County, Lower Fork and Upper Fork Townships, described in Deed Book 715, Page 719; or, (iii) within the tracts or property in Burke County, Upper Fork Township, described in Deed Book 860, Page 341, and Deed Book 884, Page 1640.

Resolutions – 2001

- (8) All lands and waters within the boundaries of Bushy Lake State Natural Area as of April 3, 2001, with the exception of the following tract: The portion of that certain tract or parcel of land at Bushy Lake State Natural Area in Cumberland County, Beaver Dam Township, described in Deed Book 3588, Page 583, and shown as the 0.58 acre parcel within tract 2 on the Recombination Survey for State of North Carolina by Lewis G. Paschal, Professional Land Surveyor, dated April 1989 and December 2000 and filed in the State Property Office.
- (9) All lands and waters within the boundaries of Jockey's Ridge State Park as of April 3, 2001, with the exception of the following tracts: The portion of those certain tracts or parcels of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 227, Page 499, and Deed Book 227, Page 501, and containing 33,901 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 13 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 222, Page 726, and containing 42,909 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 14 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office; and the portion of that certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, described in Deed Book 224, Page 790, and Deed Book 224, Page 794, and containing 34,471 square feet as shown on the survey prepared by Styons Surveying Services entitled "Raw Water Well Site 15 Jockey's Ridge State Park" dated March 7, 2001, and filed in the State Property Office.

SECTION 2. In accordance with G.S. 143-260.8(e), the Secretary of State is directed to forward a certified copy of this resolution to the register of deeds of the counties in which the dedicated properties named in Section 1 of this act are located.

Resolutions – 2001

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of June, 2001.

S.J.R. 585

RESOLUTION 2001-19

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF COBLE FUNDERBURK, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY.

Whereas, Coble Funderburk was born on January 18, 1905, in Chesterfield County, South Carolina, to Howard and Sloan Funderburk; and

Whereas, Coble Funderburk attended public schools in the Pageland, South Carolina, area; and

Whereas, Coble Funderburk graduated from Furman University in 1928 and after graduation moved to Monroe, North Carolina, where he taught at Monroe High School and coached at Monroe High School and Wingate Junior College (now Wingate University); and

Whereas, Coble Funderburk studied law at Wake Forest College (now Wake Forest University) and passed the North Carolina State Bar Exam in 1931; and

Whereas, Coble Funderburk began his law practice in Monroe, North Carolina, in June of 1932 and practiced law until his death at age 95; and

Whereas, Coble Funderburk was an outstanding trial lawyer who fought hard for his clients; and

Whereas, Coble Funderburk served with honor and distinction as a member of the North Carolina House of Representatives in 1935 and the North Carolina Senate in 1941 and 1943; and

Whereas, Coble Funderburk contributed to the welfare of the Union County community, including serving as a member of the Monroe School Board for approximately 12 years and Chair of the Board of Trustees for Union Memorial Hospital for eight years; and

Whereas, Coble Funderburk received many honors and awards, including being named the Paul Harris Fellow by the Monroe Rotary Club, and being inducted into the Order of the Long Leaf Pine; and

Whereas, Coble Funderburk, a deeply religious man, taught Sunday school at the First Baptist Church of Monroe for almost 40

Resolutions – 2001

years, taught Sunday school lessons on local radio stations for approximately 30 years, and taught and preached in many of the churches throughout Union County and surrounding areas; and

Whereas, Coble Funderburk loved hunting and in that pursuit traveled on several African safaris, caught live wild bears in various parts of the State, and went on a hunting trip to Alaska when he was in his eighties; and

Whereas, Coble Funderburk was a world traveler, crossing the Atlantic Ocean more than a dozen times, circling the globe twice, and visiting all continents and major countries of the world; and

Whereas, Coble Funderburk was the loving father of three children; and

Whereas, Coble Funderburk died on September 20, 2000; and

Whereas, Coble Funderburk lived an exemplary life in which his word was his bond; and

Whereas, Coble Funderburk will be remembered for his myriad contributions to the State of North Carolina; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Coble Funderburk and expresses its high esteem and regard for his extraordinary life and accomplished leadership and acknowledges the distinguished service he provided to this great State.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Coble Funderburk.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of June, 2001.

S.J.R. 707

RESOLUTION 2001-20

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF RICHARD CLARK, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Richard Schoyler Clark was born on February 12, 1927, to Henry Githens Clark and Ruby Hardy Clark in Wadesboro, North Carolina; and

Whereas, Richard Clark served in the United States Navy from 1945 to 1946; and

Resolutions – 2001

Whereas, Richard Clark attended Pfeiffer College and graduated from Wake Forest College and Wake Forest School of Law; and

Whereas, from 1951 to 1960, Richard Clark practiced law in Asheboro, North Carolina, and, from 1960 until shortly before his death, practiced law in Monroe, North Carolina; and

Whereas, Richard Clark served with honor and distinction as a member of the North Carolina House of Representatives during the 1967, 1969, and 1971 sessions of the General Assembly; and

Whereas, as a member of the General Assembly, Richard Clark earned the respect of his fellow colleagues and of the consumers of this State for whom he advocated; and

Whereas, Richard Clark ran for Congress in 1972; and

Whereas, Richard Clark believed in the democratic process, encouraging people to vote in every election; and

Whereas, Richard Clark was a loyal and faithful member of the Democratic Party, serving in many capacities, including as a member of the Randolph County Young Democrats Club, Chair of the Democratic Party in Randolph and Union Counties, precinct chair, fund-raiser, and campaign cochair; and

Whereas, Richard Clark served as President of the Consumers Council and as a public member of the General Statutes Commission; and

Whereas, Richard Clark served the community in many worthwhile capacities and was a devoted member of the St. Paul's Episcopal Church; and

Whereas, Richard Clark died on February 21, 2001; and

Whereas, Richard Clark is survived by his wife of 48 years, Margaret Gerock Clark; four daughters, Connie Hiltz, Mary Swindler, Elizabeth Woody, and Nancy Smith; and several grandchildren; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of Richard Clark and expresses its appreciation for the service he rendered to North Carolina and its citizens.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Richard Clark for the loss of their beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Richard Clark.

Resolutions – 2001

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2001.

H.J.R. 663

RESOLUTION 2001-21

A JOINT RESOLUTION HONORING THE MEMORY OF THE VICTIMS OF THE IMPERIAL FOOD PRODUCTS FIRE.

Whereas, on September 3, 1991, a grease fire swept quickly through the Imperial Food Products plant, a chicken processing plant in Hamlet, North Carolina; and

Whereas, blocked and unmarked exits and locked doors and the absence of fire alarms and a sprinkler system resulted in the deaths of 26 people and injuries to 56 others; and

Whereas, the victims of the Imperial Food Products plant fire were:

David Michael Albright
Peggy Jean Anderson
Margaret Teresa Banks
Fred Ernest Barrington
Josephine Barrington
Elizabeth Ann Bellamy
Gail V. Campbell
Rosie Ann Chambers
Josie M. Coulter
John R. Gagnon
Bertha C. Jarrell
Brenda Gail Kelly
Janice Marie Lynch
Michael Morrison
Rose Marie Peele
Mary Alice Quick
Cynthia Marie Ratliff
Martha E. Ratliff
Donald Bruce Rich
Minnie Mae Thompson
Cynthia S. Wall
Mary Lillian Wall
Jeffrey Antonio Webb
Rose Lynette Wilkins; and

Resolutions – 2001

Whereas, Patricia Hatcher, who received serious injuries in the fire, died in 2000; and

Whereas, Phillip Ray Dawkins, a Lance Company worker, also died in the fire; and

Whereas, the fire not only caused the loss of life and injury but also resulted in the closing of the Imperial Food Products plant and the loss of 200 jobs; and

Whereas, the fire is the worst industrial disaster in North Carolina history; and

Whereas, stricter workplace safety laws were enacted after the fire to help prevent this type of tragedy from happening again; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly extends its deepest sympathy to the families and friends of the victims of the Imperial Food Products plant fire in Hamlet, North Carolina.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to each of the survivors and the families of the victims of the fire, and the Mayor of the City of Hamlet.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 2001.

S.J.R. 362

RESOLUTION 2001-22

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF ROBERT L. POWELL AS STATE CONTROLLER.

Whereas, under the provisions of G.S. 143B-426.37, the appointment by the Governor of a person to be State Controller is subject to confirmation by the General Assembly; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee Robert L. Powell to be State Controller to serve a term to begin July 1, 2001, and expire June 30, 2008; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Resolutions – 2001

SECTION 1. The appointment of Robert L. Powell as State Controller for a term to begin July 1, 2001, and expire June 30, 2008, is confirmed.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of June, 2001.

H.J.R. 270

RESOLUTION 2001-23

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF DALE EARNHARDT, LEGENDARY STOCK CAR RACER.

Whereas, Ralph Dale Earnhardt was born on April 29, 1951, on a farm in Kannapolis, North Carolina; and

Whereas, the son of a NASCAR driver Ralph Earnhardt, Dale Earnhardt developed a passion for stock car racing at an early age; and

Whereas, Dale Earnhardt began competing in local stock car races as a teenager, eventually competing on the Winston Cup circuit; and

Whereas, in 1975, Dale Earnhardt entered his first Winston Cup race at the Charlotte Motor Speedway; and

Whereas, in 1979, Dale Earnhardt won his first Winston Cup race at the Bristol Motor Speedway in Bristol, Tennessee, and later that year was named Rookie of the Year; and

Whereas, in 1980, Dale Earnhardt clinched the NASCAR Winston Cup championship, making him the first driver to win Rookie of the Year and the Winston Cup championship in successive seasons; and

Whereas, in 1984, Dale Earnhardt began driving for Richard Childress, and together they formed a formidable team achieving tremendous success on the racetrack; and

Whereas, Dale Earnhardt won NASCAR championships in 1986, 1987, 1990, 1991, 1993, and 1994, tying Richard Petty's impressive record for the most championships won in a single career of stock car racing; and

Whereas, during his career, Dale Earnhardt won 34 races at the Daytona track, the most of any driver in history, including the Daytona 500 in 1998; and

Resolutions – 2001

Whereas, Dale Earnhardt was the first three-time winner of the Winston Select and won three International Race of Champions (IROC) series championships; and

Whereas, in 1998, on the 50th anniversary of NASCAR, Dale Earnhardt was named one of the sport's 50 greatest drivers; and

Whereas, Dale Earnhardt was nicknamed "The Intimidator" because of his aggressive and keen driving abilities; and

Whereas, Dale Earnhardt also found success as a businessman, including his ownership in other racing teams and as a farmer in Mooresville, North Carolina, and

Whereas, Dale Earnhardt died on February 18, 2001; and

Whereas, Dale Earnhardt is survived by his wife, Teresa Earnhardt; his children, Dale, Jr., Kerry, Kelly, and Taylor; his mother, Martha; and several siblings; and

Whereas, Dale Earnhardt was loved and admired by people from all around the world and will be greatly missed both on and off the racetrack; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Dale Earnhardt and expresses the gratitude and appreciation of this State and its citizens for his life and accomplishments.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Dale Earnhardt for the loss of a beloved family man and true friend.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Dale Earnhardt.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

H.J.R. 1461

RESOLUTION 2001-24

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JACOB WILBERT FORBES, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jacob Wilbert Forbes was born in Camden County on December 31, 1916, to Jacob Foster Forbes and Ida Dozier Forbes; and

Resolutions – 2001

Whereas, Wilbert Forbes graduated from Oak Ridge Military Institute in 1934 and attended Wake Forest College from 1934 to 1936; and

Whereas, Wilbert Forbes married Jerry Louise Wilcox on November 28, 1936; and

Whereas, Wilbert Forbes was a farmer in Camden County; and

Whereas, Wilbert Forbes served with honor and distinction in the House of Representatives from 1953 to 1956; and

Whereas, in 1956, Wilbert Forbes was appointed to the North Carolina Burial Commission by Governor Luther Hodges; and

Whereas, in 1959, Wilbert Forbes began a long career with the railroad industry, serving as Executive Director of the North Carolina Railroad Association from 1959 to 1962, working with Southern Railway from 1964 to 1982, and serving as Resident Executive Vice President of Norfolk Southern Railway in 1982 after Norfolk and Southern Railroads merged; and

Whereas, Wilbert Forbes retired from Norfolk Southern Railway in 1994 at the age of 76; and

Whereas, Wilbert Forbes generously gave his time and energy to his community, serving as a member of the Hall Masonic Lodge #53 in Currituck County for more than 50 years and also serving as a member of the York Rite Masonic Bodies of Raleigh, Amran Shrine Temple, and Wake County Shrine Club; and

Whereas, for a number of years Wilbert Forbes served on the Board of Trustees of Elizabeth City State University; and

Whereas, Wilbert Forbes was a lifelong member of Shiloh Baptist Church in Camden County and an associate member of St. John's Baptist Church in Raleigh; and

Whereas, Wilbert Forbes was admired and respected by all who knew him; and

Whereas, Wilbert Forbes died on March 27, 2000; and

Whereas, Wilbert Forbes is survived by his wife of 63 years, Jerry Louise Wilcox Forbes; his children, Ralph Forbes, Marie Forbes Davis, and Ida Forbes Riddick; and nine grandchildren and eight great-grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Jacob Wilbert Forbes and expresses the gratitude and appreciation of this State and its citizens for his life and devoted service to North Carolina.

Resolutions – 2001

SECTION 2. The General Assembly extends its deepest sympathy to the family of Jacob Wilbert Forbes for the loss of their beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jacob Wilbert Forbes for the loss of a beloved husband, father, and grandfather.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of July, 2001.

H.J.R. 1460

RESOLUTION 2001-25

A JOINT RESOLUTION HONORING THE FOUNDERS OF JACKSON COUNTY ON THE COUNTY'S SESQUICENTENNIAL ANNIVERSARY.

Whereas, Jackson County was formed from portions of Haywood County and Macon County at the petition of its residents and following a memorial presented to the General Assembly by Representative Robert G.A. Love on December 10, 1850; and

Whereas, the General Assembly ratified the act to establish a new county named in honor of President Andrew Jackson on January 29, 1851; and

Whereas, the commissioners, as named in the Act of 1851, were William H. Bryson, Elihu Coward, Charles Bumgarner, William Tatham, Wesley W. Enloe, William R. Crawford, and Mark Coleman; and

Whereas, the people of Jackson County have had the privilege to count among its citizens, Dr. John R. Brinkley, Congressman David Hall, industrialist C.J. Harris, State Senator Gertrude Dills McKee, educator Robert L. Madison, Governor Dan K. Moore, Judge Walter Moore, journalist John Parris, Judge Lacy Thornburg, and State Senator William H. Thomas; and

Whereas, the county is noted for the diversity of its people, being home to members of the Eastern Band of Cherokee Indians, African-Americans, Hispanics, Scots-Irish, German, English descendants, and other people representing a national and global heritage; and

Whereas, the people of Jackson County have always demonstrated a willingness and desire to serve in the country's defense, whether during peacetime or in times of conflict, and

Resolutions – 2001

witnessed many of its sons and daughters give their lives to protect and defend the nation; and

Whereas, the county has a long history of educational development, including support by the citizenry of a system of public schools, of Southwestern Community College, and of Western Carolina University, the latter of which is now in the 112th year of its operation; and

Whereas, the people of the county have supported a regional hospital and sought to address health concerns; and

Whereas, Jackson County was possessed with natural resources and an industrious population that supported farming, lumber and paper industries, tree farming, mining, textile mills, and tourism; and

Whereas, Jackson County has been blessed with natural beauty, which has provided for tourism as well as the enjoyment of the county's residents; and

Whereas, the people of the county have sought to preserve the culture of the mountains through music, literature, art, history, and celebrations; and

Whereas, the citizens of Jackson County wish to honor the generations of the past who built the county, as well as the present generation which endeavors to continue the work to "secure the blessings of liberty to ourselves and our posterity"; and

Whereas, the people of Jackson County wish to celebrate and share their rich historical heritage, cultural diversity, and natural beauty; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly wishes to honor the founders of the County of Jackson and extends its sincere congratulations and best wishes to the County of Jackson upon the County's sesquicentennial anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the county commissioners of the County of Jackson.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of July, 2001.

H.J.R. 1456

RESOLUTION 2001-26

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY
OF WILVER DORNELL "WILLIE" STARGELL, MEMBER OF
THE BASEBALL HALL OF FAME.

Whereas, Wilver Dornell "Willie" Stargell was born on March 6, 1940, in Earlsboro, Oklahoma, and grew up in Oakland, California; and

Whereas, Willie Stargell played baseball for Santa Rosa Junior College in California prior to signing with the Pittsburgh Pirates; and

Whereas, Willie Stargell played for the Pirates from 1962 until his retirement in 1982; and

Whereas, during his career, Willie Stargell played 2,360 games and amassed a long list of impressive statistics, including seven appearances in National League All-Star games, 475 homeruns, 1,540 runs, and a .282 lifetime batting average; and

Whereas, Willie Stargell helped his team win National League pennants and World Series championships in 1971 and 1979 and six National League East titles between 1970 and 1979; and

Whereas, in 1979, at the age of 39, Willie Stargell received three Most Valuable Player (MVP) awards: National League MVP for the regular season, which he shared with Keith Hernandez; National League MVP for the playoffs; and World Series MVP; and

Whereas, Willie Stargell holds the record for the oldest player to win an MVP award; and

Whereas, in 1979, Willie Stargell was named The Sporting News Man of the Year and the Sports Illustrated Man of the Year, an honor he shared with Terry Bradshaw; and

Whereas, following his retirement as a baseball player, Willie Stargell held various positions with the Pirates and the Atlanta Braves; and

Whereas, in 1988, his first year of eligibility, Willie Stargell was inducted into the Baseball Hall of Fame; and

Whereas, Willie Stargell inspired and mentored his teammates and was nicknamed "Pops" due to his fatherly presence; and

Whereas, Willie Stargell was admired and loved by thousands of fans, who remained loyal to the popular athlete after he retired from baseball; and

Resolutions – 2001

Whereas, on April 9, 2001, the Pirates unveiled a 12-foot bronze statue of Willie Stargell at the team's new ballpark, PNC Park; and

Whereas, Willie Stargell gave freely to many causes and organizations over the years; and

Whereas, Willie Stargell died on April 9, 2001, in Wilmington, North Carolina; and

Whereas, Willie Stargell is survived by his wife, Margaret Weller-Stargell; his children: Precious Stargell, Dawn Stargell Moore, Wendy Stargell, Kelli Stargell, and Wilver Stargell, Jr.; his mother; a sister; and five grandchildren; and

Whereas, Willie Stargell was a proud member of the Caesar Bruner Band of the Seminole Nation of Oklahoma; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Wilver Dornell "Willie" Stargell and expresses the gratitude and appreciation of this State and its citizens for his life and the joy he brought to the game of baseball.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Wilver Dornell "Willie" Stargell for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Wilver Dornell "Willie" Stargell.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of August, 2001.

S.J.R. 1103

RESOLUTION 2001-27

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF STATE SENATOR JOHN W. THOMAS UPON THE ONE HUNDRED FIFTIETH ANNIVERSARY OF THE TOWN OF THOMASVILLE.

Whereas, John W. Thomas, a member of the State Senate in the 1800s, helped pioneer the construction of the first railroad across North Carolina by vigorously working to get the North Carolina Railroad Act enacted in the General Assembly; and

Resolutions – 2001

Whereas, in 1852, John W. Thomas purchased land in Davidson County on the adopted route of the railroad paving the way for the establishment of a new town; and

Whereas, the Town of Thomasville was incorporated by the General Assembly in 1857; and

Whereas, by the 1860s, the Town of Thomasville was flourishing due in part to the number of businesses that manufactured wooden household furniture; and

Whereas, the first chair factory in North Carolina was built in Thomasville; and

Whereas, the Town's leading manufacturer, Thomasville Furniture Industries, has made the name "Thomasville" famous around the world; and

Whereas, tourists are attracted to Thomasville because of the many products produced in the Town, the restored railroad station, which is the oldest still standing in North Carolina, and the "Chair of Thomasville", an 18-foot chair on a 12-foot base located in the center of downtown; and

Whereas, the Chair of Thomasville is a reproduction of a Duncan Phyfe dining room chair and serves as a symbol of and a salute to the local furniture industry; and

Whereas, Thomasville remains a center of furniture manufacturing in the world; and

Whereas, with a population of 20,000, Thomasville is one of North Carolina's leading municipalities; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the memory of John W. Thomas for the valuable service he rendered North Carolina and for his vision in establishing the Town of Thomasville.

SECTION 2. The General Assembly extends its sincere congratulations and best wishes to the Town of Thomasville upon its 150th anniversary and encourages the citizens of this State to actively take part in the Town's celebration.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Thomasville.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 9th day of August, 2001.

S.J.R. 475

RESOLUTION 2001-28

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF LUNSFORD RICHARDSON PREYER AND EMILY HARRIS PREYER, TWO OF THE STATE'S MOST DISTINGUISHED CITIZENS.

Whereas, L. Richardson Preyer was born on January 11, 1919, in Greensboro, North Carolina, to W. Y. Preyer Sr. and Mary Norris Richardson Preyer; and

Whereas, Emily Irving Harris Preyer was born on October 16, 1919, to William Coleman Harris and Jane Scales Harris in Reidsville, North Carolina, and grew up in Greensboro; and

Whereas, L. Richardson Preyer graduated from Woodberry Forest High School in Woodberry Forest, Virginia, in 1937 and received a bachelors degree from Princeton University in 1941; and

Whereas, Emily Preyer graduated from Woman's College of the University of North Carolina, now the University of North Carolina at Greensboro, in 1939, where she served as student body president and later received a masters degree from the University of Virginia; and

Whereas, during World War II, L. Richardson Preyer was a lieutenant in the United States Navy serving four years on destroyer duty in the Atlantic and South Pacific as a torpedo officer, gunnery officer, and executive officer and received a Bronze Star for action in Okinawa; and

Whereas, during World War II, Emily Preyer served in the Red Cross in Australia and the Philippines; and

Whereas, after the war, L. Richardson Preyer obtained a law degree from Harvard University then returned to Greensboro, where he established a successful law practice; and

Whereas, after her service in the Red Cross, Emily Preyer taught school for a number of years in Greensboro and Charlotte and for a brief time worked as a proofreader for The New Yorker magazine; and

Whereas, the Preyers were married in 1946 and began a life dedicated to their family of five children, Richardson Jr., Britt, Mary Norris, Jane, and Emily, and their community; and

Whereas, L. Richardson Preyer served as a city judge from 1953 to 1954, a State Superior Court judge from 1956 to 1961, and a United States District Court judge from 1961 to 1963; and

Resolutions – 2001

Whereas, L. Richardson Preyer served as senior vice-president, trust officer, and city executive of North Carolina National Bank of Greensboro from 1964 to 1966; and

Whereas, in 1963, L. Richardson Preyer resigned his judgeship and unsuccessfully ran for Governor; and

Whereas, in 1968, L. Richardson Preyer was elected to the United States Congress, where he served with honor and distinction until 1980; and

Whereas, as a Congressman, L. Richardson Preyer served as chairman of the Select Committee on Ethics, which established the Congressional Code of Ethics, and as a member of the House Select Committee on Assassinations, which investigated the deaths of President John F. Kennedy and civil rights leader Rev. Dr. Martin Luther King Jr.; and

Whereas, Emily Preyer was actively involved in her husband's political campaigns and served as president of the Congressional Wives Club and the Congressional Wives Prayer Group; and

Whereas, L. Richardson Preyer and Emily Preyer worked diligently for the good of their community and State by actively and generously supporting numerous civic, cultural, charitable, and political causes; and

Whereas, L. Richardson Preyer was a member of the Piedmont Land Conservancy and the National Governing Board of Common Cause, chair of the Coastal Futures Committee and the North Carolina Outward Bound School, commissioner of the Greensboro Little League and Pony Baseball programs, trustee of the National Nature Conservancy and the Hastings Institute of Medicine, and director of Vanguard Cellular Systems, Inc., and Piedmont Management, Inc.; and

Whereas, L. Richardson Preyer served on the board of directors of Guilford College, Davidson College, the University of North Carolina School of Social Work, Community Self Help, the American Red Cross, the Salvation Army, the North Carolina Museum of History, and the University of North Carolina at Greensboro Excellence Foundation; and

Whereas, Emily Preyer served on the boards of The North Carolina Nature Conservancy, the North Carolina Zoological Society, the Guilford Battleground Co., the Shepherd Center, the Board of Trustees of The University of North Carolina and the University of North Carolina at Greensboro, and served as alumni association president of the University of North Carolina at Greensboro; and

Resolutions – 2001

Whereas, L. Richardson Preyer received numerous honors and awards, including the Inter-Club Council's Outstanding Civic Leader of the Year Award, the Greensboro Chamber's "Uncle Joe Cannon" Award for outstanding leadership, the University of North Carolina School of Medicine's Distinguished Service Award, and the Washingtonian Magazine's Phillip Hart Memorial Award for Conscience; and

Whereas, in 1989, the federal courthouse and post office in Greensboro were named the L. Richardson Preyer Building; and

Whereas, Emily Preyer was named Greensboro's Woman of the Year in 1958 for her civic activities; and

Whereas, in 1998, the Preyers were the recipients of the North Carolina Award for Public Service, the State's highest civilian honor; and

Whereas, in 2000, an 18,648-acre site in Tyrrell County was renamed the Emily and Richardson Preyer Buckridge Coastal Reserve; and

Whereas, the Preyers were active in the First Presbyterian Church in Greensboro; and

Whereas, Emily Preyer died on December 12, 1999; and

Whereas, L. Richardson Preyer died on April 3, 2001; and

Whereas, the Preyers are survived by their children, L. Richardson Preyer Jr., Britt Armfield Preyer, Mary Norris Preyer Oglesby, Jane Bethell Preyer, and Emily Harris Preyer Fountain, several grandchildren, and other close relatives; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly expresses high esteem and regard for the extraordinary lives of L. Richardson Preyer and Emily Preyer and mourns the loss of two of North Carolina's most distinguished citizens.

SECTION 2. The General Assembly extends its sincere sympathy to the family of L. Richardson Preyer and Emily Preyer on the loss of their beloved parents, grandparents, and friends.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of L. Richardson Preyer and Emily Preyer.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 14th day of August, 2001.

H.J.R. 1463

RESOLUTION 2001-29

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOSEPH WAYNE GRIMSLEY, DEDICATED PUBLIC SERVANT AND FORMER PRESIDENT OF RICHMOND COMMUNITY COLLEGE.

Whereas, Joseph Wayne Grimsley was born on February 4, 1936, in Stantonsburg, North Carolina, to J. J. Grimsley and Flora Hardison Grimsley; and

Whereas, upon graduation from Stantonsburg High School in 1954, Joseph Wayne Grimsley enlisted in the United States Army where he served until 1957; and

Whereas, after his service in the army, Joseph Wayne Grimsley enrolled at the University of North Carolina at Chapel Hill and received a bachelors degree in 1961; and

Whereas, continuing his education, Joseph Wayne Grimsley attended the Universidad De Los Andes, Bogotá, Columbia, South America as a Fulbright Scholar from 1961 to 1962 and received a masters degree from George Washington University in 1964; and

Whereas, from 1963 to 1967, Joseph Wayne Grimsley held various positions in the Peace Corps in Washington, D. C. and Honduras; and

Whereas, Joseph Wayne Grimsley rendered valuable service to the State of North Carolina, working for the Coastal Plains Regional Commission from 1968 to 1971, and serving as Assistant Secretary of the Department of Administration from 1972 to 1974, as Secretary of the Department of Administration from 1977 to 1981, and as Secretary of the Department of Natural Resources and Community Development from 1981 to 1984; and

Whereas, in 1985, Joseph Wayne Grimsley became the President of Richmond Community College where he served for 16 years; and

Whereas, under Joseph Wayne Grimsley's leadership, many improvements were made at Richmond Community College, including construction of a learning resources center, which houses a library, study center, and television studio; a computer center, which houses computer labs with Internet access, an electronics lab, and administrative offices; and Cole Auditorium, a 1,000-seat auditorium complex; and

Whereas, Joseph Wayne Grimsley helped develop the Tech Prep curriculum which brought about an alliance between colleges

Resolutions – 2001

and public schools to encourage students to extend their education beyond high school; and

Whereas, Joseph Wayne Grimsley lent his support to the conversion of all the technical institutes to community college status and served as the State campaign director for the Unified Bonds campaign, the Schools and Roads Bonds campaign, and the Community Colleges and University Bonds campaign; and

Whereas, a lifelong Democrat, Joseph Wayne Grimsley was active in the political affairs of the State, serving as campaign director of the James B. Hunt for Lieutenant Governor Campaign in 1972, as a Special Assistant to Lieutenant Governor James B. Hunt from 1974 to 1976, as campaign manager for the James B. Hunt for Governor Committee in 1976, the Governor James B. Hunt Reelection Committee from 1979 to 1980, and the James B. Hunt Committee for United States Senate in 1984; and

Whereas, Joseph Wayne Grimsley served on many State, regional, and local boards and organizations, including the Sedimentation Control Commission, the Waste Management Board, the Environmental Education Fund, the Richmond County Partnership for Children, the North Carolina Rural Economic Development Center, the North Carolina Tech Prep Advisory Committee, Common Cause, and the North Carolina Association of Colleges and Universities; and

Whereas, Joseph Wayne Grimsley died on July 13, 2001; and

Whereas, Joseph Wayne Grimsley was a devoted husband to his beloved wife, Marcia Coates Grimsley; a loving father to his children and stepchildren, Joseph Wayne Grimsley Jr., Julie Ann Grimsley Perry, Mary Christina Grimsley Waller, David Ashford, and Hannah Ashford; and a doting grandfather to his five grandchildren; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Joseph Wayne Grimsley and expresses the appreciation of this State and its citizens for the valuable service he rendered.

SECTION 2. The General Assembly extends its sincere sympathy to the family of Joseph Wayne Grimsley on the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Joseph Wayne Grimsley.

Resolutions – 2001

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of August, 2001.

S.J.R. 1102

RESOLUTION 2001-30

A JOINT RESOLUTION HONORING THE FOUNDERS OF THE TOWN OF WINGATE ON THE TOWN'S 100TH ANNIVERSARY.

Whereas, the Town of Wingate, formerly known as "Ames Turnout", was established after the Carolina Central Railroad built tracks through a section of Union County east of Monroe; and

Whereas, the first building in the area was Meadow Branch Baptist Church (now Wingate Baptist), which was organized in 1810; and

Whereas, in 1876, the only structures in the community were the church and an old sawmill near the railroad, which was operated by W. Hamp Simpson; and

Whereas, in the late 1800s, W. Hamp Simpson built the first house in the community, and John Williams opened a store on the south side of the railroad; and

Whereas, in 1893, J. Lonnie Austin, W. M. Perry, and G. M. Stewart founded a long-standing mercantile business; and

Whereas, in 1901, the Town of Wingate was incorporated by the General Assembly; and

Whereas, the Town took its name from the Wingate School, now Wingate University, which was authorized by the Union Baptist Association at its annual meeting in October of 1895; and

Whereas, J. Tom Lowery served as the Town's first mayor, and W. M. Perry, John W. Outen, and J. Lonnie Austin served as the Town's first commissioners; and

Whereas, Ma-Leck Woodcrafts, named for Leck and Mary Helms, was one of Union County's largest industries for a number of years; and

Whereas, in 1961 and 1970, the Town grew in size due to several annexations; and

Whereas, over the years, the Town of Wingate has had many well-known visitors, including General George C. Patton, United States Secretary of State Madeline Albright, United Nations Secretary General Kofi Annon, Head of the Joint Chiefs of Staff Hugh Shelton,

Resolutions – 2001

Great Britain's Prime Minister Margaret Thatcher, and the Dalai Llama; and

Whereas, the Town of Wingate has developed and prospered; and

Whereas, the 100th anniversary of the Town of Wingate is worthy of celebration and should be enjoyed and supported by all North Carolina citizens; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the founders of the Town of Wingate and extends its sincere congratulations to the Town upon its 100th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of the Town of Wingate.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 13th day of September, 2001.

H.J.R. 467

RESOLUTION 2001-31

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF NEILL MCKAY ROSS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Neill McKay Ross was born in Harnett County on December 5, 1908, to Charles Ross and Frances Reid McKay Ross; and

Whereas, Neill Ross attended the Danville Military Institute, Davidson College, the University of North Carolina at Chapel Hill, and the School of Law at the University of North Carolina at Chapel Hill; and

Whereas, Neill Ross practiced law in Harnett County for 68 years; and

Whereas, Neill Ross was respected and admired by the members of the State bar throughout his career; and

Whereas, the District Court Judges of the 11th Judicial District proclaimed March 18, 1996, "Neill McKay Ross Day"; and

Whereas, Neill Ross served with honor and distinction as a member of the North Carolina House of Representatives during the 1939 Session of the General Assembly, becoming the third generation in his family to serve in the legislature; and

Resolutions – 2001

Whereas, Neill Ross married Lois Christine Ray on February 23, 1941; and

Whereas, Neill Ross served in the Army during World War II from 1944 to 1946; and

Whereas, Neill Ross served as solicitor of Harnett County Recorder's Court from 1948 to 1957; and

Whereas, Neill Ross was a loyal member of the Democratic Party, serving as chair of the Harnett County Democratic Executive Committee in 1962; and

Whereas, Neill Ross was active in the American Legion serving as an officer and Commander of Post # 28; and

Whereas, Neill Ross was a faithful member of the Summerville Presbyterian Church, serving as an adult Sunday school teacher for 46 years and as a deacon and life-long elder; and

Whereas, Neill Ross died on February 4, 2001; and

Whereas, Neill Ross is survived by his daughters: Victoria Ross Byrd, Lois Ray Ross Johnson, and Margaret Murchison Ross; his sons: Neill McKay Ross, Jr. and James Reid Ross; eleven grandchildren; and a great-grandchild; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of Neill McKay Ross and expresses the gratitude and appreciation of this State and its citizens for his life and his devoted service to North Carolina.

SECTION 2. The General Assembly extends its deep and sincere sympathy to the family of Neill McKay Ross.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the family of Neill McKay Ross.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of September, 2001.

H.J.R. 1465

RESOLUTION 2001-32

A JOINT RESOLUTION HONORING THE MEMORY OF THE REVEREND DAVID WELLS HANSLEY, A FOUNDER OF MOUNT OLIVE COLLEGE, THE ONLY CHARTERED AND ACCREDITED COLLEGE IN NORTH CAROLINA SPONSORED BY THE NORTH CAROLINA CONVENTION

Resolutions – 2001

OF ORIGINAL FREE WILL BAPTISTS, ON THE FIFTIETH ANNIVERSARY OF ITS FOUNDING.

Whereas, David Wells Hansley was born December 21, 1909, at Folkstone, in Onslow County, North Carolina, to David Cicero and Sunie Avie Heath Hansley, the grandson of Jesse Heath, a Free Will Baptist minister, and of John Hansley, Jr., a Primitive Baptist minister; and

Whereas, David W. Hansley attended the Turkey Creek School and Dixon High School in Onslow County and later sought higher education as he became a licensed minister in the Free Will Baptist denomination on August 3, 1930, at the age of 21; and

Whereas, David W. Hansley was ordained in 1932 and was married in 1933 in the Edgemont Free Will Baptist Church parsonage to Mary Elizabeth Clements of Durham, who would spend many years teaching in North Carolina's public schools and providing for the education of youth in her church; and

Whereas, David W. Hansley dedicated himself to the work of his church, ultimately serving 37 Free Will Baptist churches in 15 North Carolina counties from 1931 to 1988, including Wake, Durham, Franklin, Orange, Johnston, Sampson, Pitt, Wilson, Greene, Wayne, Lenoir, Onslow, Craven, Carteret, and Tyrrell Counties; and

Whereas, David W. Hansley was elected in September 1949 to serve as chairman and treasurer of the Board of Christian Education of the North Carolina Convention of Original Free Will Baptists, the third-oldest religious body in the State; and

Whereas, on September 12, 1951, David W. Hansley presented on behalf of the Board of Christian Education (including the Reverend S. A. Smith of Beulaville, the Reverend R. H. Jackson of Carteret County, and D. B. Sasser of Wilson) to that convention, meeting at White Oak Church in Bladenboro, a resolution to establish and sponsor an institution of Christian higher education in North Carolina and won the adoption of that resolution; and

Whereas, David W. Hansley provided leadership in securing a charter on behalf of that convention and its Board of Christian Education from Secretary of State Thad Eure on November 27, 1951; and

Whereas, originally known as Mount Allen Junior College, the institution opened in 1952 and operated for its first year at Cragmont Assembly, near Black Mountain, under the direction of President Lloyd Vernon; and

Whereas, David W. Hansley was elected the chairman of the college's first Board of Trustees in September 1953 when the college

Resolutions – 2001

was relocated to the Town of Mount Olive, in Wayne County, nearer to the center of Free Will Baptist Church constituency, the board having arranged to purchase, and having begun renovation of, the former Mount Olive Grammar School for use as its campus; and

Whereas, David W. Hansley, representing that board, chose the Reverend W. Burkette Raper to serve as president in August 1954, and in September they opened the college with its first convocation before an enrollment of 22 students in programs of arts, sciences, and business; and

Whereas, David W. Hansley served as chairman of the Mount Olive Junior College Board of Trustees from 1953 to 1963, during which time the college earned accreditation from the North Carolina College Conference in 1958 and the Southern Association of Colleges and Schools in 1960; and

Whereas, David W. Hansley continued to serve on the Board of Trustees until 1970, and with the support of the Free Will Baptist Church, Dr. C. C. Henderson and other Mount Olive civic leaders and citizens, the college expanded from the original grammar school building to a core of buildings on a 100-acre campus along what is now Highway US 117 bypass; and

Whereas, David W. Hansley remained an ardent supporter of Mount Olive Junior College and saw the fruition of his vision when Mount Olive Junior College accomplished the transition from a junior to a senior college, and when Hansley personally awarded the first baccalaureate degree to Calvin Heath, a graduate of the college's ministerial program, in May 1986; and

Whereas, David W. Hansley died on April 24, 1989, at the age of 79, was honored in a memorial service held on the campus of Mount Olive College, and continues to be remembered for his leadership in helping to found the college and through the David W. and Elizabeth C. Hansley Endowed Fund on the campus; and

Whereas, Mount Olive College is recognized and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools and offers opportunities for higher education at its 138-acre main campus in Mount Olive, at Seymour Johnson Air Force Base in Goldsboro, and through locations in New Bern, Wilmington, and Research Triangle Park; and

Whereas, on September 12, 2001, the Convention of Original Free Will Baptists met at College Hall on the campus of Mount Olive College to celebrate the founding of the only college chartered and accredited in North Carolina sponsored by that body, on its fiftieth anniversary; Now, therefore,

Resolutions – 2001

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the Reverend David W. Hansley as a founder and trustee of Mount Olive College, and the college's sponsor, the North Carolina Convention of Original Free Will Baptists, for their steadfast commitment to providing Christian higher education in North Carolina.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the chairman of the Mount Olive College Board of Trustees and to the President of the Convention of Original Free Will Baptists.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of September, 2001.

S.J.R. 359

RESOLUTION 2001-33

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF HENRY EVANS, FOUNDER OF EVANS METROPOLITAN AME ZION CHURCH ON THE CHURCH'S TWO HUNDREDTH ANNIVERSARY.

Whereas, in 1801, Henry Evans, a free black cobbler and Methodist minister from Virginia, settled in the City of Fayetteville, believing it was by divine appointment that he preach the Gospel to the people in the area; and

Whereas, Henry Evans found resistance to his preaching and was accused of several crimes, including suspicion of being a runaway slave, and was driven out of town; and

Whereas, despite many obstacles, Henry Evans remained in the area and continued preaching; and

Whereas, in 1801, the Methodist Society led by Henry Evans built its first church known as Evans Meeting House; and

Whereas, Henry Evans was the first black preacher to establish a congregation in the Methodist system; and

Whereas, in 1802, Fayetteville town leaders granted Henry Evans a license to preach; and

Whereas, in 1831, the congregation at Evans Meeting House was composed of 333 blacks and 145 whites; and

Whereas, both blacks and whites worshiped together at Evans Meeting House until 1850; and

Resolutions – 2001

Whereas, in 1866, the Evans Metropolitan Church joined the African Methodist Episcopal (AME) Zion denomination and became the first church of the Fayetteville District of the Central North Carolina Conference; and

Whereas, for 200 years, the Evans Metropolitan AME Zion Church of Fayetteville has provided a place of worship for the community and the surrounding area; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. The General Assembly honors the life and memory of Henry Evans and congratulates the Evans Metropolitan AME Zion Church on its 200th anniversary.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Pastor of Evans Metropolitan AME Zion Church.

SECTION 3. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

H.J.R. 833

RESOLUTION 2001-34

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN LAWSON ON THE 300TH ANNIVERSARY OF HIS FIFTY-SEVEN DAY FIVE HUNDRED FIFTY-MILE TREK THROUGH THE BACKCOUNTRY OF THE CAROLINAS.

Whereas, John Lawson, explorer, surveyor general for the Lords Proprietors, and author, departed from Charles Town on December 28, 1700, on a 57-day 550-mile exploration of the backcountry of the two Carolinas, arriving at the Pamlico River near Bath on February 24, 1701; and

Whereas, John Lawson's observations during the 11 years he resided in the Carolinas contributed significantly to our understanding of the land, resources, natural history, native people, and their customs, crops, and culture; and

Whereas, John Lawson laid off and established the Town of Bath, the first town incorporated in North Carolina; and

Whereas, John Lawson was clerk of the court and public register of Bath County as well as the official surveyor for the Lords Proprietors; and

Resolutions – 2001

Whereas, John Lawson conferred with Baron Christoph von Graffenried before the Baron decided to locate his colony in North Carolina; and

Whereas, John Lawson was commissioned by Baron Christoph von Graffenried to locate a site for a colony; and

Whereas, John Lawson selected a site for the new town at the confluence of the Neuse and Trent Rivers, to be known as New Bern; and

Whereas, John Lawson's findings gathered on his 1701 trek through the Carolinas brought about interest in the North Carolina colony; and

Whereas, John Lawson's findings, keen observations, and descriptions based on his exploration were ultimately published in "A New Voyage to Carolina" in 1709, which is now recognized as a classic of early American literature; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly honors the memory of John Lawson and calls upon all North Carolinians to observe, celebrate, and participate in events commemorating the tercentenary of John Lawson's trek through the Carolinas while recognizing the unique importance of this individual to the history of the State and nation.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 4th day of October, 2001.

H.J.R. 60

RESOLUTION 2001-35

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GEORGE HENRY WHITE, A FORMER MEMBER OF THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE ONE HUNDREDTH ANNIVERSARY OF HIS HISTORIC FAREWELL SPEECH IN THE UNITED STATES CONGRESS.

Whereas, George Henry White was born on December 18, 1852, in Bladen County, North Carolina, the son of Wiley F. and Mary White; and

Whereas, George Henry White attended public schools in North Carolina and received training under D.P. Allen, president of the Witten Normal School in Lumberton; and

Resolutions – 2001

Whereas, George Henry White graduated from Howard University in 1877; and

Whereas, George Henry White maintained a deep interest in education, serving with distinction as principal of the Colored Grade School, the Presbyterian parochial school in New Bern, and the State Normal School (now Fayetteville State University); and

Whereas, George Henry White studied law under Judge William J. Clarke and was granted a license to practice law by the State of North Carolina in 1879; and

Whereas, George Henry White was deeply interested and involved in the political affairs of North Carolina and the United States of America; and

Whereas, George Henry White began his political career in 1881 when he was elected to represent Craven County in the North Carolina House of Representatives; and

Whereas, George Henry White was elected to the first of two four-year terms as a State district attorney in 1886; and

Whereas, George Henry White was elected to the U.S. House of Representatives by the voters of the Second Congressional District of North Carolina in 1896, and he served with great distinction in Congress for two terms; and

Whereas, George Henry White delivered his moving farewell address in the U.S. House of Representatives on January 29, 1901, and at that time, he was the last and only African-American then serving in the Congress; and

Whereas, George Henry White was the last African-American to represent North Carolina in Congress until the election of the Honorable Eva Clayton and the Honorable Mel Watt many decades later; and

Whereas, George Henry White was an eloquent and vocal spokesman for all of the citizens of North Carolina; and

Whereas, George Henry White was a valuable and dedicated business leader who founded the first black-managed bank in Philadelphia; and

Whereas, George Henry White was a leader of a variety of fraternal and religious organizations: he was a founder and elder of Ebenezer United Presbyterian Church in New Bern; and he served as grand master of both the King Solomon Lodge No. 1 of New Bern and the Colored Masons of North Carolina; and

Whereas, George Henry White was a devoted husband and a loving father to his three children; and

Whereas, George Henry White died on December 28, 1918; and

Resolutions – 2001

Whereas, George Henry White will be remembered for his myriad contributions to the State of North Carolina and her citizens of all races; and

Whereas, the General Assembly wishes to show its appreciation for the life, accomplishments, and public service of George Henry White; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. The General Assembly expresses high esteem and regard for the extraordinary life and accomplished leadership of George Henry White and acknowledges with gratitude the distinguished service he provided to his native State.

SECTION 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

S.J.R. 1109

RESOLUTION 2001-36

A JOINT RESOLUTION SETTING THE TIME FOR ADJOURNMENT OF THE 2001 GENERAL ASSEMBLY TO MEET IN 2002 AND LIMITING THE SUBJECTS THAT MAY BE CONSIDERED IN THAT SESSION.

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. When they adjourn on Thursday, December 6, 2001, the House of Representatives and the Senate shall adjourn to reconvene at 12:00 noon on Tuesday, May 28, 2002. During that session only the following matters may be considered:

- (1) Bills directly and primarily affecting the State budget, including the budget of an occupational licensing board, for fiscal year 2002-2003, provided that the bill must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Thursday, June 6, 2002, and must be introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Thursday, June 13, 2002.
- (2) Bills and resolutions introduced in 2001 and having passed third reading in 2001 in the house in which introduced, received in the other house in accordance with Senate Rule 41 or House Rule 31.1(d) as

Resolutions – 2001

appropriate, and not disposed of in the other house by tabling, unfavorable committee report, indefinite postponement, or failure to pass any reading, and which do not violate the rules of the receiving house.

- (3) Bills and resolutions implementing the recommendations of:
 - a. Study commissions and statutory commissions authorized or directed to report to the 2002 Session;
 - b. The General Statutes Commission, the Courts Commission, or any commission created under Chapter 120 of the General Statutes that is authorized or directed to report to the General Assembly;
 - c. The House Ethics Committee; or
 - d. The Joint Legislative Ethics Committee or its Advisory Subcommittee.

A bill authorized by this subdivision must be submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, May 29, 2002, and must be filed for introduction in the Senate or introduced in the House of Representatives no later than 4:00 P.M. Wednesday, June 5, 2002.

- (4) Any local bill that has been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. Wednesday, June 5, 2002, is introduced in the House of Representatives or filed for introduction in the Senate by 4:00 P.M. Wednesday, June 12, 2002, and is accompanied by a certificate signed by the principal sponsor stating that no public hearing will be required or asked for by a member on the bill, the bill is noncontroversial, and that the bill is approved for introduction by each member of the House of Representatives and Senate whose district includes the area to which the bill applies.
- (5) Selection, appointment, or confirmation of members of State boards and commissions as required by law, including the filling of vacancies of positions for which the appointees were elected by the General Assembly upon recommendation of the Speaker of the House of Representatives, President of the Senate, or President Pro Tempore of the Senate.
- (6) Any matter authorized by joint resolution passed during the 2002 Regular Session by a two-thirds majority of the

Resolutions – 2001

members of the House of Representatives present and voting and by a two-thirds majority of the members of the Senate present and voting. A bill or resolution filed in either house under the provisions of this subdivision shall have a copy of the ratified enabling resolution attached to the jacket before filing for introduction in the Senate or introduction in the House of Representatives.

- (7) A joint resolution authorizing the introduction of a bill pursuant to subdivision (6) of this section.
- (8) Any bills primarily affecting any State or local pension or retirement system, provided that the bill has been submitted to the Bill Drafting Division of the Legislative Services Office no later than 4:00 P.M. Wednesday, June 5, 2002, and is introduced in the House of Representatives or filed for introduction in the Senate no later than 4:00 P.M. Wednesday, June 12, 2002.
- (9) Joint resolutions, House resolutions, and Senate resolutions pertaining to Section 5(10) of Article III of the Constitution of North Carolina or authorized for introduction under Senate Rule 40(b) or House Rule 31(g).
- (10) A joint resolution adjourning the 2001 Regular Session, sine die.
- (11) Bills to disapprove rules under G.S. 150B-21.3.
- (12) Constitutional amendments.

SECTION 2. A bill containing no substantive provisions may not be introduced in the House of Representatives during the 2002 Regular Session.

SECTION 3. The Speaker of the House of Representatives or the President Pro Tempore of the Senate may authorize appropriate committees or subcommittees of their respective houses to meet during the interim between sessions to:

- (1) Review matters related to the State budget for the 2001-2003 biennium,
- (2) Prepare reports, including revised budgets, or
- (3) Consider any other matters as the Speaker of the House of Representatives or the President Pro Tempore of the Senate deems appropriate,

except that no committee or subcommittee of a house may consider, after the date of adjournment provided in Section 1 of this resolution and before the date of reconvening provided in Section 1 of this resolution, any bill, or proposed committee substitute for such bill, which originated in the other house. A conference committee may

Resolutions – 2001

meet in the interim upon approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate.

SECTION 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of December, 2001.

**JOINT CONFERENCE COMMITTEE REPORT
ON THE
CONTINUATION, EXPANSION
AND CAPITAL BUDGETS**

September 19, 2001

Table of Contents

Budget Reform Statement	1
Summary: General Fund Appropriations	2
Education	
Public Education	F 1
UNC System	F 7
Community Colleges	F 12
Health and Human Services	G 1
Natural and Economic Resources	
Housing Finance Agency	H 1
Agriculture and Consumer Services	H 2
Labor	H 6
Environment and Natural Resources	H 8
Clean Water Management Trust Fund	H 14
Commerce	H 15
State Aid to Non-State Entities	H 18
NC Biotechnology Center	H 19
Rural Economic Development Center	H 20
Justice and Public Safety	
Judicial	I 1
Judicial – Indigent Defense	I 5
Justice	I 7
Juvenile Justice and Delinquency Prevention	I 10
Correction	I 13
Crime Control and Public Safety	I 20
General Government	
General Assembly	J 1
Governor	J 2
State Budget Planning and Management	J 5
State Budget Planning & Management – Flood Mapping & Surveying	J 7
State Budget Planning & Management – Special Appropriations	J 9
Lieutenant Governor	J 10
Secretary of State	J 11
Auditor	J 14
Treasurer	J 15
Treasurer – Retirement Fire and Rescue Squad Workers	J 16
Insurance	J 17
Insurance – Volunteer Safety Workers’ Compensation Fund	J 20
Administration	J 21
State Controller	J 25
Revenue	J 26
Cultural Resources	J 32
Cultural Resources – Roanoke Island Commission	J 37
State Board of Elections	J 38
Office of Administrative Hearings	J 39
Rules Review Commission	J 40
Transportation – General Fund	K 1
Transportation – Highway Fund	K 2
Information Technology	L 1
Reserves, Debt Service, and Adjustments	M 1
Capital	N 1

BUDGET REFORM STATEMENT

	<u>FY 2001-02</u> <u>(\$ million)</u>	<u>FY 2002-03</u> <u>(\$ million)</u>
1. Composition of the FY 2001-02 beginning availability:		
a. Unappropriated balance	0.0	
b. Revenue collections in FY 2000-01 in excess of authorized estimates	0.0	
c. Unexpended appropriations during 2000-01 (Reversions)	0.0	
Beginning Unreserved Credit Balance	0.0	
2. Revenues Based on Existing Tax Structure	13,303.4	13,979.0
3. Non Tax Revenues:		
Investment Income	164.0	171.0
Judicial Fees	112.8	115.9
Disproportionate Share	107.0	107.0
Insurance	45.5	47.4
Other Non-Tax Revenues	96.5	97.3
Highway Trust Fund Transfer	170.0	170.0
Highway Fund Transfer	14.5	15.3
Subtotal	14,013.7	14,702.9
4. Other Adjustments		
IRC Conformity Adjustment (included in House Bill 232)	(3.4)	(3.8)
North Carolina Railroad General Fund Repayment	19.0	
Senate Bill 353 Enhance Department of Revenue Collections	50.0	50.0
Education/Human Services/Mental Health/Revenue Initiatives	435.3	614.4
House Bill 1157 Implementation -- Closure of Tax Loopholes	61.3	64.3
House Bill 232 Implementation -- Budget Revenue Provisions (Accelerations)	112.1	6.0
Increase in Nontax Revenues -- Patients' Bill of Rights (Senate Bill 199)	0.4	0.9
Transfer/Adjustment of Cash from Special, Trust, Internal Service, and Reserve Funds	23.4	0.5
Court Fee Funds to State Bar	(0.8)	(1.7)
Credit to the Savings Reserve Account	(181.0)	(1.7)
Subtotal	516.3	730.6
TOTAL GENERAL FUND AVAILABILITY	14,530.0	15,433.5

SUMMARY:

**GENERAL FUND
APPROPRIATIONS**

**General Fund Appropriations
Fiscal Year 2001-02
2001 Session**

	2001-02 Base Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Position Changes	Revised Appropriation
Education:							
Public Education	5,923,802,924		(117,333,543)	73,170,983	(44,162,560)	287.5	5,879,640,364
Community Colleges	648,021,974		(4,826,515)	500,000	(4,326,515)	(7.0)	643,695,459
University System	1,804,923,800		(14,488,025)	(1,100,000)	(15,588,025)	(142.1)	1,789,335,775
Total Education	8,376,748,698	0	(136,648,083)	72,570,983	(64,077,100)	138.4	8,312,671,598
General Government:							
General Assembly	40,567,848		(1,014,000)	(170,000)	(1,184,000)	0.0	39,383,848
Governor's Office	5,633,739		(190,834)	0	(190,834)	0.0	5,442,905
State Budget, Planning and Management	5,789,900	(93,941)	(264,912)	27,500	(331,353)	(8.0)	5,458,547
OSBPM - Special Appropriations	3,080,000		0	555,000	555,000	0.0	3,635,000
OSBPM - Flood Mapping and Surveying	1,232,845	(1,187,845)	(45,000)	0	(1,232,845)	(31.0)	0
The Lieutenant Governor	686,308		(16,763)	0	(16,763)	0.0	669,545
Administration	61,078,651	(371,302)	107,670	270,000	6,368	(21.0)	61,085,019
Office of State Controller	11,817,271		(293,403)	0	(293,403)	(2.0)	11,523,868
Office of Administrative Hearings	2,908,088		(112,933)	0	(112,933)	(2.0)	2,795,155
Rules Review Commission	334,085		(8,290)	0	(8,290)	0.0	325,795
Cultural Resources	60,840,696		(1,413,277)	800,000	(613,277)	(9.0)	60,227,419
Cultural Resources - Roanoke Island	1,907,245		(47,782)	0	(47,782)	0.0	1,859,463
Insurance	23,392,288		(126,551)	484,300	357,749	4.0	23,750,037
Insurance - Worker's Compensation Fund	4,500,000		0	(3,450,000)	(3,450,000)	0.0	1,050,000
Secretary of State	8,760,901		(429,125)	150,000	(279,125)	(16.0)	8,481,776
State Auditor	12,166,518		(301,845)	0	(301,845)	0.0	11,864,673
State Treasurer - Operations	7,837,007		(620,190)	0	(620,190)	0.0	7,216,817
State Treasurer - Retirement / Benefits	12,294,780		85,000	(2,077,883)	(1,992,883)	0.0	10,301,897
Revenue	76,967,284		(326,017)	459,200	133,183	40.0	77,100,467
State Board of Elections	3,271,453		(85,184)	0	(85,184)	0.0	3,186,269
Total General Government	345,066,907	(1,653,088)	(5,103,436)	(2,951,883)	(9,708,407)	(45.0)	335,358,500
Health and Human Services:							
Office of the Secretary	45,649,860		2,358,845	100,000	2,458,845	(45.0)	48,108,705
Aging Division	29,825,449		(293,539)	0	(293,539)	(1.0)	29,531,910
Child Development	349,713,681		(60,655,285)	0	(60,655,285)	(16.0)	289,058,396
Education Services	77,290,419		(7,708,894)	0	(7,708,894)	(56.0)	69,581,525
Public Health	112,142,547		(4,708,464)	1,025,000	(3,683,464)	(12.6)	108,459,083
Blind and Deaf / Hard of Hearing Services	10,334,149		(166,034)	0	(166,034)	(2.0)	10,168,115

**General Fund Appropriations
Fiscal Year 2001-02
2001 Session**

	<u>2001-02 Base Budget</u>	<u>Transfers</u>	<u>Recurring Changes</u>	<u>Nonrecurring Changes</u>	<u>Net Changes</u>	<u>Position Changes</u>	<u>Revised Appropriation</u>
Vocational Rehabilitation	41,827,726		261,230	680,000	941,230	(3.0)	42,768,956
Mental Health	582,879,191	248,435	(2,058,999)	326,000	(1,484,564)	(83.5)	581,394,627
NC Health Choice	24,987,142		8,000,000	0	8,000,000	0.0	32,987,142
Facility Services	16,584,502		(1,142,266)	(195,267)	(1,337,533)	(6.0)	15,246,969
Social Services	192,948,114		(5,257,877)	1,000,000	(4,257,877)	(27.0)	188,690,237
Medical Assistance	1,987,547,863		(6,310,335)	0	(6,310,335)	(11.0)	1,981,237,528
Total Health and Human Services	3,471,730,643	248,435	(77,681,618)	2,935,733	(74,497,450)	(263.1)	3,397,233,193
Justice and Public Safety:							
Correction	931,350,075	2,913,282	(5,195,781)	(5,072,295)	(7,354,794)	177.0	923,995,281
Crime Control & Public Safety	37,554,148	(2,819,341)	(2,480,988)	(504,688)	(5,805,017)	(226.0)	31,749,131
Judicial Department	308,769,898		(3,794,411)	515,653	(3,278,758)	3.5	305,491,140
Judicial - Indigent Defense	66,660,467		3,521,134	0	3,521,134	11.0	70,181,601
Juvenile Justice	147,706,045	(248,435)	(6,251,300)	(406,280)	(6,906,015)	(92.5)	140,800,030
Justice	76,471,632		(2,406,839)	(922,018)	(3,328,857)	(24.0)	73,142,775
Total Justice and Public Safety	1,568,512,265	(154,494)	(16,608,185)	(6,389,628)	(23,152,307)	(151.0)	1,545,359,958
Natural And Economic Resources:							
Agriculture and Consumer Services	56,695,276		(1,527,236)	200,000	(1,327,236)	(31.5)	55,368,040
Commerce	45,027,007	371,302	(1,117,935)	15,000,000	14,253,367	(6.8)	59,280,374
Commerce - State Aid	5,200,000		0	1,925,000	1,925,000	0.0	7,125,000
Office of Information Technology Services					0	0	0
Environment and Natural Resources	164,902,678	1,187,845	(7,367,823)	350,000	(5,829,978)	(32.5)	159,072,700
DENR - Clean Water Mgmt. Trust Fund	30,000,000		10,000,000	0	10,000,000	0.0	40,000,000
Labor	16,617,178		(1,099,272)	0	(1,099,272)	(9.0)	15,517,906
NC Housing Finance Agency	5,300,000		0	0	0	0.0	5,300,000
NC Biotechnology Center	6,738,913		(468,445)	(1,000,000)	(1,468,445)	0.0	5,270,468
Rural Economic Development Center	4,257,338		833,411	(999,694)	(166,283)	0.0	4,091,055
Total Natural and Economic Resources	334,738,390	1,559,147	(747,300)	15,475,306	16,287,153	(79.8)	351,025,543
<u>Transportation:</u>	17,753,426	0	(1,062,717)	(6,660,709)	(7,723,426)		10,030,000
<u>Statewide Reserves / Debt Service:</u>							
Debt Service:							
Interest / Redemption	238,509,550		12,312,542	0	12,312,542		250,822,092

**General Fund Appropriations
Fiscal Year 2001-02
2001 Session**

	<u>2001-02 Base Budget</u>	<u>Transfers</u>	<u>Recurring Changes</u>	<u>Nonrecurring Changes</u>	<u>Net Changes</u>	<u>Position Changes</u>	<u>Revised Appropriation</u>
Federal Reimbursement	1,155,948		0	0	0		1,155,948
Subtotal Debt Service	239,665,498	0	12,312,542	0	12,312,542		251,978,040
Statewide Reserves:							
Compensation Increases			193,842,000	0	193,842,000		193,842,000
State Health Plan			150,000,000	0	150,000,000		150,000,000
Contingency and Emergency	1,125,000		3,875,000	0	3,875,000		5,000,000
Salary Adjustment Fund	500,000		0	0	0		500,000
Reserve for Hurricane Floyd Recovery			0	0	0		0
Reserve for HIPAA Implementation			0	0	0		0
Mental Health Trust Fund				15,000,000	15,000,000		15,000,000
ITS Rate Reduction			(4,000,000)	0	(4,000,000)		(4,000,000)
Judicial Retirement Rate Adjustment			(2,265,000)	0	(2,265,000)		(2,265,000)
Retirement Rate Adjustment			(241,002,720)	0	(241,002,720)		(241,002,720)
Subtotal Statewide Reserves	1,625,000	0	100,449,280	62,525,675	162,974,955		164,599,955
Total Reserves and Debt Service	241,290,498	0	112,761,822	62,525,675	175,287,497		416,577,995
Total General Fund for Operations	14,355,840,827	0	(125,089,517)	137,505,477	12,415,960	(400.5)	14,368,256,787
Other General Fund Expenditures:							
Capital Improvements				32,936,000	32,936,000		32,936,000
Repairs and Renovations				125,000,000	125,000,000		125,000,000
Total Other General Fund Expenditures	0	0	0	157,936,000	157,936,000		157,936,000
Total General Fund Budget	14,355,840,827	0	(125,089,517)	295,441,477	170,351,960	(400.5)	14,526,192,787

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General Fund Appropriations
Fiscal Year 2002-03
2001 Session

	2002-03 Base Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Position Changes	Revised Appropriation
Education:							
Public Education	6,021,031,149		(98,842,603)	0	(98,842,603)	660.0	5,922,188,546
Community Colleges	648,021,974		(4,826,515)	0	(4,826,515)	(7.0)	643,195,459
University System	1,812,208,855		(14,488,025)	0	(14,488,025)	(142.1)	1,797,720,830
Total Education	8,481,261,978	0	(118,157,143)	0	(118,157,143)	510.9	8,363,104,835
General Government:							
General Assembly	40,567,848		(1,014,000)	0	(1,014,000)	0.0	39,553,848
Governor's Office	5,633,739		(190,834)	0	(190,834)	0.0	5,442,905
State Budget, Planning and Management	5,789,900	(93,941)	(371,021)	30,000	(434,962)	(7.0)	5,354,938
OSBPM - Special Appropriations	3,080,000		0	0	0	0.0	3,080,000
OSBPM - Flood Mapping and Surveying	1,232,845	(1,187,845)	(45,000)	0	(1,232,845)	(31.0)	0
The Lieutenant Governor	686,308		(16,763)	0	(16,763)	0.0	669,545
Administration	61,078,651	(371,302)	107,670	0	(263,632)	(21.0)	60,815,019
Office of State Controller	11,817,271		(293,403)	0	(293,403)	(2.0)	11,523,868
Office of Administrative Hearings	2,908,088		(112,933)	0	(112,933)	(2.0)	2,795,155
Rules Review Commission	334,085		(8,290)	0	(8,290)	0.0	325,795
Cultural Resources	60,840,696		(1,413,277)	0	(1,413,277)	(9.0)	59,427,419
Cultural Resources - Roanoke Island	1,907,245		(47,782)	0	(47,782)	0.0	1,859,463
Insurance	23,392,288		135,264	0	135,264	4.0	23,527,552
Insurance - Worker's Compensation Fund	4,500,000		0	0	0	0.0	4,500,000
Secretary of State	8,760,901		(474,051)	0	(474,051)	(16.0)	8,286,850
State Auditor	12,166,518		(301,845)	0	(301,845)	0.0	11,864,673
State Treasurer - Operations	7,837,007		(620,190)	0	(620,190)	0.0	7,216,817
State Treasurer - Retirement / Benefits	12,294,780		85,000	0	85,000	0.0	12,379,780
Revenue	76,967,284		988,420	0	988,420	40.0	77,955,704
State Board of Elections	3,271,453		(85,184)	0	(85,184)	0.0	3,186,269
Total General Government	345,066,907	(1,653,088)	(3,678,219)	30,000	(5,301,307)	(44.0)	339,765,600
Health and Human Services:							
Office of the Secretary	45,649,860		2,358,845	0	2,358,845	(45.0)	48,008,705
Aging Division	29,825,449		(293,539)	0	(293,539)	(1.0)	29,531,910
Child Development	349,713,681		(60,655,285)	0	(60,655,285)	(16.0)	289,058,396
Education Services	77,290,419		(7,708,894)	0	(7,708,894)	(56.0)	69,581,525
Public Health	112,142,547		(4,708,464)	0	(4,708,464)	(12.6)	107,434,083
Blind and Deaf / Hard of Hearing Services	10,334,149		(166,034)	0	(166,034)	(2.0)	10,168,115

**General Fund Appropriations
Fiscal Year 2002-03
2001 Session**

	2002-03 Base Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Position Changes	Revised Appropriation
Vocational Rehabilitation	41,827,726		261,230	0	261,230	(3.0)	42,088,956
Mental Health	582,879,191	248,435	(2,058,999)	0	(1,810,564)	(83.5)	581,068,627
NC Health Choice	24,987,142		12,500,000	0	12,500,000	0.0	37,487,142
Facility Services	16,584,502		(1,142,266)	0	(1,142,266)	(6.0)	15,442,236
Social Services	200,021,408		(5,257,877)	0	(5,257,877)	(27.0)	194,763,531
Medical Assistance	2,234,048,385		(15,001,493)	0	(15,001,493)	(11.0)	2,219,046,892
Total Health and Human Services	3,725,304,459	248,435	(81,872,776)	0	(81,624,341)	(263.1)	3,643,680,118
<u>Justice and Public Safety:</u>							
Correction	931,350,075	5,826,564	(5,211,723)	(1,000,000)	(385,159)	177.0	930,964,916
Crime Control & Public Safety	37,554,148	(5,732,623)	(3,328,019)	0	(9,060,642)	(229.0)	28,493,506
Judicial Department	308,769,898		(3,429,763)	125,000	(3,304,763)	3.5	305,465,135
Judicial - Indigent Defense	66,660,467		2,207,304	0	2,207,304	11.0	68,867,771
Juvenile Justice	149,456,045	(248,435)	(6,653,593)	0	(6,902,028)	(92.5)	142,554,017
Justice	76,471,632		(2,750,839)	0	(2,750,839)	(24.0)	73,720,793
Total Justice and Public Safety	1,570,262,265	(154,494)	(19,166,633)	(875,000)	(20,196,127)	(154.0)	1,550,066,138
<u>Natural And Economic Resources:</u>							
Agriculture and Consumer Services	56,695,276		(1,527,236)	0	(1,527,236)	(31.5)	55,168,040
Commerce	45,027,007	371,302	(1,117,935)	0	(746,633)	(6.8)	44,280,374
Commerce - State Aid	5,200,000		0	0	0	0.0	5,200,000
Office of Information Technology Services				0	0	0.0	0
Environment and Natural Resources	164,902,678	1,187,845	(7,367,823)	0	(6,179,978)	(32.5)	158,722,700
DENR - Clean Water Mgmt. Trust Fund	30,000,000		40,000,000	0	40,000,000	0.0	70,000,000
Labor	16,617,178		(1,499,272)	0	(1,499,272)	(9.0)	15,117,906
NC Housing Finance Agency	5,300,000		0	0	0	0.0	5,300,000
NC Biotechnology Center	6,738,913		(468,445)	0	(468,445)	0.0	6,270,468
Rural Economic Development Center	4,257,338		833,411	0	833,411	0.0	5,090,749
Total Natural and Economic Resources	334,738,390	1,559,147	28,852,700	0	30,411,847	(79.8)	365,150,237
<u>Transportation</u>	14,486,443		(1,093,102)	0	(1,093,102)		13,393,341
<u>Statewide Reserves and Debt Service:</u>							
Debt Service:							
Interest / Redemption	238,509,550		113,757,310	0	113,757,310		352,266,860

General Fund Appropriations
Fiscal Year 2002-03
2001 Session

	2002-03 Base Budget	Transfers	Recurring Changes	Nonrecurring Changes	Net Changes	Position Changes	Revised Appropriation
Federal Reimbursement	1,155,948		0	0	0		1,155,948
Subtotal Debt Service	239,665,498	0	113,757,310	0	113,757,310		353,422,808
Statewide Reserves:							
Compensation Increases			193,842,000	0	193,842,000		193,842,000
State Health Plan			200,000,000	0	200,000,000		200,000,000
Contingency and Emergency	1,125,000		3,875,000	0	3,875,000		5,000,000
Salary Adjustment Fund	500,000		0	0	0		500,000
ITS Rate Reduction			(4,000,000)	0	(4,000,000)		(4,000,000)
Judicial Retirement Rate Adjustment			(2,265,000)	0	(2,265,000)		(2,265,000)
Retirement Rate Adjustment			(241,002,720)	0	(241,002,720)		(241,002,720)
Subtotal Statewide Reserves	1,625,000	0	150,449,280	0	150,449,280		152,074,280
Total Reserves and Debt Service	241,290,498	0	264,206,590	0	264,206,590		505,497,088
Total General Fund for Operations	14,712,410,940	0	69,091,417	(845,000)	68,246,417	(30.0)	14,780,657,357
Other General Fund Expenditures:							
Capital Improvements			0		0		0
Repairs and Renovations			0		0		0
Total Other General Fund Expenditures	0	0	0	0	0		0
Total General Fund Budget	14,712,410,940	0	69,091,417	(845,000)	68,246,417	(30.0)	14,780,657,357

EDUCATION
Section F

Public Education

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$5,923,802,924	\$6,021,031,149

Legislative Changes

A. More Accurate Projection of Budget Requirements

1 Additional Adjustments in Average Salary Projections	(\$8,497,668)	R	(\$8,497,668)	R
In addition to the annual Continuation Budget adjustment for average budgeted salary of certified personnel, a more recent review of certified personnel salaries from updated salary data, identified an additional reduction in projected salary needs for FY 2001-02.				
2 School Bus Purchases	(\$23,915,892)	NR		
Reduce funding for FY 2001-02 based on a revised school bus replacement schedule.				
3 Payments for Teacher Unused Vacation Days	(\$4,000,000)	R	(\$4,000,000)	R
Adjust funding to reflect recent expenditure experience.				
4 Mentor Pay	(\$3,000,000)	R	(\$3,000,000)	R
Reduce funding to reflect recent expenditure experience.				
5 Transportation Adjustment: Bus Driver Physicals	(\$535,000)	R	(\$535,000)	R
The Division of Motor Vehicles is delaying the implementation of the requirement that bus drivers must have a physical examination every two years. Twenty-five thousand (\$25,000) will remain in the budget for pilot projects.				
6 Transportation Adjustment: Diesel Fuel Cost	(\$2,990,000)	R	(\$3,048,890)	R
The economic forecast models project a 10.5% decline in diesel fuel cost from the current year's average. The current average cost is \$0.92 per gallon and the Continuation Budget was based on an estimated cost of \$1.05 per gallon. This adjustment budgets diesel fuel at \$0.92 which is the current level. All school buses utilize diesel fuel.				
7 Transportation Adjustment: Inventory Adjustment	(\$4,000,000)	NR		
June 30, 2000 inventory levels (oil, tires, and parts) were approximately 62% of annual needs. This one-time reduction is to reduce current inventory levels to a more optimum level.				
8 Revised Projection of Average Daily Membership	(\$20,199,068)	R	(\$16,227,221)	R
To eliminate the possibility of duplicating the inclusion of some students in projecting a local school administrative units average daily membership and to project a more realistic estimate of future student populations.				
	-235.00		-175.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
9 Classroom Materials/Instruction Supplies/Equipment	(\$1,140,499)	R	(\$1,140,499)	R
Adjust the increase for inflation to a 3% growth (in line with the Consumer Price Index) from the 5% growth used in the Continuation Budget.				
10 School Building Administration	(\$2,338,140)	R	(\$2,338,140)	R
Estimated new public schools opening in FY 2001-02 has been revised to 35 (from 70).				
11 At-Risk Student Services/Alternative Schools	(\$529,732)	R	(\$529,732)	R
Each high school receives funding to employ a school safety officer. The estimate of new high schools scheduled to open in FY 2001-02 has been reduced to 10 (from 20).				
12 Charter School Reserve	(\$2,404,513)	R	(\$3,404,513)	R
Funds in the category are used to distribute the applicable State funding to charter schools for students attending a charter school who were not previously in a public school (private or home schooled). Since the number of charter schools has reached the maximum legislated number of 100, the reserve can be reduced to \$2 million in FY 2001-02 and \$1 million in FY 2002-03.				
13 Driver Education	\$0	R	\$0	R
To reflect reductions to the Highway Fund for revised Average Daily Membership Projections and an adjustment based on average annual reversions. Reduction to Receipts: (\$1,830,739)				
B. Reduction of Administration Cost				
14 Safety Assistance Teams	(\$500,000)	R	(\$500,000)	R
Eliminates funding used for Statewide consultants.				
15 Regional Education Service Alliances	(\$3,732,100)	R	(\$3,732,100)	R
Reduce State funding distributed to local school administrative units that could be used to support the Regional Education Service Alliances to \$3 million (a 55.4% reduction).				
16 Central Office Administration	(\$3,300,000)	R	(\$3,300,000)	R
A 1.97% reduction from FY 2000-01 allocations for each local school administrative unit. The State Board is directed to develop a revised formula for FY 2002-03 that eliminates any permanent hold harmless in the formula.				
17 Uniform Education and Reporting System (UERS)	(\$2,500,000)	NR	\$0	NR
Based on the current NC WISE implementation schedule, a one-year reduction in funding is possible. FY 2001-02 funding level will be \$12,518,927.				

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2001-02

FY 2002-03

18 Department of Public Instruction

(\$3,200,000) R (\$3,200,000) R

The Department of Public Instruction will eliminate at least 25 positions and will reduce other costs. \$533,730 can be transferred from the UERS budget in FY 2001-02 and additional \$466,270 in FY 2002-03 to DPI to reduce contractual costs by internalizing work to support the Uniform Education and Reporting Systems (UERS). This transfer is to allow currently contracted services to be converted to positions.

25 Identified Positions	(\$ 942,344)
Contracted Services	(\$1,502,269)
Cellular Phones	(\$11,505)
Equipment	(\$194,251)
Elimination of Stds Board	(\$175,041)
Contracted Personal Services	(\$41,775)
Travel	(\$195,503)
Other Aid	(\$73,000)
Printing	(\$24,506)
Postage	(\$23,876)
Dues and Subs	(\$15,930)

C. Other Budget Adjustments

19 Vocational Education - Tech Prep

(\$100,000) R (\$100,000) R

Eliminates State funding for Tech Prep. Federal funds in excess of \$3 million support this program.

20 Appropriations to Non-Public School Agencies

(\$3,955,116) R (\$3,955,116) R
 \$1,786,875 NR

Eliminate funding for AVID pilot program. Reduce funding to the following Agencies by 50% and make non-recurring: A+ Schools, ExplorNet, TQE, Geographic Alliance, Cued Speech Center, Global Curriculum. Reduce funding to Schools Attuned, Public School Forum, Cities/Communities in Schools, NC Network, and Teacher Cadet programs by 10%.

D. Improving Student Performance

21 Targeted Class Size Reduction and Instruction

\$8,062,603 R \$8,062,603 R

a. In schools with 80% or more of the students eligible for free or reduced lunch and with 45% or more of students performing below grade level, lower class size in grades K-3 to 1:15. Require teachers allotted for these grades to be assigned to teach in these grades.

179.60 179.60

22 Targeted Class Size Reduction and Instruction

\$973,455 R \$2,334,930 R

b. Extend the contract for all teachers in these targeted schools for five days (5) in 2001-02 and ten days (10) in 2002-03. The first year days will be for staff development in methods to individualize instruction in smaller classes. The second year will add 5 instructional days.

23 Targeted Class Size Reduction and Instruction

\$1,840,380 R \$1,840,380 R

c. Provide one additional instructional support position for each of these targeted schools.

37.00 37.00

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
24 Targeted Class Size Reduction and Instruction	(\$8,068,580)	R	(\$8,068,580)	R
d. Eliminate regular dollar allotment for teacher assistants in grades K-3 in these targeted schools due to significantly lower class size.				
25 Targeted Class Size Reduction and Instruction	\$500,000	R	\$500,000	R
e. Provide funding for outside evaluation of targeted class size reduction initiatives.				
26 Targeted Class Size Reduction and Instruction: Kindergarten	\$12,045,179	R	\$26,082,252	R
Lower class size ratio in kindergarten to one teacher for every 19 students in 2001-02 and to one teacher for every 18 students in 2002-03.	268.50		581.00	
27 Class Size Reduction/ Instruction: Continually Low-Performing Schools	\$471,366	R	\$471,366	R
a. Reduce class-size in schools identified by the State Board of Education as continually low-performing in grades K-3 to 1:15 and in grades 4-5 to 1:17.	10.50		10.50	
28 Class Size Reduction/ Instruction: Continually Low-Performing Schools	\$1,207,595	R	\$1,207,595	R
b. Reduce class-size allotment in middle schools (Grades 6-8) to 1:17 and in high schools to 1:20 for continually low-performing schools.	26.90		26.90	
29 Class Size Reduction/ Instruction: Continually Low-Performing Schools	\$128,295	R	\$307,730	R
c. Extend the contracts for additional teachers in elementary schools and for all teachers in middle and high schools by 5 days in 2001-02 for staff development and add an additional 5 days of instruction for middle and high schools in 2002-03. These apply for schools identified as continually low-performing.				
30 Teacher Recruitment Initiatives				
a. Have the Education Oversight Committee study methods to provide benefits to part-time teachers to attract more certified teachers back into the classroom.				
31 Teacher Recruitment Initiatives	\$1,000,000	R	\$1,000,000	R
b. Teacher Assistant Scholarships Additional scholarship funds for teacher assistants taking courses at community colleges that are prerequisites for teacher certification programs. (Major initiatives in the UNC budget will improve availability of teacher education programs for teacher assistants).				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
32 Teacher Recruitment Initiatives	\$1,500,000	R	\$1,500,000	R
<p>c. To attract teachers in the shortage fields of mathematics, science and special education and to entice teachers in these specialties to teach in schools with large numbers of at-risk students. In middle schools and high schools with 80% or more of the students eligible for free or reduced lunch or with 50% or more of students performing below grade level, provide an annual bonus of \$1,800 (paid monthly with matching benefits). Teachers must be certified in and teaching in these fields and will remain eligible for the bonus as long as they continue to teach in eligible schools.</p>				
33 ABC Bonuses	(\$93,100,000)	R	(\$93,100,000)	R
Provide funding for ABC bonuses for schools meeting or exceeding expected growth in 2000-01.	\$93,100,000	NR		
34 ABC Bonuses: Pilot Districts				
Provide funding for school personnel in five (5) pilot school districts for additional bonuses earned under the disaggregated performance pilot project directed by the General Assembly in 1999 (Sec. 8.36, SL 1999-237: HB 168). If a school achieves the pilot program goals, all certified personnel assigned to the school will receive up to \$750 and teacher assistants up to \$325 (these awards are in addition to standard ABC bonuses). LEAs not eligible for low wealth or small county supplemental funding must contribute 25% of the total cost of the bonuses.	\$4,600,000	NR		
35 Character Education	\$200,000	R	\$200,000	R
Funding for expansion of character education program.				
36 Children with Special Needs	\$3,000,000	R	\$3,000,000	R
Increase funding per student for children with special needs. The appropriation per funded headcount increases \$37.98 to \$2,650.28 (before increases for salary increases).				
37 Improving Student Accountability	\$5,000,000	R	\$5,000,000	R
Increase funding for additional instruction for students performing below grade level.				
38 Limited English Proficiency	\$1,000,000	R	\$1,000,000	R
Appropriate additional funds to serve students with limited proficiency in English. This brings the total funding for this purpose to \$23,037,655 for FY 2001-02 (prior to adjustments for any legislated salary increase).				
39 Low-Wealth Funding	\$4,000,000	R	\$4,000,000	R
Increase funding for school districts in counties with less ability to generate local resources for public schools.				
40 Small County Funding	\$2,000,000	R	\$2,000,000	R
Increase formula funding to counties with fewer than 3,239 students (or 4,080 if property tax base per student is lower than state average). This will increase base allotment to each eligible LEA by \$74,074.				

E. Other Increases

41 Instructional Supplies	\$0	R	\$0	R
Expand funding for instructional supplies. Language will direct that each LEA will allocate a minimum of \$100 to each teacher for purchase of supplies.	\$4,100,000	NR		
42 School Accountability Report Cards	\$200,000	R	\$200,000	R
Funds for the Education Cabinet to develop, publish, and distribute school accountability report cards. The cards should be designed to supply parents information on school characteristics and performance.				
43 Average Daily Membership Contingency Reserve	\$500,000	R	\$500,000	R
Provides additional funds to the State Board of Education to address transitional year funding for local school administrative units with new charter schools and for first month allotment adjustments to local school administrative units with higher than expected enrollment growth.				
44 NCWISE OWL's On-Line Subscriptions	\$628,000	R	\$628,000	R
NCWISE OWL is operated by the North Carolina Department of Public Instruction and offers on-line resources (periodicals, encyclopedia, etc.) for K-12 teachers and students. Federal resources that have been discontinued have covered the subscription cost. The Department of Public Instruction will work collaboratively with the Department of Cultural Resources and report to the Joint Information Technology Appropriations Subcommittee by March 15, 2002 as to the feasibility of merging NCWISE OWL with NCLIVE (which also offers on-line subscription services).				
Total Legislative Changes	(\$117,333,543)	R	(\$98,842,603)	R
	\$73,170,983	NR	\$0	NR
Total Position Changes	287.50		660.00	
Revised Budget	\$5,879,640,364		\$5,922,188,546	

UNC System

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$1,804,923,800		\$1,812,208,855	

Legislative Changes

Campus Reductions

45 Temporary Wages and Membership Dues	(\$2,500,000)	R	(\$2,500,000)	R
Reduce the funding for temporary wages and membership dues at the 16 UNC constituent institutions.				
46 Community Services/General Academic Support	(\$1,500,000)	R	(\$1,500,000)	R
Reduce amount appropriated for Community Services/General Academic Support for the 16 constituent institutions.				
47 Reduction in SPA Positions	(\$10,694,131)	R	(\$10,694,131)	R
Reduce SPA positions at the 16 constituent institutions by 2.8%.				
	-359.60		-359.60	
48 Reductions in EPA Non-Teaching Staff Positions	(\$5,902,497)	R	(\$5,902,497)	R
Reduce EPA non-teaching positions at the 16 constituent institutions by 2.8%. The position reductions in Cooperative Extension and Agricultural Research shall be made only in non-teaching positions.				
	-95.20		-95.20	
49 Reductions in Various Modified Zero Based Budget Items	(\$5,726,311)	R	(\$5,726,311)	R
An average 5% reduction is made in the budgets of the 16 constituent institutions for the following modified zero based budget items: miscellaneous contractual services, rental/lease of equipment, travel, cellular phones, furniture and equipment, and other aids and grants.				
50 Private Funding for Selected Summer Research In Lieu of State Appropriation	(\$1,000,000)	R	(\$1,000,000)	R
Substitute some private funding for a portion of state appropriations for select faculty to do summer research. This will be selected at the campus level.				
51 Continuing Education Receipts	(\$378,775)	R	(\$378,775)	R
Increase by 10% the receipts generated through continuing education programs at UNC-CH Health Affairs.				
52 Center for Alcohol Studies Endowment	(\$250,000)	NR		
Reduces the appropriation to the Center for Alcohol Studies Endowment for one year.				
53 Institute of Southern Politics, Media & Public Life	(\$225,000)	R	(\$225,000)	R
Eliminates the specific funding for this program, but allows UNC-CH to use other state or other sources of funds to continue this program.				
	-2.00		-2.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
54 Institute for Outdoor Drama	(\$60,000)	R	(\$60,000)	R
Eliminates funds for the newly-established position of Director of Communications at the Institute for Outdoor Drama at UNC-CH.	-1.00		-1.00	
55 Additional Administrative Efficiencies	(\$5,000,000)	R	(\$5,000,000)	R
The University System shall find additional administrative efficiencies.				
56 Reduction in Travel	(\$1,000,000)	R	(\$1,000,000)	R
The University System shall make additional reductions in its travel expenses.				
UNC General Administration				
57 Reductions in Modified Zero Based Budget Items for UNC-GA	(\$750,125)	R	(\$750,125)	R
A 10% reduction is made in the budget of UNC-General Administration for the following modified zero based budget items: miscellaneous contractual services, rental/lease of equipment, travel, cellular phones, furniture and equipment, and other aids and grants.				
58 Reduce EDP Equipment	(\$80,000)	R	(\$80,000)	R
Reduce Electronic Data Processing equipment infrastructure replacement efforts at UNC-GA.				
59 Board of Governors' Meetings	(\$30,800)	R	(\$30,800)	R
The Board of Governors recently voted to reduce the number of times it will meet during the year to eight. This is the corresponding budget reduction for meeting costs.				
60 MCNC Contract	(\$5,000,000)	R	(\$5,000,000)	R
Reduce the state funds paid to MCNC by UNC-General Administration for the use of the MCNC Supercomputing Center and move to a fee for service.				
61 Litigation Contract	(\$200,000)	R	(\$200,000)	R
Eliminate funding for the litigation contract with the Department of Justice. UNC-GA is still required to maintain the contract and reimburse the Department of Justice for legal services.				
62 UNC General Administration SPA Position Reductions	(\$422,345)	R	(\$422,345)	R
Reduces the SPA positions in UNC General Administration by 5%.	-11.50		-11.50	
63 UNC General Administration EPA Non-Teaching Staff Position Reductions	(\$541,925)	R	(\$541,925)	R
Reduces the EPA non-teaching staff positions in UNC General Administration by 5%.	-5.25		-5.25	
64 Administrative Overhead Reduction	(\$166,791)	R	(\$166,791)	R
Eliminate the administrative overhead from General Fund appropriations in the Center for School Leadership Development's central office.	-1.60		-1.60	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
65 Reduce Teacher Academy	(\$533,396)	R	(\$533,396)	R
Reduces the funding for the Teacher Academy.				
66 Reallocate Funds from the Model Teacher Education Consortium	(\$822,082)	R	(\$822,082)	R
Reallocate a portion of the Model Teacher Education Consortium funds to a more comprehensive method of delivering program goals.	-2.50		-2.50	
67 Office Consolidation Savings	(\$100,000)	R	(\$100,000)	R
Savings from the consolidation of offices for the programs under the Center for School Leadership Development.				
68 Reduction in All Center for School Leadership Development Programs	(\$833,315)	R	(\$833,315)	R
Reduces all programs under the Center for School Leadership Development. These programs shall not be subject to the across-the-board personnel reductions taken for UNC-GA or the campuses. The Joint Legislative Commission on Education Oversight will study these programs for recommended savings.				
69 Matching Incentive Funds	(\$350,000)	R	(\$350,000)	R
Reduce Matching Incentive Funds for staff development in K-16 programs.				
70 Lighthouse Schools	(\$260,000)	R	(\$260,000)	R
Eliminate funding for Lighthouse Schools under the Center for School Leadership Development.				
71 Strategic Initiative Reserve	(\$1,000,000)	NR		
Reduce the UNC System President's Strategic Initiative Reserve that is used to fund special projects. The current reserve is funded at \$3,000,000 per year. UNC-GA shall provide a detailed report to the Joint Legislative Commission on Education Oversight prior to March 1 annually on how these funds are spent. \$1 million of the remaining funds shall be used to provide transition funding to temporarily offset the effects of permanent position cuts at the historically black and minority and smaller campuses.				
University Expansion Funds				
72 Regular Term Enrollment Increase	\$28,358,828	R	\$28,358,828	R
Fully funds the UNC Board of Governors' regular term enrollment increase, including the "hold-harmless" for those campuses losing enrollment. This funds an additional 2,435 full-time equivalent students.	238.30		238.30	
73 Distance Education Enrollment Increase	\$12,178,135	R	\$12,178,135	R
Fully funds the UNC Board of Governors' distance education enrollment increase requests. This funds 1,085 additional FTE students.	96.30		96.30	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
74 Faculty Productivity	(\$3,000,000)	R	(\$3,000,000)	R
<p>Increase faculty productivity by using existing tenure-stream faculty who teach an average of fewer than 15 credit hours a year to help with the projected enrollment growth. This reduction is for faculty paid from the code "1310 EPA Teaching Faculty" line.</p>				
75 Tuition Increase	(\$30,864,857)	R	(\$30,864,857)	R
<p>There is a 9% across-the-board tuition increase for all students for the 2001-02 academic year. In addition, the Board of Governors' differentials for graduate and professional schools shall remain in effect. Also, the campus-initiated increases shall remain in effect.</p>				
76 Need-Based Student Financial Aid	\$8,928,000	R	\$8,928,000	R
<p>Adds additional funds to the existing need-based student financial aid program. The current direct appropriation for this program is \$6.3 million.</p>				
77 Aid to Students Attending Private Colleges	\$3,226,210	R	\$3,226,210	R
<p>Provides funds to cover the projected enrollment increases in the funds for students attending private colleges. \$2,346,210 is to cover the 1,192 additional students anticipated to receive the Legislative Tuition Grant (LTG). The State Contractual Scholarship (SCSF) program will increase by \$880,000 to cover an additional 800 FTE students. The current appropriation for the LTG program and the SCSF is \$75.7 million.</p>				
78 Education Cabinet/Research Council Funds	\$250,000	R	\$250,000	R
<p>This restores half of the non-recurring appropriation made during the last fiscal year for the Education Cabinet and the Education Research Council.</p>				
79 Scholarships for Teacher Assistants Pursuing Teaching Degrees	\$1,000,000	R	\$1,000,000	R
<p>Funds are appropriated to provide scholarships for teacher assistants.</p>				
80 Institute of Government-Center for Technology Support	\$150,000	NR		
<p>To support Center's efforts to provide technical assistance to local governments.</p>				
81 Teacher Preparation Programs through Distance Education	\$2,000,000	R	\$2,000,000	R
<p>Provides additional funds for all UNC teacher education programs across the state provided through distance education that do not have an on-campus residency requirement. Funds shall be allocated based on their student credit hour enrollment.</p>				
82 Genomics, Bioinformatics, Optoelectronics, and Photonics Research	\$1,375,000	R	\$1,375,000	R
<p>Provides funds for the new genomics, bioinformatics, optoelectronics, and photonics research programs.</p>				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
83 Eliminate Room and Board Charges at the North Carolina School of the Arts Eliminate room and board charges for in-state high school students at the North Carolina School of the Arts.	\$1,069,802	R	\$1,069,802	R
84 NC A&T State University Matching Funds Provides funds to match federal funds for NC A&T State University's agricultural programs.	\$530,000	R	\$530,000	R
85 ECU Doctoral Status Funds Funds the last phase of the transition of ECU to Doctoral I status.	\$1,500,000	R	\$1,500,000	R
86 Progress Board Provides recurring funds for the Progress Board which is funded through the university system.	\$250,000	R	\$250,000	R
87 Closing the Achievement Gap Provides funds to support the Historically Minority College and University Consortium initiative to close the achievement gap. Funds shall be allocated to UNC-General Administration for distribution to the consortium.	\$250,000	R	\$250,000	R
88 Focused Growth Institutions-Special Needs To provide funds as requested by the UNC Board of Governors to fund the special needs for the Focused Growth Institutions in the UNC system.	\$2,247,850	R	\$2,247,850	R
89 TEACCH Program Funds Additional funds for the TEACCH program to enable them to apply for a National Institute of Health grant and other grant funds.	\$290,500	R	\$290,500	R
Total Legislative Changes	(\$14,488,025)	R	(\$14,488,025)	R
	(\$1,100,000)	NR		
Total Position Changes	-142.05		-142.05	
Revised Budget	\$1,789,335,775		\$1,797,720,830	

Community Colleges

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03
	\$648,021,974		\$648,021,974

Legislative Changes

A. Community College System Offices

90 Operating Efficiencies	(\$197,923)	R	(\$197,923)	R
Eliminate the library ordering and receiving services and two library clerk positions totaling \$59,543. Colleges will be responsible for ordering and receiving library materials.	-4.00		-4.00	
Eliminate a vacant educational consultant position and operating funds totaling \$64,432. Eliminate a vacant position in the Office of the President totaling \$23,396.				

B. State Aid - Community College Institutions

91 Compensatory Education	(\$150,537)	R	(\$150,537)	R
Reduce the appropriation for Compensatory Education from \$1,150,537 to \$1,000,000.				
92 Worker's Compensation	(\$272,927)	R	(\$272,927)	R
Reduce the appropriation for Worker's Compensation from \$976,629 to \$703,702 to reflect actual expenditures.				
93 Unemployment Compensation	(\$81,015)	R	(\$81,015)	R
Reduce the appropriation for Unemployment Compensation from \$521,766 to \$440,751 to reflect actual expenditures.				
94 Reduce Liability Insurance	(\$20,000)	R	(\$20,000)	R
Reduce the appropriation for Liability Insurance from \$53,000 to \$33,000 to match actual expenditures.				
95 Eliminate Priority Programs	(\$43,812)	R	(\$43,812)	R
Eliminate Priority Programs since this item was intended to support federal funds that are no longer available.				
96 Reduce Human Resource Development Funds	(\$2,951,895)	R	(\$2,951,895)	R
Reduce the appropriation for Human Resource Development from \$6,951,895 to \$4,000,000. The program will be reorganized and the classes will be offered as Occupational Continuing Education classes.				
97 Reduce Special Allotments	(\$561,083)	R	(\$561,083)	R
Reduce the Special Allotment line item from \$2,244,332 to \$1,683,249.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
98 Community Service Block Grant Adjustment Reduce the funds allocated for hobby/leisure courses from \$1,817,738 to \$1,500,000. Colleges will make every effort to ensure that this reduction does not result in a lessening of senior services.	(\$317,738)	R	(\$317,738)	R
99 Eliminate the State Subsidy to Private Diploma Nursing Programs Eliminate the recurring State subsidy to private diploma nursing programs. Provide non-recurring funds for the program in the first year of the biennium.	(\$200,000)	R	(\$200,000)	R
	\$200,000	NR		
100 Adjustment for Over-realized Receipts Increase the budgeted amount of tuition and registration fees to more accurately reflect anticipated receipts.	(\$1,000,000)	R	(\$1,000,000)	R
101 Eliminate Trustees Association Education Fund Eliminate the appropriation for educational materials for the Trustees Association.	(\$25,000)	R	(\$25,000)	R
102 Enrollment Adjustment Provide funds for community college enrollment growth in accordance with the enrollment funding formula.	\$10,000,000	R	\$10,000,000	R
103 Faculty and Professional Staff Salary Enhancements Provide the community college system with an additional 1.25% for faculty and professional staff salary increases. This increase of \$6.9 million in recurring funds is located in the Compensation Reserves section of the budget.				
104 Other Cost Adjustment Provide a 2% inflationary increase to the "Other Cost" part of the funding formula. Increase amount allocated per FTE for "Other Cost" from \$175 to \$178.50.	\$521,206	R	\$521,206	R
105 Maintenance of Plant Increase the Maintenance of Plant appropriation from \$513,668 to \$787,877. The purpose of this increase is to hold harmless those colleges that had been receiving Maintenance of Plant funds when additional schools became eligible.	\$274,209	R	\$274,209	R
106 Fayetteville Tech Botanical Lab Funds A nonrecurring grant-in-aid to Fayetteville Tech to develop a regional botanical laboratory in partnership with the Cape Fear Botanical Gardens.	\$300,000	NR		
C. Specialized Technology Centers				
107 Criminal Justice Reorganization Reorganize the Criminal Justice Regional Planning and Training Program into three regions to be determined by the System Office. Reduce the appropriation for the Criminal Justice program from \$689,896 to \$339,896.	(\$350,000)	R	(\$350,000)	R
	-3.00		-3.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
D. Reserves and Other Funds				
108 Reduce State Board Reserve	(\$350,000)	R	(\$350,000)	R
Reduce the appropriation for the State Board Reserve from \$1,150,000 to \$800,000.				
109 Increase Need-Based Financial Aid	\$1,062,806	R	\$1,062,806	R
Increase the Need Based Financial Aid fund from \$5,000,000 to \$6,062,806.				
D. Tuition and Fees				
110 Increase Curriculum Tuition Charge	(\$10,162,806)	R	(\$10,162,806)	R
Increase the in-state tuition charge per semester hour by \$3.50 from \$27.50 to \$31.00. Increase the out-of-state tuition charge per semester hour by \$3.50 from \$169.75 to \$173.25. It is anticipated that for most students, this increase will be off-set by federal and state financial assistance programs.				
Total Legislative Changes	(\$4,826,515)	R	(\$4,826,515)	R
	\$500,000	NR		
Total Position Changes	-7.00		-7.00	
Revised Budget	\$643,695,459		\$643,195,459	

**HEALTH
&
HUMAN SERVICES
Section G**

Health and Human Services

GENERAL FUND

	FY 2001-02		FY 2002-03
Recommended Budget	\$3,471,730,643		\$3,725,304,459

Legislative Changes

(1.0) Division of Mental Health

1 Administration in Area Programs	(\$1,500,000)	R	(\$1,500,000)	R
Reduces state appropriations to area mental health programs and directs DHHS to develop and implement guidelines to bring administrative costs at area programs into a more reasonable range.				
2 Various Contracts	(\$1,020,345)	R	(\$1,020,345)	R
Eliminates the following contracts:				
UNC-CH Ctr for the Study of Development and Learning	250,000			
Life Plan Trust, Inc.	45,930			
Duke University	12,006			
Reduces the following:				
UNC-CH DD Training Institute	100,000			
NC State Center of Urban Affairs	265,227			
Governor's Institute on Alcohol and Substance Abuse, Inc.	100,000			
Council on the Accreditation of Services for Families and Children	247,182			
3 State Appropriations to State MR Centers	(\$2,900,000)	R	(\$2,900,000)	R
Reduces state appropriations to the five (5) state mental retardation centers in accordance with the State's 4% Downsizing Plan.				
4 Medical Services Director Contract	(\$134,695)	R	(\$134,695)	R
Eliminates a contract with UNC-CH for the services of a medical director for the Division.				
5 Position Eliminations	(\$1,326,036)	R	(\$1,326,036)	R
	-22.00		-22.00	
6 Neurobehavioral Treatment Unit	(\$571,526)	R	(\$571,526)	R
Eliminates funding for the creation of a new neurobehavioral treatment unit for individuals with traumatic brain injury (to be located at the state's Black Mountain Center).				
	-51.00		-51.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
7 Improved Efficiencies for Hospital Operations	(\$1,079,242)	R	(\$1,079,242)	R
Transfers responsibility for Cherry Hospital laundry operations to the Department of Corrections Enterprise Industries.				
8 Medical/Surgical Unit at Dix Hospital	(\$420,982)	R	(\$420,982)	R
Reduces appropriations for a medical/surgical unit located at Dix Hospital which was closed in October 2000. Medical/surgical services will be provided via contract.				
9 Oakview Program	(\$600,055)	R	(\$600,055)	R
Eliminates state appropriations for an apartment program for adolescents which is no longer in use.				
	-16.50		-16.50	
10 Medicaid Receipts on Child/Adolescent Beds	(\$1,343,780)	R	(\$1,343,780)	R
Reduces state appropriations in anticipation of receipts for the child and adolescent beds in state psychiatric hospitals.				
11 Medicaid Receipts for EATP at Wilson	(\$465,338)	R	(\$465,338)	R
Reduces state appropriations in anticipation of Medicaid receipts for the adolescent beds in the state's Eastern Adolescent Treatment Program located in Wilson.				
(2.0) Division of Social Services				
12 Various Contracts	(\$567,743)	R	(\$567,743)	R
Eliminates the following:				
Work Central Call Support Ctr	\$155,850			
Reduces the following:				
Appalachian State University	60,000			
Tier, Inc.	301,893			
NC DSS Director's Association	50,000			
13 Position Eliminations	(\$756,108)	R	(\$756,108)	R
	-20.00		-20.00	
14 Families for Kids Funding	(\$500,000)	R	(\$500,000)	R
Reduces State funds for Families for Kids initiative.				
15 Family Resource Centers	(\$250,000)	R	(\$250,000)	R
Reduces state funds for Family Resource Centers and directs DHHS to allocate the remaining funds based on program performance.				
16 Excess State/County Special Assistance	(\$2,751,750)	R	(\$2,751,750)	R
Reduces excess state appropriations in the State/County Special Assistance program.				
17 County Program Integrity Worker Funding	(\$2,500,000)	R	(\$2,500,000)	R
Eliminates a grant-in-aid to all counties for program integrity activities.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
18 Carolina ACCESS County Positions	(\$1,236,492)	R	(\$1,236,492)	R
Eliminates Carolina ACCESS county positions located in county departments of social services.				
19 Regional Office Positions	(\$155,784)	R	(\$155,784)	R
Eliminates 7 regional office clerical positions. Other personnel will absorb associated job duties.				
	-7.00		-7.00	
20 Work First Transfer to General Assembly	(\$40,000)	R	(\$40,000)	R
Eliminates the transfer of funds to offset the cost of the Joint Legislative Public Assistance Commission which is being repealed.				
(3.0) Division of Medical Assistance				
21 ICF/MR Rate Adjustment	(\$2,631,380)	R	(\$2,723,225)	R
Adjusts rates for private Intermediate Care Facilities for the Mentally Retarded to reflect actual costs and eliminate profit.				
22 New Inflationary Increases	\$0	R	(\$20,000,000)	R
Eliminates new inflationary increases for SFY 2002-2003.				
23 Drug Utilization Management	(\$16,700,000)	R	(\$33,600,000)	R
Implements various drug utilization measures to contain the cost of prescription drugs as recommended by the "North Carolina Medicaid Benefit Study".				
24 ACCESS Medical Director Contract	(\$87,500)	R	(\$87,500)	R
Eliminates the contract for the medical director for the Carolina ACCESS program as recommended by the "North Carolina Benefit Study".				
25 Dispensing Fee for Drugs	(\$3,450,000)	R	(\$4,500,000)	R
Reduces the dispensing fee for prescription drugs from \$5.60 to \$4.00 per brand name prescription. The dispensing fee for generic drugs is \$5.60.				
26 Generic Drugs	(\$1,000,000)	R	(\$1,000,000)	R
Implements increased utilization of generic drugs.				
27 Daily Personal Care Services Limit	(\$2,500,000)	R	(\$5,900,000)	R
Limits Personal Care Services to 3.5 hours per day while maintaining the 80 hour per month limit.				
28 Asset Policy Changes	(\$2,000,000)	R	(\$3,800,000)	R
Apply federal transfer of asset policies to real property excluded as "income producing" under Title XIX.				
29 Medicare Crossover Claims Payments	(\$6,500,000)	R	(\$11,400,000)	R
Limit Medicare Crossover claims payments to 95% of Medicare rates.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
30 Position Eliminations	(\$256,693)	R	(\$256,693)	R
	-12.00		-12.00	
31 Optional Services	(\$246,762)	R	(\$400,000)	R
Eliminates optional circumcision procedures except in cases of medical necessity.				
32 Physician Rates to 95% of Medicare Rates	(\$5,900,000)	R	(\$11,500,000)	R
Reduces rates paid to physicians to 95% of the physician rates paid by Medicare as recommended by the "North Carolina Medicaid Benefit Study".				
33 Co-payments for Prescription Drugs	(\$3,160,000)	R	(\$3,550,000)	R
Increases co-payments for brand name prescription drugs from \$1 to \$3 per prescription. Co-payments for generic prescriptions remain at \$1 per prescription.				
(4.0) Office of the Secretary				
34 Welfare Automation Fund	(\$1,500,000)	R	(\$1,500,000)	R
Reduces state appropriations to the fund which supports automation enhancement in the Work First Program.				
35 Community Action Agency Funds	(\$300,000)	R	(\$300,000)	R
Eliminates state appropriations to Community Action Agencies in lieu of increased federal grant funds.				
36 Position Eliminations	(\$2,526,311)	R	(\$2,526,311)	R
	-45.00		-45.00	
37 Contract	(\$21,344)	R	(\$21,344)	R
Eliminates a contract for personal services in support of a Medicaid waiver proposal, activities will be absorbed by existing staff.				
(5.0) Division of Child Development				
38 Smart Start Evaluation	(\$500,000)	R	(\$500,000)	R
Reduces state funds for evaluation activities for Smart Start and directs DHHS to contract for a more focused review of Smart Start activities directly related to kindergarten readiness.				
39 Early Head Start	(\$549,478)	R	(\$549,478)	R
Eliminates state appropriations in lieu of increased federal Early Head Start funds.				
40 Position Eliminations	(\$565,807)	R	(\$565,807)	R
	-16.00		-16.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
41 Various Contracts	(\$40,000)	R	(\$40,000)	R
Eliminates contracts for the following:				
Personal Services contract for child abuse curriculum development	\$15,000			
Child Care Services Association, Inc.	25,000			
42 Smart Start	(\$59,000,000)	R	(\$59,000,000)	R
(\$48,500,000)				
Reduces the Governor's proposed increase in Smart Start continuation funding - funds not yet received by local partnerships.				
(\$10,500,000)				
Reduces state appropriations to the North Carolina Partnership for Children, state administration and local partnership operations. This reduction is minimized by policy changes in how funds are utilized for quality improvements and a prohibition on the use of funds for capital/equipment projects.				
(6.0) Division of Vocational Rehabilitation				
43 Position Eliminations	(\$58,770)	R	(\$58,770)	R
	-3.00		-3.00	
(7.0) Division of Public Health				
44 Position Reductions	(\$237,995)	R	(\$237,995)	R
	-7.59		-7.59	
45 Various Contracts	(\$985,554)	R	(\$985,554)	R
Reduces the Healthy Start Foundation contract by \$150,000. Eliminates the following contracts: Association of NC Boards of Health - \$100,000, Mecklenburg County Mental Health Authority - \$86,144, NC Fair Share - \$10,000, Pennsylvania State University - \$53,355, UNC (Hypertension Data Analysis) - \$10,000, UNC Family Services Network - \$223,561, UNC School of Public Health - \$225,000, and UNC School of Public Health - \$127,494				
46 Vital Record Receipts	(\$60,000)	R	(\$60,000)	R
Adjusts the budget to accurately reflect the amount of receipts to be collected for the sale of vital records.				
47 Newborn Screening Program	(\$2,050,000)	R	(\$2,050,000)	R
Reduces state appropriations in anticipation of increased Medicaid Receipts.				
48 Health Promotion Activities	(\$1,000,000)	R	(\$1,000,000)	R
Reduces state appropriations for Health Promotion activities.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
49 Sickle Cell Prog. Ed. Counselors	(\$54,633)	R	(\$54,633)	R
Reduces state appropriations in anticipation of increased Medicaid receipts.				
50 Position Eliminations	(\$551,043)	R	(\$551,043)	R
	-8.00		-8.00	
51 AIDS Drug Assistance Program	\$0	R	\$0	R
Reduces state appropriations on a non-recurring basis due to excess ADAP funds.				
	(\$1,500,000)	NR	\$0	NR
52 Nurse Midwifery Program	(\$340,000)	R	(\$340,000)	R
Eliminates funding for the Nurse Midwifery Program which funds start-up midwifery practices.				
53 Position Transfers				
Transfers the following positions from Division of Early Intervention and Education into Division of Public Health, Women's and Children's Health Section: Audiologists: 4425-1231-1211-921, 4429-1536-1211-020; Speech and Language Pathologist: 4429-1526-1211-027; Language/Communication Specialist: 4429-1516-1251-004; Social Workers: 4425-1231-1211-920, 4429-1526-1211-026, and 4429-1536-1211-019				
	0.00		0.00	
54 Rural Obstetrics Incentive Program	(\$1,255,000)	R	(\$1,255,000)	R
Eliminates Rural Obstetrics Incentive Program which pays a portion of the mal-practice insurance for doctors in rural areas to encourage them to treat Medicaid patients.				
(8.0) Division of Education Services				
55 Contracts to LEAs	(\$984,000)	R	(\$984,000)	R
Eliminates the contracts with Local Education Agencies that were set-up to supplement educating hearing-impaired children transitioning out of the Central North Carolina School for the Deaf.				
56 Various Contracts	(\$287,240)	R	(\$287,240)	R
Reduces the contract to Beginnings by \$200,000, and personal services for audiological management by \$87,240.				
57 State-Operated Deaf Preschools	(\$384,997)	R	(\$384,997)	R
Reduces appropriations to the state-operated preschool centers and transitions the children from these centers to other preschool sites and services.				
58 Position Eliminations	(\$778,495)	R	(\$778,495)	R
Eliminates 23 teacher and teacher assistant positions in the state-operated deaf preschools, as a result of transitioning children to other preschool sites and services.				
	-23.00		-23.00	
59 Position Eliminations	(\$1,616,891)	R	(\$1,616,891)	R
	-33.00		-33.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
60 Developmental Eval. Centers	(\$457,271)	R	(\$457,271)	R
Reduces state appropriations in anticipation of increased Medicaid receipts.				
61 Reorganization/Changes	(\$2,000,000)	R	(\$2,000,000)	R
Eliminates state appropriations in the areas of administration and other recent budget revisions that reduced the budget of the Central North Carolina School for the Deaf to enhance the Division's central office.				
62 Central School for the Deaf	(\$1,200,000)	R	(\$1,200,000)	R
Savings from the Department of Health and Human Service's closure of the Central North Carolina School for the Deaf.				
(9.0) Division of Aging				
63 Position Eliminations	(\$43,539)	R	(\$43,539)	R
Eliminates 1 position.				
	-1.00		-1.00	
64 Area Agency on Aging (AAA) Administration Funds	(\$200,000)	R	(\$200,000)	R
Reduces \$200,000 in administrative funding for 17 Area Agencies on Aging. The Division will implement strategies to reduce overall administrative costs.				
65 UNC CARES Contract	(\$50,000)	R	(\$50,000)	R
Eliminates State funding for a contract with UNC-Chapel Hill for planning and evaluation services. The Division will assume the duties of the contract.				
(10.0) Division of Blind Services/Deaf				
66 Medical Eye Care Program	(\$100,000)	R	(\$100,000)	R
Reduces excess funding in the Medical Eye Care Program.				
67 Position Eliminations	(\$66,034)	R	(\$66,034)	R
	-2.00		-2.00	
(11.0) Division of Facility Services				
68 Fire Protection Revolving Loan Fund	(\$195,267)	NR	\$0	NR
Eliminates appropriations in the Fire Protection Revolving Loan Fund.				
69 EMS Regional Grants	(\$544,397)	R	(\$544,397)	R
Eliminates Emergency Medical Services Regional Grants.				
70 Position Eliminations	(\$322,870)	R	(\$322,870)	R
	-6.00		-6.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
71 Receipts for Mental Health Licensure	(\$250,000)	R	(\$250,000)	R
Increases receipts from Medicaid to support Mental Health Licensure.				
72 Grant for Association of Rescue and EMS	(\$24,999)	R	(\$24,999)	R
Eliminates the grant-in-aid for the NC Association of Rescue and EMS				
(12.0) Division of Mental Health				
73 Security Staff	\$248,435	R	\$248,435	R
Increases appropriations and staff due to a transfer of security responsibilities from the Juvenile Evaluation Center to the Julian F. Keith ADATC and the Black Mountain Center.				
	6.00		6.00	
74 Housing Support for the Mentally Ill	\$1,000,000	R	\$1,000,000	R
Provides funds to support the expansion of housing support and placements for the mentally ill.				
75 Autism Funds	\$450,000	R	\$450,000	R
Provides \$450,000 for administrative, operational, and direct services funds to the Autism Society of North Carolina. Also provides \$326,000 to continue operational support to the Residential Services, Inc. during FY01/02 in order allow the program to develop and implement the necessary processes to draw down Medicaid funds to continue residential services to autistic children.				
	\$326,000	NR	\$0	NR
76 Community Programs	\$3,500,000	R	\$3,500,000	R
Provides funds for area mental health programs as follows:				
Assertive Community Treatment Teams for non-Medicaid clients 200,000				
Family Support Activities 300,000				
Substance Abuse Services to Special Populations 1,000,000				
Expand Capacity for Detoxification, Residential and Outpatient Services 2,000,000				
77 Funds for At-Risk Children	\$4,353,000	R	\$4,353,000	R
Provides recurring funds for direct services to seriously disturbed children (funds were appropriated as non-recurring since FY98/99).				
(13.0) Division of Social Services				
78 Child Support Backlog	\$1,500,000	R	\$1,500,000	R
Provides funding for child support caseload backlogs in urban counties.				
79 Food Banks	\$1,000,000	NR	\$0	NR
Provides funds to be equally distributed to the regional network of food banks in North Carolina.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
80 Child Support Receipt Shortfall	\$2,000,000	R	\$2,000,000	R
Increases state appropriations in child support operations due to an ongoing receipt shortfall.				
(14.0) Division of Medical Assistance				
81 Community Alternatives Program for Children	\$500,000	R	\$500,000	R
Provides additional slots for the Community Alternatives Program for Children.				
82 CAP-MR/DD Program	\$1,000,000	R	\$1,000,000	R
Provides funding for the Community Alternative Program for the Mentally Retarded/Developmentally Disabled.				
83 Federal Financial Participation Rate	\$35,000,000	R	\$79,000,000	R
Provides increased funding for the Medicaid Program due to a decrease in the federal financial participation rate.				
84 Breast and Cervical Cancer Coverage	\$622,000	R	\$1,215,925	R
Provides funding for Medicaid coverage for uninsured women under age 65 with breast or cervical cancer. Includes state costs for administration.				
	1.00		1.00	
85 Health Choice	\$8,000,000	R	\$12,500,000	R
Provides funding for increasing the enrollment for NC Health Choice to 82,000 children.				
86 Access to Dental Services	\$1,000,000	R	\$2,000,000	R
Provides funding to increase access to dental services for children and adults.				
(15.0) Division of Public Health				
87 Healthy Start Foundation	\$400,000	NR	\$0	NR
Provides funds for Healthy Start Foundation to improve access to prenatal care and reduce poor birth outcomes for families in North Carolina.				
88 Varicella Vaccine	\$700,761	R	\$700,761	R
Provides funding for varicella vaccinations for approximately 20,000 children.				
89 Asthma Education Program	\$250,000	NR	\$0	NR
Provides funding to support asthma management, control, surveillance, and education.				
90 Alice Aycock Poe Center for Health Education	\$200,000	R	\$200,000	R
Provides grant-in-aid to the Alice Aycock Poe Center for health education.				
91 Osteoporosis Task Force	\$150,000	NR	\$0	NR
Provides funding to continue activities of the Osteoporosis Task Force.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
92 Birth Defects Monitoring Program Provides funding for the continuation of the birth defects registry.	\$125,000	R	\$125,000	R
	3.00		3.00	
93 Healthy Carolinians Provides funding for Healthy Carolinians task forces throughout the state.	\$1,000,000	NR	\$0	NR
94 Office of Minority Health Funds Office of Minority Health activities to reduce health disparities.	\$200,000	NR	\$0	NR
95 Prevention of Birth Defects Provides funding for education and awareness activities on the importance of folic acid consumption preceding pregnancy, to effectively prevent neural tube birth defects.	\$400,000	NR	\$0	NR
96 Heart Disease and Stroke Prevention Funds Heart Disease and Stroke Prevention Task Force activities.	\$100,000	NR	\$0	NR
97 Arthritis Prevention Project Provides grant-in-aid for a private, local project in Mecklenburg County.	\$25,000	NR	\$0	NR
98 Medical Day Care Pilot Project Provides funding for a start-up medical daycare center.	\$100,000	R	\$100,000	R
99 Prescription Drug Access Project Provides funding to support a centralized system for accessing free and low cost drugs through pharmaceutical companies.	\$200,000	R	\$200,000	R
100 AIDS Drug Assistance Program Increases funding for the AIDS Drug Assistance Program that pays for prescription drugs for qualified HIV and AIDS patients.	\$500,000	R	\$500,000	R
(16.0) Office of the Secretary				
101 North Carolina Council on the Holocaust Provides funds for the Holocaust education in the public schools.	\$50,000	NR	\$0	NR
102 Adult Care Home Rate Methodology Transfer to the General Assembly to hire a consultant to establish a methodology for rate setting for Adult Care Homes.	\$50,000	NR	\$0	NR
103 Child Advocacy Institute Provides funding to support the activities of the Child Advocacy Institute.	\$250,000	R	\$250,000	R
104 "More At Four" Prekindergarten Pilot Establishes the "More At Four" prekindergarten pilot program for at-risk four year olds.	\$6,456,500	R	\$6,456,500	R

Conference Report on the Continuation, Capital, and Expansion Budget **FY 2001-02** **FY 2002-03**

(17.0) Division of Vocational Rehabilitation

105 Independent Living	\$320,000	R	\$320,000	R
Provides additional funding for statewide case services needs.	\$680,000	NR	\$0	NR
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Total Legislative Changes	(\$77,433,183)	R	(\$81,624,341)	R
	\$2,935,733	NR	\$0	NR
Total Position Changes	-263.09		-263.09	
Revised Budget	\$3,397,233,193		\$3,643,680,118	
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**Department of Health and Human Services
Position Reductions**

<u>Division</u>	<u>Position</u>	<u>Position Numbers</u>	
<u>Central Administration</u>	(2.0) Assistant Secretaries	4410-0105-0700-004 4410-0105-0800-054	
	(1.0) Assistant Health Officer	4410-0105-2060-030	
	(1.0) Asst. Director for Planning & Analysis	4410-0104-0003-501	
	(1.0) Policy & Program Analyst	4410-0105-0700-003	
	(1.0) Work Force Policy Analyst (Vacant)	4410-0105-3300-999	
	(1.0) Administrative Assistant	4410-0105-0700-005	
	(4.0) Intergovernmental Relations (1 Vacant)	4410-0105-3401-012 4410-0105-0900-045 4410-0105-0900-702 4410-0105-0900-085	
	(12.0) HR - Support for Local Governments		
	(1.0) Personnel Supervisor II	4410-2121-0000-328	
	(1.0) Personnel Supervisor I	4410-2122-0300-313	
	(1.0) Personnel Supervisor I	4410-2122-0200-312	
	(1.0) Personnel Analyst III	4410-2122-0200-327	
	(1.0) Personnel Technician III	4410-2122-0200-338	
	(1.0) Personnel Assistant IV	4410-2122-0200-376	
	(1.0) Personnel Supervisor I	4410-2122-0100-315	
	(1.0) Personnel Analyst III	4410-2122-0100-326	
	(1.0) Personnel Technician III	4410-2122-0100-346	
	(1.0) Personnel Assistant IV	4410-2122-0100-349	
	(1.0) Personnel Supervisor I	4410-2122-0000-314	
	(1.0) Personnel Technician III	4410-1420-1103-122	
	(6.0) Strategic Planning Unit		
	(1.0) DHR Planning Officer II	4410-0104-0203-515	
	(1.0) Administrative Assistant II	4410-0104-0000-517	
	(1.0) Human Services Planner Evaluator IV	4410-0104-0203-520	
	(3.0) Program Development Coordinator	4410-0104-0203-061 4410-0104-0203-526 4410-0104-0203-600	
	(1.0) Administrative Support (Vacant)	4410-0105-3601-545	
	(3.0) Property and Construction Office		
	(1.0) Business Officer I	4410-0104-0303-518	
	(1.0) Fac. Architect II	4410-0104-0303-519	
	(1.0) Building Syst. Eng. II	4410-0104-0303-520	
	(8.0) Office of Communications		
	(1.0) Artist Illustrator II	4410-0106-0200-517	
	(3.0) Processing Assistant II	4410-0106-0300-521 4410-0106-0300-521 4410-0106-0300-522	
	(1.0) Printing Equipment Operator II	4410-0106-0155-031	
	(1.0) Printing Equipment Operator II	4410-0106-0155-032	
	(1.0) TV Media Svc. Coord 1	4410-0106-0300-518	
	(1.0) Office Assistant III	4410-0106-0300-520	
	(3.0) Human Resources		
	(1.0) Information & Comm. Specialist III	4410-2121-0000-305	
	(1.0) Personnel Officer III	4463-0000-0028-000	
	(1.0) Social Research Associate	4410-2121-0452-017	
	(1.0) Information Sys. Liaison /Controller's Office	4410-0102-3503-339	
	Subtotal	45.0 Positions	

**Department of Health and Human Services
Position Reductions**

<u>Division</u>	<u>Position</u>	<u>Position Numbers</u>
<u>Division of Aging</u>		
	(1.0) Aging Program Specialist II	4411-1151-2101-030
Subtotal	1.0 Position	
<u>Division of Child Development</u>		
	(1.0) Deputy Director (Vacant)	4420-1123-0001-161
	(1.0) Policy Program Manager	4420-1172-0001-302
	(1.0) Planner/Evaluator II	4420-1172-0001-109
	(2.0) Policy/Planning Con. (One Vacant)	4420-1117-0001-251
		4420-1117-0001-108
	(1.0) Community Development Specialist	4420-1172-0001-376
	(1.0) Policy Unit Office Assistant III	4420-1172-0001-172
	(1.0) Consumer Outreach Sup. (Vacant)	4420-1162-0001-326
	(1.0) Administrative Officer	4420-1162-0001-422
	(1.0) Workforce Office Assistant	4420-1163-0001-532
	(1.0) Accounting Tech.	4420-1127-0000-233
	(1.0) Program Integrity Supervisor	4420-1140-0001-151
	(2.0) SS Program Coordinator (Vacant)	4420-1141-0001-153
		4420-1141-0001-1322
	(1.0) CDC Program Specialist (Vacant)	4420-1141-0001-1598
	(1.0) Chief, Workforce Section	4420-1160-0001-294
Subtotal	16.0 Positions	
<u>Division of Mental Health, Developmental Disabilities, & Substance Abuse Services</u>		
	(1.0) Assistant Division Director (Vacant)	4460-6000-0000-600
	(1.0) Hospital Services Section Chief	4460-7020-0000-712
	(1.0) Director Child Research/Grants	4460-1300-0001-300
	(1.0) Chief Pharmacy Services	4460-0020-0000-104
	(1.0) Clinical Director Child/Family Services	4460-6000-0000-604
	(1.0) Special Assistant to Director at Dix Hospital	4462-1000-0000-003
	(6.0) MR/MI Transition Unit	
		4460-4020-0000-420
		4460-1000-0001-005
		4460-1000-0001-009
		4460-7050-0000-721
		4460-4000-0000-435
		4460-7050-0000-717
	(16.5) Oakview Program (All Vacant)	
	(51.0) TBI Unit - Black Mountain (All Vacant)	
	Primary Care Systems Associate	4460-0000-2000-814
	Processing Asst. III	4460-0010-0000-124
	Staff Development Spec. III	4460-6010-2000-611
	Office Assistant III	4460-6010-3000-619
	Social Worker II	4460-6020-2000-614
	Mental Health Program Consultant	4460-8010-3000-809
	Lead Barber/Beautician	4462-2620-0003-924
	Willie M. Reg. Service Director	4460-6010-3000-618
	Mental Health Program Coordinator	4460-7040-0000-728
	Mental Health Program Manager II	4460-8010-0000-805
Subtotal	89.5 Positions	

**Department of Health and Human Services
Position Reductions**

<u>Division</u>	<u>Position</u>	<u>Position Numbers</u>
<u>Division of Medical Assistance</u>		
	(1.0) Administrative Officer III (Vacant)	4445-0000-0001-002
	(1.0) DMA Services Consultant	4445-0000-0006-410
	(1.0) DMA Nurse I	4445-0000-0009-180
	(2.0) Human Services Planner III	4445-0000-0009-312
		4445-0000-0009-252
	(2.0) DMA Services Consultant	4445-0000-0009-170
		4445-0000-0006-530
	(2.0) Human Services Planner II (All Vacant)	4445-0000-0001-115
		4445-0000-0009-195
	(1.0) Processing Assistant V (Vacant)	445-0000-0009-177
	(1.0) SS Program Administrator	4445-0000-006-420
	(1.0) Comp. Consult. II	4445-0000-009-145
Subtotal	12.0 Positions	
<u>Division of Facility Services</u>		
	(1.0) Assistant Director	4470-0000-0000-244
	(1.0) Facility Architectural Supervisor II (vacant)	4470-0000-0000-800
	(1.0) Business Officer II	4470-0000-0000-628
	(1.0) Assistant Policy Coordinator	4470-0000-0001-400
	(1.0) Health Systems Analyst	4470-0000-0000-245
	(1.0) Facility Survey Consultant	4470-0000-0001-475
Subtotal	6.0 Positions	
<u>Division of Services for the Blind</u>		
	(1.0) Office Assistant IV	4450-0115-7100-583
Subtotal	1.0 Position	
<u>Division of Deaf and Hard-of-Hearing</u>		
	(1.0) Community Development Specialist I	4451-2018-2500-065
Subtotal	1.0 Position	
<u>Division of Vocational Rehabilitative Services</u>		
	(1.0) VR Program Planning Director	4480-0121-0100-421
	(1.0) Rehab. Program Coordinator	4480-0221-0200-477
	(1.0) Assistant Director	4480-0221-0200-181
Subtotal	3.0 Positions	
<u>Division of Early Intervention and Education</u>		
	(1.0) Assistant Superintendent	4422-1811-1211-102
	(1.0) Early Intervention/Preschool Director	4429-1501-1211-001
	(1.0) Research & Professional Dev. Coord.	4422-1811-1251-139
	(1.0) Office Assistant IV	4422-1811-1211-113
	(1.0) Staff Development Coordinator	4422-1811-1211-107
	(1.0) Administrative Specialist	4422-1811-1211-118
	(1.0) HR Assistant Manager	4422-1822-1211-116

**Department of Health and Human Services
Position Reductions**

<u>Division</u>	<u>Position</u>	<u>Position Numbers</u>
	(1.0) Office Assistant	4422-1811-1211-132
	(1.0) Employee Relations Specialist	4422-1811-1211-121
	(14.0) Audiologists (8 Vacant)	4432-5254-0032-448
		4432-5258-0032-452
		4432-5259-0032-453
		4432-5260-0032-455
		4432-5261-0032-456
		4432-5262-0032-458
		4432-5263-0032-459
		4432-5264-0032-460
		4432-5252-0032-445
		4432-5252-0032-446
		4432-5254-0032-447
		4432-5257-0032-450
		4432-5257-0032-451
		1132-5255-0032-449
	(23.0) Preschool Positions (4 vacant)	
	Lead Teacher	4429-1516-1251-017
	Teacher	4429-1516-1251-011
	EDA II	4429-1516-1211-020
	Teacher	4429-1516-1251-014
	EDA II	4429-1516-1211-023
	EDA II	4429-1516-1211-024
	Teacher	4429-1526-1251-006
	Teacher	4429-1526-1251-007
	EDA II	4429-1526-1211-038
	Teacher	4429-1526-1251-014
	EDA II	4425-1231-1211-914
	Teacher	4429-1526-1251-022
	EDA II	4429-1523-1211-024
	Teacher	4429-1526-1251-021
	EDA II	4429-1526-1211-031
	Teacher	4429-1526-1251-020
	EDA II	4425-1231-1210-919
	Teacher	4429-1526-1251-016
	EDA II	4429-1526-1211-025
	Teacher	4429-1536-1251-010
	EDA II	4429-1536-1211-016
	EDA II	4429-1526-1211-029
	EDA II	4429-1526-1211-039
	EDA II	4429-1536-1211-017
	Staff Dev. Spec. II	4424-1111-1210-320
	School Psychologist	4425-1221-1290-883
	Teacher	4424-1121-1290-532
		4424-1126-1290-481
		4425-1221-1290-814
		4425-1221-1290-823
		4425-1221-1290-837
	Lead Teacher	4425-1221-1290-928
	Residential Life Attendant	4427-1408-0027-581
	Residential Life Trainer	4427-1408-0027-588
Subtotal	56.0 Positions	
<u>Division of Public Health</u>		
	(1.0) Deputy Director	
	(1.0) Assistant Section Chief for Human Ecology and Epidemiology	4431-0000-0019-551
	(1.0) Special Assistant to Health Director	4431-0000-0022-600

**Department of Health and Human Services
Position Reductions**

<u>Division</u>	<u>Position</u>	<u>Position Numbers</u>
	(1.0) Scientific Advisor Health Director	4431-0000-0019-853
	(1.0) Physician Epidemiologist - Mental Health	4431-0000-0019-854
	(1.0) Architect/Local Health Services	4431-0000-0050-403
	(7.59) Public Health Administration (all Vacant)	
	(1.0) Processing Assistant IV	4431-0000-0022-609
	(1.0) Processing Assistant III	4431-0000-0019-578
	(1.0) Office Assistant III	4431-0000-0018-004
	(1.0) Office Assistant III	4431-0000-0022-009
	(1.0) Stock Clerk	4431-0000-0021-113
	(.59) Human Services Planner/Evaluator IV	4431-0000-0021-228
	(1.0) Statistician I	4431-0000-0025-068
	(1.0) Statistical Research Assistant III	4431-0000-0025-049
	(1.0) PH Program Consultant I	4431-0000-0022-028
	(1.0) PH Educator II	4431-0000-0018-041
Subtotal	15.59 Positions	
<u>Division of Social Services</u>		
	(1.0) Program Integrity Branch Head	4440-0000-0042-300
	(1.0) Local Support Branch Head	4440-0000-0043-002
	(1.0) Economic Independence Serv. Branch Head	4440-0000-0042-000
	(1.0) Program Development Coord. (Vacant)	4440-0000-0010-008
	(1.0) Program Development Branch Head	4440-0000-0042-002
	(1.0) Child Support Consultant	4440-0000-0080-125
	(1.0) Regional Program Representative	4440-0000-0080-157
	(1.0) Local Support Section Chief (Vacant)	4440-0000-0040-000
	(1.0) Administrative Secretary III (Vacant)	4440-0000-0050-004
	(10.0) Local Support Managers	4440-0000-0051-002
		4440-0000-0051-057
		4440-0000-0052-002
		4440-0000-0052-030
		4440-0000-0052-036
		4440-0000-0053-002
		4440-0000-0054-041
		4440-0000-0054-042
		4440-0000-0053-030
		4440-0000-0054-002
	(7.0) Regional Administrative Support	
	(3.0) Office Assistant III	4440-0000-0051-007
		4440-0000-0053-009
		4440-0000-0054-005
	(4.0) Administrative Secretary III	4440-0000-0051-009
		4440-0000-0052-004
		4440-0000-0053-005
		4440-0000-0054-009
	(1.0) Resource & Information Management Section Chief	4440-0000-0050-002
	SS Program Cons. II	4440-0000-0040-208
Subtotal	28.0 positions	
Grand Total	273.09	

**NATURAL
&
ECONOMIC
RESOURCES
Section H**

Housing Finance Agency

	GENERAL FUND	
	FY 2001-02	FY 2002-03
Recommended Budget	\$5,300,000	\$5,300,000
Legislative Changes		
Housing Finance Agency		
1 No Continuation Budget Adjustments		
Total Legislative Changes		
Total Position Changes		
Revised Budget	\$5,300,000	\$5,300,000

Agriculture and Consumer Services

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
	\$56,695,276		\$56,695,276	
Legislative Changes				
Administration/Public Affairs				
2 Eliminate Vacant Positions	(\$89,329)	R	(\$89,329)	R
Eliminate positions and reduce operating support.				
	-2.00		-2.00	
Administrative Secretary III	(\$40,351)			
Information and Communication Specialist II	(\$41,978)			
Operating Support	(\$ 7,000)			
3 Reduce Line Items	(\$15,097)	R	(\$15,097)	R
Reduce various operating line items within Administration and Public Affairs.				
4 Reduce Ag in the Classroom	(\$6,250)	R	(\$6,250)	R
Reduce grant-in-aid to the NC Farm Bureau for the Ag in the Classroom program.				
5 Create Gasoline/Natural Gas Reserve	\$100,000	R	\$100,000	R
Provides funds to be placed in a reserve and allocated to divisions for gasoline and natural gas needs.				
6 Create Laboratory Reserve	\$150,000	R	\$150,000	R
Establish reserve for laboratory equipment to be allocated to divisions on a priority needs basis.				
Agricultural Finance Authority				
7 Reduce Line Items	(\$28,566)	R	(\$28,566)	R
Reduce operating support to the Agricultural Finance Authority.				
Agricultural Statistics				
8 Eliminate Vacant Positions	(\$61,704)	R	(\$61,704)	R
Eliminate positions and reduce operating support.				
	-2.00		-2.00	
Data Entry Supervisor I	(\$25,331)			
Statistical Assistant IV	(\$29,373)			
Operating Support	(\$ 7,000)			
Agronomic Services				
9 Reduce Scientific Supplies	(\$6,850)	R	(\$6,850)	R
Reduce scientific supplies line item.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
10 Increase Receipts	(\$41,800)	R	(\$41,800)	R
Budget increased receipts and reduce the General Fund appropriation by an equal amount.				
11 Eliminate Vacant Position	(\$37,911)	R	(\$37,911)	R
Eliminate Data Entry Operator II position and reduce \$3,500 in operating support.				
	-1.00		-1.00	
Aquaculture and Natural Resources				
12 Reduce Line Items	(\$5,550)	R	(\$5,550)	R
Reduce various operating line items within Aquaculture and Natural Resources.				
Commissioner's Office				
13 Farmland Preservation Trust Fund	\$200,000	NR		
Provides funds for the Farmland Preservation Trust Fund.				
Food and Drug Protection				
14 Increase Receipts	(\$22,000)	R	(\$22,000)	R
Budget increased receipts and reduce the General Fund appropriation by an equal amount.				
15 Reduce Line Items	(\$101,066)	R	(\$101,066)	R
Reduce various operating line items within the Division.				
16 Eliminate Vacant Positions	(\$152,969)	R	(\$152,969)	R
Eliminate vacant positions and reduce operating support.				
	-4.00		-4.00	
Technical Trainer II	(\$37,688)			
Pesticide Specialist I	(\$36,904)			
Processing Assistant III	(\$30,855)			
Chemistry Technician I	(\$33,522)			
Operating Support	(\$14,000)			
Food Distribution				
17 Reduce Line Item	(\$29,000)	R	(\$29,000)	R
Reduce trailers line item.				
Marketing				
18 Eliminate Positions	(\$114,753)	R	(\$114,753)	R
Eliminate positions and reduce operating support.				
	-3.00		-3.00	
Maintenance Mechanic I	(\$27,857)			
Int'l. Marketing Specialist II	(\$53,861)			
General Utility Worker	(\$22,535)			
Operating Support	(\$10,500)			

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
19 Increase Receipts	(\$124,300)	R	(\$124,300)	R
Budget increased receipts and reduce the General Fund appropriation by an equal amount.				
20 Eliminate Vacant Positions	(\$109,061)	R	(\$109,061)	R
Eliminate vacant positions and reduce operating support.				
	-2.00		-2.00	
Facility Agric. Engineer II	(\$77,140)			
Office Assistant III	(\$24,921)			
Operating Support	(\$ 7,000)			
21 Reduce Raleigh Farmers' Market Transfer	(\$80,000)	R	(\$80,000)	R
Reduce General Fund transfer to the Raleigh Farmers' Market.				
22 Reduce Western NC Ag Center/Mountain State Fair	(\$20,000)	R	(\$20,000)	R
Reduce General Fund transfer to the Western NC Agricultural Center/Mountain State Fair Enterprise Fund.				
23 Reduce Western NC Development Association	(\$5,000)	R	(\$5,000)	R
Reduce grant-in-aid to the Western North Carolina Development Association.				
Plant Industry				
24 Eliminate Vacant Positions	(\$114,188)	R	(\$114,188)	R
Eliminate positions and reduce operating support.				
	-3.50		-3.50	
Ag Research Technician I (0.50 FTE)	(\$13,340)			
Chemistry Technician II	(\$31,567)			
Processing Assistant II	(\$29,462)			
Office Assistant III	(\$27,569)			
Operating Support	(\$12,250)			
25 Reduce Line Items	(\$64,485)	R	(\$64,485)	R
Reduce various line items in the Division.				
26 Increase Gypsy Moth Control Funds	\$50,000	R	\$50,000	R
Provides funds to supplement federal funds for the department's program to control the spread of the gypsy moth.				
Research Stations/State Farms				
27 Eliminate Vacant Positions	(\$126,016)	R	(\$126,016)	R
Eliminate vacant positions and reduce operating support.				
	-4.00		-4.00	
Agricultural Research Assistant I	(\$30,425)			
Agricultural Research Assistant I	(\$23,387)			
Agricultural Research Assistant	(\$22,980)			
Maintenance Mechanic IV	(\$35,224)			
Operating Support	(\$14,000)			
28 Reduce Vehicles	(\$122,500)	R	(\$122,500)	R
Reduce other motorized vehicles line item.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
Standards				
29 Eliminate Vacant Positions	(\$79,754)	R	(\$79,754)	R
Eliminate vacant positions and reduce operating support.				
	-2.00		-2.00	
Standards Inspector II	(\$32,403)			
Standards Inspector I	(\$40,351)			
Operating Support	(\$ 7,000)			
30 Reduce Line Items	(\$18,000)	R	(\$18,000)	R
Reduce various operating line items within the Division.				
Structural Pest				
31 Reduce Line Items	(\$2,140)	R	(\$2,140)	R
Reduce various line items within the Division.				
32 Increase Receipts	(\$7,160)	R	(\$7,160)	R
Budget increased receipts and reduce the General Fund appropriation by an equal amount.				
Veterinary Services				
33 Eliminate Positions	(\$141,863)	R	(\$141,863)	R
Eliminate positions and reduce operating support.				
	-3.00		-3.00	
Veterinarian	(\$84,442)			
Vet Laboratory Assistant I	(\$23,851)			
Vet Laboratory Assistant I	(\$23,070)			
Operating Support	(\$10,500)			
34 Meat and Poultry Inspection	(\$96,464)	R	(\$96,464)	R
Eliminate vacant Meat and Poultry Inspector positions, associated receipts, and operating support.				
	-5.00		-5.00	
Meat and Poultry Inspectors (5.00 FTE)	(\$78,964)			
and Associated Receipts				
Operating Support	(\$17,500)			
35 Reduce Scientific Supplies	(\$3,460)	R	(\$3,460)	R
Reduce scientific supplies line item.				
<hr/>				
Total Legislative Changes	(\$1,527,236)	R	(\$1,527,236)	R
	\$200,000	NR		
Total Position Changes	-31.50		-31.50	
Revised Budget	\$55,368,040		\$55,168,040	
<hr/>				

Labor

		GENERAL FUND	
Recommended Budget		FY 2001-02	FY 2002-03
		\$16,617,178	\$16,617,178
Legislative Changes			
Administrative Programs			
36 Eliminate Vacant Position		(\$86,766)	R (\$86,766) R
Eliminate vacant positions and reduce operating support.			
		-2.00	-2.00
Labor Conciliator	(\$53,110)		
Data Entry Operator II	(\$26,656)		
Operating Support	(\$7,000)		
37 Reduce Operating Support		(\$50,563)	R (\$50,563) R
Reduce funding for furniture, equipment, software, library resources, and overtime pay.			
38 Budget Indirect Cost Receipts		(\$93,961)	R (\$93,961) R
Budget over-realized indirect cost receipts and reduce General Fund appropriation by an equal amount.			
Apprenticeship & Training			
39 Eliminate Vacant Position		(\$40,404)	R (\$40,404) R
Eliminate vacant Apprenticeship Representative position and reduce \$3,500 in operating support.			
		-1.00	-1.00
40 Reduce Operating Support		(\$15,310)	R (\$15,310) R
Reduce funding for furniture, equipment, computer services, and library resources.			
Department Wide			
41 Reduce Operating Support		(\$75,000)	R (\$75,000) R
Reduce operating support throughout the Department.			
Elevator & Amusement Inspections			
42 Budget Increased Receipts		(\$400,000)	R (\$800,000) R
Budget increased elevator & amusement device inspection and certification fee receipts and reduce General Fund appropriations by an equal amount.			
43 Reduce Operating Support		(\$21,203)	R (\$21,203) R
Reduce funding for furniture, equipment, software, and library resources.			

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
Labor Standards				
44 Reduce Operating Support	(\$18,990)	R	(\$18,990)	R
Reduce funding for furniture, equipment, software, and library resources.				
Mine/Quarry Inspection				
45 Eliminate Vacant Position	(\$34,018)	R	(\$34,018)	R
Eliminate vacant Processing Assistant III position and reduce \$3,500 in operating support.				
	-1.00		-1.00	
46 Reduce Operating Support	(\$13,086)	R	(\$13,086)	R
Reduce funding for furniture, equipment, software, and library resources.				
OSHA				
47 Reduce Operating Support	(\$35,887)	R	(\$35,887)	R
Reduce funding for furniture, equipment, and library resources.				
48 Eliminate Vacant Positions	(\$71,632)	R	(\$71,632)	R
Eliminate vacant positions and reduce operating support.				
	-1.50		-1.50	
Safety Officer	(\$41,942)			
Safety Officer (0.50 FTE)	(\$24,440)			
Operating Support	(\$5,250)			
49 Shift Positions to Federal Funding	(\$167,452)	R	(\$167,452)	R
Shift funding source for positions from General Fund to federal funds and reduce operating support.				
	-4.00		-4.00	
Office Assistant III	(\$26,339)			
Processing Assistant III	(\$26,794)			
Industrial Health Inspector	(\$49,909)			
Industrial Health Inspector	(\$50,410)			
Operating Support	(\$14,000)			
50 Restore Safety Officer Position	\$25,000	R	\$25,000	R
Restore funding for General Fund half of Safety Officer position. Other half of position is federally funded.				
	0.50		0.50	
Total Legislative Changes	(\$1,099,272)	R	(\$1,499,272)	R
Total Position Changes	-9.00		-9.00	
Revised Budget	\$15,517,906		\$15,117,906	

Environment & Natural Resources

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
	\$164,902,678		\$164,902,678	
Legislative Changes				
(1.00) Administration				
51 Abolish Deputy Secretary of Operations Position	(\$46,324)	R	(\$46,324)	R
Abolish Deputy Secretary of Operations position.				
	-1.00		-1.00	
52 Eliminate Vacant Positions	(\$172,156)	R	(\$172,156)	R
Eliminate vacant positions within Administration.				
	-4.00		-4.00	
Safety Director II	(\$58,212)			
EHNR Personnel Officer (0.50 FTE)	(\$41,609)			
Accounting Clerk IV	(\$14,714)			
Office Assistant III	(\$24,921)			
Applications Analyst Prog. I (0.50 FTE)	(\$32,700)			
53 Eliminate Position in Regional Office	(\$26,122)	R	(\$26,122)	R
Eliminate Office Assistant III position.				
	-1.00		-1.00	
54 Eliminate Positions	(\$45,000)	R	(\$45,000)	R
Eliminate 2 Administrative Assistant positions.				
	-2.00		-2.00	
(2.00) Aquariums				
55 Increase Receipts	(\$500,000)	R	(\$500,000)	R
Budget increased receipts and reduce General Fund appropriation by an equal amount.				
56 Eliminate Positions	(\$81,037)	R	(\$81,037)	R
Eliminate two vacant positions and one filled position and reduce operating support.				
	-3.00		-3.00	
General Utility Worker	(\$22,145)			
General Utility Worker	(\$22,145)			
Office Assistant III	(\$26,247)			
Operating Support	(\$10,500)			
(2.00) Forest Resources				
57 Eliminate Vacant Positions	(\$153,887)	R	(\$153,887)	R
Eliminate vacant positions and reduce operating support.				
	-3.00		-3.00	
Forestry Pilot II	(\$51,896)			
Exten.Education and Training Specialist I	(\$47,803)			
Administrative Assistant I	(\$43,688)			
Operating Support	(\$10,500)			

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
58 Reduce Forest Development Program	(\$100,000)	R	(\$100,000)	R
Reduce General Fund appropriation to the Forest Development Program.				
59 Increase Aircraft Lease Line Item	\$150,000	R	\$150,000	R
Provides additional funds to lease a CL-215 during fire season.				
(2.00) Marine Fisheries				
60 Eliminate Vacant Positions	(\$206,928)	R	(\$206,928)	R
Eliminate vacant positions and reduce operating support.				
	-6.00		-6.00	
Marine Fisheries Officers III(2 FTEs)	(\$70,968)			
Medical Lab Technician I	(\$28,260)			
Information & Communications Specialist	(\$27,056)			
Data Entry Operator	(\$20,819)			
Submerged Lands Program Director	(\$38,825)			
Operating Support	(\$21,000)			
(2.00) Museum of Natural Sciences				
61 Eliminate Vacant Position	(\$40,655)	R	(\$40,655)	R
Eliminate vacant Accounting Clerk IV position and reduce \$3,500 in operating support.				
	-1.00		-1.00	
62 Reduce Grassroots Science Museums	(\$300,000)	R	(\$300,000)	R
Reduce funding for the Grassroots Science Museums.				
63 Increase Funds for Temporary Staff	\$40,000	R	\$40,000	R
Provides funds for the Museum to contract for temporary services.				
(2.00) NC Zoological Park				
64 Eliminate Vacant Positions	(\$190,722)	R	(\$190,722)	R
Eliminate vacant positions and reduce operating support.				
	-5.50		-5.50	
Maintenance Mechanic II	(\$28,768)			
Housekeeper	(\$12,126)			
Info & Communications Specialist	(\$39,307)			
Grounds Worker	(\$23,238)			
Administrative Assistant II	(\$37,898)			
Cashier I	(\$28,385)			
Operating Support	(\$21,000)			
65 Increase Receipts	(\$600,000)	R	(\$600,000)	R
Budget increased receipts due to recent fee increase at the Zoo and reduce General Fund appropriations by an equal amount.				
(2.00) Office of Environmental Education				
66 Eliminate Vacant Position	(\$51,952)	R	(\$51,952)	R
Eliminate vacant Educational Development Consultant position and reduce \$3,500 in operating support.				
	-1.00		-1.00	

(2.00) Parks and Recreation

67 Eliminate Vacant Positions

(\$180,628) R (\$180,628) R

Eliminate vacant positions and reduce operating support.

-5.00 -5.00

- Accounting Clerk III (\$25,590)
- Volunteer Services Coordinator (\$39,634)
- Park Ranger II (\$35,582)
- Park Ranger II (\$31,702)
- Park Ranger II (\$30,620)
- Operating Support (\$17,500)

(2.00) Soil and Water Conservation

68 Eliminate Vacant Position

(\$33,297) R (\$33,297) R

Eliminate vacant Processing Assistant IV position and reduce \$3,500 in operating support.

-1.00 -1.00

69 Shift Position to Receipt Support

(\$13,499) R (\$13,499) R

Shift funding for a Computer Consultant III position (0.19 FTE) and reduce \$665 in operating support.

-0.19 -0.19

70 Decrease Agriculture Cost Share Financial Asst.

(\$1,000,000) R (\$1,000,000) R

Reduce funds for the Agriculture Cost Share Program for Nonpoint Source Pollution Control to reimburse farmers up to 75% of the costs of installing best management practices (BMPs) to improve and protect water quality.

(3.00) Air Quality

71 Shift Position to Receipt Support

(\$33,031) R (\$33,031) R

Shift funding for an Environmental Technician II to receipt support and reduce \$3,500 in operating support.

-1.00 -1.00

(3.00) Coastal Management

72 Shift Position to Receipt Support

(\$32,158) R (\$32,158) R

Shift funding for an Office Assistant III position to receipt support and reduce \$3,500 in operating support.

-1.00 -1.00

73 Eliminate Position

(\$34,671) R (\$34,671) R

Eliminate Personnel Assistant V position and reduce \$3,500 in operating support.

-1.00 -1.00

(3.00) Environmental Health

74 Eliminate Vacant Positions

(\$88,675) R (\$88,675) R

Eliminate vacant positions and reduce operating support.

-2.00 -2.00

- Environmental Engineer II (\$55,445)
- Word Processor III (\$26,230)
- Operating Support (\$ 7,000)

75 Shift Position to Receipt Support

(\$11,351) R (\$11,351) R

Shift funding for a Processing Assistant IV to receipt support and reduce \$1,225 in operating support.

-0.35 -0.35

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
76 West Nile Virus Monitoring				
Funds for monitoring of sentinel flock for indication of West Nile Virus.	\$100,000	NR		
77 Environmental Health Specialist Training	\$75,000	R	\$75,000	R
Additional funds for training and continued education to local environmental health specialists to improve the consistency of implementation and enforcement of rules.				
(3.00) Land Resources				
78 Eliminate Vacant Positions	(\$81,707)	R	(\$81,707)	R
Eliminate vacant positions and reduce operating support.				
	-2.00		-2.00	
Environmental Engineer I (\$40,709)				
Environmental Technician V (\$33,998)				
Operating Support (\$ 7,000)				
79 Shift Position to Receipt Support	(\$67,610)	R	(\$67,610)	R
Shift funding for a Geologist III position to receipt support and reduce \$3,500 in operating support.				
	-1.00		-1.00	
80 Transfer Geodetic Survey from OSBPM	\$1,035,096	R	\$1,035,096	R
Transfers from OSBPM the responsibilities and staff of the Geodetic Survey section within the Surveying and Mapping Section to Land Resources. Two of the 22 positions being transferred are receipt supported. This transfer has all the elements of a Type I transfer as defined in G.S. 143A-6.				
	22.00		22.00	
81 Transfer County Boundaries from OSBPM	\$152,749	R	\$152,749	R
Transfers from OSBPM the responsibilities and staff of the County Boundaries unit within the Surveying and Mapping Section to Land Resources. This transfer has all the elements of a Type I transfer as defined in G.S. 143A-6.				
	1.00		1.00	
82 Transfer CGIA from OSBPM	\$0	R	\$0	R
Transfers from OSBPM the Center for Geographic Information and Analysis (CGIA) to Land Resources. CGIA is a receipt-supported agency with a budget of \$1,758,906 and 25 positions, which is in budget code 23006, fund 2510. This transfer has all the elements of a Type I transfer as defined in G.S. 143A-6.				
	0.00		0.00	
(3.00) Pollution Prevention/Environmental Asst.				
83 Eliminate Vacant Position	(\$31,981)	R	(\$31,981)	R
Eliminate Office Assistant IV and reduce \$3,500 in operating support.				
	-1.00		-1.00	
(3.00) Radiation Protection				
84 Eliminate Position	(\$40,190)	R	(\$40,190)	R
Eliminate Radiological Health Specialist position and reduce \$3,500 in operating support.				
	-1.00		-1.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
85 Eliminate Vacant Position	(\$40,454)	R	(\$40,454)	R
Eliminate Administrative Assistant I position and reduce \$3,500 in operating support.	-1.00		-1.00	
(3.00) Waste Management				
86 Eliminate Vacant Positions	(\$102,359)	R	(\$102,359)	R
Eliminate vacant positions and reduce operating support.	-3.00		-3.00	
Administrative Secretary I (\$35,135)				
Environmental Technician II (\$27,056)				
Environmental Technician III (\$29,668)				
Operating Support (\$10,500)				
(3.00) Water Quality				
87 Eliminate Vacant Positions	(\$329,859)	R	(\$329,859)	R
Eliminate vacant positions and reduce operating support.	-7.00		-7.00	
Chemistry Technician II (\$38,770)				
Community Development Planner (\$55,936)				
Personnel Assistant III (\$25,556)				
Environmental Modeler II (\$47,956)				
Environmental Engineer I (\$43,934)				
Environmental Engineer I (\$43,934)				
Applications Analyst Programmer II (\$49,273)				
Operating Support (\$24,500)				
88 River Basin Modeling	\$75,000	NR		
Additional funds for modeling activities related to river basin planning.				
(3.00) Water Resources				
89 Eliminate Vacant Position	(\$53,692)	R	(\$53,692)	R
Eliminate Environmental Engineer II position and reduce \$3,500 in operating support.	-1.00		-1.00	
90 Central Coastal Plain Capacity Use Area Planning	\$20,000	R	\$20,000	R
Funds for planning for alternative water sources in the Central Coastal Plain Capacity Use Area.				
(4.00) Department Wide				
91 Implement Lease-Purchase Arrangement	(\$2,873,500)	R	(\$2,873,500)	R
Implement lease-purchase arrangement for the purchase of major equipment for the following divisions:				
Forest Resources - Aircraft (\$1,793,096)				
Forest Resources - Autos, Trucks & Buses (\$431,151)				
Parks & Recreation - Autos, Trucks & Buses (\$574,925)				
Water Quality - Scientific Equipment (\$ 74,328)				
92 Reduce Salary Reserve	(\$61,378)	R	(\$61,378)	R
Reduce salary reserve throughout the Department.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
93 Reduce Operating Support	(\$28,000)	R	(\$28,000)	R
Reduce operating support throughout the Department.				
94 Create Reserve for Information Technology	\$40,000	NR		
Places funds in a reserve to support information technology needs throughout the Department.				
(5.00) Reserves and Special Funds				
95 Rivernet Water Quality Monitoring & Research Funds	(\$35,000)	R	(\$35,000)	R
Reduce funds for the Rivernet Water Quality Monitoring project by \$15,000 and for the Water Quality Workgroup by \$20,000.				
96 Resource Conservation and Development Councils	\$135,000	NR		
Provides each of the state's nine Resource Conservation and Development Councils with a \$15,000 grant.				
97 Reserve for Position - Environmental Health	\$35,000	R	\$35,000	R
Places funds in a reserve for salary and operating support for a part-time Regional Environmental Health Specialist in the Division of Environmental Health. Funding is contingent upon the passage of HB635, Regulate Body Piercing.	0.50		0.50	
Total Legislative Changes	(\$6,179,978)	R	(\$6,179,978)	R
	\$350,000	NR		
Total Position Changes	-32.54		-32.54	
Revised Budget	\$159,072,700		\$158,722,700	

Conference Report on the Continuation, Capital, and Expansion Budget

Environment & Natural Resources - Clean Water Management Trust Fund

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$30,000,000		\$30,000,000	
Legislative Changes				
Clean Water Management Trust Fund				
98 Clean Water Management Trust Fund	\$10,000,000	R	\$40,000,000	R
Increase funds for the Clean Water Management Trust Fund in accordance with G.S. 143-15.3B(a).				
Total Legislative Changes	\$10,000,000	R	\$40,000,000	R
Total Position Changes				
Revised Budget	\$40,000,000		\$70,000,000	

Commerce

		GENERAL FUND	
Recommended Budget		FY 2001-02	FY 2002-03
Legislative Changes			
Business & Industry			
99 Eliminate Vacant Position		(\$52,772)	R (\$52,772) R
Eliminate vacant Industrial Development Representative II position and reduce \$3,500 in operating support.		-1.00	-1.00
100 Create Developer Positions		\$120,000	R \$120,000 R
Provides funds for new Economic Developer positions and operating support.		2.00	2.00
Center for Entrepreneurship & Technology			
101 Abolish Center for Entrepreneurship & Technology		(\$624,856)	R (\$624,856) R
Abolish Center for Entrepreneurship & Technology by eliminating positions, operating support, and Reserve for New and Emerging Industries.		-4.00	-4.00
Executive Director	(\$101,562)		
Economic Developer	(\$77,451)		
Economic Developer	(\$80,372)		
Administrative Assistant III	(\$45,954)		
Operating Support	(\$119,517)		
Reserve for New & Emerging Ind	(\$200,000)		
Commerce Finance Center			
102 Industrial Recruitment Competitive Fund		\$15,000,000	NR
Continues support for the Industrial Recruitment Competitive Fund.			
Community Assistance			
103 Reduce Funding for Councils of Government		(\$55,000)	R (\$55,000) R
Reduce funding for the Councils of Government (COGs) due to the closing of the Region H COG.			

Department Wide

104 Transfer from OSBPM - State Data Center

\$0 R \$0 R

Transfers a Statistician II position currently housed in the State Data Center within the State Planning Section of OSBPM to the Employment Security Commission. This position is responsible for analyzing the employment activity data captured in the common follow-up information management system. The salary (\$45,077) and benefits (\$9,315) for this position are currently funded by a transfer from the Worker Training Trust Fund in the Department of Commerce.

105 Transfer Board of Science and Technology

\$371,302 R \$371,302 R

Transfers the Board of Science and Technology, including 3 positions (Executive Director, Administrative Secretary III, and Education Consultant), to the Department of Commerce. Special provision recodifies the statutory authority of the Board as established in Part 27 of Article 9 of Chapter 143B of the General Statutes to Part 18 of Article 10 of Chapter 143B of the General Statutes.

3.00 3.00

Industrial Commission

106 Reduce Operating Support

(\$44,061) R (\$44,061) R

Reduce operating line items.

107 Eliminate Position

(\$40,435) R (\$40,435) R

Eliminate Processing Assistant IV position and reduce \$3,500 in operating support.

-1.00 -1.00

108 Eliminate Vacant Positions

(\$88,895) R (\$88,895) R

Eliminate vacant positions and reduce operating support.

-2.75 -2.75

Processing Assistant III (\$27,672)
 Data Control Clerk III (\$26,360)
 Processing Assistant III (.50 FTE) (\$18,211)
 Computer Support Tech (.25 FTE) (\$7,027)
 Operating Support (\$9,625)

109 Reduce Salary Reserve

(\$2,698) R (\$2,698) R

Reduce salary reserve for Applications Analyst Programmer position.

International Trade

110 Research Triangle International Visitors Center

(\$1,000) R (\$1,000) R

Reduce general operating budget by 5%.

Marketing

111 Reduce Advertising

(\$200,000) R (\$200,000) R

Reduce advertising line item.

Tourism, Film and Sports Development

112 Eliminate Vacant Position	(\$47,354)	R	(\$47,354)	R
Eliminate Information & Communication Specialist II position and reduce \$3,500 in operating support.	-1.00		-1.00	
113 Reduce Welcome Center Positions	(\$50,415)	R	(\$50,415)	R
Reduce selected positions in Welcome Centers from 40 to 30 hours per week and reduce operating support.	-2.00		-2.00	
General Utility Worker (0.25 FTE)	(\$5,031)			
General Utility Worker (0.25 FTE)	(\$5,322)			
General Utility Worker (0.25 FTE)	(\$5,656)			
General Utility Worker (0.25 FTE)	(\$5,031)			
General Utility Worker (0.25 FTE)	(\$5,734)			
General Utility Worker (0.25 FTE)	(\$5,663)			
General Utility Worker (0.25 FTE)	(\$5,656)			
General Utility Worker (0.25 FTE)	(\$5,322)			
Operating Support	(\$7,000)			
114 Reduce Printing	(\$150,000)	R	(\$150,000)	R
Reduce printing line-item.				
115 Eliminate Advertising Reserve	(\$75,000)	R	(\$75,000)	R
Eliminate advertising reserve.				
116 Operating Support	\$180,000	R	\$180,000	R
Additional funds for operating support.				
117 Expand Heritage Tourism	\$50,000	R	\$50,000	R
Funds for a position and operating support at one new heritage tourism site in Winston-Salem.	1.00		1.00	
Wanchese Seafood Industrial Park				
118 Eliminate Vacant Position	(\$35,449)	R	(\$35,449)	R
Eliminate vacant Processing Assistant position and reduce \$3,500 in operating support.	-1.00		-1.00	
Total Legislative Changes	(\$746,633)	R	(\$746,633)	R
	\$15,000,000	NR		
Total Position Changes	-6.75		-6.75	
Revised Budget	\$59,280,374		\$44,280,374	

Commerce - State Aid

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$5,200,000	\$5,200,000
Legislative Changes		
Grants-in-Aid		
119 NC Minority Support Center		
Provides \$75,000 to expand the Latino Community Credit Union to Wake County and \$50,000 for a new credit union in Sampson County.	\$125,000	NR
120 Yadkin Pee Dee Lakes		
Provides funds for the Yadkin Pee Dee Lakes Project.	\$100,000	NR
121 Technological Development Authority		
Provides funds to the N.C. Technological Development Authority for entrepreneurial support and infrastructure, including creating new business incubators, enhancing existing incubators, developing capital formation initiatives, and supporting research commercialization programs.	\$1,600,000	NR
122 World Trade Center North Carolina		
Provides funds to the World Trade Center North Carolina to support international trade education programs for small and medium-sized businesses.	\$100,000	NR
Total Legislative Changes	\$1,925,000	NR
Total Position Changes		
Revised Budget	\$7,125,000	\$5,200,000

N.C. Biotechnology Center

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$6,738,913		\$6,738,913	
Legislative Changes				
NC Biotechnology Center				
123 Reduce Administrative Support/HMU Transfer	(\$100,000)	R	(\$100,000)	R
The Biotechnology Initiative for Historically Minority Universities (HMU) has been transferred at the Governor's direction to the UNC Board of Governors effective FY 2001-02. Administrative support that had been provided to the Biotechnology Center will not be required by the UNC Board of Governors and is therefore reduced.				
124 Reduce General Operating Budget	(\$368,445)	R	(\$368,445)	R
Reduce general operating budget.				
125 Reduce Cash Balance	(\$1,000,000)	NR		
Reduce the N.C. Biotechnology Center's General Fund appropriation for FY 2001-02 and replace the funds with a one-time transfer from the Center's cash balance.				
Total Legislative Changes	(\$468,445)	R	(\$468,445)	R
	(\$1,000,000)	NR		
Total Position Changes				
Revised Budget	\$5,270,468		\$6,270,468	

Rural Economic Development Center

GENERAL FUND

	FY 2001-02		FY 2002-03																
Recommended Budget	\$4,257,338		\$4,257,338																
Legislative Changes																			
Administration																			
126 General Administration	\$100,000	R	\$100,000	R															
Provides additional funds for general oversight and management of Rural Center programs.																			
Cash Balances																			
127 Reduce Cash Balances	(\$999,694)	NR																	
Reduce the Rural Center's General Fund appropriation for FY 2001-02 and replace the funds with one-time transfers from the Child Care Loan Program (\$499,694) and from the Center's other cash reserves (\$500,000), thereby reducing the Center's overall cash balances.																			
Center-Wide																			
128 Reduce Operating Support	(\$186,867)	R	(\$186,867)	R															
Reduce operating support for the Center's various programs and administrative activities.																			
Grant Programs																			
129 Supplemental Funding Program	\$595,278	R	\$595,278	R															
Provides additional funds for the Supplemental Funding Program and for two staff positions.																			
<table style="width: 100%; border: none;"> <tr> <td style="width: 40%;">Water and Sewer Grants</td> <td style="text-align: right;">\$207,000</td> <td colspan="3"></td> </tr> <tr> <td>Staff</td> <td style="text-align: right;">\$138,278</td> <td colspan="3"></td> </tr> <tr> <td>Water, Sewer, and Business Development Grants</td> <td style="text-align: right;">\$250,000</td> <td colspan="3"></td> </tr> </table>					Water and Sewer Grants	\$207,000				Staff	\$138,278				Water, Sewer, and Business Development Grants	\$250,000			
Water and Sewer Grants	\$207,000																		
Staff	\$138,278																		
Water, Sewer, and Business Development Grants	\$250,000																		
130 Capacity Building Assistance Program	\$125,000	R	\$125,000	R															
Provides funds to support staffing for the Capacity Building Assistance Program.																			
Reserves																			
131 Agricultural Advancement Consortium	\$200,000	R	\$200,000	R															
Places funds in a reserve for the operating expenses associated with the Agricultural Advancement Consortium and for research initiatives funded by the Consortium.																			
<table style="width: 100%; border: none;"> <tr> <td style="width: 40%;">Administrative Expenses</td> <td style="text-align: right;">\$75,000</td> <td colspan="3"></td> </tr> <tr> <td>Research Initiatives</td> <td style="text-align: right;">\$125,000</td> <td colspan="3"></td> </tr> </table>					Administrative Expenses	\$75,000				Research Initiatives	\$125,000								
Administrative Expenses	\$75,000																		
Research Initiatives	\$125,000																		

Conference Report on the Continuation, Capital, and Expansion Budget **FY 2001-02** **FY 2002-03**

Total Legislative Changes	\$833,411	R	\$833,411	R
	(\$999,694)	NR		
Total Position Changes				
Revised Budget	\$4,091,055		\$5,090,749	

JUSTICE
&
PUBLIC SAFETY
Section I

Judicial

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$308,769,898	\$308,769,898

Legislative Changes

1 Reduce Funding for Jury Fees (\$370,000) R (\$370,000) R
 Funding is reduced to reflect recent years' experience. This reduction was part of the Governor's recommended budget and leaves \$3.8 Million available for 2001-2.

2 Reduction in Operating Expenses (\$189,254) R (\$217,705) R
 Operating expenses for the Judicial Branch are reduced as follows:

	2001-2	2002-3
Maintenance Agreements	\$98,500	\$107,250
Printing & Binding	\$ 8,900	\$ 9,900
Registration Fees	\$34,700	\$ 37,250
Other Expenses	\$12,500	\$ 14,750
Telephone/Telecomm	\$ 2,000	\$ 3,000
Equipment Lease	\$ 5,000	\$ 5,500
Supplies	\$27,654	\$ 40,055

3 Eliminate Funds for Unemployment/Workers Comp (\$370,066) R (\$370,066) R
 Funding for unemployment and workers compensation payments is eliminated. Since payments are unpredictable most departments do not budget a specific amount. This reduction was included in the Governor's recommended budget.

4 Reduce Budgeted Funds for Temporary Services (\$223,767) R (\$223,767) R
 Budgeted funds for temporary personnel are eliminated. This reduction was included in the Governor's recommended budget.

5 Reduce Budgeted Funds for Administrative Contracts (\$1,752,652) R (\$1,752,652) R
 Budgeted funds for administrative contracts are reduced. This reduction was included in the Governor's recommended budget. This includes an \$102,000 reduction in contractual funds for the Mecklenburg Speedy Drug Court as more of the operations of this program are now done with employees rather than by contract. Contractual funds are also reduced in administration, Superior Court, District Court, Clerks, District Attorneys, Custody Mediation, Arbitration, Sentencing Services and Drug Treatment Court.

6 Reduce Funding for Fringe Benefits (\$880,751) R (\$880,751) R
 Budgeted funds for FICA and Retirement are reduced based on reductions in other personnel items and projections for 2001-2002. This reduction was included in the Governor's recommended budget.

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
7 Budgeted Overtime	(\$62,664)	R	(\$62,664)	R
Funding for budgeted overtime is eliminated, since the amount is unpredictable and usually covered with available funds. The Governor recommended a reduction of \$42,236 and the subcommittee eliminated the remaining \$20,428.				
8 Reduced Facility Lease Expense	(\$182,951)	R	(\$181,701)	R
Because of delays in renovating existing state offices, the projected increase in lease expenses for the Judicial Branch in the Governor's budget can be reduced. An increase of \$314,082 remains to cover projected increases in existing leases, the cost of rent for the Business Court, and the annualized cost of new office space leased for Court of Appeals staff.				
9 Reduction in Superior Court Judge Travel	(\$103,000)	R	(\$103,000)	R
Funding is reduced for lodging and meal expenses for Superior Court Judge travel to conferences. Judge's may use their subsistence allowance to cover these expenses.				
10 Judicial Branch Travel	(\$200,000)	R	(\$200,000)	R
Reduction in the total travel budget for the Judicial Branch based on actual expenditures in prior years.				
11 Recalculated Longevity	(\$500,000)	R	(\$500,000)	R
Funding is reduced for longevity payments to court officials and staff based on a recalculation in April 2001.				
12 Eliminate Funding for Blood Borne Pathogens	(\$16,068)	R	(\$16,068)	R
Funding for blood borne pathogens (immunizations) is no longer required.				
13 Redirect Superior Court Judge Position	\$0	R	\$0	R
The vacant Superior Court Judge position in District #4B (Onslow) shall be redirected to District #24 (Avery, Mitchell, Watauga, Yancey, Madison), effective October 1, 2001.				
	0.00		0.00	
14 Eliminate Vacant DA Investigator	(\$47,525)	R	(\$47,525)	R
A vacant District Attorney Investigator position in District #29 is eliminated. Not all District Attorneys have investigators and this position has been vacant since March 2000.				
	-1.00		-1.00	
15 Eliminate Vacant District Court Judgeship	(\$125,102)	R	(\$123,504)	R
The vacant District Court Judge position in District #17A (Rockingham) shall be eliminated. The position in Rockingham County was authorized in the 2000 Budget but no appointment has been made.				
	-1.00		-1.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
16 Increase Budgeted Receipts for Dispute Resolution	(\$70,251)	R	(\$70,251)	R
<p>The General Fund contribution to the Mediated Settlement Conference in Superior Court and the District Court Mediated Settlement programs are reduced to reflect increased fee collections and operating expenses that have been less than originally anticipated. Receipts will increase in part due to HB 668 which has been ratified.</p>				
17 Budget Fees for Worthless Check Program	(\$500,000)	R	(\$500,000)	R
<p>Participants in the worthless check program pay a \$50 fee which is collected in a non-reverting fund. These funds will be used to offset the expenses of the program, allowing a reduction in the General Fund contribution.</p>				
18 Reduce Funds for Court of Appeals Mediation	(\$20,000)	R	(\$20,000)	R
<p>This program, authorized in the 2000 budget, has not been implemented as of May 2001. Funding is reduced to reflect expectation of limited activity in the first years.</p>				
19 Reduction in Funding Sentencing Services Program	(\$100,000)	R	(\$100,000)	R
<p>Funding for the Sentencing Services program is reduced by \$100,000 based on the amount left unspent in prior years. This reduction may be taken in the costs of the state-run or nonprofit programs.</p>				
20 Annualization of New Positions	\$1,602,574	R	\$1,902,574	R
<p>The recommended continuation budget did not cover the full-year costs of 42 new positions added during 2000-2001. This item provides funds to annualize all the personnel costs and half the operating costs.</p>				
21 New Courthouses' Telephone Systems/ Network Cable	\$475,000	NR	\$125,000	NR
<p>Funds are added to provide telephone systems and network cable for new courthouses expected to be completed during the biennium; five courthouses in 2001-2 and one in 2002-3. While county governments are responsible for the construction and furnishing of new courthouses and the installation of telecommunication lines in court facilities, the Judicial Branch is responsible for providing the cabling and phone systems.</p>				
22 Membership in National DA's Association	\$15,000	R	\$15,000	R
<p>Funding is continued to allow all 39 District Attorneys to join the National District Attorney's Association. Nonrecurring funding was provided for this purpose in 2000-2001.</p>				
23 District Court Judge	\$64,463	R	\$123,504	R
	\$12,209	NR		
	1.00		1.00	
<p>Provide funding for a new District Court Judge to be located in District #10, Wake County. New position is effective January 1, 2002.</p>				

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2001-02

FY 2002-03

24 Redirect Vacant Clerk Position	\$66,536	R	\$66,536	R
A part-time Deputy Clerk position in Caswell County, vacant since August 1999, is redirected to upgrade two .75 fte positions to fulltime in Madison and Swain Counties. Funds are provided for a new deputy clerk position in Brunswick County and a new Assistant Clerk position in New Hanover, effective July 1, 2001.	\$7,865	NR		
	2.00		2.00	
25 New Special Superior Court Judge	\$116,491	R	\$147,701	R
Funds are provided for a new Special Superior Court Judge, effective October 1, 2001. This brings the total number of Special Judges to 13.	\$9,153	NR		
	1.00		1.00	
26 New Magistrates	\$54,576	R	\$54,576	R
Funds are provided to add a half-time magistrate in Columbus County and a fulltime magistrate in Chowan counties. In addition, a vacant part-time magistrate position in Johnston County shall be moved to Swain County.	\$11,426	NR		
	1.50		1.50	
Total Legislative Changes	(\$3,794,411)	R	(\$3,429,763)	R
	\$515,653	NR	\$125,000	NR
Total Position Changes	3.50		3.50	
Revised Budget	\$305,491,140		\$305,465,135	

Judicial - Indigent Defense

		GENERAL FUND	
		FY 2001-02	FY 2002-03
Recommended Budget		\$66,660,467	\$66,660,467
Legislative Changes			
27 Increase Budgeted Receipts		(\$750,000) R	(\$750,000) R
General Fund budget is reduced to reflect a substantial increase in the amount collected through counselor fee judgments and set-off debt collection .			
28 Reduce Funding to NC State Bar		(\$830,000) R	(\$1,660,000) R
Annualized funding to the NC State Bar is reduced by \$1.66 Million. This is the portion that has gone to Legal Services of North Carolina. As of January 1, 2002, Legal Services will receive a portion of court fee collections instead (Sec.22.14).			
29 Authorize New Assistant Public Defender Positions		\$0 R	\$0 R
The Office of Indigent Defense Services may establish up to 6 assistant public defender positions in lieu of using assigned counsel in statewide programs or areas with established Public Defenders. OIDS may use up to \$477,768 in 2001-2 and \$446,820 in 2002-3 from the indigent fund to establish these positions, at no additional cost to the General Fund.			
		6.00	6.00
30 Authorize PD Support Staff Positions		\$0 R	\$0 R
The Office of Indigent Defense Services may establish up to 5 support positions (legal assistants, investigators, administrative assistants) in statewide programs or areas with established Public Defenders. OIDS may use up to \$283,575 in 2001-2 and \$256,310 in 2002-3 from the indigent fund to establish these positions at no additional cost to the General Fund.			
		5.00	5.00
31 Annualization of New Positions		\$191,643 R	\$191,643 R
The continuation budget did not cover the full-year costs of 5 new positions added during 2000-2001. This item provides funds to annualize the personnel costs and the operating costs.			
32 Increase Funding for Indigent Defense		\$4,909,491 R	\$4,425,661 R
Funding is increased to cover the growing costs of indigent defense and shortfalls in the current biennium. This brings the General Fund appropriation for assigned counsel to \$44.78 Million			

Total Legislative Changes	\$3,521,134	R	\$2,207,304	R
Total Position Changes	11.00		11.00	
Revised Budget	\$70,181,601		\$68,867,771	

Justice

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$76,471,632	\$76,471,632

Legislative Changes

33 Funding for Traffic Law Enforcement	\$260,000	R	\$260,000	R
Funds to implement the collection and analysis of racial, ethnicity, and other data about traffic stops made by county and certain municipality local law enforcement officers.				
34 Decrease General Fund Appropriation	(\$1,500,000)	R	(\$1,500,000)	R
The general fund appropriation is decreased to offset increased revenue/receipts.				
35 Vehicle Replacement	(\$922,018)	NR		
Reduce vehicle replacement funds by \$922,018. This is the net amount after adjusting for decreased receipts from the sale/trade-in value of existing vehicles.				
36 Annualization of Position Costs	\$155,424	R	\$155,424	R
Annualization costs of 8 Tort Claims and SBI Laboratory positions established during FY00-01. These costs were omitted from the Governor's Recommended Budget.				
37 Eliminate Vacant Positions	(\$386,338)	R	(\$386,338)	R
The Governor's Budget recommends the elimination of 8 vacant positions. The Department of Justice submitted the following 9 positions:				
Media Technician I(3615-0000-0004-815)				
CJ Training Coordinator I (3615-0000-0004-603)				
Paralegal II (3612-0000-0000-185)				
Attorney I (3612-0000-0000-207)				
Attorney I (3612-0000-0000-254)				
Social Research Assoc II (3612-0000-0000-080)				
Office Asst IV (3613-0000-0003-115)				
Office Asst IV (3613-0000-0003-013)				
CJ Spec/Investigator III (3613-0000-0003-012)				

38 Reduce Various Contracts and Expense Items

(\$529,925) R

(\$529,925) R

The Governor's budget recommends reduced funding for various administrative line items related to personal and purchased services:

- 53 1311: \$38,044 (Temp Wages)
- 53 1351: \$1,000 (Stu Temp Wages)
- 53 1411: \$155,325 (Overtime)
- 53 1511: \$15,611 (Soc Security)
- 53 1521: \$18,343 (Reg Retirement)
- 53 1531: \$24,588 (LEO Retirement)
- 53 1561: \$10,054 (Med Insurance)
- 53 1572: \$9,563 (Unemploy comp to ES)
- 53 1625: \$41,329 (State Disability Payment)
- 53 1631: \$20,123 (Work. Comp. Medical Payment)
- 53 1660: \$17,580 (Taxable Emp. Expense Reim)
- 53 2110: \$3,445 (Legal Services)
- 53 2120: \$4,000 (Financial/audit Services)
- 53 2132: \$1,292 (Other Provided Medical Services)
- 53 2140: \$80,575 (Sys Imple/integ Services)
- 53 2170: \$8,020 (Admin Services)
- 53 2192: \$3,200 (Honorariums)
- 53 2199: \$77,281 (Misc Contractual Services)

39 Eliminate the Office of the Inspector General

(\$250,000) R

(\$500,000) R

Effective January 1, 2002, eliminate the Office of the Inspector General. The functions performed by this office duplicates those responsibilities carried out by the Department of Health and Human Services and county social services offices.

-9.00

-9.00

40 Redirect DARE Program

(\$231,000) R

(\$325,000) R

Approximately 60 percent of the NC DARE workload is in support of its role as the U.S. Southeast Regional Training Center. As of August 31, 2001, NC DARE will no longer perform this SE regional training function and will stop receiving federal funds from DARE America. NC DARE uses all of the federal funds for SE regional training and none of these funds are passed through to local law enforcement agencies. With the termination of NC DARE as SE Regional Trainers, state funding and resources are redirected to provide training to NC local law enforcement officers only, 40% of the current workload. This redirection and changes in the methods of providing State training make it possible to reduce six state positions, effective October 1, 2001. The SBI would retain three positions and shall continue to administer the program, but shall provide the training in a more cost-efficient manner by collaborating with the Criminal Justice Standards Division so as to utilize the resources of the Justice Training Academies. In support of the DARE program, DARE America indicates that it will make available, at no cost, technical assistance and training resources to state and local law enforcement agencies.

-6.00

-6.00

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
41 NC LEAF	\$75,000	R	\$75,000	R
Provide funding to the NC Legal Education Assistance Foundation to assist with loan repayment for public service attorneys.				
Total Legislative Changes	(\$2,406,839)	R	(\$2,750,839)	R
	(\$922,018)	NR		
Total Position Changes	-24.00		-24.00	
Revised Budget	\$73,142,775		\$73,720,793	

Juvenile Justice & Delinquency Prevention

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
Administrative Services				
42 Management Information System Support	\$852,545	R	\$852,545	R
Annualization of costs related to M.I.S. positions and recurring J-NET communications cost established during Fiscal Year 2000-01. These costs were omitted from the Governor's Recommended Budget.				
43 Eliminate Vacant Position	(\$48,031)	R	(\$48,031)	R
Effective July 1, 2001, eliminate vacant central office Program Coordinator position (#00119), which has been vacant since January 1, 2000.				
	-1.00		-1.00	
44 Reduce Vehicle Replacement Funds	(\$251,280)	NR		
Funding for vehicle replacement is reduced by \$251,280. This is the net amount after adjusting for decreased receipts from the sale/trade-in value of existing vehicles.				
Intervention/Prevention				
45 Juvenile Crime Prevention Council (JCPC) Funds	(\$1,300,000)	R	(\$1,300,000)	R
Reduce the amount of JCPC discretionary funds by \$1,300,000. The remaining \$500,000 shall not be set aside for discretionary purposes. These funds shall be included in the formula grant allocation so as to increase the amount of formula grant funding available to county JCPCs.				
46 Eliminate Vacant Positions	(\$66,000)	R	(\$66,000)	R
Effective July 1, 2001, eliminate vacant administrative secretary and processing assistant positions.				
	-2.00		-2.00	
Special Initiatives				
47 Boys and Girls Clubs	(\$100,000)	R	(\$100,000)	R
Reduce budget by the amount of funds targeted for the 3 eligible but non-participating counties originally specified for this initiative (Chowan, Columbus, & Martin).				
48 Eliminate G.R.A.S.P. Contract	(\$253,000)	R	(\$338,000)	R
Effective October 1, 2001, eliminate contract funds budgeted for the Guard Response Alternative Sentencing Program. Program referrals and enrollments are significantly below capacity.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
49 Multipurpose Group Home	(\$500,000)	R	(\$500,000)	R
Eliminate operating funds budgeted for the multipurpose group home which has not been constructed.				
50 Camp Woodson East	(\$155,000)	NR		
Reduce the operating funds for Camp Woodson East due to delayed opening date of October 1, 2001.				
Youth Development				
51 Pilot Multifunctional Facility	(\$2,500,000)	R	(\$2,500,000)	R
The Governor's Budget recommends elimination of funds to contract for a privately constructed and operated residential facility for juvenile offenders. Only one bid was received. The bid was over the amount budgeted and the proposed budget was not cost-effective according to DJJDP.				
52 Increase Detention Center Receipts	(\$350,000)	R	(\$350,000)	R
Reduce the General Fund appropriation to offset increased Detention Center receipts.				
53 Eliminate Vacant Teaching Positions	(\$88,467)	R	(\$88,467)	R
Effective July 1, 2001, eliminate 2 vacant teacher positions: one at Samarkand (vacant since Dec. 99) and one at Dillon (vacant since January 2000).				
	-2.00		-2.00	
54 Cottage Parent Position Reductions	(\$1,260,866)	R	(\$1,578,159)	R
DJJDP shall eliminate 57 of 90 cottage parent positions -- 18 vacant and 39 filled -- in the Youth Development Centers (Training Schools). The 39 filled positions shall be eliminated October 1 and November 1, 2001.				
The cottage parent position is a low level custody position (Grade 60) that is difficult to recruit; further, the cottage parent can only be assigned to the night shift when juvenile offenders are locked in their rooms. DJJDP plans to allow qualified Cottage Parents to apply for vacant Counselor Tech. positions; vacancies for this Grade 62 custody position remain high so the reduction could improve staffing coverage in the Centers. DJJDP recommended this reduction in lieu of proposed reductions in Counselor Techs. and Behavioral Specialists.				
	-57.00		-57.00	
55 Close Wilkes Detention Facility	(\$413,465)	R	(\$413,465)	R
The Governor's Recommended Budget would close the Wilkes Detention Center because it is not cost-effective to operate. Staff and juveniles will be relocated to the new Alexander Detention Center.				
	-18.00		-18.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02	FY 2002-03
56 Eliminate Vacant Counselor Technician Positions	(\$224,016) R	(\$224,016) R
Eliminate 5.5 Counselor Technician positions and one Secretary position from the Youth Development Centers. The reduction is to take the place of a Governor's recommended budget reduction to eliminate the DJJDP portion of the police force at the Juvenile Evaluation Center. The DJJDP police force will remain in place to serve JEC; DJJDP will also transfer funds and positions to DHHS to provide security at two surrounding DHHS facilities rather than operate a joint police force.	-6.50	-6.50
57 Transfer Police Force Positions to DHHS	(\$248,435) R	(\$248,435) R
DJJDP operates a joint police force serving the Juvenile Evaluation Center and two adjacent DHHS facilities. It is recommended that 6 police positions be transferred so that DHHS can operate a separate police force for the Black Mountain Center and the Alcohol and Drug Abuse Treatment Center. DJJDP will continue to operate a 5 person police force at JEC and the two forces will collaborate during emergencies	-6.00	-6.00
Total Legislative Changes	(\$6,499,735) R	(\$6,902,028) R
	(\$406,280) NR	
Total Position Changes	-92.50	-92.50
Revised Budget	\$140,800,030	\$142,554,017

Correction

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$931,350,075	\$931,350,075

Legislative Changes

58 Reentry Program

Continue funding for one more year for program designed to provide inmates with skills needed to function in the community upon release. Training is part of program operated by UNC Chapel Hill. \$75,000 NR

59 ECO Family Counseling Program

Continue funding for program funded in 2000-01 to provide counseling and services for families of inmates. Program is operated by a non-profit organization, Energy for Committed Offenders, Inc. \$50,000 NR

Alcoholism and Chemical Dependency Programs

60 Community Substance Abuse

The General Assembly appropriated \$100,000 NR for FY 2001 to fund a community program in Northhampton County that works with substance abuse offenders. This item continues part of that funding on a non-recurring basis. \$75,000 NR

61 Terminate Substance Abuse Contracts

Eliminate State contracts with Cornell(\$1,185,700) and Right Turn (\$1,820,477. These substance abuse services can be delivered using existing services and resources now available in the department. This is a Governor's recommendation. (\$3,006,177) R (\$3,006,177) R

62 Reduce Substance Abuse Aftercare

The department provides in-house, substance abuse residential services to inmates. Aftercare services are provided through contracts with private providers to inmates who return to the general population. This would eliminate aftercare service contracts with private providers. This is a Governor's recommendation. (\$105,000) R (\$105,000) R

63 Reduce Personal Services Contract

The department provides seed money to contract with community service providers of substance abuse services for DART-Cherry community aftercare. The State provides substance abuse services through 39 Area Mental Health Programs. To avoid duplication of services, this cut would eliminate personal services contracts. This is a Governor's recommendation. (\$225,000) R (\$225,000) R

Community Corrections

64 Criminal Justice Partnership Program

The Criminal Justice Partnership program awards grants to participating counties to fund local community correction programs. The Department of Correction will limit CJPP implementation funding to the counties currently participating in the program, allowing for a reduction of \$270,000. As a non-reverting fund, the Department has been allowed to keep unexpended funds in the CJPP budget, which have exceeded \$1 million each year since the program's inception. This item requires the Department to revert \$1 million of the unexpended balance each year of the biennium. The Governor recommended a reduction of the CJPP budget of \$1.27 million .

(\$270,000)	R	(\$270,000)	R
(\$1,000,000)	NR	(\$1,000,000)	NR

65 Reallocate Positions in Probation/Parole

Reallocate the 27 of the 43 Administrative Probation/Parole Officers into vacant Probation/Parole positions and eliminate the APPO classified positions.

(\$938,043)	R	(\$938,043)	R
-27.00		-27.00	

66 Eliminate Administrative Support Positions

Eliminate 3 administrative support positions in the Division of Community Corrections.

(\$111,383)	R	(\$111,383)	R
-3.00		-3.00	

67 Eliminate Vacant Positions

Eliminate 2 vacant Intensive Probation Parole Officer and 2 vacant Surveillance Officer positions.

(\$153,561)	R	(\$153,561)	R
-4.00		-4.00	

68 Reduce Funding for Drug Testing

Reduce the Division of Community Corrections annual appropriation for drug testing.

(\$102,118)	R	(\$102,118)	R
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69 Reduce Various DCC Budget Line Items

Reduce Division of Community Corrections Administration travel budget by \$6,000; Reduce office and data processing equipment by \$60,000; reduce cell phone expenditures by \$41,750.

(\$107,750)	R	(\$107,750)	R
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70 CSWP Program Transfer

The Community Service Work Program will be transferred to the Department of Corrections to be merged with the Division of Community Corrections. The merger will be complete by January 1, 2002.

\$2,913,282	R	\$5,826,564	R
189.00		189.00	

71 Reduce Appropriation to Summit House Inc.

The General Assembly will reduce the annual appropriation to Summit House Inc. by 10%. This reduction shall not result in a reduction to individual sites, but to the Summit House Inc. State Office.

(\$139,650)	R	(\$139,650)	R
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Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
72 Reduce Appropriation to John Hyman Foundation	(\$25,000)	R	(\$25,000)	R
<p>The John Hyman program has leased the former Warren County Correctional Facility for \$1 per year and therefore will no longer have to pay for facility rental at its current location. It was determined that John Hyman's budget could be reduced by 10%, slightly less than the amount currently being spent on rent. The reduction should not result in a decrease in services but in the program's administration/operating budget.</p>				
Post Release Supervision and Parole Commission				
73 Abolish Vacant Parole Commission Positions	(\$78,000)	R	(\$78,000)	R
<p>With the passage of the Structured Sentencing Act, the number of parolees has declined. Therefore, the Parole Commission staff will be reduced by eliminating two vacant positions. This is a Governor's recommendation.</p>				
	-2.00		-2.00	
Prisons				
74 Close Alamance Correctional Center	(\$745,546)	R	(\$960,220)	R
<p>Alamance currently operates as a minimum custody work release unit. The Governor recommended closing this prison consistent with the GPAC recommendations. Cost per day and the declining need for minimum custody beds was also considered. Alamance's cost per day in 1999-2000 was \$66.89 compared to \$52.52 for the average minimum custody unit. The budget reduction includes a 50% reduction in the inmate budget. The prison would close October 1, 2001.</p>				
	-27.00		-27.00	
75 Increase Funding for Inmate Medical Costs	\$5,183,835	R	\$5,183,835	R
<p>The continuation budget does not reflect the actual expenditures for inmate medical costs. The amount appropriated will provide partial funding of increased medical costs.</p>				
76 Medical Transportation Officers	(\$263,249)	R	(\$315,843)	R
<p>This reduction in the number of correctional officers that transport inmates is possible because DOC has reduced medical contracts and hired more in-house doctors, thus reducing travel for medical purposes.</p>				
	-11.00		-11.00	
77 Increase Work Release Transportation Fee	(\$33,500)	R	(\$33,500)	R
<p>Work release inmates pay a fee to DOC for transportation to their jobs. Increase this fee from \$2 to \$2.50 to allow for a General Fund reduction.</p>				
78 Increase Work Release Fee	(\$307,000)	R	(\$307,000)	R
<p>Increase the fee charged to inmates for work release by \$1, from \$15 a day to \$16. This allows a reduction in the General Fund.</p>				

79 Close Scotland Correctional Center

(\$929,980) R (\$1,394,966) R

Scotland Correctional Center will be closed November 1, 2001. Scotland is a small GPAC unit with 48 minimum custody inmates and 24 segregation beds. The cost per day in 99-2000 was \$102. The Governor also recommended closing Scotland. The reduction amount includes a 50% reduction in the inmate budget.

-41.00 -41.00

80 Inmate Disciplinary Fees

(\$220,000) R (\$220,000) R

Adjust inmate disciplinary fees to reflect projected collections and reduce General Fund. The Governor's Budget recommended a \$120,000 reduction in the General Fund. The reduction shall be \$220,000, based on the latest collection figures.

81 Inmate Food Budget Reduction

(\$4,625,000) R (\$4,500,000) R

The Governor recommended a reduction of \$2,197,549 each year based on the improved efficiency of inmate food service and a resulting decrease in expenditures. It is anticipated DOC will be able to decrease expenditures further compared to the Governor's final recommended budget for each year. The food budget shall be reduced by an additional \$2,427,451 for a total of \$4,625,000 in FY01-02. The reduction in FY02-03 shall be an additional \$2,302,451 for a total of \$4,500,000.

82 Funding to Operate two Former Private Prisons

\$2,750,000 R \$2,750,000 R

DOC is now operating Pamlico and Mt. View as State prisons. The prisons were formerly run by a private contractor for DOC. The amount funded is to cover increased DOC operating costs. DOC is already operating these prisons.

83 Reduce Program Staffing in Prisons

(\$214,260) R (\$285,681) R

The current program staffing ratio is one staff person for every 52 inmates. This reduction would increase the ratio to approximately one person for every 55 inmates by 2002-03. The reduction of 10 positions is to be carried out system wide from among the 606 program positions and is effective October 1, 2001. Positions should be eliminated from among the following job classes with at least one position from a program supervisor class:

-10.00 -10.00

Program Assistant Supervisor
Program Assistant II
Program Assistant I

84 Reception and Diagnostic Centers

(\$127,900) R (\$156,026) R

Based on overstaffing compared to workload guidelines, six positions shall be eliminated, effective October 1, 2001. The positions to be eliminated can be from any of the following position classifications:

-6.00 -6.00

Case Analyst
Senior Case Analyst
Processing Assts.
Admissions Tech.
Behavioral Specialists I and II

85 Prison Chaplain Program

(\$186,244) R (\$247,178) R

DOC obtains chaplain and religious services for inmates through a combination of permanent DOC chaplain positions, contract chaplains, and volunteer chaplains and religious groups. DOC's General Fund budget is over \$2.9 million dollars for the DOC chaplain program; additional funding for contract chaplains is provided from the Inmate Canteen/Welfare Fund. It is recommended that seven of the 73 DOC chaplain positions be eliminated system wide. The reductions should be taken at prisons where there is more than one DOC chaplain position. DOC should increase efforts to obtain more community volunteers to provide religious services. The reduction is effective October 1, 2001

-7.00 -7.00

86 Inmate Road Squad Payments

(\$3,000,000) R (\$3,000,000) R
(\$2,842,233) NR

DOT uses DOC inmate road squads to perform highway-related labor. Currently, General fund costs are funded by reimbursements from the Highway Fund. For the 2001-03 biennium, \$2.5 million shall be transferred quarterly from DOT to DOC for the cost of operating inmate road squads. The amount of \$3 million in this report is the difference between the current projected amount of \$7 million dollars, which did not fully fund the actual cost of the road squads, and the anticipated cost of \$10 million in each year of the biennium. DOT is also directed to appropriate \$2,842,233 from the Highway Fund to the General Fund as a one-time appropriation in 2001-02. DOT has not reimbursed DOC for the full \$7 million dollar amount directed for payment in HB 168 for the 1999-2001 biennium so it is directed that this payment be made in 2001-02.

87 Annualize Medical Positions

\$949,977 R \$949,977 R

The Governor's 1999 budget inadvertently left out annualization of DOC medical positions funded in 1997. This amount annualizes those positions, which are already established.

88 Open New Dorm and Kitchen at Women's Prison

\$1,036,418 R \$1,381,252 R

A new 208 bed dorm and kitchen are due to open fall of 2001. The Governor's Recommended Budget did not provide funding to operate these buildings

41.00 41.00

89 Open New Central Prison Diagnostic Unit

\$1,775,760 R \$2,685,545 R

A new 192 bed prison diagnostic center is due to open fall of 2001. The funding, which was not included in the Governor's Recommended Budget, is to operate the new building. The funding is reduced by \$100,000 below the DOC request by reducing the non-salary operating budget.

79.00 79.00

90 Staffing Warrenton Segregation Building

\$700,000 R \$700,000 R

This unit was converted from medium custody to high level segregation but funds for additional staff were not recommended in the Governor's budget. This budget partially funds the amount requested by DOC.

24.00 24.00

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
91 Operating Funds for Fountain Correctional Center	\$477,631	R	\$477,631	R
DOC constructed a new segregation unit at Fountain and a new Central Control room, both due to open in May, 2001. This item funds operating costs for these buildings, which were not included in the Governor's budget, effective July 1, 2001.	16.00		16.00	
92 Contract with Prisoner Legal Services	\$265,787	R	\$265,787	R
Funding is provided for an increase in the contract between DOC and PLS for PLS to provide legal services to inmates. The increase was previously negotiated and agreed upon by both parties.				
Residential Programs				
93 Reduction in IMPACT programs	(\$1,005,652)	R	(\$1,508,478)	R
Funding and staffing for the IMPACT boot camp programs located in Hoffman and Morganton is reduced by 25%, effective November 1, 2001. The department shall maintain programs for male probationers in both locations but at reduced capacity and with possible modifications to the program. The IMPACT program will be abolished June 30, 2003 and the Department of Correction shall develop recommendations for alternative programs by May 2002.	-37.00		-37.00	
Systemwide				
94 Victims Services	\$140,824	R	\$140,824	R
Provide funding for three positions and operating costs in the DOC Central Office to provide services to victims. Positions were grant funded but grant has ended.	3.00		3.00	
95 Reduce Travel Budget	(\$260,000)	R	(\$260,000)	R
Reductions will be taken in the travel, meals and lodging line items for the Division of Prisons and the Division of Community Corrections, as recommended in the Governor's budget. The Subcommittee makes the cut recurring.				
96 Reduce funding for MIS contractual Services	(\$200,000)	R	(\$200,000)	R
DOC has reorganized MIS staff to improve efficiency and re-prioritize projects to allow this reduction, as recommended in the Governor's Budget.				
97 Reduce Office and Data Processing Equipment	(\$400,000)	R	(\$400,000)	R
Reduce funding in the office equipment (\$200,000) and data processing equipment (\$200,000) line items as recommended in the Governor's Budget.				
98 Reduce Funding for Vehicle Replacement	(\$396,000)	R	(\$396,000)	R
The Governor's Recommended Budget reduced this item by \$396,000 on a recurring basis. The total non-recurring reduction shall be \$1,430,062. This reduction basically limits vehicle replacement to only the highest priority purchases in FY 2001-02.	(\$1,430,062)	NR		

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02	FY 2002-03
99 DOC Management Budget	(\$300,000) R	(\$300,000) R
The non-salary line item budget for DOC management was reduced on a non-recurring basis in 1999-2000 and restored in the Governor's Recommended Budget. This budget makes the reduction recurring.		
Total Legislative Changes	(\$2,282,499) R	\$614,841 R
	(\$5,072,295) NR	(\$1,000,000) NR
Total Position Changes	177.00	177.00
Revised Budget	\$923,995,281	\$930,964,916

Crime Control and Public Safety

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
100 Reduce Travel Budget	(\$82,000)	R	(\$82,000)	R
Reduce travel budgets by the following amounts in the following divisions:				
Administration	\$ 6,500			
National Guard	\$ 5,450			
ALE	\$15,000			
Emergency Management	\$12,000			
V&J Services	\$21,050			
GCC	\$22,000			
Administration				
101 Eliminate Vacant Position in CCPS Administration	(\$42,554)	R	(\$42,554)	R
Eliminate one (1) vacant Information and Communication Specialist position in Crime Control and Public Safety's Administration Division.				
	-1.00		-1.00	
Alcohol Law Enforcement				
102 Eliminate Vacant ALE Positions	(\$78,210)	R	(\$78,210)	R
ALE's budget will be reduced by eliminating one vacant office assistant position and one district supervisor position.				
	-2.00		-2.00	
103 Reduce Vehicle Replacement Line Item	(\$433,188)	NR		
There will be a non-recurring cut to the vehicle replacement line item.				
104 Eliminate District Supervisor Positions			(\$266,928)	R
ALE shall eliminate 3 additional district supervisor positions by June 30, 2002. This reduction will come from salary and operating expenses.				
			-3.00	
Butner Public Safety				
105 Reduce Vehicle Replacement	(\$71,500)	NR		
There will be a one time reduction in the vehicle replacement line item for Butner Public Safety.				
Emergency Management				
106 Decrease General Fund Appropriation	(\$50,000)	R	(\$50,000)	R
The General Fund appropriation is decreased to offset increased revenue/receipts.				

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
107 Transfer Mapping Division to Emerg. Mgt.	\$93,941	R	\$93,941	R
The Administrator for Surveying and Mapping will transfer to the Division of Emergency Management. The responsibilities and staff of the Flood Plan Mapping Unit within Surveying and Mapping will also transfer to Emergency Management. The receipt supported budget is \$18,473,555 and the General Fund Budget, which pays the administrator's salary, is \$93,941.	9.00		9.00	
108 Decrease Funding for Regional Response Teams	(\$52,112)	R	(\$52,112)	R
This item decreases the funding for HAZMAT regional response teams.				
109 Reduce Matching Funds	(\$125,000)	R	(\$125,000)	R
Funds have been over budgeted for the State match for federal grants. This item reduced the funding to the actual required amount.				
110 Eliminate Vacant Emergency Management Positions	(\$67,171)	R	(\$67,171)	R
Eliminate two (2) vacant positions in Emergency Management on June 30, 2001.	-2.00		-2.00	
111 Reduce Misc. Contractual Services	(\$105,000)	R	(\$105,000)	R
This item removes money from the Continuation Budget that was intended to fund a study on flood mapping. That study has been completed and the funds no longer need to be budgeted.				
General				
112 Reduce Various Operating Line Items	(\$53,500)	R	(\$53,500)	R
Reduce the following operating line items by specified amount:				
Administration Division				
Computer Software	\$15,500			
Employee Education	\$3,000			
Butner Public Safety				
Office Furniture	\$5,000			
V&J Services				
Office Supplies	\$15,000			
Gov. Crime Comm.				
Postage	\$5,000			
Printing	\$10,000			
Governor's Crime Commission				
113 Reduce Operating Expenses	(\$20,000)	R	(\$20,000)	R
Reduce Crime Prevention operating expenses.				
114 Eliminate Vacant GCC Position	(\$25,897)	R	(\$25,897)	R
Vacant Processing Assistant III position will be eliminated in the Governor's Crime Commission.	-1.00		-1.00	

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
National Guard				
115 Increase State Match Tarheel Challenge	\$140,000	R	\$140,000	R
The federal match requirement for Tarheel Challenge Program, administered by the NC National Guard, will increase by 5% in FY 2002. The program will be funded on a 60% federal to 40% state match basis beginning FY 2002.				
116 Reduce National Guard Pension Fund Payments	(\$1,002,776)	R	(\$1,002,776)	R
The budget will be reduced by \$1,002,776 to adjust pension payments to reflect actuarial recommendations. \$470,635 of this total was in the Governor's recommendations.				
117 Reduce Tuition Assistance Funding	(\$100,000)	R	(\$100,000)	R
The National Guard Tuition Assistance program has traditionally had unexpended balances each fiscal year. This item reduces the appropriation by \$100,000.				
Victim & Justice Services				
118 Eliminate Vacant CSWP Supervisors	(\$82,776)	R	(\$82,776)	R
The Community Service Work Program budget will be reduced by eliminating two vacant District Supervisor positions.				
	-2.00		-2.00	
119 Eliminate Vacant CSWP Positions	(\$353,889)	R	(\$353,889)	R
Eliminate 3 office assistant vacancies and 8 coordinator vacancies in Community Service Work Program.				
	-11.00		-11.00	
120 CSWP Transfer	(\$2,913,282)	R	(\$5,826,564)	R
The Community Service Work Program will be transferred to the Department of Corrections to be merged with the Division of Community Corrections. The merger will be complete by January 1, 2002.				
	-189.00		-189.00	
121 CSWP Budget Reduction	(\$580,103)	R	(\$1,160,206)	R
Through efficiency measures taken with the Community Service Work Program transfer from the Department of Crime Control to the Department of Corrections, twenty-seven positions will be eliminated by January 1, 2002.				
	-27.00		-27.00	
122 Increase Appropriation for Rape Victims Assistance	\$100,000	R	\$100,000	R
In 1999, the General Assembly doubled the maximum award amount for Rape Victims Assistance but did not increase the appropriation. As a result, the fund has experienced shortfalls each year. This item increases the appropriation amount by \$100,000.				
123 Increase Appropriation for Crime Victims	\$100,000	R	\$100,000	R
Due to a large unexpended balance, the General Assembly reduced the appropriation to the Crime Victims Compensation fund by \$500,000 in 2000. With the implementation of several efficiency measures, the staff has increased the number of claims processed and awards made. This item restores part of the previous budget reduction of \$500,000 in order to cover the increase in awards made.				

Total Legislative Changes	(\$5,300,329)	R	(\$9,060,642)	R
	(\$504,688)	NR		
Total Position Changes	-226.00		-229.00	
Revised Budget	\$31,749,131		\$28,493,506	

**GENERAL
GOVERNMENT
Section J**

General Assembly

GENERAL FUND

	FY 2001-02		FY 2002-03
Recommended Budget	\$40,567,848		\$40,567,848
Legislative Changes			
1900 Reserves and Transfers			
1 Reserves and Transfers	(\$1,014,000)	R	(\$1,014,000) R
Reduces contingency reserve funds in the following accounts each fiscal year on a recurring basis with the exception of an additional \$170,000 that is reduced in Agency Reserves (537195) in FY 01-02, only:	(\$170,000)	NR	
531521 Retirement - (\$613,857)			
531561 Medical Insurance - (\$65,125)			
537195 Agency Reserves - (\$504,875)			
Total Legislative Changes	(\$1,014,000)	R	(\$1,014,000) R
	(\$170,000)	NR	
Total Position Changes			
Revised Budget	\$39,383,848		\$39,553,848

Governor

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
1110 Administration				
2 Reduce Operating Expenses	(\$60,649)	R	(\$60,649)	R
Reduces the operating budgets in the following line items:				
Office Furniture and Equipment	(\$7,066)			
Computer Equipment	(\$13,000)			
Computer Software	(\$6,591)			
Maintenance Agreement	(\$7,492)			
Travel	(\$10,000)			
Cellular Phone	(\$6,500)			
Telephone	(\$10,000)			
3 Clean NC	(\$50,834)	R	(\$50,834)	R
Changes funding for director position from appropriation to receipts as recommended by the Governor. The source of receipts will be federal and private grants.				
	0.00		0.00	
1120 Dues to National Associations				
4 Reduce Membership Dues	(\$9,741)	R	(\$9,741)	R
Reduces the budget for dues paid to national associations.				
1130 Intergovernmental Relations				
5 Reduce Operating Budgets	(\$11,902)	R	(\$11,902)	R
Reduces the operating budgets in the following line items				
Compensation to Board Members	(\$600)			
Miscellaneous Contractual Services	(\$990)			
Repairs	(\$242)			
Maintenance Agreements	(\$878)			
Postage	(\$1,505)			
Printing	(\$1,567)			
Property Insurance	(\$50)			
Data Processing Supplies	(\$70)			
Membership Dues	(\$1,000)			
Travel	(\$5,000)			

1210 Citizen's Affairs

6 Reduce Operating Budget

(\$9,550) R

(\$9,550) R

Reduces the operating budgets in the following line items:

In-state transportation	(\$10)
Data Processing Services	(\$739)
Registration Fees	(\$71)
General Office Supplies	(\$1,000)
Membership Dues	(\$70)
Administrative Services	(\$4,600)
Miscellaneous Contractual Services	(\$1,025)
Maintenance Agreements	(\$2,035)

1230 Education

7 Reduce Operating Budget

(\$1,000) R

(\$1,000) R

Reduces the operating budget for in-state transportation.

1631 Raleigh Executive Residence

8 Reduce Operating Budget

(\$36,904) R

(\$36,904) R

Reduces the operating budgets in the following line items:

Laundry Services	(\$400)
Pest Control Services	(\$250)
Misc. Contractual Services	(\$475)
Electric Services	(\$5,491)
Natural Gas	(\$1,237)
Water/Sewer	(\$1,471)
In-state Transportation	(\$2,090)
Printing	(\$1,500)
Registration Fees	(\$300)
Emp. Education Assistance Program	(\$600)
Data Processing Supplies	(\$300)
Food Supplies	(\$7,232)
Clothing and Uniforms	(\$581)
Office Furniture	(\$420)
Residential Furniture	(\$3,257)
Membership Dues	(\$300)
Transfer to other agencies	(\$4,000)
Repairs	(\$3,000)
Computer Equipment	(\$4,000)

1632 Western Executive Residence

9 Reduce Operating Budget

(\$10,254) R

(\$10,254) R

Reduces the operating budgets in the following line items:

Laundry Services	(\$50)
Security Services	(\$165)
Pest Control Services	(\$150)
Misc. Contractual Services	(\$630)
Natural Gas	(\$1,000)
Water/Sewer	(\$1,000)
Residential Furniture	(\$1,625)
Repairs	(\$1,934)
Communication Equipment	(\$75)
Lease Other Property	(\$50)
Telephone Service	(\$200)
Janitorial Supplies	(\$2,375)
Other Materials and Supplies	(\$1,000)

Total Legislative Changes

(\$190,834) R

(\$190,834) R

Total Position Changes

0.00

0.00

Revised Budget

\$5,442,905

\$5,442,905

State Budget, Planning & Management

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$5,789,900	\$5,789,900

Legislative Changes

1310 State Budget, Planning & Management

10 Eliminate Planning and Analysis Unit

(\$352,719) R (\$690,418) R

Eliminates the Administrator for State Planning and the seven Planning Analyst positions responsible for strategic planning analysis. Also abolishes an Applications Analyst Programmer Specialist position and an Office Assistant III position which support the strategic planning analysis function. All ten positions are eliminated effective September 1, 2001. The statutory requirements for performing strategic planning analysis will be repealed.

-10.00 -10.00

11 Reduce Operating Budget

(\$93,567) R (\$93,567) R

Reduces the operating budgets in the following items:

(\$40,000) NR

Contracted Employees	(\$45,000)
Printing	(\$22,000)
Salary Reserve	(\$9,267)
Temporary Salaries	(\$5,000)
Staff Travel	(\$1,000)
ABC Travel (fee 2001-02 only)	(\$20,000)
ABC Subsistence (fy 2001-02 only)	(\$20,000)
Cellular Phones	(\$300)
Printing	(\$5,000)
Office Supplies	(\$1,000)
Office Furniture	(\$500)
Office Equipment	(\$500)
Computers	(\$2,000)
Membership/Subscriptions	(\$1,000)
Other Expenses	(\$1,000)

12 Personnel Adjustments

(\$20,018) R (\$72,849) R

Transfers a receipt-supported Statistician II position currently housed in the State Data Center within the State Planning Section to the Employment Security Commission. Eliminates an appropriation-supported State Management Analyst position (#3003-0405-0000-804) also housed in the State Data Center, effective September 1, 2001. These positions are responsible for analyzing the employment activity data captured in the common follow-up information management system. The salary (\$45,077) and benefits (\$9,315) for the Statistician II position are currently funded by a transfer from the Worker Training Trust Fund.

-1.00 -1.00

1310 State Budget, Planning and Management

13 Transfer Personnel

(\$93,941) R (\$93,941) R

Transfers the Administrator for Surveying and Mapping to the Division of Emergency Management within the Department of Crime Control and Public Safety. Flood Plain Mapping will be transferred to CCPS as a Type I transfer. Geodetic Survey, County Boundaries, and the Center for Geographic Information Analysis will be transferred to the Division of Land Resources within the Department of Environment and Natural Resources as a Type I transfer as defined by G.S. 143A-6.

-1.00

-1.00

1900 Reserves and Transfers

14 Managed Care Patients' Assistance Program

\$201,392 R \$485,813 R

Provides funding to implement the Patients' Assistance Program which would be established upon the passage of SB 199, Managed Care Patients' Bill of Rights. The funding will cover the start-up and operating cost as well as the salaries and benefits for a director (effective November 1, 2001), an Insurance Regulatory Analyst II and a grade 61 support position (both effective December 1, 2001), and two Insurance Regulatory Analyst I positions (one effective January 1, 2002 and the other effective July 1, 2002). The funding is appropriated only if SB 199 becomes law. If SB 199 becomes law, the funding will be transferred to the state agency designated by the Governor to administer the program. The Insurance Regulatory Fund will reimburse any amounts appropriated from the General Fund.

\$67,500 NR

\$30,000 NR

4.00

5.00

Total Legislative Changes

(\$358,853) R (\$464,962) R

\$27,500 NR \$30,000 NR

Total Position Changes

-8.00

-7.00

Revised Budget

\$5,458,547

\$5,354,938

State Budget, Planning & Management - Flood Mapping and Surveying

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$1,232,845	\$1,232,845

Legislative Changes

1412 Geodetic Survey

15 Transfer Geodetic Survey

(\$1,035,096) R (\$1,035,096) R

Transfers the responsibilities and staff of the Geodetic Survey section within Surveying and Mapping to the Division of Land Resources within the Department of Environment and Natural Resources. The transfer has all the elements of a Type I transfer as defined in G.S. 143A-6. County Boundaries and the Center for Geographic Information Analysis will be transferred to DENR also and Flood Plain Mapping will be transferred to Division of Emergency Management within the Department of Crime Control and Public Safety.

-22.00 -22.00

16 Operating Budget Adjustments

(\$45,000) R (\$45,000) R

Reduces the operating budget in the miscellaneous contractual services line item.

1413 County Boundaries

17 Transfer County Boundaries

(\$152,749) R (\$152,749) R

Transfers the responsibilities and staff of the County Boundaries unit within Surveying and Mapping to the Division of Land Resources within the Department of Environment and Natural Resources. The transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6. Geodetic Survey and the Center for Geographic Information Analysis will also be transferred to DENR. Flood Plain Mapping will be transferred to the Division of Emergency Management within the Department of Crime Control and Public Safety.

-1.00 -1.00

1415 Flood Plain Mapping

18 Transfer Flood Plain Mapping

\$0 R \$0 R

Transfers the responsibility and staff of the Flood Plain Mapping unit within Surveying and Mapping to the Division of Emergency Management within the Department of Crime Control and Public Safety. The transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6. The receipt-supported General Fund budget is \$18,473,555. Geodetic Survey, County Boundaries and the Center for Geographic Information Analysis will be transferred to the Division of Land Resources within the Department of Environment and Natural Resources.

-8.00 -8.00

Center for Geographic Information & Analysis

19 Transfer Ctr for Geographic Information & Analysis

Transfers the Center for Geographic Information and Analysis to the Division of Land Resources within the Department of Environment and Natural Resources. The program has a receipt-supported budget of \$1,758,906 which is in budget code 23006, fund 2510 and 25 positions. The transfer has all of the elements of a Type I transfer as defined in G.S. 143A-6. Geodetic Survey and County Boundaries will also be transferred. Flood Plain Mapping will be transferred to the Division of Emergency Management within the Department of Crime Control and Public Safety.

\$0	R	\$0	R
0.00		0.00	

Total Legislative Changes

(\$1,232,845)	R	(\$1,232,845)	R
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Total Position Changes

-31.00		-31.00	
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Revised Budget

\$0		\$0	
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State Budget, Planning & Management - Special Appropriations

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$3,080,000	\$3,080,000
Legislative Changes		
1022 2001 Special Appropriations		
20 Federal Matching Funds		
Provides matching funds for the Save America's Treasures initiative to preserve significant historic properties.	\$200,000	NR
21 Advisory Commission on Military Affairs		
Provides funds to support the Commission as established by special provision.	\$100,000	NR
22 Kids Voting NC Funds		
Provides funding to Kids Voting of North Carolina, Inc., a nonprofit corporation. Of the total \$155,000 appropriated, \$50,000 shall be used to implement new Kids Voting programs in nonparticipating counties across the State. The remaining \$105,000 shall be divided equally among the nine participating counties of Buncombe, Cabarrus, Catawba, Cumberland, Durham, Guilford, Haywood, Mecklenburg, and Wake to assist those counties with the Kids Voting programs.	\$155,000	NR
23 NC Humanities Council		
Provides funds to the North Carolina Humanities Council, a nonprofit corporation, for the programs of the Council.	\$100,000	NR
Total Legislative Changes	\$555,000	NR
Total Position Changes		
Revised Budget	\$3,635,000	\$3,080,000

Lieutenant Governor

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$686,308		\$686,308	
Legislative Changes				
1110 Administration				
24 Salaries and Wages	(\$16,763)	R	(\$16,763)	R
Reduces salary reserve and related benefits each fiscal year.				
Total Legislative Changes	(\$16,763)	R	(\$16,763)	R
Total Position Changes				
Revised Budget	\$669,545		\$669,545	

Secretary of State

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$8,760,901	\$8,760,901

Legislative Changes

1100 Administration

25 Reduce Operating Budget (\$34,918) R (\$34,918) R

Reduces operating budgets in the following line items:

Travel	(\$12,200)
Miscellaneous Contracted Service	(\$3,159)
System Implementation	(\$18,309)
Employee Education Expenses	(\$500)
Data Processing Supplies	(\$300)
Photographic Supplies	(\$150)
Office Furniture	(\$300)

1120 Publications

26 Reduce Operating Budget (\$3,441) R (\$3,441) R

Reduces operating budgets in the following line-items:

Computer Data Processing Services	(\$1,000)
Travel	(\$1,200)
Time-Limited Salaries	(\$1,241)

27 North Carolina Manual

Provides funding for the bi-annual printing of the North Carolina Manual. \$50,000 NR

1210 Corporations

28 Reduce Operating Budget (\$45,580) R (\$45,580) R

Reduces operating budgets in the following line items:

Maintenance Agreements	(\$15,000)
Employee Education Expense	(\$10,080)
Data Processing Supplies	(\$1,500)
Travel	(\$3,200)
Over-time Pay	(\$8,000)
Miscellaneous Contractual Services	(\$2,000)
Office Furniture	(\$2,000)
Office Equipment	(\$1,800)
Other Administrative Expenses	(\$2,000)

Conference Report on the Continuation, Capital, and Expansion Budget **FY 2001-02** **FY 2002-03**

29 LLC Annual Report Notification

Provides funding for temporary personnel, supplies, and postage needed to send notifications to Limited Liability Companies of their annual report due date and to enhance the Department's collection efforts.

\$100,000 NR

1220 Uniform Commercial Code

30 Reduce Staffing

Eliminates 10 Processing Assistant positions in the UCC Division effective September 1, 2001. These positions were among the 41 positions that were added during the 2000 Session to handle the increased workload anticipated from the implementation of Revised Article 9 of the UCC.

(\$222,731) R (\$267,657) R
-10.00 -10.00

31 Reduce Operating Budget

Reduces the operating budgets for travel(\$11,200) and miscellaneous contractual services (\$10,00).

(\$21,200) R (\$21,200) R

32 Additional Rent Funding

Provides the additional funding needed to cover the annual lease payments for the property which houses the Uniform Commercial Code Section.

\$127,142 R \$127,142 R

1230 Securities Division

33 Reduce Operating Budget

Reduces operating budgets in the following line items:

- Travel (\$1,270)
- Employee Education (\$1,200)
- Postage (\$1,200)
- Office Furniture (\$1,500)
- Other Administrative Expense (\$1,100)

(\$6,270) R (\$6,270) R

1240 Business License Information Office

34 Reduce Operating Budget

Reduces the operating budgets in the following line-items:

- Travel (\$2,300)
- Miscellaneous Contractual Services (\$150)
- Cellular Phone (\$100)
- Data Processing Supplies (\$100)
- Office Furniture (\$500)
- Other Administrative Expense (\$100)

(\$3,250) R (\$3,250) R

35 Reduce Staffing

Eliminates 5 Business License Consulting positions (including 2 vacant positions) and 1 Processing Assistant III position, effective July 1, 2001.

(\$215,927) R (\$215,927) R
-6.00 -6.00

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
1300 Notary Public				
36 Reduce Operating Budget	(\$2,000)	R	(\$2,000)	R
Reduces operating budget for miscellaneous contractual services.				
1400 Land Records				
37 Reduce Operating Budget	(\$950)	R	(\$950)	R
Reduces the operating budget for office furniture.				
<hr/>				
Total Legislative Changes	(\$429,125)	R	(\$474,051)	R
	\$150,000	NR		
Total Position Changes	-16.00		-16.00	
Revised Budget	\$8,481,776		\$8,286,850	
<hr/>				

Auditor

GENERAL FUND			
	FY 2001-02		FY 2002-03
Recommended Budget	\$12,166,518		\$12,166,518
Legislative Changes			
1210 Field Audit Division			
38 Over-realized Receipts	(\$301,845)	R	(\$301,845) R
Reduces the General Fund appropriation for field audits. The Department has over-realized its budgeted receipts for audit work related to single audit and CAFR. Increasing budgeted receipts to more accurately reflect receipts will result in a reduction in the required General Fund appropriation.			
Total Legislative Changes	(\$301,845)	R	(\$301,845) R
Total Position Changes			
Revised Budget	\$11,864,673		\$11,864,673

Treasurer

		GENERAL FUND	
		FY 2001-02	FY 2002-03
Recommended Budget		\$7,837,007	\$7,837,007
Legislative Changes			
1210 Investment Management			
39 Reduce Operating Budget		(\$620,190) R	(\$620,190) R
Reduces the operating budget for financial and audit services.			
1410 Retirement System			
40 Replace Retirement Imaging System		\$0 NR	\$0 NR
Provides funding to convert to a different imaging system. The vendor of the existing system will not provide for the maintenance beyond the end of the calendar year. Conversion of the system will require a nonrecurring expenditure of \$2,465,000 and a recurring expenditure of \$136,000 for maintenance cost. All expenditures will be funded with receipts.			
73410-7310 Computer Operations			
41 Provide Backup Hot-Site for Disaster Recovery		\$0 R	\$0 R
Allows the implementation of a backup hot-site for mission critical applications for disaster recovery purposes. The one-time expenditures are for computer services (\$100,000) and computer equipment (\$170,000) and the recurring expenditures are for system implementation/integration services (\$180,000) and travel (\$30,000) to the out-of-state site for periodic testing of the backup system. All funding will be from the internal service fund.			
Total Legislative Changes		(\$620,190) R	(\$620,190) R
		\$0 NR	\$0 NR
Total Position Changes			
Revised Budget		\$7,216,817	\$7,216,817

Treasurer - Retirement for Fire and Rescue
Squad Workers

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$12,294,780		\$12,294,780	
Legislative Changes				
1412 Gen Fund Contribution to Fire Pension Fund				
42 Reduce Contribution to Fire Pension				
Reduces the General Fund contribution to the Firemen's Pension Fund.	(\$2,077,883)	NR		
1432 Line of Duty Death Benefit				
43 Increase Death Benefit Funding				
Increases the funding for Line of Duty Death Benefits paid, pursuant to G.S. 143-12A, to survivors of eligible persons killed in the line of duty. The increased funding is due to the increases in the number of line of duty deaths.	\$85,000	R	\$85,000	R
Total Legislative Changes	\$85,000	R	\$85,000	R
	(\$2,077,883)	NR		
Total Position Changes				
Revised Budget	\$10,301,897		\$12,379,780	

Insurance

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$23,392,288	\$23,392,288

Legislative Changes

1100 Administration

44 Operating Budget Adjustments

(\$4,000) R (\$4,000) R

Reduces the operating budgets in the following line items:

Repairs - Buildings	(\$312)
Repairs - Computers	(\$500)
Travel	(\$2,580)
Office Furniture	(\$214)
Office Equipment	(\$118)
Computer Equipment	(\$276)

1200 Company Services

45 Reduce Operating Budget

(\$96,414) R (\$96,414) R

Reduces operating budgets in the following line items:

Information Technology Services	(\$500)
Maintenance Agreement-Equipment	(\$7,590)
Maintenance Agreement-Software	(\$6,715)
Travel	(\$24,841)
Telephone Service	(\$1,000)
Printing, Binding, Duplicating	(\$2,904)
Registration Fees	(\$6,675)
Other Employee Educational Expense	(\$14,247)
Office Furniture	(\$13,182)
Office Equipment	(\$610)
Computer Equipment	(\$14,150)
Computer Software	(\$4,000)

1300 Technical Services Group

46 Operating Budget Reductions

(\$62,533) R (\$62,533) R

Reduces the operating budgets in the following line items:

Repairs - Buildings	(\$470)
Travel	(\$27,074)
Telephone Service	(\$2,396)
Postage, Freight, Delivery	(\$1,037)
Printing, Binding, Duplicating	(\$9,604)
Advertising	(\$1,320)
Office Furniture	(\$12,250)
Computer Equipment	(\$8,132)
Computer Software	(\$250)

1400 Public Service Group

47 Operating Budget Reduction

(\$48,708) R

(\$48,708) R

Reduces operating budgets in the following line items:

Maintenance Agreement	(\$500)
Travel	(\$33,890)
Telecommunication Data Charge	(\$5,000)
Computer/Data Processing Service	(\$2,845)
Printing, Binding, Duplicating	(\$4,028)
Registration Fees	(\$400)
Office Furniture	(\$1,433)
Office Equipment	(\$612)

48 Provides Funding to Implement External Review

\$136,449 R

\$398,264 R

Provides funding to implement the external review provisions of SB 199, Managed Care Patients' Bill of Rights. The funding will cover start-up and operating cost as well as the salaries and benefits for a director (effective January 1, 2002), an Insurance Regulatory Analyst II and a Grade 59 support position (both effective February 1, 2002), and an Insurance Regulatory Analyst I (effective April 1, 2002). The funding is appropriated only if SB 199 becomes law.

\$34,300 NR
4.00

4.00

1500 Office of State Fire Marshall

49 Operating Budget Reductions

(\$51,345) R

(\$51,345) R

Reduces operating budgets in the following line items:

Administrative Services	(\$9,845)
Travel	(\$2,500)
Postage, Freight, Delivery	(\$12,500)
Printing, Binding, Duplicating	(\$2,500)
Educational Supplies	(\$1,500)
Computer Software	(\$22,500)

1900 Reserves and Transfers

50 Increase Transfer to the Consumer Protection Fund

\$450,000 NR

Increases the transfer to the Consumer Protection Fund (23900-2001) to cover the increase in cost of hiring external consultants and experts to testify in rate hearings when the insurance industry requests rate increases. The increase in cost is attributable to the increase in the number of filings which are expected to result in hearings in fiscal year 2001-2002.

Total Legislative Changes	(\$126,551)	R	\$135,264	R
	\$484,300	NR		
Total Position Changes	4.00		4.00	
Revised Budget	\$23,750,037		\$23,527,552	

**Insurance - Volunteer Safety Workers'
Compensation Fund**

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$4,500,000	\$4,500,000
Legislative Changes		
1900 Reserves and Transfers		
51 Volunteer Safety Workers' Compensation Fund		
Reduces the General Fund appropriation to the Volunteer Safety Workers' Compensation Fund for fiscal year 2001-2002.	(\$3,450,000)	NR
Total Legislative Changes	(\$3,450,000)	NR
Total Position Changes		
Revised Budget	\$1,050,000	\$4,500,000

Administration

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
1111 Office of the Secretary				
52 Reduce Personnel	(\$41,757)	R	(\$41,757)	R
Abolishes vacant Administrative Assistant position as recommended by the Governor.	-1.00		-1.00	
53 Appalachian Regional Commission	(\$190,080)	R	(\$190,080)	R
Replaces appropriated funds with Highway Funds for the Highway's portion of the Appalachian Regional Commission assessment dues.				
1111-1116 HUB Office				
54 Office of Historically Underutilized Businesses	\$270,000	NR		
Provides funding for the operations of the Office of Historically Underutilized Businesses (HUB). Funding will also be used for outreach efforts on the contracting opportunities available to HUB vendors resulting from the 2000 Higher Education Bond Program.				
1121 Office of Fiscal Management				
55 Reduce Personnel	(\$27,670)	R	(\$27,670)	R
Abolishes one Processing Assistant III position in the Departmental Supply Store. The employee has been reassigned.	-1.00		-1.00	
1122 Human Resources Management				
56 State Employee Incentive Bonus Program	(\$114,997)	R	(\$114,997)	R
Changes the funding for the two positions responsible for administering the State Employee Incentive Bonus Program from appropriation support to receipt-support. A Special Provision directs that ten percent of the savings from employee suggestions are to go the Department for administration of the program.	0.00		0.00	

1311 Office of State Personnel

57 Personnel Reductions

(\$451,566) R (\$451,566) R

Abolishes nine (9) vacant positions and related benefits:

-9.00 -9.00

5 Human Resource Consultants-

- #4000-0100-0004-619 - (\$71,762)
- #4000-0301-0004-330 - (\$36,664)
- #4000-1200-0004-997 - (\$54,072)
- #4000-0100-0004-422 - (\$58,899)
- #4000-0100-0004-990 - (\$52,915)

Human Resources Manager-#4000-0201-0004-030 - (\$72,092)

Processing Assistant-#4000-0202-0004-124 - (\$32,328)

Office Assistant IV-#4000-0100-0004-755 - (\$30,663)

Office Assistant V-#4000-0600-0004-166 - (\$33,207)

(Eliminates the PREPARE Program)

Eliminate management layers for the following positions:

- #4000-0301-0004-302, HR Executive - (\$5,565)
- #4000-0301-0004-262, HR Manager - (\$3,399)

58 Operating Budget Adjustments

\$172,540 R \$172,540 R

Adjusts funds in the following accounts each fiscal year:

- 532170 Administrative Services - (\$10,000)
- 532199 Misc. Contracts - (\$1,950)
- 532400 Maintenance Agreements - (\$625)
- 532700 Travel - (\$4,668)
- 532800 Comm & Data Processing - \$200,000
- 532850 Printing - (\$5,000)
- 532860 Advertising - (\$1,000)
- 532930 Registration Fees - (\$727)
- 534500 Equipment - (\$3,490)

59 Program Personnel

(\$27,817) R (\$27,817) R

Combines an Applications Analyst Programmer II- #4000-0202-0004-051 (\$45,478) and Applications Analyst Programmer I- #4000-0202-0004-948 (\$52,873) positions and creates a new Applications Analyst Programmer II at pay grade 74 with salary and benefits of \$70,533. Adjustment in salary and benefits provides a reduction of (\$27,817).

-1.00 -1.00

1623 State Capitol Police

60 Reduce Personnel

(\$30,210) R (\$30,210) R

Abolishes vacant Police Officer II position currently responsible for providing safety awareness to State agencies.

-1.00 -1.00

1731 North Carolina Council for Women

61 Reduce Operating Budget

(\$7,000) R (\$7,000) R

Reduces miscellaneous contractual services.

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
62 Domestic Violence Prevention Funds	\$1,000,000	R	\$1,000,000	R
Provides funding for grants to domestic violence programs as recommended by the Governor.				
63 Sexual Assault Funds	\$225,000	R	\$225,000	R
Provides funding, as recommended by the Governor, for the continuation of sexual assault programs and the prevention of sexual assault within the state				
1783 Governor's Domestic Violence Commission				
64 Reduce Personnel	(\$110,349)	R	(\$110,349)	R
Eliminates the positions of Executive Director and Administrative Secretary in the Domestic Violence Commission as recommended by the Governor. The responsibilities of the Commission will be consolidated with those of the NC Council for Women. The employee in the Executive Director's position will be transferred to the Council. The Administrative Secretary's position is vacant.	-2.00		-2.00	
1810 Ethics Board				
65 Reduce Operating Budget	(\$12,000)	R	(\$12,000)	R
Reduces miscellaneous contractual services (\$10,000) and travel (\$2,000).				
1871 Board of Science and Technology				
66 Transfer Board of Science and Technology	(\$371,302)	R	(\$371,302)	R
Transfers the Board of Science and Technology, including 3 positions (Executive Director, Administrative Secretary III, and Education Consultant), to the Department of Commerce. Special provision recodifies the statutory authority of the Board as established in Part 27 of Article 9 of Chapter 143B of the General Statutes to Part 18 of Article 10 of Chapter 143B of the General Statutes.	-3.00		-3.00	
67 Abolish Positions	(\$111,014)	R	(\$111,014)	R
Abolishes vacant Deputy Director position and the Administrative Officer I position as recommended by the Governor.	-2.00		-2.00	
68 Reduce Personnel and Grant Funding	(\$155,410)	R	(\$155,410)	R
Eliminates a Social Research Assistant II position and all research grant funding.	-1.00		-1.00	
Department Wide				
69 Reduce Printing	(\$10,000)	R	(\$10,000)	R
Reduces the printing budget throughout the Department. The Department will implement electronic forms and communication were possible.				

	FY 2001-02	FY 2002-03
Total Legislative Changes	(\$263,632) R	(\$263,632) R
	\$270,000 NR	
Total Position Changes	-21.00	-21.00
Revised Budget	\$61,085,019	\$60,815,019

State Controller

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$11,817,271		\$11,817,271	
Legislative Changes				
1000 Departmentwide				
70 1211 Salaries and Wages	(\$97,437)	R	(\$97,437)	R
Abolishes vacant Accounting Clerk III # 5009-0000-0000-110 and Data Base Analyst # 5008-0000-0000-065 positions with a reduction in salary and related benefits.	-2.00		-2.00	
71 Operating Budget Adjustments	(\$195,966)	R	(\$195,966)	R
Reduces the following line items each year of the biennium:				
5327XX Travel - (\$6,000)				
532821 Data Processing Services - (\$179,966)				
532850 Printing, Binding, Duplicating - (\$5,000)				
534521 Office Equipment - (\$5,000)				
Total Legislative Changes	(\$293,403)	R	(\$293,403)	R
Total Position Changes	-2.00		-2.00	
Revised Budget	\$11,523,868		\$11,523,868	

Revenue

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$76,967,284	\$76,967,284

Legislative Changes

1600 Administration

72 Adjust Personnel	(\$67,420)	R	(\$67,420)	R
Abolishes vacant Staff Development Coordinator position, #4771-0000-0020-410 and related benefits.	-1.00		-1.00	

1602 Security

73 Adjust Personnel	(\$23,630)	R	(\$23,630)	R
Abolishes vacant Processing Assistant III position, # 4791-0000-0024-010 and related benefits.	-1.00		-1.00	

1605 Planning, Development, and Technology

74 Operating Budget Adjustments	(\$809,714)	R	(\$809,714)	R
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Reduces the following accounts each fiscal year:

- 531311 Temporary Wages - (\$60,000)
- 531411 OT Pay - (\$20,000)
- 531431 Shift Premium Pay - (\$10,000)
- 531511 Social Security - (\$6,885)
- 531521 Retirement - (\$2,403)
- 532140 System Implementation - (\$250,000)
- 532310 Repairs - (\$9,092)
- 532512 Rent/Lease Buildings/Offices - (\$5,000)
- 532712 Trans. Air/Out of State - (\$10,000)
- 532715 Trans. Ground/Out of State - (\$5,000)
- 532722 Lodging/Out of State - (\$5,000)
- 532821 Computer/Data Processing Svs - (\$250,000)
- 532860 Advertising - (\$10,000)
- 533110 Gen Office Supplies - (\$6,334)
- 533120 Data Processing Supplies - (5,000)
- 534511 Office Furniture - (\$30,000)
- 534521 Office Equipment - (\$25,000)
- 534522 Equipment/Computers - (\$75,000)
- 534710 Computer Software - (\$25,000)

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2001-02

FY 2002-03

75 Project Collect Tax

Provides funds for an Applications Programmer II and Applications Analyst Programmer Specialist, effective November 1, 2001, equipment, and operating expense:

\$97,232	R	\$755,262	R
\$193,600	NR		
2.00		2.00	

	FY 01-02	FY 02-03
531211 Salaries	\$ 81,279	\$121,919
531511 Social Security	6,218	9,327
531521 Retirement	6,511	9,766
531561 Med Ins	3,008	4,512
532140 Contractual Svs	-0-	600,000
532821 Computer/Data Proc	216	9,738
532440 Maint Agree/DP Equip	7,800	
532441 Maint Agree/Software	7,800	
534521 Office Equipment	18,000	
534522 Computer Equipment	156,000	
534528 Communications Equip	4,000	

1607 Tax Research

76 Personnel and Operating Budget Adjustments

Eliminates salary and benefits for a vacant Statistical Assistant V position, #4774-0000-0040-312 (\$28,263, and reduce funds in the following accounts each fiscal year:

(\$58,126)	R	(\$58,126)	R
-1.00		-1.00	

531311 Temporary Wages - (\$27,740)
531511 Social Security - (\$2,123)

1621 Corporate, Excise & Insurance

77 Adjust Operating Budget

Reduces funds in the following accounts each year:

531311 Temporary Wages - (\$10,000)
531511 Social Security - (\$765)

(\$10,765)	R	(\$10,765)	R
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1627 Sales & Use

78 Adjust Operating Budget

Reduces funds in the following accounts each year:

531311 Temporary Wages - (\$6,000)
531511 Social Security - (\$459)

(\$6,459)	R	(\$6,459)	R
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1629 Property Tax

79 Additional Personnel

Appropriates funds for salary, benefits, operating expense, office furniture and equipment to support a Property Tax Valuation Specialist I position, effective November 1, 2001. The cost associated with the position will be reimbursed through the allowance for administrative cost available per G.S.105-501 in the year subsequent to the year the cost is incurred.

\$42,624	R	\$63,936	R
\$9,600	NR		
1.00		1.00	

Revenue

1641 Office Examination

80 Personnel and Budget Adjustments

(\$237,744) R (\$237,744) R

Makes the following adjustments in the division's budget each fiscal year:

-4.00 -4.00

- Eliminate four (4) vacant positions - (\$85,117)
 - 3 Processing Assistant III - #4782-0000-0065-729, #4782-0000-0065-733, and #4782-0000-0065-829
 - 1 Processing Assistant V - #4784-0000-0076-551

- 531311 Temporary Wages - (\$100,000)
- 531511 Social Security - (\$15,769)
- 531521 Retirement - (\$6,818)
- 531561 Med Insurance - (\$9,024)
- 531625 State Disability Payments - (\$21,016)

1643 Office Services (Taxpayer Assistance)

81 Personnel and Operating Adjustments

(\$70,954) R (\$70,954) R

Abolishes two (2) vacant Processing Assistant III positions - #4782-0000-0065-415 (\$25,794) and #4782-0000-0065-768 (\$23,630), reduce temporary wages (531311) and adjust related benefits.

-2.00 -2.00

82 Project Collect Tax

\$126,271 R \$189,406 R

Appropriates funds to add 6 Tax Technician positions, effective November 1, 2001 with related benefits:

6.00 6.00

FY 01-02 FY 02-03

531211 Salaries	\$101,372	\$152,058
531511 Social Security	7,755	11,632
531521 Retirement	8,120	12,180
531561 Med Ins	9,024	13,536

1660 Field Operations (Examination & Collection)

83 Personnel and Operating Budget Adjustments

(\$19,882) R (\$19,882) R

Reduces temporary wages (531311) and social security (531511).

84 Project Collect Tax

\$354,538 R \$584,605 R

In the Central Collections Unit provides funding to support an Officer Manager II and 2 Revenue Officer II positions effective November 1, 2001, and 13 Tax Technicians effective December 1, 2001, with related benefits and operating expense:

\$5,000 NR 16.00 16.00

FY 02-01 FY 02-03

531211 Salaries	\$285,248	\$469,055
531511 Social Security	21,822	35,883
531521 Retirement	22,848	37,571
531561 Med Ins	21,620	36,096
532714 Transportation	3,000	6,000
532950 Emp Moving Expense	5,000	

Revenue

85 Project Collect Tax

Appropriates funds to support 20 Revenue Officer I and 8 Information Processing Technician positions effective November 1, 2001 with related benefits and operating expense; and employs under contract 12 retirees, effective October 1, 2001:

\$783,206	R	\$1,181,059	R
\$145,800	NR		
28.00		28.00	

	FY 01-02	FY 02-03
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531211 Salaries	\$621,299	\$931,948
531511 Social Security	47,529	71,294
531521 Retirement	49,766	74,649
531561 Med Ins	42,112	63,168
532199 Misc Cont Svs	145,800	-0-
532714 Transportation	22,500	40,000

1670 Unauthorized Substance Tax

86 Operating Budget Adjustment

Reduces the following accounts each fiscal year:

- 531311 Temporary Wages - (\$20,000)
- 531511 Social Security - (\$1,530)
- 535890 Other Administrative Services - (\$5,000)

(\$26,530)	R	(\$26,530)	R
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1681 Administrative Services

87 Operating Budget Adjustments

Reduces the following accounts each fiscal year:

- 532199 Misc. Contractual Services - (\$65,985)
- 532430 Maintenance Agreements/Equipment - (\$34,411)
- 532821 Computer/Data Process Service - (\$20,000)
- 532840003 Post, Freight & Del/Postage Meter - (\$58,547)
- 532850001 Print Official Statements - (\$23,625)
- 532930 Registration Fees - (\$15,000)
- 532942 Other Employee Ed Exp - (\$126,833)
- 533120 Data Processing Supplies - (\$50,000)
- 533900 Other Materials & Supplies - (\$20,000)
- 534521 Office Equipment - (\$22,113)
- 535830 Membership Dues & Subscriptions - (\$25,000)

(\$461,514)	R	(\$461,514)	R
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88 Project Collect Tax

\$194,285 R
\$105,200 NR

\$138,325 R

Increases funds to support positions employed for the project:

	FY 01-02	FY 02-03
532811 Telephone Service (@ \$350 per position, 39 eff.11/1/01 and 13 eff. 12/1/01)	\$ 11,754	\$ 18,200
Long Distance Svs	50,000	60,000
532840003 Postage/Fr/Del	109,220	32,280
533110 Supplies (@ \$500 per position, 39 eff.11/1/01 and 13 eff. 12/1/01)	16,792	26,000
Envelopes and Paper for Notices	6,519	1,845
534511 Office Furniture	100,000	
534521 Office Equipment	5,200	

1683 Financial Services

89 Operating Budget Adjustments

(\$20,454) R

(\$20,454) R

Adjusts the following accounts each fiscal year:

- 531311 Temporary Wages - (\$10,000)
- 531511 Social Security - (\$1,454)
- 531625 Eliminate State Disability Payments - (\$9,000)

1685 Documents & Payments Processing

90 Personnel and Operating Budget Adjustments

(\$110,981) R

(\$110,981) R

Makes the following adjustments in the division's budget:

- Eliminate four (4) vacant positions - (\$86,388)
- 3 Data Entry Specialists - #4787-0000-0090-883,
 #4787-0000-0090-882, and #4787-0000-0090-889
- 1 Processing Assistant III - #4787-0000-009-109

-4.00

-4.00

- 531511 Social Security (\$6,754)
- 531521 Retirement (\$6,920)
- 531561 Med Insurance (\$9,024)

- 531625 Eliminate State Disability Payments - (\$1,895)

Total Legislative Changes	(\$326,017)	R	\$988,420	R
	\$459,200	NR		
Total Position Changes	40.00		40.00	
Revised Budget	\$77,100,467		\$77,955,704	

Cultural Resources

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
1110 Office of the Secretary				
91 Budget Adjustment	(\$10,860)	R	(\$10,860)	R
Reduces funds for miscellaneous contractual services (532199).				
1120 Administrative Services				
92 Adjust Operating Budget	(\$9,842)	R	(\$9,842)	R
Reduces funds for computers equipment (534522).				
1210 Archives & History/Director's Office				
93 Operating Budget Adjustments	(\$14,942)	R	(\$14,942)	R
Reduces the following accounts each fiscal year:				
531311 Temp Wages - (\$1,500)				
531511 Social Security - (\$115)				
532199 Misc. Contractual Services - (\$4,759)				
532731 BD/Non-employee Trans - (\$500)				
532732 BD/Non-employee Subsistence - (\$500)				
535830 Membership Dues - (\$500)				
536901 First Flight Commission - (\$7,068)				
94 Queen Anne's Revenge	\$250,000	NR		
Provides funding only for continued work on the recovery and conservation of the artifacts from the shipwreck believed to be Blackbeard's flagship, Queen Anne's Revenge.				
1220 Historical Publications				
95 Budget Adjustment	(\$6,461)	R	(\$6,461)	R
Reduces funding for printing, binding and duplication (532850).				

1230 Archives and Records**96 Operating Budget Adjustments**

(\$28,077) R

(\$28,077) R

Reduces the following accounts each fiscal year:

- 532199 Misc. Contractual Services - (\$3,000)
- 532210 Electricity - (\$2,577)
- 532731 BD/Non-employee Trans. - (\$2,000)
- 532732 BD/Non-employee Subsistence - (\$1,000)
- 532850 Printing, Binding & Duplication - (\$6,000)
- 532850 Advertising - (\$5,500)
- 533900 Other Materials/Supplies - (\$5,000)
- 534539 Other Equipment - (\$3,000)

97 Digitization of Public Records

Provides funds to complete Information Technology project planning and for IRMC Project Certification related to digitization of public records (532140).

\$50,000 NR

1241 State Historic Sites**98 Operating Budget Adjustment**

(\$360,315) R

(\$360,315) R

Reduces the following accounts each fiscal year:

- 532199 Misc. Contractual Services - (\$130,000)
- 532512 Rent/Lease-Buildings or Offices - (\$7,000)
- 532721 Lodging/In State - (\$20,000)
- 532724 Meals/In State - (\$10,000)
- 532942 Other Emp. Ed Expense - (\$8,000)
- 533900 Other Materials & Supplies - (\$4,315)
- 534511 Office Furniture - (\$10,000)
- 534541 Motor Vehicles - (\$71,000)
- 534549 Art & Artifacts - (\$100,000)

1242 Tryon Palace**99 Adjust Operating Budget**

(\$15,273) R

(\$15,273) R

Reduces the following accounts:

- 532310 Building Repairs - (\$2,684)
- 532390 Other Repairs - (\$1,056)
- 532490 Maintenance/Service Contracts - (\$1,386)
- 532919 Other Insurance - (\$1,656)
- 533900 Other Supplies & Materials - (\$4,999)
- 534511 Office Furniture - (\$1,000)
- 534539 Other Equipment - (\$2,492)

1243 State Capitol**100 Budget Adjustment**

(\$4,161) R

(\$4,161) R

Reduces the following accounts:

- 531311 Temporary Wages - (\$3,900)
- 531321 Social Security - (\$261)

1245 NC Maritime Museum

101 Operating Budget Adjustment

(\$32,155) R

(\$32,155) R

Reduces funds in the following accounts each fiscal year:

- 532182 Laundry Service Agreement - (\$100)
- 532320 Repairs/Other Structures - (\$2,000)
- 532512 Office Rent/Lease - (\$22,791)
- 532521 Rent/Lease-Motor Vehicles - (\$400)
- 532524 Rent/Lease Gen. Office Equip. - (\$100)
- 532850 Printing, Binding, & Dup - (\$1,000)
- 532912 Motor Vehicle Insurance - (\$1,500)
- 532913 Liability Insurance - (\$2,000)
- 533900 Other Materials & Supplies - (\$2,000)
- 534539 Other Equipment (\$264)

1250 Historic Preservation

102 Operating Budget Adjustments

(\$12,893) R

(\$12,893) R

Reduces the following accounts each fiscal year:

- 532199 Misc. Contractual Services - (\$1,858)
- 532390 Repairs - (\$650)
- 532714 Trans/In State - (\$1,946)
- 532715 Trans/Out of State - (\$100)
- 532721 Lodging/In State - (\$247)
- 532724 Meals/In State - (\$600)
- 532725 Meals/Out of State - (\$235)
- 532727 Misc./In State - (\$795)
- 532728 Misc./Out of State - (\$1,150)
- 532731 BD/Non-employee Trans. - (\$431)
- 532732 BD/Non-employee Subs. - (\$200)
- 532850 Printing, Binding, & Dup. - (\$900)
- 532942 Other Employee Ed Exp. - (\$326)
- 533110 General Office Supplies - (\$50)
- 533900 Other Materials & Supplies - (\$1,435)
- 534511 Office Furniture - (\$1,822)
- 534539 Other Equipment - (\$148)

1290 Western Office

103 Budget Adjustment

(\$2,956) R

(\$2,956) R

Reduces funding for In-state transportation (532714).

1320 Museum of Art**104 Operating Budget Adjustments**

(\$49,923) R

(\$49,923) R

Reduces funds in the following accounts:

- 532199 Misc. Contractual - (\$16,560)
- 532512 Rent/Lease Building - (\$5,345)
- 532590 Rent/Lease Other - (\$800)
- 532711 Tran Air/In State - (\$100)
- 532712 Tran Air/Out of State - (\$125)
- 532714 Trans Ground/In State - (\$2,000)
- 532715 Trans Ground/Out of State - (\$294)
- 532716 Trans Ground/Out of Country - (\$200)
- 532722 Lodging/Out of State - (\$1,000)
- 532723 Lodging/Out of Country - (\$739)
- 532725 Meals Out of State - (\$500)
- 532726 Meals Out of Country - (\$300)
- 532728 Misc/Out of State - (\$2,000)
- 532729 Misc/Out of Country - (\$500)
- 532811 Telephone Service - (\$1,440)
- 532850 Printing, Binding, & Dup - (\$1,020)
- 533990 Other Supplies & Materials - (\$17,000)

105 Art Exhibit

Appropriates funds for an exhibit scheduled May 18 - July 28, 2002 -- Empire of the Sultans: Ottoman Art from the Khalili Collection.

\$250,000 NR

1330 NC Arts Council**106 Operating Budget Adjustments**

(\$156,487) R

(\$156,487) R

Reduces funds in the following grant programs:

- 536948 Lost Colony - (\$6,097)
- 536971 Shakespeare Festival - (\$6,097)
- 536990 Basic Grants - (\$90,926)
- 536996 Grassroots Arts - (\$53,367)

107 Grassroots Arts Program

Provides funds for one-time increase in continuation budget for grants to local arts councils (536996).

\$250,000 NR

1340 NC Symphony**108 Budget Adjustment**

(\$2,962) R

(\$2,962) R

Reduces funds for postage (532840).

1360 Grants in Aid to Arts**109 Operating Budget Adjustments**

(\$35,946) R

(\$35,946) R

Reduces budgets each year for:

- 536932 Vagabond School of Drama - (\$1,134)
- 536935 NC State Art Society - (\$182)
- 536936 NC Symphony Society - (\$34,630)

Cultural Resources

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
1410 State Library Services				
110 Budget Reductions	(\$13,792)	R	(\$13,792)	R
Reduces funds in the following accounts:				
532850 Printing, Binding, & Duplication - (\$3,250)				
534630 Library Learning Resources - (\$10,542)				
1480 State Library Statewide Programs				
111 Budget Adjustments	(\$170,091)	R	(\$170,091)	R
Reduces the following accounts:				
532812 Telecommunication Services - (\$26,078)				
536960 Aid to Counties - (\$144,013)				
1500 Museum of History				
112 Operating Budget Adjustments	(\$486,141)	R	(\$486,141)	R
Eliminates funds for nine vacant positions and reduces funding in the following accounts each fiscal year:				
	-9.00		-9.00	
531211 Salaries - (\$107,714)				
531511 Social Security - (\$8,240)				
531521 Retirement - (\$8,628)				
531561 Medical Insurance - (\$9,024)				
532310 Building Repairs - (\$127,478)				
534511 Office Equipment - (\$12,357)				
534539 Other Equipment - (\$212,700)				
<hr/>				
Total Legislative Changes	(\$1,413,277)	R	(\$1,413,277)	R
	\$800,000	NR		
Total Position Changes	-9.00		-9.00	
Revised Budget	\$60,227,419		\$59,427,419	
<hr/>				

Cultural Resources - Roanoke Island Commission

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$1,907,245		\$1,907,245	
Legislative Changes				
Roanoke Island Commission				
113 Operating Budget Adjustment	(\$47,782)	R	(\$47,782)	R
Reduces amount of funding transferred to Special Fund.				
Total Legislative Changes	(\$47,782)	R	(\$47,782)	R
Total Position Changes				
Revised Budget	\$1,859,463		\$1,859,463	

Conference Report on the Continuation, Capital, and Expansion Budget

State Board of Elections

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$3,271,453		\$3,271,453	
Legislative Changes				
1100 Administration				
114 Reduce Operating Budget	(\$85,184)	R	(\$85,184)	R
Reduces the operating budget in the printing line items				
Total Legislative Changes	(\$85,184)	R	(\$85,184)	R
Total Position Changes				
Revised Budget	\$3,186,269		\$3,186,269	

Office of Administrative Hearings

GENERAL FUND

Recommended Budget	FY 2001-02		FY 2002-03	
Legislative Changes				
1100 Administration & Operations				
115 1211 Salaries and Wages	(\$70,067)	R	(\$70,067)	R
Abolishes vacant positions - Clerk-Typist position in the Civil Rights Division - # 8210-1100-0000-061 (\$29,775) and Accounting Technician V in the Administration Division - # 8210-1100-0000-007 (\$40,292) and related benefits.	-2.00		-2.00	
116 Operating Budget Adjustments	(\$29,000)	R	(\$29,000)	R
Reduces funding in the following line items each year of the biennium:				
532110 Legal Service - (\$4,000)				
532140 System Implement/Integration Services - (\$11,506)				
532440 Maintenance Agreement-DP Equipment - (\$640)				
532441 Maintenance Agreement/Software - (\$11,854)				
535830 Membership/Subscription - (\$1,000)				
117 432101 Receipts - Federal Reimbursement	(\$13,866)	R	(\$13,866)	R
Increases federal receipts.				
Total Legislative Changes	(\$112,933)	R	(\$112,933)	R
Total Position Changes	-2.00		-2.00	
Revised Budget	\$2,795,155		\$2,795,155	

Rules Review Commission

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$334,085	\$334,085
Legislative Changes		
1100 Administration		
118 Personal Services	(\$8,290) R	(\$8,290) R
Reduces funds each year of the biennium in the following accounts:		
531651 Board Member Compensation - (\$2,000)		
532512 Rent/Lease - (\$250)		
532712 Transportation/Out of State - (\$500)		
532722 Lodging/Out of State - (\$500)		
532725 Meal/Out of State - (\$200)		
532811 Telephone Service - (\$1,600)		
532850 Printing, Binding, Duplicate - (\$500)		
532930 Registration Fees - (\$250)		
534511 Office Furniture - (\$700)		
534521 Office Equipment - (\$200)		
534522 Computer Equipment - (\$1,000)		
534630 Library and Learning - (\$500)		
534710 Computer Software - (\$90)		
Total Legislative Changes	(\$8,290) R	(\$8,290) R
Total Position Changes		
Revised Budget	\$325,795	\$325,795

TRANSPORTATION

Section K

Transportation

GENERAL FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$17,753,426		\$14,486,443	
Legislative Changes				
Aeronautics and Global Transpark				
(1200) Airport Grants				
1 Reduce General Fund Support				
Reduces General Fund Airport Grant Program by \$5 million. to be offset by increase in funding from Highway Fund. as recommended by Governor.	(\$5,000,000)		NR	
Global TransPark				
2 Global TransPark Reduction				
Reduction recommended by the Governor.	(\$1,660,709)		NR	
3 Global TransPark Operating Reduction				
	2001-2002	2002-2003		
GTP Administration	\$424,451	\$433,641		
State Match/Runway	(\$1,116,742)	(\$1,094,350)		
Airport Operations	(\$124,795)	(\$157,987)		
Education and Training Center Operations	(\$115,247)	(\$134,807)		
Marketing	(\$54,749)	(\$56,939)		
Land Use Planning	(\$75,635)	(\$82,660)		
Total Legislative Changes	(\$1,062,717)		R	(\$1,093,102) R
	(\$6,660,709)		NR	
Total Position Changes				
Revised Budget	\$10,030,000		\$13,393,341	

Transportation

HIGHWAY FUND

	FY 2001-02		FY 2002-03	
Recommended Budget	\$1,204,477,503		\$1,211,720,525	
Legislative Changes				
Construction and Maintenance				
(5180) Construction - Contingency				
4 Small Urban and Rural Projects				
Provides additional funding for small urban and rural highway construction.	\$5,000,000	NR		
(5240) Maintenance - Contract Resurfacing				
5 Restore Contract Resurfacing Funds				
Restores funding to FY 2001 levels. FY 2001 budget contained \$7,000,000 in nonrecurring funding.	\$7,000,000	R	\$7,000,000	R
6 Increase Contract Resurfacing Funds				
Increases contract resurfacing funding over funding from previous years.	\$18,434,582	R	\$18,434,582	R
(5400) Capital Improvements				
7 Repair and Renovation				
Provides funds for repair and renovation of the Department's facilities.	\$1,634,000	NR		
(5940) Rail Program				
8 Partially Restore Rail Funding				
Partially restores funding to FY 2001 levels. FY 2001 budget contained \$12,932,088 in nonrecurring funding.	\$2,000,000	R	\$2,000,000	R
	\$5,550,000	NR		
	2001-2002	2002-2003		
Western NC Service (NR)	\$ 550,000			
Raleigh-Charlotte	\$2,000,000	\$2,000,000		
Raleigh-Charlotte (NR)	\$5,000,000			
9 Charlotte Station				
Funds remaining land acquisition for new multi-modal station in Charlotte.	\$15,000,000	NR		
(5950) Airport Program				
10 Airport Grants				
Replaces General Fund support for airport grants with Highway Fund appropriation.	\$5,000,000	NR		

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2001-02

FY 2002-03

(5970) Public Transportation Program

11 Restore Public Transportation Funding

\$15,621,993 R \$15,621,993 R

Restores funding to FY 2001 levels. FY 2001 budget contained \$15,621,993 in nonrecurring funding.

	2001-2002	2002-2003
Rural Capital	\$1,150,000	\$1,150,000
Rural Operating	\$2,650,000	\$2,650,000
Elderly & Disabled	\$900,000	\$900,000
Urban & Regional Maint.	\$1,921,993	\$1,921,993
New Starts	\$9,000,000	\$9,000,000

12 Replace Federal Funds

\$10,000,000 R \$10,000,000 R

Replaces federal funds with State Highway Fund money. \$10,000,000 of federal Congestion, Mitigation and Air Quality Funding that is being replaced will be redirected to the Transportation Improvement Program (TIP).

	2001-2002	2002-2003
Rural Operating	\$600,000	\$600,000
Human Service	\$400,000	\$400,000
New Starts	\$8,000,000	\$8,000,000
Urban & Reg. Tech.	\$1,000,000	\$1,000,000

13 Increase Public Transportation Funding

\$13,713,913 R \$13,713,913 R

Increases public transportation funding over funding from previous years.

	2001-2002	2002-2003
Rural Capital	\$1,400,000	\$1,400,000
Rural Operating	\$1,400,000	\$1,400,000
Elderly & Disabled	\$500,000	\$500,000
Urban & Regional Maint.	\$4,007,259	\$4,007,259
New Starts	\$6,406,654	\$6,406,654

Governor's Highway Safety Program

(0410) Governor's Highway Safety

14 Transfer Program

(\$90,584) R (\$90,584) R

Transfers program to DOT Secretary's Office. Eliminates 1 vacant position currently funded under Governor's Highway Safety Program and funds 3 positions wholly out of federal funds.

-1.00 -1.00

Division of Motor Vehicles

(0510) Commissioner's Office

15 Eliminate 54 Positions within DMV

(\$2,062,747) R (\$2,062,747) R

-54.00 -54.00

Conference Report on the Continuation, Capital, and Expansion Budget	FY 2001-02		FY 2002-03	
(0520) Vehicle Registration				
16 Increase payment to contract agents	\$840,000	R	\$840,000	R
Provides a 6% increase in the fees paid to contract agents.				
Reserves				
(6270) Crime Control and Public Safety				
17 Adjust Equipment Budget	(\$875,000)	R	(\$875,000)	R
Eliminates funds for upgrade of communications consoles and bay station equipment. Highway Patrol would be permitted to fund this equipment from other sources.				
18 Adjustment for Vehicle Inflationary Factors	(\$710,875)	R	(\$1,701,282)	R
Would reduce continuation budget increases in the new vehicle line item consistent with cost increases in previous years.				
19 Adjustment for Gasoline Inflationary Factors	(\$403,340)	R	(\$201,279)	R
Would reduce continuation budget increases in the gasoline line item.				
(6310) Department of Public Instruction				
20 Adjustment to Driver Education	(\$1,966,232)	R	(\$1,966,232)	R
Reduces funding due to fewer projected students and underspending in previous years.				
(6360) Global TransPark Authority				
21 GTP Administration	(\$605,549)	R	(\$640,882)	R
Adjust budget				
(6370) Transfer to Highway Trust Fund				
22 Discontinue Transfer to Highway Trust Fund	(\$38,000,000)	R	(\$38,000,000)	R
Ends transfer to Highway Trust Fund of money required by statute. These funds were originally made available from the retirement of Highway Fund bonds. As these bonds were paid off, money equal to the debt service on the bonds was paid to the Highway Trust Fund.				
(6611) Retirement Rate Adjustment				
23 Retirement Rate Adjustment	(\$12,304,320)	R	(\$12,304,320)	R
Reduces the State contribution rate from 5.33% to 1.97% of payroll for members of the Teacher's and State Employees' Retirement System.				

Conference Report on the Continuation, Capital, and Expansion Budget

FY 2001-02

FY 2002-03

(6801) Compensation Increase

24 State Funded Compensation Increase

\$7,200,000 R \$7,200,000 R

Provides funding for a permanent \$625 annual salary increase to State employees whose salaries and wages are supported out of the Highway Fund.

(6828) Reserve for Maintenance

25 Restore Maintenance Expenditures

\$31,000,000 R \$31,000,000 R

Restores funding to FY 2001 levels. FY 2001 budget contained \$31,000,000 in nonrecurring funding.

26 Increase Maintenance Expenditures

\$19,213,685 R \$19,213,685 R
\$7,022,971 NR

Increases maintenance funding over funding from previous years.

(6836) State Employee Reserve

27 State Employee Health Benefit Plan

\$7,000,000 R \$9,000,000 R

Provides a 30% premium increase to the Plan for Teachers, State Employees, and Retired Employees effective October 1, 2001. The remaining financial support to keep the plan solvent through the 2001-03 biennium will come from increased premiums paid by employees for their families, cuts in payments to hospitals and physicians, and a reduction in the Plan's benefits.

Total Legislative Changes

\$75,005,526 R \$76,181,847 R
\$39,206,971 NR

Total Position Changes

-55.00 -55.00

Revised Budget

\$1,318,690,000 \$1,287,902,372

**INFORMATION
TECHNOLOGY
Section L**

Information Technology Services

	INTERNAL SERVICE FUND	
	FY 2001-02	FY 2002-03
Recommended Budget	\$0	\$0
Legislative Changes		
Services Division		
1 ITS Rate Reductions	(\$4,000,000) R	(\$4,000,000) R
The Office of Information Technology Services shall reduce rates charged to agencies from among the telephone/telecommunications and computer data processing services.		
2 ITS Reductions	(\$10,000,000) NR	
The Office of Information Technology Services Internal Service Fund is reduced by ten million dollars (\$10,000,000). The ten million dollar reduction (\$10,000,000) is transferred from the Internal Service Fund to the General Fund based upon the following installments:		
(\$3,000,000)	November 3, 2001	
(\$4,000,000)	February 4, 2002	
(\$3,000,000)	June 15, 2002	
Total Legislative Changes	(\$4,000,000) R (\$10,000,000) NR	(\$4,000,000) R
Total Position Changes		
Revised Budget	(\$14,000,000)	(\$4,000,000)

**RESERVES/
DEBT SERVICE/
ADJUSTMENTS
Section M**

Reserves, Debt Service and Adjustments

GENERAL FUND

	FY 2001-02	FY 2002-03
Recommended Budget	\$241,290,498	\$241,290,498

Legislative Changes

A. Employee Benefits

1 State Funded Compensation Increases	\$193,842,000	R	\$193,842,000	R
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Provide recurring funds to increase salaries of State funded Public School System employees, Community College System employees, University System employees, and State Agency employees.

Also provide \$5.15 million in recurring funds to continue established statutory salary plans for Magistrates, Assistant Clerks, and Deputy Clerks. Funding provided is for scheduled increases in the 2001-2002 fiscal year for the Magistrates, Assistant Clerks and Deputy Clerks salary plans plus funding required to cover a shortfall in current budgeted funding levels in the Assistant and Deputy Clerks' salary plan.

Public Schools:

Teachers -- 2.86% average increase
 Principal and Assistant Principals -- 2.93% average increase
 Other Public School Employees -- \$625 increase

Community College System Employees -- \$625 increase

Also allocates \$6.9 million to the Community College System to provide an additional 1.25% salary increase for faculty and professional staff.

State Employees:

SPA (State Agency and University System) -- \$625 increase
 EPA (State Agency) -- \$625 increase
 EPA (UNC System) -- \$625 increase
 State Agency Teachers -- 2.86% average increase
 School of Science and Math Faculty -- 2.86% average increase

2 State Employee Health Benefit Plan

\$150,000,000 R \$200,000,000 R

Provide a 30% premium increase to the Plan for Teachers, State Employees and Retired Employees effective October 1, 2001. The appropriation for 2001-02 is split between an appropriation to the Office of State Budget and Management (\$36,000,000) to maintain the Plan's liquidity through September 30, 2001, and a Statewide Reserve (\$114,000,000) for distribution to state agencies. The remaining financial support to keep the Plan solvent through the 2001-03 biennium will come from increased premiums paid by employees for their families, cuts in payments to hospitals and physicians, and a reduction in the Plan's benefits.

3 TSERS Retirement Rate Adjustment

(\$241,002,720) R (\$241,002,720) R

Reduce the State contribution rate from 5.33% to 1.97% of payroll for members of the Teachers' and State Employees' Retirement system as a result of removing the cap of 77% for the recognition of assets.

4 CJRS Retirement Rate Adjustment

(\$2,265,000) R (\$2,265,000) R

Reduce the State contribution rate from 18.58% to 14.05% of payroll for members of the Consolidated Judicial Retirement System.

B. Trust Fund for MH/DD/SAS

5 Trust Fund for MH/DD/SAS and Bridge Funding Needs

\$47,525,675 NR

Provides funds to facilitate the reform of the state's mental health, developmental disabilities and substance abuse services system including (1) funds to enhance community based services and facilitate compliance with the federal Supreme Court decision in Olmstead; (2) bridge funding to provide services to clients during transitional periods such as the closing of state facilities; and (3) capital funds for the construction, repair and renovation of state facilities.

C. Reserve to Implement HIPAA

6 HIPAA Compliance Funds

\$15,000,000 NR

Provide funds for statewide planning and implementation of the federal Health Insurance Portability and Accountability Act (HIPAA). The act establishes national standards and requirements for the transmission, storage and handling of certain electronic health care data. HIPAA requires significant changes in information technology systems, administrative policies and regulations, operational processes, education and training. Agencies providing health care services or using patient or health care data are subject to the requirements. This includes the Department of Health and Human Services and the Teachers' and State Employees' Comprehensive Major Medical Plan.

D. Information Technology Rate Adjustment

7 Information Technology Services (ITS) Rate Reduction

(\$4,000,000) R (\$4,000,000) R

Reduce telecommunication rates paid by State agencies to the Office of Information Technology Services. The rate change shall reduce agency General Fund expenditures by \$4 million annually. The Office of Information Technology and the Office of Budget and Management shall have flexibility in implementing this reduction.

E. Other Reserves

8 Debt Service Requirements

\$12,312,542 R \$113,757,310 R

Provide funds for debt service due to revised requirements for principal and interest payments, including the issuance of the Higher Education Improvement Bonds authorized in 2000. Total requirements in FY 2001-02 were reduced by \$24,298,298 from the Governor's recommendations due to budgeting additional receipts (\$15,529,548) and delaying the sale of Natural Gas Bonds until January 1, 2002 (\$8,768,750). The total debt service requirement, including federal reimbursements is \$251,978,040 for FY 2001-02 and \$353,422,808 for FY 2002-03.

9 Contingency and Emergency Fund

\$3,875,000 R \$3,875,000 R

Provide additional funds to address unanticipated disasters, emergency situations and contingencies. The total annual appropriation to the C&E Fund is \$5,000,000.

Total Legislative Changes

\$112,761,822 R \$264,206,590 R
\$62,525,675 NR

Total Position Changes

Revised Budget

\$416,577,995 \$505,497,088

CAPITAL
Section N

Capital

GENERAL FUND

FY 2001-02

FY 2002-03

Department of Environment and Natural Resources

1 Water Resources Development Projects

Provide state funds to match federal and local funds for water resources development projects as outlined in the state's Water Resources Development Plan.

\$32,936,000 NR

Statewide Capital Reserves

2 Repairs and Renovations Reserve Account

Provide funds for repairs and renovations of the UNC System and State facilities throughout North Carolina.

\$125,000,000 NR

Total Capital Appropriation

\$157,936,000 NR

STATE OF NORTH CAROLINA
DEPARTMENT OF STATE,
RALEIGH, DECEMBER 6, 2001

I, ELAINE F. MARSHALL, Secretary of State of North Carolina hereby certify that the foregoing volume was printed under the direction of the Legislative Services Commission from ratified acts and resolutions on file in the office of the Secretary of State.

A handwritten signature in black ink that reads "Elaine F. Marshall". The signature is written in a cursive style with a prominent initial "E".

Secretary of State

APPENDIX

EXECUTIVE ORDERS

OF GOVERNOR MICHAEL F. EASLEY

Title	Number
THE NORTH CAROLINA BOARD OF ETHICS	1
EXTENDING EXECUTIVE ORDER NOS. 176 AND 178 ISSUED BY GOVERNOR JAMES B. HUNT, JR.	2
BUDGET ADMINISTRATION	3
CLEMENCY	4
EQUAL EMPLOYMENT OPPORTUNITY	5
AMENDING EXECUTIVE ORDER NO. 25 CONCERNING REGIONAL POLICY FOR NORTH CAROLINA	6
TEACHER ADVISORY COMMITTEE	7
TRANSFER OF HURRICANE FLOYD RELIEF PROGRAMS TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY	8
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS IN ORDER FOR UTILITY VEHICLES TO RESPOND TO NATURAL DISASTERS AND OTHER EMERGENCIES	9
AMENDING GOVERNOR HUNT'S EXECUTIVE ORDER NO. 136 CONCERNING THE GOVERNOR'S ADVISORY COUNCIL ON HISPANIC/LATINO AFFAIRS	10
IMPLEMENTATION OF THE STATE DISASTER ASSISTANCE PROGRAMS FOR A TYPE I DISASTER FOR MADISON COUNTY	11
EXTENDING EXECUTIVE ORDER NO. 48	12
GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS	13
NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS	14
TO ESTABLISH THE HEAVY DUTY DIESEL RULE EFFECTIVE DATE	15

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. ONE

THE NORTH CAROLINA BOARD OF ETHICS

WHEREAS, the people of North Carolina entrust public power to elected and appointed officials for the purpose of furthering the public, not private or personal, interest; and

WHEREAS, to maintain the public trust it is essential that government function honestly and fairly, free from all forms of impropriety, threats, favoritism, and undue influence; and

WHEREAS, elected and appointed officials must maintain and exercise the highest standards of duty to the public in carrying out the responsibilities and functions of their positions; and

WHEREAS, acceptance of authority granted by the people to elected and appointed officials imposes a commitment of fidelity to the public interest and such power cannot be used to advance narrow interest for oneself, other persons, or groups; and

WHEREAS, self interest, partiality, and prejudice have no place in decision making for the public good; and

WHEREAS, Public Officials must exercise their duties responsibly with skillful judgment and energetic dedication; and

WHEREAS, Public Officials must exercise discretion with sensitive information pertaining to public and private persons and activities; and

WHEREAS, to maintain the integrity of North Carolina's state government, those citizens entrusted with authority must exercise it for the good of the public and treat every citizen with courtesy, attentiveness, and respect; and

WHEREAS, because many public officials serve on a part-time basis, it is inevitable that conflicts of interest and appearances of conflict will occur. Often these conflicts are unintentional and slight, but at every turn those who represent the people of this State must be certain that it is the interests of the people, and not their own, that are being served. Officials should be prepared to remove themselves immediately from decisions, votes, or processes where even the appearance of a conflict of interest exists; and

WHEREAS, the State of North Carolina is committed to the responsible exercise of authority by persons of honor and good will in their government, by adopting a stronger procedure to prevent the occurrence of conflicts of interest in government and to resolve conflicts when they do occur.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Rescission of Executive Order No. 127, as amended.

Executive Order Number 127, dated January 16, 1998, and all subsequent amendments thereto, including Executive Order 131 dated March 25, 1998, are hereby rescinded. All records, including Statements of Economic Interest and other resources of the North Carolina Board of Ethics created pursuant to Executive Order Number 127, as amended, are transferred to the North Carolina Board of Ethics created herein.

Section 2. North Carolina Board of Ethics – Creation & Term of Service

There is hereby established the North Carolina Board of Ethics ("the Board"). The Board shall consist of seven persons appointed by the Governor. To provide for staggered terms, the Governor shall appoint three members to serve initial terms of two years, two members to serve initial terms of three years, and two members to serve initial terms of four years. Thereafter, each member shall serve a term of four years. No member shall be removed from the Board absent misfeasance, malfeasance, or nonfeasance as determined by the Governor. The Governor shall, from time to time, designate one of the members as Chair. The members shall receive no compensation, but shall receive reimbursement for any necessary expenses incurred in connection with the performance of their duties pursuant to North Carolina law and procedure. Vacancies on the Board shall be filled for the remainder of the term by appointment of the Governor.

Section 3. Persons Subject to this Executive Order

The following persons are subject to this Executive Order and to the jurisdiction of the Board and shall hereafter be referred to as "Public Officials":

- (a) All employees in the Office of the Governor.

(b) The heads of all "principal departments" (as set out in North Carolina General Statutes ("N.C.G.S.") §143B-6, as amended from time to time¹) who are appointed by the Governor, and their chief deputies or chief administrative assistants.

(c) All "confidential" assistants or secretaries to the aforesaid department heads (or to the aforesaid chief deputies and assistants of department heads) as defined in N.C.G.S. §126-5(c)(2).

(d) All employees in "exempt positions" (as that term is defined in N.C.G.S. §126-5(b)) as designated by the Governor pursuant to the State Personnel Act; all employees in exempt positions in the Cabinet Department as designated by the Governor per §126-5(d)(1); and all employees in additional positions designated as exempt by the Governor per §126-5(d)(2a).

(e) Any other exempt employees in the principal departments as defined above who are appointed by the Governor, or designated by the Governor upon the recommendation of the Board, to the extent such designation does not conflict with the State Personnel Act.

(f) Gubernatorial appointees to non-advisory boards, commissions, councils, committees, task forces, authorities, or similar public bodies, however denominated (hereinafter "boards") located within the Executive branch of State government. Final determination of whether a board, commission, or council is "advisory" shall be made by the Board according to its standards and criteria.

(g) Individuals made subject to this Executive Order pursuant to Section 4 below.

(h) Members of the Board.

The departments, agencies, authorities, boards, commissions, councils, and other State entities identified above in which Public Officials serve are hereafter collectively referred to as "Agencies" (or "Agency" as the context may require).

Section 4. Other Public Officials.

(a) The Board of Governors of the University of North Carolina System, the President Pro Tempore of the North Carolina Senate, the Speaker of the North Carolina House of Representatives, and each of the elected heads of the Council of State agencies (the Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, State Superintendent of Public Instruction, Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance), are invited to participate in this Executive Order.

¹ Currently, such "principal departments" include the following: Administration; Correction; Crime Control & Public Safety; Cultural Resources; Commerce; Environment and Natural Resources; Health & Human Services; Juvenile Justice and Delinquency Prevention; Revenue; and Transportation.

(b) Those desirous of participating shall notify the Board in writing. The notification shall specify the exempt employees and appointees who shall become Public Officials under this Order and shall include the name of the board or position to which the Official is appointed, the appointee's address and telephone number, and the effective and expiration dates of their appointment.

(c) All Public Officials brought within the coverage of this Order under this Section shall be subject to and comply with all applicable provisions of the Order, including, without limitation, the duty to timely file a Statement of Economic Interest pursuant to Section 9 below. All appointing authorities listed above shall, prior to or as soon as reasonably practicable after designating an individual as a Public Official covered under this Order, provide such Public Official with copies of this Order (together with any subsequent amendments thereto) and any financial disclosure forms required by Section 9 below, including the Statement of Economic Interest form or forms.

(d) All services of the Board available to the Governor under this Order shall be available to each of the heads of the participating Agencies. All services of the Board available to Public Officials under this Order shall be available to those brought within the coverage of this Order under this Section.

Section 5. Duties and Powers of the Board.

(a) **General Duties**

(1) The Board shall provide reasonable assistance to Public Officials in complying with the terms of this Order.

(2) The Board shall develop readily understandable forms, policies, rules, and procedures to accomplish the purposes of this Order.

(3) The Board shall interpret the provisions of this Order and such interpretations shall be binding on all Public Officials. Any conflict between a provision in this Order and other North Carolina law (such as the North Carolina Administrative Code, North Carolina General Statutes, and State Constitution) shall be resolved in favor of the law.

(4) The Board shall submit a report annually to the Governor on its activities and generally on the subject of public disclosure, ethics, and conflicts of interest. The report shall include such recommendations for administrative and legislative action as the Board deems appropriate.

(5) The Board shall meet as often as it deems necessary to carry out its duties under this Order. A meeting may be called by the Chair or by a majority of its members upon request to the Chair or person acting in his or her stead.

(6) The Board shall perform such other duties as may be necessary to accomplish the purposes of this Order.

(b) **“Statement of Economic Interest” Review and Evaluation**

(1) The Board shall review all Statements of Economic Interest (hereinafter “Statements” or “SEI”) filed by prospective or actual Public Officials to evaluate whether:

- (a) the Statements conform with the terms of this Order;
- (b) the Statements comply with the Board's forms, policies, and procedures; and
- (c) the financial, familial, and personal interests and other information reported reveals

an actual or potential conflict of interest.

(2) The Board shall submit a written evaluation of each Statement to the following:

- (a) the Public Official who submitted the Statement;
- (b) the chair of each covered board on which the Public Official serves;
- (c) the Governor for gubernatorial appointees and employees in the Office of the

Governor; and

- (d) the appointing or hiring authority for those Public Officials subject to this Order.

The Board shall make every reasonable effort to evaluate Statements filed by actual or prospective Public Officials as promptly as possible. The Board may not accept and shall not evaluate Statements voluntarily or inadvertently submitted by those who are not Public Officials covered under this Order, including, without limitation, appointees to advisory boards or employees or appointees in other branches of State government.

(c) **Complaints Against Public Officials**

(1) The Board shall investigate legitimate, properly-filed complaints against covered Public Officials according to rules or regulations it may adopt for that purpose. The Board may not investigate and shall not accept complaints filed against employees or appointees who do not come under its jurisdiction pursuant to this Order. Any person may file a complaint with the Board regarding actions of any Public Official covered by this Order which constitute a violation of the Order. A complaint shall include:

- (a) the name, address, and telephone number of the individual filing the complaint (“the complainant”);
- (b) the name and job title or appointive position of the Public Official against whom the complaint is filed; and

(c) a concise statement of the nature of the complaint and specific facts indicating that a violation of this Order has occurred.

Complaints filed against Public Officials pursuant to this subsection must be filed with the Board within ninety (90) days of when the complainant knew or should of known of the conduct complained of. The Board may decline to accept or investigate any attempted complaint which does not contain any of the aforementioned information, or the Board may, at its sole option and discretion, request additional information be provided by the complainant within a specified reasonable amount of time (such time to be not less than seven (7) business days), barring which the attempted complaint may be dismissed.

(2) In addition to the foregoing, the Board may decline to accept or investigate a complaint if it determines that

(a) the complaint is frivolous or brought in bad faith,

(b) the individuals and conduct complained of have already been the subject of a prior complaint, or

(c) the conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other Federal, State, or Local agencies or authorities, including, but not limited to, law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed pursuant to this Section, the Board shall stay its complaint investigation pending final resolution of such other investigation.

(3) The Board also is authorized to unilaterally initiate investigations upon the request of any Board member if, in the Board member's discretion, there is reason to believe that a Public Official has or may have violated this Executive Order. There is no time limit on Board-initiated complaint investigations under this subsection. In determining whether there is reason to believe that a violation has or may have occurred, a Board member can take general notice of available information even if not formally provided to the Board in the form of a complaint.

(4) The Board shall promptly notify Public Officials that a complaint has been filed or initiated against them. A Public Official against whom a complaint is filed, and all other individuals against whom allegations are made in a complaint, shall be given an opportunity to file a written response with the Board. As provided in Section 10 of this Order, the Board may utilize the services of hired investigators when conducting investigations.

(5) Public Officials shall promptly and fully cooperate with the Board in any Board related investigations. Failure to cooperate fully with the Board in any investigation shall be grounds for sanctions as set forth in Section 8 of this Order.

(6) To the extent possible and consistent with Chapter 132 of the North Carolina General Statutes (the "Public Records Law"), it is the intent of this Order that all preliminary and ongoing investigative materials and information not be disclosed until such investigation is completed, at which time the Board shall issue its official findings and recommendations. To the extent the Board deems it necessary or advisable to enhance compliance with this Order and raise the level of ethical awareness in public service, the Board may periodically publish (either in complete or summary form) its official findings and recommendations made pursuant to third-party or Board-initiated complaint investigations. The Board shall forward a copy of its official findings and recommendations to:

- (a) the Public Official whose conduct is at issue;
- (b) the complainant (if applicable);
- (c) the head of the Agency in which the Public Official serves (which term includes the chair of each covered board) ;
- (d) the Governor for all gubernatorial appointees and employees in the Office of the Governor; and,
- (e) the official responsible for hiring or making the appointment of the person investigated.

(d) **Advisory Opinions**

The Board shall render advisory opinions as may be requested by any Public Official, any individual not otherwise a Public Official who is responsible for the supervision or appointment of someone who is a Public Official, Agency heads (which term includes the chair of each covered board), and legal counsel for covered Agencies or boards. The request shall be in writing and relate prospectively to real or reasonably-anticipated fact settings or circumstances. The Board shall issue advisory opinions having prospective application only. Advisory opinions are not intended to and shall not serve as substitute or *de facto* complaints against Public Officials for past conduct. Staff to the Board may issue advisory opinions under such circumstances and procedures as may be prescribed by the Board.

(e) **Ethics Education and Awareness Program.**

(1) The Board shall develop and implement an ethics education and awareness program designed to instill in all Public Officials a keen and continuing awareness of their ethical obligations and a sensitivity to situations that might result in real or potential conflicts of interest or appearances of conflict of interest.

(2) Upon request, the Board shall make basic ethics education and awareness presentations to all Agency heads, their chief deputies or assistants, and all other Public Officials subject to this Order. Such presentations shall stress the Rules of Conduct for Public Officials as set out below and provide attendees with practical tools to aid in identifying and neutralizing real or potential conflicts of interest. Covered Public Officials and those responsible for appointing, supervising, or advising such Public Officials are strongly encouraged to attend a basic ethics education and awareness presentation as soon as reasonably practicable.

(3) In addition, upon request the Board shall assist each Agency in developing such in-house educational programs, procedures, workshops, or seminars as are necessary or desired to meet the Agency's particular needs for ethics education, conflict identification, and conflict avoidance.

(4) The Board shall produce and distribute to all Public Officials a newsletter designed to further the goals and objectives of this Order. In particular, such newsletter shall inform Public Officials of the Board's policies, procedures, and opinions having widespread applicability or interest, and shall provide such other information as may be helpful in raising the level of ethical awareness in public service.

(5) The Board shall assemble and maintain a collection of relevant North Carolina laws, rules, and regulations that set forth ethical standards applicable to Public Officials, which collection shall be made available as resource material to all Public Officials and ethics liaisons upon request.

Section 6. Duties of the "Heads of State Agencies."

(a) The head of each State Agency (which term includes the chair of each board subject to this Order) shall take an active role in furthering ethics in public service and ensuring compliance with this Order. The head of each State Agency shall make a conscientious, good-faith effort to assist Public Officials within the Agency (or on the board) in monitoring their personal, financial, and professional affairs to avoid taking any action which results in a conflict of interest or the appearance of conflict.

(b) The head of each State Agency shall maintain familiarity with and stay knowledgeable of the reports, opinions, newsletters, and other communications from the Board of Ethics regarding ethics in general and the interpretation and enforcement of this Order. Agency heads shall also maintain familiarity with and stay knowledgeable of the Board's reports, evaluations, opinions, or findings regarding individual Public Officials in his or her Agency or on his or her board or under his or her supervision or control, including all such reports, evaluations, opinions, or findings pertaining to actual or potential conflicts of interest.

(c) When an actual or potential conflict of interest is cited by the Board of Ethics in regard to a Public Official sitting on a board, then the conflict shall be recorded in the minutes of the applicable board and

duly brought to the attention of the membership by the entity's chair as often as necessary to remind all members of the conflict and help ensure compliance with this Order.

(d) The head of each State Agency shall periodically remind Public Officials under his or her authority of their duties to the public under the Rules of Conduct herein, including the duty of each Public Official to monitor, evaluate, and manage his or her personal, financial, and professional affairs to ensure the absence of conflicts of interest or appearances of conflict.

(e) At the beginning of any official meeting of a covered board, the chair shall remind all members of their duty to avoid conflicts of interest and appearances of conflict pursuant to this Order. The chair also shall inquire as to whether there is any known conflict of interest or appearance of conflict with respect to any matters coming before the board at that time.

(f) Agency heads shall ensure that legal counsel employed by or assigned to their Agencies are familiar with the provisions of this Order (particularly the Rules of Conduct set out in Section 7 below) and are available to advise Public Officials on the ethical considerations involved in carrying out their public duties in the best interest of the public. Legal counsel so engaged may consult with the Board of Ethics, seek the Board's assistance or advice, and refer Public Officials and others to the Board of Ethics as appropriate.

(g) Taking into consideration the individual autonomy, needs, and circumstances of each Agency covered by this Order, Agency heads shall consider the need for the development and implementation of in-house educational programs, procedures, or policies tailored to meet the Agency's particular needs for ethics education, conflict identification, and conflict avoidance. This should include, at a minimum, the periodic presentation to all Agency heads, their chief deputies or assistants, and other Public Officials under their supervision or control of the basic ethics education and awareness presentation outlined in Section 5 above and any other workshop/seminar program the Agency head deems necessary in implementing the provisions of this Order. Agency heads may request reasonable assistance from the Board of Ethics in complying with the requirements of this subsection.

(h) As soon as reasonably practicable after the designation, hiring, or promotion of their chief deputies, assistants, or other Public Officials under their supervision or control, or learning of the appointment or election of other Public Officials to an Agency head's board covered under this Order, all Agency heads shall (1) notify the Board of Ethics of such designation, hiring, promotion, appointment, or election and (2) provide all such Public Officials with copies of this Order (together with any subsequent amendments thereto) and all applicable financial disclosure forms (including, without limitation, Statement of Economic Interest disclosure form(s) pursuant to Section 9 below), if such materials and forms have not been previously provided to such

Public Officials by their appointing authorities. In order to avoid duplication of effort, Agency heads shall coordinate this effort with the Board's staff.

Section 7. Rules of Conduct for Public Officials.

Public Officials shall perform their official duties in a manner to promote the best interests of the public. To help ensure the proper performance of their duties, the following Rules of Conduct are adopted.

(a) Conflicts of Interest

(1) A Public Official shall not knowingly use his or her position in any manner which will result in financial benefit, direct or indirect, to the Public Official, the Official's family, or an individual with whom or business, organization, or group with which the Public Official is associated. This provision shall not apply to financial and other benefits (a) derived by a Public Official that he or she would enjoy to an extent no greater than that which other citizens of North Carolina would or could enjoy, (b) rightfully gained by a Public Official pursuant to the proper performance of his or her official duties or State employment, or (c) that are so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the Public Official's ability to protect the public interest and perform his or her official duties would not be compromised.

(2) A Public Official shall not, directly or indirectly, knowingly ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for himself or herself, or for another person, in return for being influenced in the discharge of his or her official responsibilities, other than that which is received by the Public Official from the State for acting in his or her official capacity.

(3) A Public Official shall not solicit or receive personal financial gain, other than that received by the Public Official from the State for acting in his or her official capacity, for advice or assistance given in the course of carrying out the Public Official's duties.

(4) A Public Official shall not use or disclose information gained in the course of, or by reason of, his or her official responsibilities in a way that would affect a personal financial interest of the Public Official, a member of the Official's family, or a person with whom or business, organization, or group with which the Public Official is associated. A Public Official shall not improperly use or disclose any information deemed confidential by North Carolina law and therefore not a public record.

(5) A Public Official shall not cause the employment, appointment, promotion, transfer, or advancement of a family member to a State or local office or position which the Public Official supervises or

manages. A Public Official shall not participate in an action relating to the disciplining of a member of the Public Official's family.

(b) Appearances of Conflict

(1) A Public Official shall make every effort to avoid even the appearance of a conflict of interest. An appearance of conflict exists when a reasonable person would conclude from the circumstances that the Public Official's ability to protect the public interest, or perform public duties, is compromised by familial, personal, or financial interests. An appearance of conflict could exist even in the absence of a true conflict of interest.

(2) A Public Official shall take reasonable and appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself, to the extent necessary to protect the public interest and comply with this Order, from any proceeding in which the Public Official's impartiality might reasonably be questioned due to the Official's familial, personal, or financial relationship with a participant in the proceeding. A "participant" includes, but is not limited to, (a) an owner, shareholder, partner, employee, agent, officer, or director of a business, organization, or group involved in the proceeding, or (b) an organization or group which has petitioned for rulemaking or has some specific, unique, and substantial interest in the proceeding. "Proceeding" includes, but is not limited to, both quasi-judicial proceedings (like contested case hearings) and quasi-legislative proceedings (like most rulemaking). A "personal relationship" includes, but is not limited to, one in a leadership or policy-making position (such as officers or directors) in a business, organization, or group.

(3) If a Public Official is uncertain whether the relationship in question justifies removing himself or herself from the proceeding pursuant to this subsection, then the Official shall disclose the relationship to the person presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which, if any, the Public Official will be permitted to participate. If the affected Public Official is the person presiding, then the vice chair or such other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a Public Official is presumptively valid and only subject to review under Section 8 below upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of the provisions of this Order.

(c) Other Rules of Conduct

(1) A Public Official shall make a due and diligent effort before taking any action (such as voting or participating in discussions with other Public Officials on a board) to determine whether he or she has a conflict of interest or appearance of conflict.

(2) A Public Official shall continually monitor, evaluate, and manage his or her personal, financial, and professional affairs to ensure the absence of conflicts of interest and appearances of conflicts.

Section 8. Sanctions.

(a) Public Officials serving on boards, commissions, or councils.

The North Carolina General Statutes provide that certain appointees to boards, commissions, and councils may be removed from office for misfeasance, malfeasance, or nonfeasance. The failure of any Public Official serving on a board, commission, or council to comply with this Order is hereby deemed to be misfeasance, malfeasance, or nonfeasance as used in the General Statutes. In the event of misfeasance, malfeasance, or nonfeasance, the offending Public Official shall be subject to removal from the board, commission, or council of which he or she is a member. For gubernatorial appointees, the Governor shall determine whether to remove the Public Official. For all other appointees, the appointing authority shall exercise the discretion of whether to remove the offending Public Official.

(b) Public Officials serving as State employees.

The provisions within this Executive Order are hereby deemed to be written work rules. The failure of any Public Official to comply with this Order shall be a violation of a written work rule thereby permitting disciplinary action as allowed by North Carolina law, including termination from employment. Except for State employees brought under the terms of this Order pursuant to Section 4, the Governor shall make all final decisions on the manner in which offending Public Official State employees shall be disciplined. For State employees subject to this Order pursuant to Section 4, the elected or appointed head of the Agency in which the Public Official State employee works shall determine whether and what disciplinary action shall be taken.

(c) Sanctions issued by the Board of Ethics

If the Board of Ethics determines, after proper review and investigation, that such action is appropriate, the Board may issue such sanctions or rulings as it deems necessary or appropriate to protect the

public interest and ensure compliance with the terms of this Order, specifically including, without limitation, Section 7 (Rules of Conduct for Public Officials).

In formulating appropriate sanctions, the Board may consider, without limitation, the following factors:

- (1) the Public Official's prior experience in an Agency or on a covered board and prior opportunities to learn the Rules of Conduct for Public Officials, including those dealing with conflicts of interest and appearances of conflict of interest;
- (2) the number of ethics violations;
- (3) the severity of the violations;
- (4) whether the violations involve the Public Official's financial interests or arise from an appearance of conflict of interest;
- (5) whether the violations were inadvertent or intentional; whether the Public Official knew or should have known that the improper conduct was a violation of this Order;
- (6) whether the Public Official has previously been sanctioned by the Board of Ethics;
- (7) whether the conduct or situation giving rise to the violation was pointed out to the Public Official in the Board's Statement of Economic Interest evaluation letter issued pursuant to Section 9 below;
- (8) the Public Official's motivation or reason for the improper conduct or actions (for example, personal financial gain versus protection of the public interest).

(d) Recommendations by the Board of Ethics.

If the Board of Ethics determines, after proper review and investigation, that such action is appropriate, the Board may recommend any action it deems necessary, including removal of the Public Official from his or her State position, to properly address and rectify any violation of this Order by a Public Official. As it deems necessary and proper, the Board may make referrals to appropriate State officials, including law enforcement officials, for investigation of wrongful conduct by State employees or appointees, regardless of whether the individual is a Public Official under this Order, discovered during the course of a complaint investigation. Nothing in this provision is intended, and shall not be construed, to give the Board of Ethics any independent civil, criminal, or administrative investigative or enforcement power or authority over Public Officials or other State employees or appointees.

Section 9. Statement of Economic Interest.

(a) Each of the following Public Officials shall file with the Board of Ethics a sworn Statement of Economic Interest ("Statement"):

- (1) Public Officials appointed by the Governor to a board, commission, or council.
- (2) Public Officials hired for State employment to a position which is anticipated to have annual compensation in excess of \$40,000 per year.
- (3) Public Officials appointed or employed whose position is determined by the Board to be particularly susceptible to conflicts of interest.
- (4) Each prospective Public Official designated under the provisions of Section 9 below to be subject to the Statement filing requirements herein.
- (5) Prospective Members of the Board.

(b) Between April 15 and May 15 of each succeeding year after the persons identified in (a) above are appointed or employed, an updated Statement shall be filed with the Board.

(c) The Statement shall contain:

- (1) The name, home address, occupation, employer and business address of the person filing.
- (2) A list of each asset and liability of whatever nature of the filing prospective or actual Public Official, and his or her spouse, with a value of at least \$10,000. This list shall contain, but shall not be limited to, the following. (As used herein, "Public Official" shall include prospective and actual Public Officials.)

(a) All North Carolina real estate owned wholly or in part by the Public Official or the Official's spouse.

(1) The listing shall include specific descriptions adequate to determine the location of each parcel.

(2) The listing shall include the specific interest held by the Public Official and spouse in each identified parcel.

- (b) Real estate that is currently leased or rented to the State.
- (c) Personal property sold to or bought from the State within the preceding two years.
- (d) Personal property currently leased or rented to the State.
- (e) The name of each publicly-owned company in which the value of securities held exceeds \$10,000.

(f) The name of each non-publicly-owned company or business entity in which the value of securities or other equity interests held exceeds \$10,000. This subsection (f) includes, but is not limited to, interests held in partnerships, limited partnerships, joint ventures, limited liability companies or partnerships, and closely held corporations.

For each non-publicly owned company or business entity listed pursuant to this subsection (f), the filing Public Official shall indicate whether the listed company/entity owns securities or equity interests exceeding a value of \$10,000 in any other companies or entities. If so, then the other companies or entities shall also be listed with a brief description of the business activity of each.

(g) If the filing Public Official, his or her spouse, or dependent children are the Beneficiary of a trust created, established or controlled by the Public Official, then the name and address of the trustee and a description of the trust shall be provided. To the extent such information is available to the Public Official, the Statement also shall include a list of businesses in which the trust has an ownership interest exceeding \$10,000.

(h) The filing Public Official shall make a good faith effort to list any individual or business entity with which the filing Public Official has a financial or professional relationship provided:

(1) a reasonable person would conclude that the nature of the financial or professional relationship presents a conflict of interest or the appearance of a conflict of interest for the Public Official; or,

(2) a reasonable person would conclude that any other financial or professional interests of the individual or business entity would present a conflict of interest or appearance of a conflict of interest for the Public Official.

For each individual or business entity listed under this subsection, the filing Public Official shall describe the financial or professional relationship and provide an explanation of why the individual or business entity has been listed.

(i) A list of all other assets and liabilities with a valuation of at least \$10,000 including bank accounts and debts.

(j) A list of each source (not specific amounts) of income (including capital gains) shown on the most recent federal and state income tax returns of the person filing where \$10,000 or more was received from such source.

(k) If the Public Official is a practicing attorney, an indication of whether he or she, or the law firm with which the Public Official is affiliated, earned legal fees during any single year of the past

five years in excess of ten thousand dollars (\$10,000) from any of the following categories of legal representation:

- (1) Criminal Law;
- (2) Utilities regulation or representation of regulated utilities;
- (3) Corporation Law;
- (4) Taxation;
- (5) Decedent's estates;
- (6) Labor Law;
- (7) Insurance Law;
- (8) Administrative Law;
- (9) Real property;
- (10) Admiralty;
- (11) Negligence (representing plaintiffs);
- (12) Negligence (representing defendants); or
- (13) Local Government.

(l) A list of all non-publicly owned businesses with which, during the past five years, the Public Official has been associated, indicating the time period of such association and the relationship with each business as an officer, employee, director, partner, or owner. The list also shall indicate whether or not each does business with, or is regulated by, the State and the nature of the business, if any, done with the State.

(m) A list of all gifts of a value of more than \$200 received during the twelve months preceding the date of the Statement from sources other than the Public Official's family, and a list of all gifts valued in excess of \$100 received from any source having business with, or regulated by, the State.

(n) A list of all bankruptcies filed during the preceding five years by the Public Official, the Official's spouse, or any entity in which the Public Official or spouse has been associated financially. A brief summary of the facts and circumstances regarding each listed bankruptcy shall be provided.

(o) The filing Public Official shall list all directorships on all boards of which he or she is a member.

(3) In addition to the foregoing, the filing Public Official shall provide in his or her Statement any other information which a reasonable person would conclude is necessary either to carry out the purposes of this Order or to fully disclose any potential conflict of interest or appearance of conflict. If a

Public Official is uncertain of whether particular information is necessary, then the Public Official shall consult the Board for guidance.

(4) Each Statement of Economic Interest shall contain a sworn certification by the filing Public Official that he or she has read the Statement and that, to the best of his or her knowledge and belief, the Statement is true, correct, and complete. The Public Official's sworn certification also shall provide that he or she has not transferred, and will not transfer, any asset, interest, or other property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(5) If the Public Official believes a potential for conflict exists, he or she has a duty to inquire of the Board as to that potential conflict.

(d) The Board shall issue a form for such Statements of Economic Interest as soon as a reasonably practicable, and shall revise the form from time to time as necessary to carry out the purposes of this Executive Order.

(e) All Public Officials currently serving who submitted a Statement of Economic Interest under Executive Order Number 127 shall resubmit a new Statement in accordance with the provisions of this Order. These statements shall be resubmitted to the Board of Ethics on or before May 15, 2001. Between April 15 and May 15 of each succeeding year, Public Officials under this subsection shall file an updated Statement with the Board.

Section 10. Board Staff, Offices, and Funding.

(a) The Board shall have a minimum staff of three, headed by an Executive Director who shall be an attorney licensed to practice law in the State of North Carolina.

(b) The Board may engage the services of private investigators as needed to carry out the purposes of this Executive Order.

(c) All State agencies subject to this Executive Order shall provide reasonable assistance upon request of the Board to carry out the purposes of this Order.

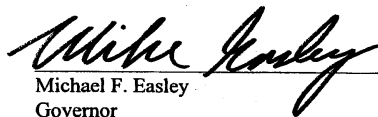
(d) The Board and its staff, for administrative purposes only, shall be located in the Department of Administration.

(e) The State Budget Officer is directed to identify sufficient funds from lawfully appropriate sources to ensure that all provisions of this Executive Order are fully carried out.

Section 11. Effective Date.

This Executive Order is effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this the 12th day of January, 2001.


Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

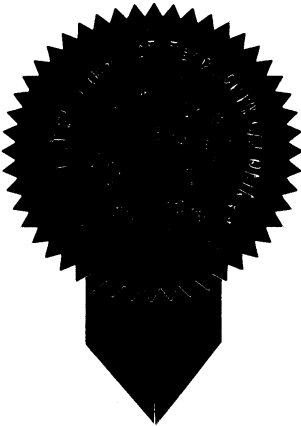
EXECUTIVE ORDER NO. 2
EXTENDING EXECUTIVE ORDER NOS. 176 AND 178
ISSUED BY GOVERNOR JAMES B. HUNT, JR.

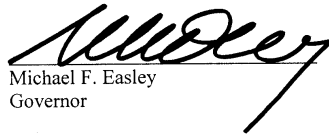
By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED THAT:

Executive Order Nos. 176 and 178 issued by Governor James B. Hunt, Jr., on December 22, 2000 and December 29, 2000, respectively, are hereby extended for an additional fifteen (15) days from this date based on a review of current market and weather conditions and on the recommendation of the Director of the Division of Emergency Management within the Department of Crime Control and Public Safety.

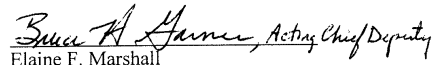
This order is effective immediately.

Done in Raleigh, North Carolina, this the 19th day January, 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NUMBER NO. 3 BUDGET ADMINISTRATION

WHEREAS, Article III, Sec. 5(3) of the Constitution of North Carolina provides that the State may not operate at a deficit during the fiscal period covered by a budget. For these purposes, a "deficit" is defined as having been incurred when total expenditures for the fiscal period of the budget exceed the total of receipts during the period, plus the surplus remaining in the State Treasury at the beginning of the period. The fiscal period for the current budget is July 1, 2000 through June 30, 2001; and,

WHEREAS, to insure that the State does not incur a deficit for the fiscal year covered by a budget, Article III, Sec. 5(3) of the Constitution requires the Governor to continually survey the collection of revenue. If, as a result of his surveys, he determines that actual receipts for the fiscal period, when added to the surplus remaining in the Treasury at the beginning of the fiscal period, will not be sufficient to pay budgeted expenditures, the Governor, after first making adequate provisions for the prompt payment of the principal and interest on the State's outstanding bonds and notes, must effect the necessary economies in State expenditures to keep the deficit from occurring; and,

WHEREAS, continually surveying the collection of the State's revenues pursuant to Article III, Sec. 5 (3) of the Constitution is a normal function of the Office of State Budget,

Planning, and Management (OSBPM) and reports on its surveys are received routinely by the Governor; and,

WHEREAS, OSBPM has provided the Governor with detailed briefings on the growing fiscal year 2000-01 deficit and, along with the Office of the Governor, has also advised members of the General Assembly of the situation, including the President Pro-Tempore of the Senate and the Speaker of the House of Representatives; and,

WHEREAS, as detailed in a memorandum from the Governor to Department Heads and Chief Fiscal Officers dated January 23, 2001, OSBPM estimated a substantial deficit for fiscal year 2000-01 and recommended immediate action; and,

WHEREAS, on January 23, 2001, OSBPM, at the direction of the Governor, reduced state agency expenditures by approximately four percent (4%) on an annualized basis for the remainder of the fiscal year; and,

WHEREAS, on January 23, 2001, the University of North Carolina System and the North Carolina Community College System made similar reductions in expenditures; and,

WHEREAS, as detailed in a memorandum from the Governor to Department Heads and Chief Fiscal Officers dated February 6, 2001, OSBPM estimates, in light of January 2001 collections and new economic forecasts, a growing substantial deficit for fiscal year 2000-01 that will not be covered by the reduction in expenditure measures adopted on January 23, 2001; and,

WHEREAS, in light of OSBPM estimates, the budget enacted by the General Assembly for fiscal year 2000-01 cannot be administered as enacted without the State incurring a deficit in its administration; and,

WHEREAS, it is found as a fact that based on General Fund revenue collections through January 31, 2001, and projections for these revenues through June 30, 2001, actual receipts for

the current fiscal year will not meet the expenditures anticipated and budgeted by the 1999 General Assembly; and,

WHEREAS, from this fact it is determined and concluded that unless further economies in State expenditures are made, the State's General Fund expenditures will exceed General Fund receipts, for the current fiscal year.

NOW THEREFORE, by the authority vested in me as Governor by Article III, Sec. 5(3) of the North Carolina Constitution to insure that a deficit is not incurred in the administration of the budget for fiscal year 2001, IT IS ORDERED:

Section 1. OSBPM will reduce, as necessary, State expenditures from Funds appropriated to operate State departments and institutions, and implement monthly allotment expenditure and review measures.

Section 2. OSBPM will halt, as necessary, expenditures for capital improvement projects for which State funds have been appropriated but not placed under State contract and, as necessary, transfer any unused capital improvement funds to the General Fund.

Section 3. OSBPM will transfer, as necessary, non-General Fund and non-Highway Fund receipts into the General Fund to support appropriation expenditures in order to avoid a deficit in the General Fund.

Section 4. OSBPM may borrow, as necessary, receipts from non-General Fund State receipts and non-Highway Fund State receipts for support of General Fund appropriation expenditures.

Section 5. OSBPM may, as necessary, order the delay or cancellation of purchase orders in State General Fund-supported departments and institutions;

Section 6. OSBPM may, as necessary, take other steps as directed by the Governor to insure that a deficit is not incurred for fiscal year 2001.

Section 7. The Office of the State Controller, as advised by the State Budget Officer, is directed to monitor disbursements as presented on requisitions for CASH and, as necessary, shall release CASH requisitions in the following priority order for payment of:

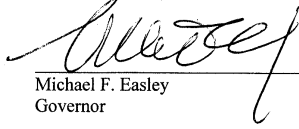
1. State debt;
2. payrolls and public assistance benefits;
3. State aid to local government;
4. health and medical provider payments; and
5. all other necessary expenditures.

Section 8. The Office of the State Controller, as advised by the State Budget Officer, is directed to receive the employer portion of retirement contributions for all State funded retirement systems and to escrow such funds in a special reserve as established by OSBPM.

Before taking such action, OSBPM is directed to confirm with the State Treasurer that such action will not impair the actuarial integrity of the state retirement system. Return of all such receipts shall be made to the retirement system, if possible, after determination that such funds are not necessary to address the deficit. The Office of the State Controller, as advised by the State Budget Officer, is directed also to receive the local government reimbursement funds and to escrow such funds in a special reserve as established by OSBPM. Return of all such receipts shall be made to the local government reimbursement funds, if possible, after determination that such funds are not necessary to address the deficit.

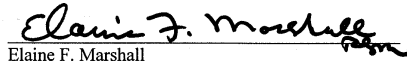
This Executive Order is effective immediately and shall remain in effect, as written, until terminated or amended by further Executive Order.

Done in the Capital City of Raleigh, North Carolina, this 8th day of February, 2001.



Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 4 CLEMENCY

WHEREAS, Article III, Section 5(6) of the Constitution of North Carolina, vests the power of clemency exclusively with the Governor.

WHEREAS, the Constitution of North Carolina empowers the Governor with sole, unrestricted, and unlimited discretion to exercise the power of clemency to pardon, commute, or grant reprieves, except in cases of impeachment.

WHEREAS, North Carolina General Statute, Section 15A-838, the Crime Victims' Rights Act, requires the Governor's Clemency Office to notify certain victims, as defined by North Carolina General Statute, Section 15A-830, when it is considering commuting the defendant's sentence or pardoning the defendant.

WHEREAS, crime victims and prosecutors should have the right to be notified, and the general public has the right to know, if the convicted perpetrator in a particular case has a petition for a reprieve, commutation, or pardon actively being considered before the Governor's Clemency Office.

NOW THEREFORE, by the authority vested in me as Governor of the State of North Carolina, IT IS ORDERED:

Section 1. The Governor's Clemency Office will create for public posting a listing of the names of every individual whose application for a reprieve, commutation, or pardon is actively being considered.

Section 2. The list of names will be publicly posted on a state governmental website. Additionally, the Governor's Clemency Office will post the list of names on a bulletin board outside of its office for public inspection during normal business hours.

Section 3. In addition to the applicant's name, information related to the individual's offense, conviction date, and length of sentence should also be publicly available.

Section 4. Beyond the requirements of the Crime Victims' Rights Act, North Carolina General Statute, Section 15A-838, the Governor's Clemency Office will notify the relevant crime victim and prosecutor in every case where the convicted perpetrator has a petition for a reprieve, commutation, or pardon actively being considered by the Governor's Clemency Office.

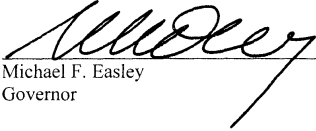
Section 5. For all petitions now actively being considered by the Governor's Clemency Office, public posting will take effect within thirty days from the effective date of this Executive Order. All other petitions subsequently filed, and actively considered, will be posted within thirty days of filing.

Section 6. Exceptions to this Executive Order may be made in capital cases where the Office of the Attorney General ensures that the victim's family and the relevant District Attorney's office are notified as to clemency petitions, and in other special cases, such as with claims of "actual innocence", where any delay for public posting and comment would cause further unjust incarceration or record of conviction. In such cases, the Clemency Office must notify the Governor's Office of Legal Counsel immediately.

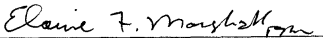
This Executive Order is effective immediately and shall remain in effect, as written, until terminated or amended by further Executive Order.

Done in the Capital City of Raleigh, North Carolina, this 6th day of March 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 5 EQUAL EMPLOYMENT OPPORTUNITY

WHEREAS, the State of North Carolina is committed to providing equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, creed, national origin, sex, age or disability; and

WHEREAS, the State recognizes that effective and efficient government requires the talents, skills, and abilities of all available human resources; and

WHEREAS, the State acknowledges the need to strive for diversity in all occupational categories; and

WHEREAS, this administration endorses taking positive approaches to ensure equal employment opportunity; and

WHEREAS, this administration believes that the personnel practices of state government should be nondiscriminatory and promote public confidence in the fairness and integrity of government; and

WHEREAS, fair and impartial treatment of all employees in all terms and conditions of employment is in the best interest of the State; and

WHEREAS, positive and aggressive steps by management are necessary in preventing discrimination, promoting fairness, and supporting a work environment where employees are

valued for their strengths and encouraged to achieve their fullest potential; and

WHEREAS, citizens of North Carolina should contribute to the equal employment opportunity efforts of our State; and

WHEREAS, the State Personnel Commission has established policies and programs for state government to achieve these goals.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of North Carolina, IT IS ORDERED:

Section 1. Equal Employment Policies and Programs.

The policies and programs that have been adopted by the State Personnel Commission and approved by the Governor represent the commitment of this State and must be strictly followed and fully complied with by every state agency, department and university.

Section 2. Administration.

Each agency, department head and university chancellor is responsible for the successful implementation of these policies, programs and this Order, and shall:

- (1) Designate an official at the deputy secretary or assistant secretary level to assume responsibility for the operation and implementation of their equal opportunity plan and program;
- (2) Designate the appropriate number of full-time equal employment opportunity (EEO) officers to perform the full range of EEO responsibilities for every 500-1500 employees to ensure the development and implementation of an effective EEO plan and program which achieve the EEO objectives. The Office of State Personnel is authorized to review and approve the appropriateness of the number of designated EEO Officers considering organizational size, structure and

geographical dispersion. Agencies, departments or universities with 1-499 employees shall designate a part-time EEO Officer who shall have direct access to the agency, department or university head or their designee as indicated in subsection (1) above;

(3) Ensure that the EEO Officers report directly to the agency, department head, university chancellor, designated deputy or assistant secretary on EEO matters;

(4) Ensure that the agency's, department's or university's commitment to equal employment opportunity is clearly transmitted to all employees;

(5) Provide adequate resources and support to the EEO Officers in the development and implementation of the EEO plan and program designed to achieve the equal opportunity goals;

(6) Ensure that personnel policies are administered fairly and personnel practices are nondiscriminatory;

(7) Ensure that each supervisory and management employee has, as a part of their performance management work plan, responsibility to comply with EEO laws and policies; and,

(8) Provide reasonable accommodations for otherwise qualified individuals with disabilities who can perform the essential functions of the job in question if such accommodations are made. These accommodations shall be in accordance with the Americans with Disabilities Act (ADA) Title I rules and regulations.

Section 3. Office of State Personnel

The State Personnel Director shall:

(1) Provide technical assistance, resource/support programs, monitoring and evaluation to assist agencies, departments, and universities in achieving their equal employment opportunity goals;

(2) Review and approve all EEO plans;

(3) Develop systems to review, analyze, and evaluate trends and make recommendations to the Governor regarding all personnel policies and practices which affect all terms, conditions, and benefits of employment;

(4) Design and implement monitoring and reporting systems to measure the effectiveness of agency, department and university EEO programs and personnel practices;

(5) Provide EEO training to managers, supervisors and employees;

(6) Develop, with the approval of the Governor and the State Personnel Commission, state government-wide EEO policies, programs and procedures;

(7) Develop and promote programs and practices to encourage fair treatment of all state employees;

(8) Compile, analyze, and submit reports to the Governor which demonstrate the State's EEO progress;

(9) Establish procedures for determining reasonable accommodations which result in an uniform and fair process for applicants and employees with disabilities; and, develop an EEO plan for state government.

Section 4. Reports and Records.

The State Personnel Director shall submit quarterly reports to the Governor on each agency's, department's and university's progress to ensure that its workforce is representative of the citizens of North Carolina and that all terms and conditions of employment are fair and non-

discriminatory.

Section 5. Citizen Contribution.

The North Carolina Human Relations Commission shall provide oversight and review of state government's implementation of the EEO program and goals, thereby assuring citizen contributions to the program. The Commission shall advise the Governor and the State Personnel Director on the progress and make recommendations for their consideration.

Section 6. Veterans' Preference.

Nothing in this order shall be construed to repeal or modify any federal, state or local laws, rules or regulations creating special rights or preferences for veterans.

Section 7. Effect of other Executive Orders.

Executive Order 22 of the Hunt Administration, issued on August 13, 1993, is hereby rescinded.

This Executive Order shall be effective immediately and shall remain in effect until rescinded. Done in the Capital City of Raleigh, North Carolina, this the 8th day of March 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 6 AMENDING EXECUTIVE ORDER NO. 25 CONCERNING REGIONAL POLICY FOR NORTH CAROLINA

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

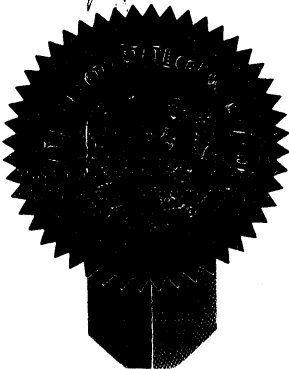
Executive Order 25, issued by Governor James G. Martin on February 21, 1986 is hereby amended as follows:

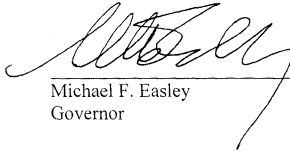
Section 4 subsections (b), (c) and (d) of Executive Order 25, are suspended to permit the Secretary of the Department of Administration to modify regional boundaries in response to the dissolution of the Pee Dee Council of Governments.

This Executive Order is effective immediately and shall expire on July 1, 2001.

Done in the Capital City of Raleigh, North Carolina, this the 24 day of

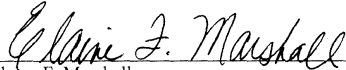
April, 2001.





Michael F. Easley
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NUMBER 7 TEACHER ADVISORY COMMITTEE

By the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment.

There is hereby established a Teacher Advisory Committee ("Committee"). The Committee shall be composed of up to twenty members appointed by the Governor. The North Carolina Teacher of the Year shall serve *ex officio*. The appointed members shall serve one-year terms. Members may be reappointed. The Governor shall also appoint the Chair.

Section 2. Meetings.

- (a) The Committee shall meet at least once each quarter and may hold special meetings at any time at the call of the Chair or the Governor (or his designee).
- (b) The Committee must meet as a quorum. A quorum, for the purposes of this Order, is defined as a simple majority.

Section 3. Administration.

The Office of the Governor shall provide staff and administrative support services for the Committee.

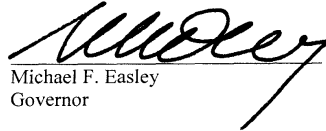
Section 4. Duties.

- (a) Advise the Governor as to the experiences and concerns of teachers in the classrooms of North Carolina.
- (b) Assist the Governor in his efforts to improve teaching and learning in North Carolina's schools.
- (c) Recommend strategies for recruiting and retaining quality educators.
- (d) Identify, recognize, and celebrate entrepreneurial schools and school systems in North Carolina.

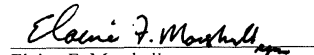
This Order shall be effective immediately.

Done in the Capital City of Raleigh, North Carolina, this the 6th day of July, 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 8
TRANSFER OF HURRICANE FLOYD RELIEF PROGRAMS TO THE DEPARTMENT
OF CRIME CONTROL AND PUBLIC SAFETY

WHEREAS, Article III, Section 5(10) of the Constitution of North Carolina authorizes and empowers the Governor to make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration; and

WHEREAS, the North Carolina General Assembly found that Hurricane Floyd was the worst natural disaster in the State's history and, pursuant to the Hurricane Floyd Recovery Act of 1999, S.L. No. 1999-463 E.S., Sec. 4.1 P. 1947 (1999), authorized the Governor to establish new programs and to modify and expand existing programs to provide necessary and appropriate relief and assistance from the effects of Hurricane Floyd; and

WHEREAS, the Hurricane Floyd Redevelopment Center focuses on relocating flood victims into safe, secure and sanitary housing, working with all local, state and federal government agencies assigned to emergency relief efforts, as well as volunteer and non-profit organizations, and monitors the allocation of funds from federal and state disaster assistance, and coordinates with local and state agencies to identify unmet needs; and

WHEREAS, Crisis Housing Assistance, as defined in the Hurricane Floyd Recovery Act of 1999, is administered by the Division of Community Assistance and the Housing and Business Redevelopment Office of the Department of Commerce to support crisis housing assistance to homeowners, renters, new homeowners, and for relocation; and

WHEREAS, this administration's goal is to streamline statewide relief responsibilities; and

WHEREAS, the consolidation in the Department of Crime Control and Public Safety of the Hurricane Floyd Related Crisis Housing Assistance Programs, as defined in the Hurricane Floyd Recovery Act of 1999, functions carried out by the Division of Community Assistance and the Housing and Business Redevelopment Office of Department of Commerce, and the statewide relief functions carried out by the Hurricane Floyd Redevelopment Center, will further this goal.

NOW, THEREFORE it is hereby ordered that,

Section 1. The Hurricane Floyd Redevelopment Center, now the North Carolina Redevelopment Center, of the Office of the Governor and the Department of Commerce, is hereby transferred to the Department of Crime Control and Public Safety.

Section 2. Pursuant to 4.1 of the Hurricane Floyd Recovery Act of 1999, Crisis Housing Assistance functions previously carried out by the Housing and Business Redevelopment Office and the Division of Community Assistance of the Department of Commerce shall be transferred to the North Carolina Redevelopment Center. This transfer shall not apply to the Crisis Housing Assistance for Affordable Rental Housing, Predevelopment and Land Acquisition administered by the N.C. Housing Finance

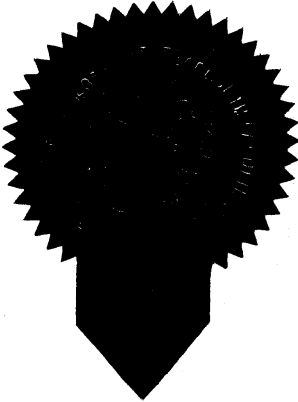
Agency and the N.C. Community Development Initiative. These programs shall remain in the Department of Commerce.

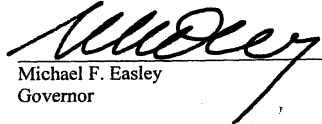
Section 3. All appropriations, personnel and equipment for the agencies transferred above shall be reallocated to the Department of Crime Control and Public Safety.

Section 4. All rules, regulations and policies promulgated by the Office of the Governor, Housing and Business Redevelopment Office, Division of Community Assistance, the Hurricane Floyd Redevelopment Center and the Department of Commerce regarding Crisis Housing Assistance, shall continue to apply to the agencies transferred to the Department of Crime Control and Public Safety and shall remain in effect until such rules, regulations and policies are amended or rescinded by the Secretary of the Department of Crime Control and Public Safety.

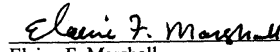
Section 5. This order shall become effective immediately.

Done in the Capital City of Raleigh, North Carolina, this 6th day of July 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 9 TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS IN ORDER FOR UTILITY VEHICLES TO RESPOND TO NATURAL DISASTERS AND OTHER EMERGENCIES

WHEREAS, electric service is one of the most essential services required by modern society, and the public welfare is immediately threatened by any occurrences, natural or manmade, which interrupt the delivery of electricity and electrical services; and

WHEREAS, the citizens of North Carolina likely will suffer losses of harm if vehicles transporting equipment, supplies, or personnel to restore utilities in the aftermath of natural disasters and other emergencies in North Carolina are delayed.

THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of this State IT IS ORDERED:

Section 1. When a natural disaster or other emergency has been declared by the Governor, the Division of Motor Vehicles shall waive the size and weight or restrictions and penalties therefore arising under N.C.G.S. §§ 20-88, 20-96, and 20-118, and certain registration requirements and penalties therefore arising under N.C.G.S. §§

20-86.1, 20-382, 105-449.47, and 105-449.49 for utility vehicles transporting equipment, supplies along our highways for the area covered by the disaster or emergency declaration.

Section 2. Notwithstanding the waivers set forth above, restrictions and penalties shall not be waived under the following conditions:

When the vehicle weight exceeds the maximum gross vehicle weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross vehicle weight, whichever is less.

When the tandem axle weight exceeds 42,000 pounds gross weight and the single axle weight exceeds 22,000 pounds.

When the (vehicle/vehicle) combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.

Section 3. Vehicles referenced under section 1 shall be exempt from the following registration requirements:

A. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45 (a)(1) applies.

B. The registration requirement under N.C.G.S. § 20-382 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance.

C. Non-participants in North Carolina International Registration Plan will be permitted into North Carolina in accordance with the spirit of the exemptions identified by this Executive Order.

Section 4. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 5. The waiver of regulations under 49 C.F.R. 390-397 (Federal Motor Carrier Safety Regulations) do not apply to the CDL and Insurance Requirements. This waiver shall be in effect for the duration of the emergency and for 30 days after the emergency is declared over.

Section 6. The North Carolina Department of Transportation shall enforce the conditions set forth in Sections 1, 2, and 3 in a manner which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 7. The vehicles referenced herein shall be operated in a safe manner and shall follow all posted limits and laws including maintenance of required limits of insurance except those covered in this Executive Order.

Section 8. The provisions of this Executive Order shall remain in effect for 30 days after the Governor declares that the state of emergency or disaster in the State of North Carolina is over.

Section 9. Exemptions of this Executive Order shall apply to any utility motor vehicle responding to the emergency or disaster as long as it is clearly marked as a utility vehicle or carries signage indicating it is a utility vehicle.

This Executive Order is effective immediately upon the declaration of a state of disaster or emergency by the Governor.

Done in the Capital City of Raleigh, North Carolina, this 6th day of July 2001.



Michael F. Easley
Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 10
AMENDING GOVERNOR HUNT'S EXECUTIVE ORDER NO. 136
CONCERNING THE GOVERNOR'S ADVISORY COUNCIL
ON HISPANIC/LATINO AFFAIRS

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order 136, issued by Governor James B. Hunt Jr. on June 5, 1998, is hereby amended as follows:

Section 1. Establishment

The ex-officio, non-voting members are:

- a. The Secretary of DOA
- b. The Secretary of the Department of Commerce
- c. The Secretary of the Department of Health and Human Services;
- d. The Secretary of the Department of Crime Control and Public Safety;
- e. The Governor's Senior Advisor on Community Affairs;
- f. The Governor's Legal Counsel;
- g. The Commissioner of the Division of Motor Vehicles; and
- h. The Chairman of the Employment Security Commission.

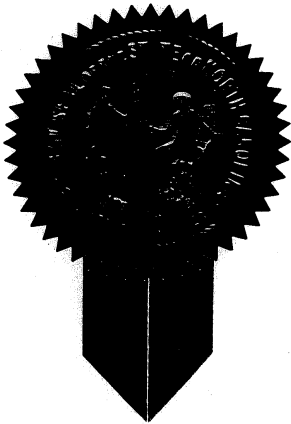
The following individuals, or their designees, are invited to serve as ex-officio, non-voting members of the Advisory Council:

- i. The Commissioner of the North Carolina Department of Agriculture and Consumer Services;
- j. The Commissioner of Labor;
- k. The Attorney General
- l. The Superintendent of Public Instruction; and
- m. The Honorary Consul of Mexico

Other than the above amendments, Executive Order 136 remains in full force and effect.

Done in the Capital City of Raleigh, North Carolina, this the 6th day of

July _____, 2001.



Michael F. Easley
Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 11 IMPLEMENTATION OF THE STATE DISASTER ASSISTANCE PROGRAMS FOR A TYPE I DISASTER FOR MADISON COUNTY

WHEREAS, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, N.C.G.S. §166A-6, authorizes the issuance of a proclamation defining the area subject to the state of disaster and proclaiming the disaster as a Type I, Type II or Type III disaster; and

WHEREAS, on August 7, 2001, I proclaimed the existence of a state of disaster and a state of emergency in Madison County and the existence of a Type I disaster in Madison County; and

WHEREAS, pursuant to G.S. §166A-6, the criteria for a Type I disaster are met including the following: 1) Receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; 2) Madison County declared a local state of emergency pursuant to G.S. §166A-8 and G.S. §14-288.13 and forwarded a written copy of the declaration to the Governor; 3) The preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123 or meets or exceeds the State infrastructure criteria set out in G.S. §166A-6A(b)(2)a.; and 4) A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

WHEREAS, pursuant to N.C.G.S. §166A-6A, if a state of disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance as authorized by this section to administer State disaster assistance programs established by the Governor for recovery from those disasters for which federal assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §5121 *et. seq.* is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. I authorize State disaster assistance in the form of grants to individuals and families which shall include benefits comparable to those provided by the Stafford Act and may be provided for the following, including but not limited to:

1. The provision of temporary housing and rental assistance in accordance with Section 408 of the Stafford Act and applicable rules, regulations, and policies including, but not limited to, 44 C.F.R. §206.101 and/or in accordance with any amendments to the aforementioned authorities;
2. The provision of repair or replacement of dwellings, which may include amounts necessary to locate the individual or family in safe, decent and sanitary housing in accordance with Section 408 of the Stafford Act and applicable rules, regulations, and policies including, but not limited to, 44 C.F.R. §206.101 or in accordance with the Hurricane Floyd Act of 1999 Crisis Housing Assistance and applicable rules, regulations, guidelines and policies and/or in accordance with any amendments to the aforementioned authorities;
3. The provision of replacement of personal property (including clothing, tools, and equipment) in accordance with Section 411 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.131, the Individual and Family Grant Program Administrative Plan, the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities;
4. The provision of repair or replacement of privately owned vehicles in accordance with Section 411 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.131, the Individual and Family Grant Program Administrative Plan and the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities;
5. The provision of medical or dental expenses in accordance with Section 411 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.131, the Individual and Family Grant Program Administrative Plan and the Individual and the Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities;
6. The provision of funeral or burial expenses resulting from the disaster in accordance with Section 411 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.131, the Individual and Family Grant Program Administrative Plan and the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities;

7. Funding for the cost of the first year's flood insurance premium to meet the requirements of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. §4001 et. seq. in accordance with Section 411 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.131, the Individual and Family Grant Program Administrative Plan and the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities.

Section 2. I authorize State disaster assistance in the form of public assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. §166A-6A(b)(2) for the following purposes only:

1. Debris clearance in accordance with Sections 403 and 407 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.224, 44 C.F.R. §206.225, the FEMA Public Assistance Guide, the FEMA Public Assistance Policy Digest, and the FEMA Debris Management Guide and/or in accordance with any amendments to the aforementioned authorities.
2. Emergency protective measures in accordance with Section 403 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.225, the FEMA Public Assistance Guide, and the FEMA Public Assistance Policy Digest and/or in accordance with any amendments to the aforementioned authorities;
3. Roads and bridges in accordance with Sections 403, 406 and 408 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.226 and 44 C.F.R. §206.101(g)(4)(iii)(K), the FEMA Public Assistance Guide, and the FEMA Public Assistance Policy Digest and/or in accordance with any amendments to the aforementioned authorities.
4. Crisis counseling in accordance with Section 416 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.171, the Individual and Family Grant Program Administrative Plan and the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities;
5. The provision of assistance with public transportation needs in accordance with Section 419 of the Stafford Act and applicable rules, regulations and policies including, but not limited to, 44 C.F.R. §206.225, the Individual and Family Grant Program Administrative Plan and the Individual and Family Grant Program Handbook and/or in accordance with any amendments to the aforementioned authorities.

Section 3. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for Madison County issued on August 7, 2001 unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.



Michael F. Easley
MICHAEL F. EASLEY
GOVERNOR

ATTEST:

Elaine F. Marshall
ELAINE F. MARSHALL
SECRETARY OF STATE

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 12 EXTENDING EXECUTIVE ORDER NO. 48

By the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Executive Order No. 48, Concerning the State Commission on National and Community Service (now known as the "North Carolina Commission on Volunteerism and Community Service"), as previously extended and as previously amended by Executive Order No. 174 issued by Governor James B. Hunt, Jr. on November 8, 2000, is hereby extended until December 31, 2003.

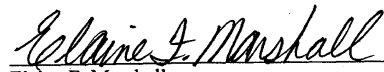
This order is effective immediately.

Done in Raleigh, North Carolina, this the 9th day of October, 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 13 GOVERNOR'S TASK FORCE FOR HEALTHY CAROLINIANS

WHEREAS, North Carolina is blessed with some of the finest medical facilities and medical care found anywhere in the world; and

WHEREAS, despite these resources, more than forty North Carolinians die prematurely each day, exacting an enormous economic, social and personal toll upon our society; and

WHEREAS, most of these deaths are preventable by relatively simple changes in individual lifestyle behavior; and

WHEREAS, in order to provide to the citizens of our state a way to prevent this tragic loss of death and disability, a realistic plan needs to be developed that communities and individual citizens may use to improve their health status and avoid premature deaths; and

WHEREAS, this plan must promote the advantages of health promotion and disease prevention.

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment and Rescission of Prior Orders

The Governor's Task Force for Healthy Carolinians (Governor's Task Force) is hereby established. The Governor's Task Force established herein is the successor organization to the Governor's Task Force on Health Objectives for the Year 2000, established in Executive Order No. 56 issued by Governor James B. Hunt, Jr. on July 13, 1994.

Section 2. Membership

The Governor's Task Force shall have 37 members. The Governor shall appoint 33 members, including the Chair. The Vice Chair shall be elected by the Governor's Task Force. The President Pro Tempore of the Senate shall be invited to appoint two Members of the Senate, one of whom serves on the Public Health Study Commission. The Speaker of the House of Representatives shall be invited to appoint two members of the House, one of whom serves on the Public Health Study Commission. Each member of the Task Force shall be appointed for terms of four years, and will serve until appointment of a successor. A vacancy on the Governor's Task Force shall be filled by the original appointing authority.

The Governor shall appoint representatives from the following:

- a. Secretary, Department of Health and Human Services, or designee;
- b. Association of North Carolina Boards of Health;
- c. North Carolina Hospital Association;
- d. North Carolina Medical Society;
- e. North Carolina Academy of Family Physicians;
- f. North Carolina Association of Local Health Directors;
- g. Dean, School of Public Health, University of North Carolina-CH, or designee;
- h. North Carolina Citizens for Business and Industry;
- i. North Carolina Commission on Indian Affairs;
- j. North Carolina Association of County Commissioners;
- k. National Association for the Advancement of Colored People;
- l. Mental Health/Developmental Disabilities/Substance Abuse Services Division, DHHS;
- m. State Health Director, Division Of Public Health, DHHS;
- n. Director, Office of Research, Demonstrations and Rural Health Development, DHHS or designee;
- o. North Carolina Dental Society;
- p. North Carolina Nurses' Association
- q. Old North State Medical Society;

- r. North Carolina Public Health Association;
- s. Commissioner, NC Department of Agriculture and Consumer Services, or designee;
- t. Office of Minority Health, DHHS;
- u. Superintendent of Public Instruction, or designee;
- v. Governor's Council on Physical Fitness and Health;
- w. Eleven at-large members, including a representative of local education, religious organization, older adults and non-profit organizations.

Section 3. Functions

- a. The Governor's Task Force shall meet regularly at the call of the Chair.
- b. The Governor's Task Force will advise the State Health Director and the Secretary of the Department of Health and Human Services on policies, programs and resources needed to improve the public's health in North Carolina.
- c. The Governor's Task Force shall have the responsibility to periodically review the state health objectives, make amendments as necessary, and report progress toward achieving the objectives to the Governor, Secretary of DHHS, and the State Health Director.
- d. The Governor's Task Force shall have the power to designate local Healthy Carolinians Task Forces, comprised of representatives of public and private organizations, and community members and leaders, which support the goals of the Governor's Task Force.
- e. The Governor's Task Force shall provide encouragement and guidance to communities establishing their own local groups to accomplish the objectives developed by the Governor's Task Force.
- f. The Governor's Task Force shall review the Preventative Health and Health Services Block Grant annually and carry out the necessary functions of the advisory committee as required by federal law.

Section 4. Administration

- a. Administrative support for the Governor's Task Force shall be provided by the Department of Health and Human Services.

b. It shall be the responsibility of each Cabinet department to make every reasonable effort to cooperate with the Governor's Task Force in carrying out the provisions of this Order.

This Executive Order is effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina, this 9th day of October, 2001.



Michael F. Easley
Michael F. Easley
Governor

ATTEST

Elaine F. Marshall
Elaine F. Marshall
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 14 NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS

WHEREAS, the problem of homelessness denies a segment of our population their basic need for adequate shelter; and,

WHEREAS, several State agencies offer programs and services for homeless persons; and,

WHEREAS, to combat the problem of homelessness most effectively, it is critical that these agencies coordinate program development and delivery of essential services.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, IT IS ORDERED:

Section 1. Establishment

The North Carolina Interagency Council for Coordinating Homeless Programs is hereby established.

Section 2. Membership

The Interagency Council shall consist of a chairman appointed by the Governor and 27 additional members who shall be appointed by the Governor from the following public and private agencies and categories of qualifications:

- (a) One member from the Department of Administration.
- (b) One member from the North Carolina Housing Finance Agency.
- (c) One member from the Office of State Planning.
- (d) One member from the North Carolina Community College System.

- (e) One member from the Department of Correction.
- (f) One member from the Department of Cultural Resources.
- (g) One member from the Department of Commerce.
- (h) Two members from the Department of Health and Human Services, one representing the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and one representing the AIDS Care Branch.
- (i) One member from the State Board of Education or a member from the Department of Public Instruction.
- (j) One county government official.
- (k) One city government official.
- (l) Six members from non-profit agencies concerned with housing issues and service provision to the homeless.
- (m) One homeless or formerly homeless person.
- (n) Two members from the private sector.
- (o) Three members of the North Carolina Senate.
- (p) Three members of the North Carolina House of Representatives.

Section 3. Chair and Terms of Membership

Each appointment shall be for a term of 3 years. (Initial terms of membership for the other members of the Interagency Council shall be staggered with those members from state departments or agencies and the North Carolina General Assembly serving three year terms and other members serving two year terms. Each appointment thereafter shall be for a term of two years.)

Section 4. Meetings

The Interagency Council shall meet quarterly and at other times at the call of the Chair or upon written request of at least five (5) of its members.

Section 5. Functions

- (a) The Interagency Council shall advise the Governor and Secretary of the Department of Health and Human Services on issues related to the problems of persons who are homeless or at risk of becoming homeless, identify and secure available resources throughout the State and nation and provide recommendations for joint and cooperative efforts and policy initiatives in carrying out programs to meet the needs of the homeless.
- (b) The Interagency Council shall set short-term and long-term goals and determine yearly priorities.
- (c) The Interagency Council shall submit an annual report to the Governor, by November 1, on its accomplishments and the status of homelessness in North Carolina.

Section 6. Expenses

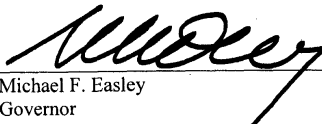
Council administrative costs, special function expenses and the cost of member per diem, travel and subsistence expenses shall be paid from state funds appropriated to the Department of Health and Human Services.

Section 7. Staff Assistance

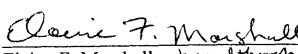
The Office of Economic Opportunity of the Department of Health and Human Services shall provide administrative and staff support services required by the Interagency Council.

This Executive Order is effective immediately and shall remain in effect until rescinded. Done in the Capital City of Raleigh, North Carolina, the 28th day of November 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall *by and through Remondix*
Secretary of State

State of North Carolina



MICHAEL F. EASLEY
GOVERNOR

EXECUTIVE ORDER NO. 15

TO ESTABLISH THE HEAVY DUTY DIESEL RULE EFFECTIVE DATE

WHEREAS, North Carolina has participated in a multi-state initiative to prevent excess emissions from heavy-duty diesel engines; and

WHEREAS, on October 11, 2001, the Environmental Management Commission adopted Heavy Duty Diesel Engine Requirements at 15A NCAC 2D .1008, and on November 15, 2001, the permanent rule was approved by the Rules Review Commission; and

WHEREAS, the rule serves to fill a two-year gap in federal requirements for the use of supplemental test procedures for certification of heavy-duty diesel engines with emission standards at the manufacturing stage; and

- (e) One member from the Department of Correction.
- (f) One member from the Department of Cultural Resources.
- (g) One member from the Department of Commerce.
- (h) Two members from the Department of Health and Human Services, one representing the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and one representing the AIDS Care Branch.
- (i) One member from the State Board of Education or a member from the Department of Public Instruction.
- (j) One county government official.
- (k) One city government official.
- (l) Six members from non-profit agencies concerned with housing issues and service provision to the homeless.
- (m) One homeless or formerly homeless person.
- (n) Two members from the private sector.
- (o) Three members of the North Carolina Senate.
- (p) Three members of the North Carolina House of Representatives.

Section 3. Chair and Terms of Membership

Each appointment shall be for a term of 3 years. (Initial terms of membership for the other members of the Interagency Council shall be staggered with those members from state departments or agencies and the North Carolina General Assembly serving three year terms and other members serving two year terms. Each appointment thereafter shall be for a term of two years.)

Section 4. Meetings

The Interagency Council shall meet quarterly and at other times at the call of the Chair or upon written request of at least five (5) of its members.

Section 5. Functions

- (a) The Interagency Council shall advise the Governor and Secretary of the Department of Health and Human Services on issues related to the problems of persons who are homeless or at risk of becoming homeless, identify and secure available resources throughout the State and nation and provide recommendations for joint and cooperative efforts and policy initiatives in carrying out programs to meet the needs of the homeless.
- (b) The Interagency Council shall set short-term and long-term goals and determine yearly priorities.
- (c) The Interagency Council shall submit an annual report to the Governor, by November 1, on its accomplishments and the status of homelessness in North Carolina.

Section 6. Expenses

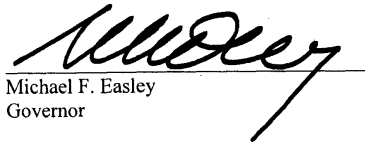
Council administrative costs, special function expenses and the cost of member per diem, travel and subsistence expenses shall be paid from state funds appropriated to the Department of Health and Human Services.

Section 7. Staff Assistance

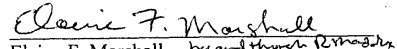
The Office of Economic Opportunity of the Department of Health and Human Services shall provide administrative and staff support services required by the Interagency Council.

This Executive Order is effective immediately and shall remain in effect until rescinded. Done in the Capital City of Raleigh, North Carolina, the 28th day of November 2001.




Michael F. Easley
Governor

ATTEST:


Elaine F. Marshall *by and through P. Marshall*
Secretary of State

NUMERICAL INDEX TO SENATE AND HOUSE BILLS

2001 GENERAL ASSEMBLY 2001 REGULAR SESSION

"Ratified Number" refers to the Session Law number except when preceded by an R, in which case it refers to the Resolution number.

SENATE BILLS

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
3	40	137	378	259	182
7	199	138	7	262	108
9	266	139	462	264	144
11	353	144	347	269	273
14	398	157	342	274	149
16	374	158	70	275	225
17	460	160	230	277	197
19	R1	162	139	278	352
25	84	165	414	299	204
29	1	166	491	300	214
30	93	168	5	302	127
34	322	173	346	310	126
35	429	178	482	311	181
40	287	181	431	312	440
42	250	195	371	318	203
45	26	199	446	321	180
61	395	202	213	327	161
67	138	206	383	336	106
68	490	210	438	342	219
71	178	217	252	346	518
80	249	220	226	348	484
85	13	221	92	352	448
91	212	229	57	353	380
92	439	236	185	359	R33
109	392	237	8	362	R22
113	354	241	422	365	279
118	27	243	286	367	299
119	403	247	416	370	125
123	238	255	366	378	174
128	R2	257	231	380	145
132	116	258	183	381	43

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
395	270	557	45	731	168
396	159	559	274	735	123
397	200	571	486	739	152
398	323	573	243	748	476
399	79	584	188	749	153
400	509	585	R19	751	332
401	99	587	382	770	R12
405	329	603	485	772	511
407	304	614	245	774	473
408	261	617	100	778	376
420	330	627	336	779	12
431	140	628	313	780	377
432	224	633	372	783	357
433	428	645	58	790	420
434	160	646	411	795	201
438	441	649	492	798	458
439	88	650	59	801	222
446	375	651	101	803	146
453	107	653	306	811	244
459	223	655	47	815	340
461	351	657	348	817	324
463	98	666	190	823	262
466	232	667	60	824	253
468	241	668	247	825	192
470	510	675	54	826	465
475	R28	677	49	829	218
476	333	678	63	831	42
486	80	681	271	833	461
499	150	689	R11	836	303
531	368	690	311	842	387
532	260	703	445	848	326
533	187	707	R20	852	167
534	248	708	151	853	R18
535	228	714	242	854	217
538	94	715	309	860	263
541	109	716	169	876	179
542	124	719	239	879	449
543	233	721	493	881	477
544	71	723	391	882	110
551	425	729	389	885	386

<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>	<i>S.B.</i>	<i>Ratified Number</i>
888	91	951	388	1038	501
890	443	967	205	1056	206
895	359	968	463	1062	370
904	393	970	475	1066	399
907	481	990	500	1070	142
912	495	1002	419	1075	255
914	496	1004	148	1081	360
920	474	1005	424	1101	R16
936	373	1014	512	1102	R30
937	234	1023	295	1103	R27
942	147	1036	141	1109	R36

HOUSE BILLS

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
3	240	175	6	343	251
6	16	182	83	344	207
7	61	183	14	350	215
13	451	189	418	351	417
15	97	193	17	352	122
18	29	195	363	355	421
19	36	196	66	356	269
31	289	198	18	357	236
32	479	212	9	359	436
34	310	218	290	360	334
42	308	226	407	363	344
47	2	228	R5	375	208
57	317	231	513	376	R6
60	R35	232	427	377	237
63	268	235	221	381	437
72	497	236	301	382	488
75	280	250	472	385	358
77	37	253	506	386	111
78	194	261	117	387	209
85	89	262	143	402	367
86	3	270	R23	410	82
105	162	273	R3	421	112
108	464	274	95	423	20
109	258	275	291	429	202
110	498	278	4	431	229
114	196	286	28	432	345
115	409	290	30	434	121
118	401	306	19	435	412
139	R4	307	283	436	176
142	62	311	184	437	339
146	335	321	72	438	186
150	87	327	444	439	379
159	64	329	90	440	294
163	11	331	166	446	128
164	423	332	338	447	15
168	508	334	285	449	136
170	408	338	487	452	220
172	65	342	115	453	210

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
467	R31	689	257	857	155
477	21	695	275	865	478
481	R7	696	276	866	104
504	102	697	74	868	325
516	44	698	381	875	156
555	73	699	24	877	105
558	293	700	154	879	56
569	38	701	R9	880	78
570	355	702	32	882	394
571	430	712	75	883	468
573	235	715	402	884	282
575	55	719	405	885	35
583	349	722	281	891	164
593	297	723	119	897	318
597	10	726	52	898	467
598	278	727	53	902	96
599	519	736	85	903	133
602	25	740	41	906	350
604	22	744	132	910	191
608	118	748	489	917	480
609	113	752	170	929	134
612	361	757	305	931	165
616	137	758	R15	935	135
620	195	765	321	938	211
621	23	768	33	942	369
633	39	774	331	943	435
636	227	777	34	948	515
643	277	794	67	955	450
651	46	800	163	958	157
652	R10	803	193	968	300
656	31	804	76	969	504
663	R21	807	77	972	397
664	48	817	189	977	337
665	175	819	68	979	86
667	131	824	296	980	292
668	320	831	319	983	272
671	103	833	R34	990	R17
682	50	834	365	998	256
683	51	837	120	1006	452
685	434	838	246	1019	505
686	341	844	400	1025	459
688	514	856	69	1034	R8

<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>	<i>H.B.</i>	<i>Ratified Number</i>
1041	288	1147	410	1286	302
1045	216	1149	173	1299	454
1046	466	1154	433	1301	384
1048	453	1157	327	1312	254
1052	356	1160	172	1318	343
1053	177	1161	R13	1324	426
1061	502	1163	R14	1341	198
1062	265	1169	328	1342	259
1063	442	1174	307	1362	455
1067	298	1186	315	1388	517
1068	385	1188	396	1389	483
1070	413	1192	447	1427	499
1073	390	1193	314	1431	406
1083	158	1195	507	1448	264
1084	364	1217	362	1456	R26
1090	171	1246	312	1460	R25
1098	267	1257	404	1461	R24
1108	114	1268	494	1463	R29
1111	284	1269	432	1465	R32
1117	81	1270	456	1468	470
1126	316	1272	415	1471	457
1143	130	1284	516	1472	469
1144	503	1285	129	1477	471

**INDEX TO SESSION LAWS
2001 GENERAL ASSEMBLY
REGULAR SESSION 2001**

Suggestions for Use: General appropriations appear under “Appropriations” or the particular agency. Legislation earmarking appropriations appears under the particular agency and/or subject following the subheading “appropriations”. Boards, commissions and committees appear as main entries. Chapter sections appear in parenthesis. Citation subsections and sub-subsections appear without parenthesis; thus, the citation Chapter 2, Section 3.1(a)(1) would be shown as 2(3.1a1).

*Session Law
Number*

- A -

ABC Boards (local)
 Appointments and membership..... 128
 Durham expansion350(2)
 Rutherfordton distributions 188

ABC Commission
 License revocation for violations in Urban Redevelopment
 Areas 515(3a)–(3b)
 Raleigh complex sign change.....424(20.20)
 Residential private club and sports club permits 130

ABC Laws—see Alcoholic Beverages

Abortion—limitations on State fund424(21.38)

Accounting and Auditing
 Biotechnology Center audited financial statement requirement 424(20.7c)
 Community colleges program audit procedures 111
 CPA licensure fees 313
 Early Childhood Education and Development Initiatives
 Budgeting fund code for administrative/operation
 expenditures 424(21.75c)
 ExplorNet audit424(28.45)
 Financial business infrastructure study..... 491(17.1)–(17.3)
 Local government audit compliance approval responsibility
 transferred 160
 Out-of-state CPAs 313

Acquired Immune Deficiency Syndrome (AIDS)—see AIDS (Acquired Immune Deficiency Syndrome)

Acupuncture Licensing Board—appointments and membership ... 486(1.1), (1A.1)

Administration, Department of
 Appropriations
 Commission of Indian Affairs..... 395(2.1a)
 Construction flexibility for public entities and minority
 business participation funds 496(13.3a)–(13.3b)
 Current operations and expansion424(2.1)
 Motor Fleet Management Fund balance transfer to
 General Fund 424(2.2e)
 Domestic Violence Commission staffing424(7.7)
 Dorothea Dix Hospital replacement facility424(21.63d)

Index to Session Laws

Session Law
Number

Administration, Department of—continued

Electronic procurement program..... 424(15.6b)–(15.6c);
13(28a)–(28b)

HIV/AIDS

Awareness and education..... 395(2.1z)

Prevention initiative..... 424(21.18Dc)

Human Relations Commission —*see* that heading

Indian Affairs, Commission of —*see* that heading

Indian child welfare issues collaboration 309

Inmate prescription contract review 424(25.6b)

Internet use for agency publications..... 424(14.1a)–(14.1b)

Motor fleet management study..... 424(7.3)

Motor pool operations and vehicle assignment 424(7.4)

Office of Historically Underutilized Businesses continuation..... 424(7.9)

Prison construction contract authorized..... 424(25.24)

Procurement card program rules 424(15.6d)

Reciprocal preferences on out-of-state bids 240

Reports —*see* that heading

Science and Technology Board transferred to Commerce

Department..... 424(7.6)

Secretary

Membership on Geographic Information Coordinating Council..... 359

Salary 424(32.2)

State employee incentive bonus program modifications 424(7.2a)–(7.2b)

State Energy Office

Energy improvement loan program expansion..... 338

Technical corrections and conforming changes 415(2)

State government offices recycling program 512(14)

Surplus property guidelines for UNC..... 424(31.8)

Technical corrections and conforming changes..... 487(21f)

Tire retreading contract for DOT 424(27.24)

Triangle J guidelines for State facilities pilot program..... 415(7a)–(7e)

Veterans' scholarship program participant clarification 424(7.1a)–(7.1b)

Women, Council for —*see* that heading

Administrative Code—*see* Administrative Rules

Administrative Hearings, Office of

Appropriations

Contingency and emergency fund..... 424(6.3a)

Current operations and expansion 424(2.1)

Internet use for agency publications..... 424(14.1a)–(14.1b)

Positions reclassification..... 424(8.1)

State Chief Information Officer applicability of provisions 487(21h)

Administrative Office of the Courts (AOC)—*see* Courts

Administrative Procedure Act..... 141; 192; 299;
395(6c); 491(20.1),
(32.3)

Administrative Procedure Oversight Committee, Joint Legislative—

APA applicability study of Federal Tax Reform

Allocation Committee and Housing Finance Agency 491(20.1)

Index to Session Laws

*Session Law
Number*

Administrative Rules

Actuarial rules334(17)
Auctioneers continuing education requirements.....198(2)
Ballot counting, canvassing and recounts.....398(16)
Biological agent registry469
Buffer exemptions on public trust and estuarine waters494(1)–(5)
Building code rule-making proceeding notice publication
 required421(1.3)–(1.4)
Comment period before adopting TSECMMP rules or regulations.....253(1r)
Dry-cleaning solvent waste special handling rules repealed265(3)
Employer drug testing rules487(66b)
EMS regulation210; 220
Environmental rules study.....491(25.3)
Exemption
 DHHS medical coverage policy adoption424(21.20c)
 Federal Tax Reform Allocation Committee exemption299(1)
 Housing Finance Agency study299(1.1)
 Medicaid medical coverage policy.....395(6c)
 State Board of Elections study491(32.3)
Individual development accounts.....424(5.1aa)
Insurance company formation and relocation.....223(4.1)–(4.2)
Medicaid supplement and long-term care rules.....334(11)
Mental Health, Developmental Disabilities, and Substance
 Abuse Services rules review.....437(3a)
Mental health system.....437(3b)
Minimum standards rules for judges, attorneys and prosecutors
 in capital cases.....392
Minority business participation goals.....496(3.6)
Modular home transit regulation424(27.17b)
Money transmission business rules443
Neonatal care beds licensing410(2)
On-site subsurface wastewater system approval505(2.2)–(2.5)
Postponement of 2002 elections filing period
 and primaries466(1c), (1d)
Proof of residency and identification for drivers
 license.....424(27.10Ab),
 (27.10Ad)
Protected cell companies223(25)
Publication of Building Code Council rules.....141
Recodification of administrative rules for HHS424(21.10)
Special Needs Adoption Incentive Fund424(21.42c)
Supplemental funding in low-wealth counties424(28.6h)
Tar-Pamlico River Basin - Nutrient Sensitive Waters
 Management Strategy.....355
Teacher Assistant Scholarship Fund.....424(31.5a)
Technical corrections and conforming changes.....474(34); 487(80b)
Technology procurement rules487(21g)
Temporary rules
 30-Foot buffer exception rules for estuaries and
 public trust waters418(1), (3)

Index to Session Laws

*Session Law
Number*

Administrative Rules—continued

Ambient Air Quality Act implementation.....	504(19)
Dry-cleaning solvent cleanup rules period extended.....	265(4)
Generic and specific community college fee definition rules	513(12a)–(12b)
Health and Wellness Trust Fund Commission authority.....	487(124)
Human Resources Development Program reorganization.....	424(30.3d)
Manufactured housing continuing education	421(2.3)
Medicaid	424(21.19t)
Minimum criteria transportation projects.....	424(27.22a)–(27.22b)
Municipal waste combustion	440(3.4)
One-stop environmental permit application pilot program	424(19.6b)
On-site subsurface wastewater system approval rules	505(2.5)
Open-end design agreements for wetlands mitigation	442(6c)
Performance-based cleanup of underground petroleum tank discharges	442(6b)
Pier modification rules.....	418(2)–(3)
Procurement card program.....	424(15.6d)
River basin buffer/water quality Extended.....	418(4a)
Nonapplicability to Catawba River Basin.....	418(4b)
Septage management program	505(1.3)
Tar-Pamlico River Basin - Nutrient Sensitive Waters Management Strategy.....	355(5)–(7)
Tobacco Trust Fund Commission authority.....	487(124)
Uniform securities regulations	126(12)
Vehicle emissions and safety inspections	504(19)
Well contractor certification	440(1.5)
Transportation of a dead body.....	294(3)
Tribal trust lands	344
Trust companies and interstate trust business.....	263
Uniform provider credentialing.....	172
Universal service final adoption deadline extended	252
Viatical settlements	436(3)
Wake Forest water withdrawal from Neuse River Basin.....	361
Well separation distance requirements	113

Adoption

Adopted child health insurance coverage.....	334(5)
Advertising	150(14)
Agency identified adoption	150(7)
Assessment requirement.....	150(2)
Assistance payments	424(21.41b)–(21.41d)
Child welfare Changes.....	208
Improvement funds.....	395(2.1s)
County adoption workers funds.....	395(2.1a); 424(5.1a)
Guidelines for funds awarded to public/private agencies for special children	395(2.1h)
HIV-infected children assistance payments.....	424(21.41c)–(21.41d)
Indian child welfare issues collaboration	309

Index to Session Laws

Session Law
Number

Adoption—continued

Information on adoptive parents to be provided.....	150(6)
Petition for adoption requirements	150(3)
Placement funds for children ineligible for federal IV-E funds.....	395(2.1i)
Public school residency requirement for pre-adoptive children	303
Revocation of consent	150(10)–(11)
Special Children Adoption Fund	
Funds	424(5.1a), (21.40a)–(21.40b)
Guidelines development.....	424(5.1h)
Special children adoption funds	395(2.1a)
Special Needs Adoption Incentive Fund	424(21.42a)–(21.42d)
Termination of parental rights	150(4)

Advertising

Advertising inserts in DMV mailings study	513(31)
Campaign advertising	
Candidate notification of campaign sign laws	512(7)–(8)
Candidate support statement repealed.....	353(5)
Labeling	317(1)
Farm product promotion at rest areas	424(17.1)
Litter enforcement signs	512(4)
Tourist-oriented directional sign program	383
Viatical settlements	436(3), (7)
Zoo fees for marketing	424(19.4)

Aeronautics Council—appointments and membership.....486(2.17)

Aging

Alzheimer's Association chapters funds	424(21.31)
Area Agencies on Aging cost savings study.....	424(21.32a)–(21.32b)
Exemption of certain establishments from food and lodging facilities regulation	440(4)
Home and community care block grant funds	424(5.1a)
Homestead tax exclusion.....	308
Indian Affairs Commission in-home services for the elderly	424(5.1a)
In-home services block grant funds.....	395(2.1a)
Long-term care —see Nursing Homes	
Low-income energy block grant funds.....	424(5.1a)
Medicaid coverage for elderly.....	424(21.19e)
Office of Economic Opportunity for N.C. Senior Citizens' Federation block grant funds	424(5.1a)
Outreach services for low-income elderly funds	395(2.1a)
Prescription drugs	
Assistance program.....	424(21.88)
Initiatives grant funds	424(21.100)
Study	491(10.3)
Senior center outreach funds	424(21.30a)–(21.30c)
State Adult Day Care Fund slot allocation methodology	424(21.47)

Agricultural Centers—see Agriculture

Agricultural Finance Authority

Appointments and membership.....	486(1.2), (1A.2)
Executive Director's salary	424(32.3)

Index to Session Laws

Session Law
Number

Agricultural Finance Authority—continued
 Reports —see that heading
 Rural Rehabilitation Corporation transfer 424(17.2a)–(17.2d)

Agricultural Waste—see Agriculture; Livestock and Poultry

Agriculture (see also Rural Development)
 Agricultural and animal waste
 Automatic waste system approval repealed 254(3)–(4)
 Best management practices for pasture-based livestock
 production 355(4)
 Inspection pilot program sunset extended 254(5)
 Livestock markets 326
 Swine farm and lagoon moratorium extended 254(1)–(2)
 Water quality and animal waste system specialist approval 284

Agricultural centers —see Farmers markets this heading

Agriculture Advancement Consortium funds 424(20.15e)

Anhydrous ammonia installation modifications 440(2)

Best management practices for Tar-Pamlico Basin 355(3)

Center for Turfgrass Environmental Research and Education
 funds 514(2a), (2b)

Contracts enhancing fairness study 491(2.1)

Cost share technical assistance program funds 424(19.2A)

Destruction of commodities or production systems double
 damages 290

Farm machinery agreement law clarification 343

Farm product promotion at rest areas 424(17.1)

Farmers markets blind operation of vending facilities exemption 424(17.4)

Farmland preservation funds 424(17.3)

Fertilizer and seed for nonfarmers not exempt from tax 514(1)

Foot and mouth disease authority for State Veterinarian 12

Operations conversion funding mechanics study 491(2.1H)

State Fair contract review 487(71)

State fruit and berries 488

Tar-Pamlico River Basin - Nutrient Sensitive Waters Management
 Strategy 355

Wine and wineries
 Imports to cover crop losses 487(49b)
 Producers 262; 487(49a)–(49g)
 Wine tasting permits 262

Agriculture and Consumer Services, Department of
 Appropriations
 Center for Turfgrass Environmental Research and Education 514(2b)
 Current operations and expansion 424(2.1)
 Farmland preservation funds 424(17.3)
 Warehouse Investment Fund balance transfer to General Fund 424(2.2d)

Commissioner
 Appointments —see that heading
 Membership on Geographic Information Coordinating Council 359
 Salary 424(32.1b)
 State Fair contract review 487(71)

Farm product promotion at rest areas 424(17.1)

Agriculture and Consumer Services, Department of—continued	
Reports — <i>see</i> that heading	
Rural Rehabilitation Corp. transferred to Agricultural Finance Authority.....	424(17.2a)–(17.2d)
State Fair contract review.....	487(71)
State Veterinarian — <i>see</i> that heading	
Wine tax proceeds.....	475
Agriculture and Forestry Awareness Study Commission—technical	
corrections and conforming changes.....	474(14)
Agriculture, Board of	
Foot and mouth disease authority for State Veterinarian.....	12
State Fair contract review.....	487(71)
AIDS (Acquired Immune Deficiency Syndrome)	
AIDS Drug Assistance Program (ADAP)	
Eligibility.....	424(21.90b)
Eligibility policies.....	424(21.90d)
Information management system development.....	424(21.90a)
Treatment adherence program development.....	424(21.90a)
Awareness and education.....	395(2.1z)
Care programs study.....	491(28.3)
Drug company drug program access.....	424(21.6a)–(21.6d); 513(20)
Education, counseling, and testing funds.....	395(2.1a); 424(5.1a)
Foster care and adoption assistance payments.....	424(21.41c)–(21.41d)
Prevention	
Activities block grant funds.....	395(2.1a); 424(5.1a)
Activities position.....	424(5.1z)
Initiative.....	424(21.18Da)–(21.18Dd)
Programs study.....	491(28.3)
Rape victims and health care workers at risk for HIV	
infection study.....	491(28.4)
Substance abuse services to IV drug users and others at risk for HIV funds.....	395(2.1a); 424(5.1a)
AIDS Advisory Council	
HIV/AIDS awareness and education.....	395(2.1z)
Services coordination.....	424(5.1z)
Airport Authorities—<i>see</i> Aviation	
Airports—<i>see</i> Aviation	
Alamance County	
Burlington, City of — <i>see</i> that heading	
Fraudulent obtaining of ambulance services.....	106
State Nature and Historic Preserve land additions.....	217(2)
Alarm Systems Licensing Board	
Appointments and membership.....	486(1.3)
Pay for use of State facilities.....	424(23.2)
Technical corrections and conforming changes.....	487(65a)–(65c)
Albemarle, City of—traffic control/red light cameras.....	
	286(1)
Alcoholic Beverage Control Commission—chair's salary.....	
	424(32.3)
Alcoholic Beverage Control Study Commission, Legislative	
Appointments and membership.....	491(4.2)

Alcoholic Beverage Control Study Commission, Legislative—continued	
Appropriations.....	491(4.13)
Created	1(4.1)–(4.13)
Alcoholic Beverages	
ABC Boards (local) — <i>see</i> that heading	
Alcohol Law Enforcement supervisor positions terminated.....	424(26.10)
Alcohol use while hunting in Orange County	165
Cooperative agreements for ABC store management.....	128
Driving While Impaired (DWI) — <i>see</i> that heading	
DWI (Driving While Impaired) — <i>see</i> Driving While Impaired (DWI)	
Employment by ABC permit holder of minor age lowered.....	515(5)
Entering an establishment serving/selling alcohol using fraudulent ID illegal	461(2)
Identification verification in sale of alcohol/tobacco.....	461(5)
Mixed beverage elections on barrier islands	515(4)
Residential private club and sports club permits	130
Revocation of license for violations in Urban Redevelopment Areas	515(3a)–(3b)
Rutherfordton ABC Board distributions.....	188
Screening and intervention promotion	334(4)
Special ABC area definition change.....	515(1)
Spirituous liquor sales and excise tax increase.....	424(33.23a)–(33.23e)
Underage drinking study	491(11.4)
Winery/wine tasting permits	262; 487(49a), (49b)–(49g)
Alexander County	
Close-custody prison construction	322(5)
Political party consultation in filling sheriff vacancy	257(2)
Prison construction contract authorized.....	424(25.24)
Alien Residents—<i>see</i> Immigrants	
Alleghany County	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Payment of delinquent tax prior to recording deeds.....	464
State Nature and Historic Preserve land additions.....	217(2)
Alternative Medicine—<i>see</i> Health Services	
Ambient Air Quality Act of 1999 504	
Ambulances—<i>see</i> Emergency Services	
American Indians—<i>see</i> Minorities; Tribal Government	
Animals	
Hunting and fishing — <i>see</i> that heading	
Livestock and poultry — <i>see</i> that heading	
Restraining dogs in cruel manner unlawful	411(2)
Taking of deer with dogs prohibited in Durham County	382(2)
Unlawful to harm a law enforcement or assistance animal	411(1)
Wildlife — <i>see</i> that heading	
Annexation	
Archdale annexation.....	39
Atlantic Beach annexation.....	137
Boundary adjustment between Kure Beach and Carolina Beach.....	57
Brevard annexation	105

Index to Session Laws

*Session Law
Number*

Annexation—continued

Brunswick annexation	249
Coats annexation	47
Deannexation	
Belville	401
Fuquay-Varina	38
Trinity	25
Wake Forest	246
Wilson	161
Matthews annexation.....	103
Midland annexation.....	366; 472(1a)–(1b)
Morehead City annexation	75
Navassa annexation.....	325(1); 485(1)–(2)
Noncontiguous areas	438
Satellite annexation	
Brunswick voluntary satellite annexation	478(1)
Exemptions for Mayodan.....	405
Limit removed for certain cities	37; 72
Sanitary districts	301
Winterville	77
Technical corrections and conforming changes.....	487(35)
Thomasville annexation	25
Troy annexation	136
Weldon annexation.....	49; 425(1)–(2)

Anson County

Close-custody prison construction	322(5)
Occupancy tax authorization	434(1)–(2)
Payment of delinquent tax prior to recording deeds	464
Prison construction contract authorized.....	424(25.24)
Property acquisition by board of education	76
Tourism Development Authority	434(3)–(3c)

Antiquated Laws—*see* General Statutes

AOC (Administrative Office of the Courts)—*see* Courts

Appointments

2001 Appointments bill	486
Academy of Trial Lawyers' appointments	
Indigent Defense Services, Commission on.....	424(22.11b)
Association of Black Lawyers' appointments	
Indigent Defense Services, Commission on.....	424(22.11b)
Association of Women Lawyers' appointments	
Indigent Defense Services, Commission on.....	424(22.11b)
Bar Association's appointments	
Indigent Defense Services, Commission on.....	424(22.11b)
Board of Education appointments	
Educational Services for Exceptional Children, Council on	424(28.29a)
Chief Justice's appointments	
Juvenile Justice and Delinquency Prevention, State Advisory Council on	199(3)
Commissioner of Agriculture's appointments	
National Heritage Area Designation Commission	491(18.4)

Index to Session Laws

*Session Law
Number*

Appointments—continued

Commissioner of Banks' appointments	
Deputy Commissioners	193(1)
Governor's appointments	
Aeronautics Council.....	486(2.17)
Cemetery Commission.....	486(2.1)
Children and Youth, Governor's Advocacy Council on.....	486(2.20)
Correction, Board of	486(2.15)
Criminal Justice Education and Training Standards Commission.....	490(1.2)
Criminal Justice Information Network Governing Board	424(23.6b)
District Court judgeship.....	424(22.17b)
Educational Services for Exceptional Children, Council on	424(28.29a)
Election Laws Revision Commission	491(32.1)
First Flight Centennial Commission	486(2.12b)
Geographic Information Coordinating Council.....	359
Human Relations Commission.....	486(2.19)
Indian Housing Authority	318(2)
Juvenile Justice and Delinquency Prevention, State Advisory Council on.....	199(3)
Locksmith Licensing Board	369(1)
Managed Care Patient Assistance Program Director	446(1.6)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for.....	486(2.13); 487(90.5)
Military Affairs, Advisory Commission on	424(12.1); 486(2.9a)–(2.9b)
Mortuary Science, Board of.....	294(1), (12)
Museum of Art, Board of Trustees.....	486(2.10)
National Heritage Area Designation Commission	491(18.4)
Natural Heritage Trust Fund, Board of Trustees	486(2.23a)–(2.23b)
Optional Retirement Program Study Commission	424(32.24Aa)
Positive Racial, Ethnic, and Faith Relations, Commission on	491(6.2)
Progress Board	424(31.12c)
Special Superior Court judge	424(22.4a), (22.4d)
Superior Court judge district 24.....	424(22.4b)–(22.4d)
Tax Policy Commission	491(29.2)
Wildlife Resources Commission.....	486(2.11a)–(2.11b)
Lieutenant Governor's appointments	
National Heritage Area Designation Commission	491(18.4)
Veterinary Medical Board.....	281(1)–(3)
NC State University Chancellor's appointments	
Water Quality Workgroup	424(19.5)
President Pro Tempore's appointments.....	486(1.47)
Acupuncture Licensing Board.....	486(1.1)
Agricultural Finance Authority.....	486(1.2)
Alarm Systems Licensing Board.....	486(1.3)
Athletic Trainer Examiners, Board of.....	486(1.4)
Bridge Authority	486(1.5)
Building Commission, State	486(1.6)

Index to Session Laws

*Session Law
Number*

Appointments—continued

Capital Facilities Finance Agency	486(1.7)
Cemetery Commission.....	486(2.1)
Centennial Authority.....	486(1.8)
Center for Nursing, Board of Directors.....	486(1.34)
Center for the Advancement of Teaching, Board of Trustees	486(1.9)
Child Care Commission	486(1.10)
Chiropractic Examiners, State Board of.....	486(1.11)
Code Officials Qualifications Board.....	486(1.12)
Criminal Justice Education and Training Standards Commission.....	486(1.13); 490(1.2)
Criminal Justice Information Network Governing Board	486(1.14)
Deaf and Hard of Hearing, Council for the.....	486(2.14)
Disciplinary Hearing Commission of the State Bar	486(1.15)
Domestic Violence Commission.....	486(1.16)
Education Oversight Committee, Joint Legislative	486(2.5)
Election Laws Revision Commission	491(32.1)
Emergency Medical Services Advisory Council.....	220; 486(1.17)
Environmental Management Commission	486(1.18), (2.16)
Family-Centered Services, Advisory Committee on.....	486(1.20)
Fee-Based Practicing Pastoral Counselors, State Board of Examiners of	486(1.19)
Fire and Rescue Commission.....	486(1.21)
Future of the North Carolina Railroad Study Commission	486(2.8)
Geographic Information Coordinating Council.....	359
Global TransPark Authority.....	486(1.22)
Governmental Operations, Joint Legislative Commission on	486(2.6)
Growth Strategies Oversight Committee, Joint Legislative	491(3.1)
Highway Trust Fund Study Committee.....	424(27.6b), (27.6d)
Housing Finance Agency Board of Directors	486(1.24)
Indian Affairs, Commission of.....	486(1.25)
Indigent Defense Services, Commission on	424(22.11b)
Information Resource Management Commission	166; 486(1.26)
Information Technology, Joint Select Committee on.....	486(2.7)
Local Government Commission	486(1.27)
Locksmith Licensing Board	369(1)
Manufactured Housing Board	486(1.28)
Massage and Bodywork Therapy, Board of.....	486(1.29)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for.....	486(1.30), (2.13); 487(90.5)
Military Affairs, Advisory Commission on	424(12.1); 486(2.9a)–(2.9b)
Mortuary Science, Board of.....	294(1), (12); 486(1.31), (2.3a)–(2.3b)
Museum of Art, Board of Trustees.....	486(1.32)
National Heritage Area Designation Commission	491(18.4)–(18.5)
Natural Heritage Trust Fund, Board of Trustees	486(2.23a)–(2.23b)
North Carolina Railroad, Board of Directors	486(1.43)

Index to Session Laws

*Session Law
Number*

Appointments—continued

Nursing Scholars Commission.....	486(1.35)
Optional Retirement Program Study Commission.....	424(32.24Aa)
Parks and Recreation Authority.....	486(1.36)
Persons With Disabilities, Governor's Advocacy Council for.....	486(1.23)
Petroleum Underground Storage Tank Funds Council.....	486(1.37)
Ports Authority, Board of State.....	486(1.38)
Positive Racial, Ethnic, and Faith Relations, Commission on.....	491(6.2)
Private Protective Services Board.....	486(1.39)
Progress Board.....	424(31.12a)
Property Tax Study Commission.....	499(3b)
Public Employee Deferred Compensation Plan, Board of Trustees..	486(1.40)
Public Telecommunications, Agency for.....	486(1.41)
Regional Economic Development Commission, Northeastern North Carolina.....	486(1.33)
Regional Economic Development Commission, Southeastern North Carolina.....	486(1.50)
Regional Economic Development Commission, Western North Carolina.....	486(1.58)
Roanoke Island Commission.....	486(1.44)
Rules Review Commission.....	486(1.45)
Rural Internet Access Authority.....	486(1.46)
School of Science and Mathematics, Board of Trustees.....	486(1.47)
Science and Technology, Board of.....	486(1.48)
Seafood Industrial Park Authority.....	486(1.49)
Soil Scientists, Board of Licensing of.....	486(1.51)
Southern Dairy Compact Commission.....	486(1.52)
Tax Policy Commission.....	491(29.2)
Teacher Academy, Board of Trustees.....	486(1.53)
Teachers' and State Employees' Comprehensive Major Medical Plan Board of Trustees.....	486(1.54)
Teachers' and State Employees' Retirement System Board of Trustees.....	486(1.55)
Teaching Fellows Commission.....	486(1.56)
Therapeutic Recreation Certification, State Board of.....	486(1.57)
Transportation Oversight Committee, Joint Legislative.....	486(2.4)
UNC Board of Governors Study Commission.....	491(31.1)
UNC Center for Public Television, Board of Trustees.....	486(1.42)
Veterinary Medical Board.....	281(1)–(3); 486(1.59)
Virginia-North Carolina Interstate High-Speed Rail Commission.....	266(1); 486(2.22)
Wildlife Resources Commission.....	486(1.60), (2.11a)–(2.11b)
Wireless 911 Board.....	486(1.61)
Principal Chief of the Eastern Band of the Cherokee Nation's appointments National Heritage Area Designation Commission.....	491(18.4)
Public Defenders Association's appointments Indigent Defense Services, Commission on.....	424(22.11b)
Secretary of Commerce's appointments	

Index to Session Laws

*Session Law
Number*

Appointments—continued

National Heritage Area Designation Commission	491(18.4)
Secretary of Cultural Resource's appointments	
National Heritage Area Designation Commission	491(18.4)
Secretary of DENR	
Water Quality Workgroup	424(19.5)
Secretary of DHHS appointments	
Emergency Medical Services Advisory Council.....	220
Emergency Medical Services Disciplinary Committee.....	220
Speaker's appointments	
Acupuncture Licensing Board.....	486(1A.1)
Agricultural Finance Authority.....	486(1A.2)
Athletic Trainer Examiners, Board of.....	486(1A.4)
Bridge Authority.....	486(1A.5)
Building Commission, State	486(1A.6)
Cemetery Commission.....	486(1A.64), (2.1)
Centennial Authority.....	486(1A.7)
Center for Nursing, Board of Directors.....	163(5)
Center for the Advancement of Teaching, Board of Trustees	486(1A.8)
Child Care Commission.....	486(1A.9)
Chiropractic Examiners, State Board of.....	486(1A.10)
Clean Water Management Trust Fund, Board of Trustees	163(4)
Code Officials Qualifications Board.....	486(1A.11)
Crime Victims Compensation Commission	486(1A.12)
Criminal Justice Education and Training Standards Commission.....	486(1A.13); 490(1.2)
Criminal Justice Information Network Governing Board	486(1A.14)
Deaf and Hard of Hearing, Council for the.....	486(2.14)
Disciplinary Hearing Commission of the State Bar	163(1)
Domestic Violence Commission.....	486(1A.15)
Education Oversight Committee, Joint Legislative.....	486(2.5)
Election Laws Revision Commission	491(32.1)
Electrolysis Examiners, Board of.....	486(1A.16)
Emergency Medical Services Advisory Council.....	220
Environmental Management Commission	486(1A.17), (2.16)
Fire and Rescue Commission.....	486(1A.18)
Future of the North Carolina Railroad Study Commission	486(2.8)
Geographic Information Coordinating Council.....	359
Global TransPark Authority.....	486(1A.19)
Governmental Operations, Joint Legislative Commission on	486(2.6)
Growth Strategies Oversight Committee, Joint Legislative	491(3.1)
Highway Trust Fund Study Committee.....	424(27.6b), (27.6d)
Home Inspector Licensure Board.....	486(1A.20)
House Select Committee on Various Environmental Rules	491(25.2)
Housing Finance Agency Board of Directors	486(1A.21)
Indian Affairs, Commission of.....	486(1A.22)
Indigent Defense Services, Commission on.....	424(22.11b)
Information Resource Management Commission	166; 486(1A.23)
Information Technology, Joint Select Committee on.....	486(2.7)

Index to Session Laws

*Session Law
Number*

Appointments—continued

Judicial Council, State	486(1A.24)
Local Government Commission	486(1A.25)
Locksmith Licensing Board	369(1)
Massage and Bodywork Therapy, Board of	163(3)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for.....	486(1A.26), (2.13); 487(90.5)
Military Affairs, Advisory Commission on	424(12.1); 486(2.9a)–(2.9b)
Mortuary Science, Board of	294(1), (12); 486(1A.27), (2.3a)–(2.3b)
Museum of Art, Board of Trustees.....	486(1A.28)
National Heritage Area Designation Commission	491(18.4)
Natural Heritage Trust Fund, Board of Trustees	486(1A.29), (2.23a)–(2.23b)
North Carolina Railroad, Board of Directors	486(1A.42)
Nursing Scholars Commission	486(1A.31)
Optional Retirement Program Study Commission	424(32.24Aa)
Parks and Recreation Authority	486(1A.32)
Personnel Commission, State.....	486(1A.53)
Persons With Disabilities, Governor's Advocacy Council for.....	486(1A.33)
Petroleum Underground Storage Tank Funds Council.....	486(1A.34)
Ports Authority, Board of State	486(1A.35)
Positive Racial, Ethnic, and Faith Relations, Commission on	491(6.2)
Private Protective Services Board	486(1A.36)
Progress Board	424(31.12a)
Property Tax Commission	486(1A.37)
Property Tax Study Commission	499(3b)
Public Employee Deferred Compensation Plan, Board of Trustees	486(1A.38)
Public Officers and Employees Liability Insurance Commission ..	486(1A.39)
Public Telecommunications, Agency for	486(1A.40)
Regional Economic Development Commission, Northeastern North Carolina.....	486(1A.43a), (1A.43b)
Regional Economic Development Commission, Southeastern North Carolina.....	486(1A.44)
Regional Economic Development Commission, Western North Carolina.....	486(1A.61)
Respiratory Care Board.....	163(2)
Roanoke Island Commission	486(1A.45)
Rules Review Commission	486(1A.46)
Rural Internet Access Authority.....	486(1A.47)
Rural Redevelopment Authority	486(1A.48)
Science and Technology, Board of	486(1A.49)
Seafood Industrial Park Authority	486(1A.50)
Sheriffs' Education and Training Standards Commission	486(1A.51)
Soil Scientists, Board of Licensing of.....	486(1A.52)

Index to Session Laws

Session Law
Number

Appointments—continued

Tax Policy Commission.....	491(29.2)
Teachers' and State Employees' Comprehensive Major Medical Plan Board of Trustees	486(1A.55)
Teachers' and State Employees' Retirement System Board of Trustees	486(1A.56)
Teaching Fellows Commission.....	486(1A.57)
Therapeutic Recreation Certification, State Board of	486(1A.58)
Transportation Oversight Committee, Joint Legislative.....	486(2.4)
UNC Board of Governors Study Commission	491(31.1)
UNC Center for Public Television.....	486(1A.41)
Veterinary Medical Board.....	281(1)–(3)
Virginia-North Carolina Interstate High-Speed Rail Commission.....	266(1); 486(2.22)
Watershed Protection Advisory Council.....	486(1A.59)
Well Contractors Certification Commission	486(1A.60)
Wildlife Resources Commission.....	486(1A.62), (2.11a)–(2.11b)
Wireless 911 Board.....	486(1A.63)
State Bar's appointments	
Indigent Defense Services, Commission on.....	424(22.11b)
Triangle Native American Society membership	
Indian Affairs, Commission on.....	318(1)
Indian Cultural Center, Board of Directors.....	318(3)–(4)
Western North Carolina Regional Economic Development Commission's appointments	
National Heritage Area Designation Commission	491(18.4)

Appraisal Board

Appointments and membership.....	399
Property acquisition.....	399

Appraisers Act 399

Appropriations (*see also* particular agency)

Appropriations technical corrections bill.....	513
Block grants	
Budget allocation changes requirements.....	395(2.1d)
DHHS block grant funds.....	395(2.1a); 424(5.1a)–(5.1aa)
Federal funds availability.....	395(2.1b)–(2.1c), (8b)–(8c)
NER block grant funds.....	395(8a)–(8f); 424(5.2a)–(5.2f)
Budget Act information technology provisions.....	424(15.3a)–(15.3b)
Budget controls, regulations and systems development	424(6.1c)
Budgeting pilot programs.....	424(6.8a)–(6.8b)
Capital Appropriations	
Appropriations limits reversion or lapse	424(33.11)
Capital improvement projects supplemental funding reporting requirement.....	424(33.7)
Disbursement procedures.....	424(33.4)
Encumbered appropriations and project reserve funds.....	424(33.5)

Index to Session Laws

*Session Law
Number*

Appropriations—continued

General Fund.....	424(33.1)–(33.2b)
Project cost increase.....	424(33.8)
Repairs and Renovations Reserve Account.....	424(33.2a)–(33.2b), (33.6)
Continuation budget.....	250; 287; 322; 395; 424(6.20a)–(6.20c)
Current Operations	
Elementary school assistance funds	395(15a)–(15c)
General Fund	
Availability.....	424(2.2a)
Contingency and emergency.....	424(2.1)
Debt service.....	424(2.1)
Education.....	424(2.1)
Federal reimbursement	424(2.1)
Reserve for compensation increases	424(2.1)
Reserve for consolidated judicial retirement rate adjustment	424(2.1)
Reserve for information technology rate adjustment	424(2.1)
Reserve for Mental Health Reform.....	424(2.1)
Reserve for salary adjustments	424(2.1)
Reserve for State health plan	424(2.1)
Reserve for teachers' and State employees' retirement rate adjustment.....	424(2.1)
Reserve to implement HIPPA.....	424(2.1)
Salary adjustment reserves transfer	424(6.4)
Scrap tire tax proceeds redirected.....	424(2.2j)
Special funds balance transfers.....	424(2.2d), (2.2e), (2.2f)
Transfers for State Health Plan.....	395(11a)
Transfers from Information Technology Services	424(2.2i)
Transfers from special reserve account.....	424(10.1c)
Transfers to savings reserve account	424(2.2g)
White goods management tax proceeds redirected	424(2.2j)
Highway Fund.....	424(3.1)
Highway Trust Fund	
Aid to municipalities	424(4.1)
Intrastate system	424(4.1)
Program administration	424(4.1)
Secondary roads.....	424(4.1)
Transfers to General Fund	424(4.1)
Urban loops	424(4.1)
Current Operations and Capital Improvements Appropriations	
Act of 2001.....	424
Disbursements to nonprofits.....	250(5); 424(6.7)
Efficiency review	424(6.9)
Funds shall not be transferred on June 30	250(7)
General Fund	
Contingency and emergency.....	424(6.3a)–(6.3b)
New and Expanding Industry Training Program funds transfers.....	424(30.2)

Appropriations—continued

- State personnel salaries transfers424(32.14a)–(32.14e)
- Transfer to Savings Reserve Account514(3)
- Highway Fund
 - Anticipated revenues..... 424(27.4a)–(27.4b)
 - Availability 424(2.2a), (3.2)
 - Current operations and expansion424(3.1)
 - State personnel salaries transfers424(32.14a)–(32.14e)
 - Transfer for State Health Plan.....395(11b)
- Highway Trust Fund
 - Anticipated revenues..... 424(27.4a)–(27.4b)
 - Availability 424(2.2a)
 - Current operations and expansion424(4.1)
- Investment authority of State Treasurer 444
- Reserve for Compensation
 - State personnel salaries transfers424(32.14d)
- Reserve for reimbursements to local governments and
shared tax revenues424(6.1b)
- Reserve to implement Health Insurance Portability and
Accountability Act424(6.11a)–(6.11e)
- Reserves funds expenditures limited424(6.5)
- Salary Adjustment Fund
 - Excess funds for approved reclassified positions424(32.19b)
 - Severance pay 424(32.19a)
- Savings Reserve Account
 - Terrorism funds.....457(2)
 - Transfer from General Fund 424(2.2g); 514(3)
- Special funds, federal funds and departmental receipts
expenditures 424(6.1a)
- Voting machine replacement priority310(1)
- Zero-based budgeting study491(2.1)

Arbitration—*see* Mediation and Arbitration

Archdale, City of—annexation 39

Arlington, Town of—merger with Jonesville 16

Armed Forces

- Absentee ballots466(4a)–(4e)
- Blue Star Memorial and American Ex-POW Highway 196
- Combat infantry badge special registration license plate 482
- Desert Storm special registration plate
 - Created 40
 - Repealed498(2)
- Economic impact of military activities study424(12.1)
- Election day voter registration.....353(3)
- Military leave513(23a)–(23c)
- National Guard
 - Pension Fund amortization period424(32.21d)
 - Tarheel Challenge Program annual evaluation.....424(26.2)
- Special Forces Association special registration plate498(1a),
(3a)–(4a), (6a)
- Teacher education for military personnel 146

Armed Forces—continued

Tuition refunds for called up reserve and national guard
 personnel508(7a)–(8a)

US Navy submariner special registration plate..... 498(1a)

Veterans

 Diplomas for World War II veterans..... 86

 Military veteran special registration plate..... 498(1a)

 Military wartime veteran special registration plate 498(1a)

 Veterans cemetery interment eligibility 143

 Veterans home

 Act amendments 117

 Additional staff..... 117(2)

 Admission eligibility 117(3)

 Veterans' Scholarship Program "child" definition study 491(2.1)

 Vietnam veteran special registration plate repealed 498(2)

Waiver of fees, deadlines, and penalties for deployed military
 personnel 508(3)–(5b)

Working group to promote federal DoD contracts 13

Arson—*see* Crimes

Art, Museum of—*see* Museums

Arts—*see* Cultural Resources

Ashe County—National Heritage Area Designation Commission

 created 491(18.1)–(18.10)

Asheville, City of

Asheville-Buncombe Technical Community College —*see* Community Colleges

Colburn Gem and Mineral Museum grassroots science program
 grant-in-aid..... 424(19.2)

Consolidation of Business and Industry Division offices with
 Regional Economic Development Division offices
 study 424(20.5)

Force account limit..... 274

Health Adventure Museum at Pack Place grassroots science
 program grant-in-aid 424(19.2)

Station right-of-way acquisition funds 424(27.5a)

UNC-Asheville —*see* University of North Carolina

Western North Carolina Nature Center grassroots science
 program grant-in-aid 424(19.2)

Assisted Living Facilities—*see* Nursing Homes

Athletic Trainer Examiners, Board of—appointments and

 membership 486(1.4), (1A.4)

Atlantic Beach, Town of

Annexation 137

Eminent domain for beach erosion, renourishment and flood
 control, hurricane protection and beach access
 allowed 478(2)

Occupancy tax revenues for beach renourishment 381(3c), (6a)

Attorney General

Biotechnology Center profit sharing with State 424(20.8a)–(20.8d),
 (20.8a)–(20.8d)

Bus driver tort claims act applicability 424(6.18)

Attorney General —continued	
Membership on Juvenile Justice Advisory Council.....	199(3)
Reports —see that heading	
Salary	424(32.1b)
Technological Development Authority profit sharing with State.....	424(20.8a)–(20.8d)
Attorneys	
Disqualification for interest.....	379(4)
Indigent Defense Services Commission membership.....	424(22.11b)
Minimum standards rules in capital cases	392
Physicians liens	377
Auctioneers —licensing	198
Auctioneers Commission	
Continuing education requirements.....	198(2)
Criminal history check fees	198(1)
Liability insurance.....	198(3)
Property acquisition.....	198(3)
Auctions	
Disposal of local government property procedure.....	328(5)
Execution sales modification.....	271(11)–(18)
Judicial sales modification	271(1)–(10)
Auditor, State —see State Auditor	
Audits and Auditing —see Accounting and Auditing	
Aurora, Town of —Aurora Fossil Museum grassroots science program grant-in-aid	
	424(19.2)
Authorities	
Agricultural Finance Authority —see that heading	
Airport authorities —see Aviation	
Area authorities	
Area board structure.....	437(1.11a)–(1.11c)
Area directors.....	437(1.12)
Catchment area consolidation plan	437(3a)
Certification preparation	437(3a)
Criminal justice clients services coordination.....	487(79.5)
Dissolution.....	437(1.9)
Failure to provide adequate services	437(1.13a)–(1.13b)
MH/DD/SA Appeals Panel	437(1.17b)–(1.17c)
Personnel.....	437(1.18)
Powers and duties	437(1.10)
Readiness plan for mental health programs certification	437(3a)
State and local mental health system governance changes.....	437(1.1)–(1.21)
State funding to counties and area authorities study	437(3d)
Bridge Authority —see that heading	
Centennial Authority —see that heading	
Charlotte Coliseum Authority	
Appointments and membership.....	402(4)
Cumberland County	483
Forsyth-Guilford Metropolitan Baseball Park Authority repealed	414(52)
Global TransPark Authority —see that heading	
Housing Authorities (local) —see that heading	

Authorities—continued

Industrial Facilities and Pollution Control Financing Authorities
 Technical corrections and conforming changes487(94)
 Mental health, developmental disabilities, and substance
 abuse services authorities administrative cost
 reduction..... 424(21.65a)–(21.65 b)
 Parks and Recreation Authority —*see* that heading
 Regional Public Transportation Authorities
 Quick-take procedures 239
 Rural Electrification Authority —*see* that heading
 Rural Internet Access Authority —*see* that heading
 Rural Redevelopment Authority —*see* that heading
 Seafood Industrial Park Authority —*see* that heading
 Tourism Development Authorities
 Anson County 434(3)–(3c)
 Avery County..... 439(16.1)–(16.3c)
 Beech Mountain..... 434(8); 439(15.1)
 Cabarrus County439(17.1)
 Carrboro..... 439(14.1)–(14.2c)
 Gastonia..... 439(1.1)–(1.2c)
 Harnett County.....439(12.1)
 Kings Mountain 439(2.1)–(2.2c)
 Lincolnton..... 439(3.1)–(3.2c)
 Monroe 439(4.1)–(4.2c)
 Montgomery County..... 434(5)–(5c)
 Mount Airy membership..... 7
 Pender County..... 439(6.1)–(6.3c)
 Richmond County439(13.1)
 Rowan County 439(8.1)–(8.2)
 Selma 439(10.1)–(10.2)
 Smithfield 439(11.1)–(11.2)
 Stanly County434(7)
 Tyrrell County..... 468
 Wilkesboro..... 439(9.1)–(9.2c)
 Water and sewer authorities
 Nonprofit water companies/State may join certain authorities..... 224

Averasboro Township—*see* Harnett County

Avery County

Add Superior Court judgeship..... 424(22.4b)–(22.4d)
 National Heritage Area Designation Commission created 491(18.1)–(18.10)
 Occupancy tax..... 439(16.1)–(16.3c),
 (18.1)

Aviation (*see also* Transportation)

Airport authorities

 Halifax Airport Authority quick take 73
 Piedmont Triad air cargo center bid exemption sunset
 extended 476(16a)–(16b)
 Airport funds424(3.1)
 Aviation grants funds424(27.15)
 Caldwell-Burke airport district..... 306(1)–(7)

Index to Session Laws

Session Law
Number

Aviation—continued

Global TransPark airport assets transfer study	424(27.19)
Montgomery County airport leases	485(3.1a)–(3.1b)
Rental car airport fees and charges.....	432
State aircraft use limitations	424(6.12)

Awards, Board of

Appointments and membership.....	487(21e)
Technical corrections and conforming changes.....	487(21e)

- B -

Bail—see Surety and Fidelity

Banking—see Financial Institutions; Financial Services

Banking Commission, State

Appointment of deputy commissioners.....	193(1)
Commissioner's salary	424(32.3)
Money transmission businesses.....	443
Mortgage brokers and bankers licensure	393
Reports —see that heading	
Savings Institution Division moved from Commerce Dept.....	193(2)–(18)
Savings Institutions Commission merged with Banking Commission.....	193(2)–(18)
State-chartered banks and savings institutions regulation study.....	193(19)
Trust companies and interstate trust business.....	263

Banks, Commissioner of—see Banking Commission, State

Barber Examiners, State Board of—appointments and membership.....486(2.2)

Barbers and Cosmetologists—electrolysis licensing fees 176 |

Beach Renourishment—see Erosion

Beaufort County

Aurora, Town of —see that heading	
Hunting/trapping of foxes and raccoons and snare use	19
Payment of delinquent tax prior to recording deeds	464
State Nature and Historic Preserve land additions.....	217(2)
Washington, City of —see that heading	
Washington Park, Town of —see that heading	

Beaufort, Town of—occupancy tax revenues for tourism.....381(3c)

Beech Mountain, Town of

Occupancy tax	434(8)–(11); 439(15.1)
Tourism Development Authority modifications.....	434(8)

Belville, Town of—deannexation 401 |

Bertie County

Hunting on private land.....	367(2)–(4)
No hunting from right-of-way	367(1)
No taking of deer from a boat.....	367(5)
Property acquisition for educational purposes.....	427(7a)–(7b)
Septic system	
Repair/inspection fees collected as property tax	78(2)–(4)
Transfer to multicounty agency	78(1)
Technical corrections and conforming changes.....	367(8)–(12)

Bicycles—helmet and restraining seat use by minors..... 268

Bids and Bidding — <i>see</i> Contracts and Purchasing	
Biltmore Forest, Town of —deer management	156
Biotechnology	
Biological agent registry	469
Bioterrorism preparedness study	491(2.1F)
Postconviction DNA testing	282
Weapons of mass destruction	470
Biotechnology Center	
Business and science technology program funding avenue.....	424(20.7b)
Funds recapture	424(20.7a)
Profit sharing with State	424(20.8a)–(20.8d)
Reports — <i>see</i> that heading	
Black Mountain, Town of	
Black Mountain Center police officer positions	424(24.10a)
Julian F. Keith Treatment Center police officer positions	424(24.10a)
Bladen County	
Elizabethtown, Town of — <i>see</i> that heading	
Worthless check program.....	61
Blind and Visually Handicapped — <i>see</i> Disabled Persons	
Boards — <i>see</i> Commissions, Committees, Councils and Boards; particular heading	
Boating (<i>see also</i> recreation and leisure)	
Cedar Point no-wake zone.....	65
Commercial fishing vessel registration repealed	213(3)
Dare County ocean regulation authority.....	52
Bogue, Town of —occupancy tax revenues for tourism	381(3c)
Bonds — <i>see</i> Local Government Debt; State Government Debt	
Boone, Town of	
Appalachian State University — <i>see</i> University of North Carolina	
Bostic, Town of —boundaries	43
Brevard, City of —annexation	105
Bridge Authority —appointments and membership	486(1.5), (1A.5)
Bridges — <i>see</i> Roads and Highways; Transportation	
Brunswick County	
Beach renourishment supplement funds.....	424(33.3a)–(33.3b)
Belville, Town of — <i>see</i> that heading	
Calabash, Town of — <i>see</i> that heading	
Fire fee	74
Holden Beach, Town of — <i>see</i> that heading	
Oak Island, Town of — <i>see</i> that heading	
Ocean Isle Beach, Town of — <i>see</i> that heading	
State Nature and Historic Preserve land additions.....	217(2)
Voluntary satellite annexation.....	478(1)
Worthless check program.....	61
Brunswick, Town of —annexation	249
Bryson City, Town of —consolidation of Business and Industry Division	
offices with Regional Economic Development Division	
offices study	424(20.5)
Budget and Management, Office of State	
AOC information technology network costs study.....	424(15.4e)

Budget and Management, Office of State—continued

Appropriations	
Current operations and expansion	424(2.1)
Global Center funds	424(20.19)
Budget controls, regulations and systems development	424(6.1c)
Business process reengineering project reserve.....	395(2.1w)
Capital Appropriations disbursement procedures.....	424(33.4)
Capital improvement projects advanced planning.....	424(33.10)
Cash assistance reserve expenditure review	395(2.1v)
Center for Geographic Information/Geodetic Survey	
transferred to DENR.....	424(12.3a)
Common follow-up evaluation transferred to ESC	424(20.17a)–(20.17b)
Computer networking costs definition	424(15.4a)–(15.4b)
Criminal records checks fee increase feasibility study.....	424(23.5b)
Disbursement to nonprofits	424(6.7)
Early Childhood Education and Development Initiatives	
Budgeting fund code for tracking administrative and	
operation expenditures	424(21.75c)
Encumbered appropriations and project reserve funds.....	424(33.5)
Financial business infrastructure study.....	491(17.1)–(17.3)
HIPAA strategic plan	424(6.11c)–(6.11d)
Information technology contractor use by State agencies	
study	424(15.5a)–(15.5d)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Mental Health, Developmental Disabilities, and Substance	
Abuse Services Trust Fund created	424(21.58a)–(21.58d)
Motor fleet management study.....	424(7.3)
New permanent positions and salary increases procedure.....	424(6.1a)
New project authorization	424(33.9)
Office renamed.....	424(12.2b)–(12.2c)
Physician services salaries for HHS	424(21.12)
Planning unit eliminated.....	424(12.2a)
Project cost increase	424(33.8)
Reports —see that heading	
Reserve to implement Health Insurance Portability and	
Accountability Act	424(6.11a)–(6.11e)
State Budget Officer	
Membership on Geographic Information Coordinating Council.....	359
Statewide Floodplain Mapping Unit transferred to Crime Control	424(12.3b)
Technical corrections and conforming changes.....	487(34)
Telephone, telecommunications data, and computer data	
processing expenditure reductions.....	424(15.8a)
Transfer of HHS funds authorization	424(21.11)
Triangle J guidelines for State facilities pilot program.....	415(7a)–(7e)
UNC capital projects funding changes authorized	463(3)
Budget, Director of the—see Budget and Management, Office of State	
Budget, Planning and Management, Office of State—see Budget and	
Management, Office of State	
Budgeting—see Accounting and Auditing; Appropriations; particular agency	

Building Code Council

Building rehabilitation code pilot program..... 372
 International organizations standards authorized421(1.2)
 Rule-making proceeding notice publication required..... 421(1.3)–(1.4)
 Standards organizations update421(1.2)
 Subject to Administrative Procedure Act 141

Building Codes

Building rehabilitation code pilot program..... 372
 Construction and design review by State Building Commission.... 496(11)–(11.1)
 Insurance Department liability for fiscal note requirement for
 code changes421(1.1)
 International organizations standards authorized421(1.2)
 Local government building inspection contracts..... 278
 Lock requirements on firearms-related buildings..... 324
 Publication and distribution..... 141
 Regulation of number of toilets in certain buildings 219
 Safety measures in State building code study.....491(2.1)
 Standards organizations update421(1.2)
 Technical corrections and conforming changes.....421(1.5)
 Unsafe buildings regulation..... 386(1)–(2)

Building Commission, State

Appointments and membership..... 486(1.6), (1A.6)
 Construction and design review 496(11)–(11.1)
 Construction flexibility for public entities..... 496
 Open-end design agreements for wetlands mitigation rules 442(6c)

Buildings

Building rehabilitation code pilot program..... 372
 Closing rental to avoid orders to repair or remove 283
 Design-build construction for Roanoke Rapids neighborhood
 resource center425(3)
 Facility Authority university chancellor clarification..... 311
 Land reservation for community building on Butner Reservation.....424(21.57)
 Lock requirements on firearms-related buildings..... 324
 Maintenance of historic properties and landmarks in Durham382(1)
 Regulation of number of toilets in certain buildings 219
 Technical corrections and conforming changes.....487(19)
 Unsafe buildings regulation..... 386(1)–(2)

Buncombe County

Asheville, City of —*see* that heading
 Asheville-Buncombe Technical Community College —*see* Community Colleges
 Biltmore Forest, Town of —*see* that heading
 Black Mountain, Town of —*see* that heading
 Family drug treatment courts services for adults and juveniles.....424(22.8h)
 National Heritage Area Designation Commission created 491(18.1)–(18.10)
 Occupancy tax modification..... 162
 One-stop absentee voting site grants 424(14B.1a)–(14B.1b)
 State Nature and Historic Preserve land additions.....217(2)

Burgaw, Town of—charter consolidation and revision 247

Index to Session Laws

Session Law
Number

Burke County

- Airport district..... 306(1)–(7)
- Morganton, City of —*see* that heading
- National Heritage Area Designation Commission created 491(18.1)–(18.10)
- Rhodhiss, Town of —*see* that heading
- State Nature and Historic Preserve land additions.....217(2)

Burlington, City of—private sale..... 190(4)

Buses (*see also* Public Transportation)

- Bus driver tort claims act applicability.....424(6.18)
- Interfering with school bus..... 26
- Rental car companies to inform renter of no passing school bus.....331(2)
- School bus replacement.....424(28.48)

Business Corporation Act 201; 358; 387

Butner Reservation—*see* Butner, Town of

Butner, Town of

- Land reservation for community building.....424(21.57)
- Whitaker School transition of students to alternative facilities424(21.61a)

- C -

Cabarrus County

- Concord, City of —*see* that heading
- Fraudulent obtaining of ambulance services 106
- Midland, Town of —*see* that heading
- Occupancy tax..... 439(17.1)–(18.1)
- Payment of delinquent tax prior to recording deeds..... 464
- State Nature and Historic Preserve land additions.....217(2)
- TANF State plan424(21.51b)
- Work over welfare program extended..... 354

Calabash, Town of—satellite annexation limit removed 37

Caldwell County

- Airport district..... 306(1)–(7)
- Discharge of firearm across public right-of-way unlawful 67
- Granite Falls, Town of —*see* that heading
- National Heritage Area Designation Commission created 491(18.1)–(18.10)
- Rhodhiss, Town of —*see* that heading
- TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

CAMA (Coastal Area Management Act)..... 491(25.3); 494(5)–(6)

Camden County

- Elizabeth City, City of —*see* that heading
- Nonpartisan Board of Education election..... 24
- Payment of delinquent tax prior to recording deeds 464
- Septic system repair/inspection fees collected as property tax 78(2)–(4)

Camp Butner—*see* Butner, Town of

Campaign Finance—*see* Elections

Candor Park, Town of—drainage funds 424(33.3a)–(33.3b)

Cape Carteret, Town of—occupancy tax revenues for tourism 381(3c)

Cape Fear River

- Cumberland dam/reservoir/state park study 491(2.1B)
- Floodplain mapping.....513(25)

Cape Fear River —continued	
Water quality and sediment sampling for contaminants	440(3.5)
Capital Facilities Finance Agency Board of Directors —appointments and membership	486(1.7)
Capital Punishment	
Death penalty litigation training funds	424(22.10)
District attorney discretion in seeking death penalty	81
Minimum standards rules for judges, attorneys and prosecutors in capital cases.....	392
No death penalty for mentally retarded	346
Carolina Beach, Town of	
Boundary adjustment with Kure Beach	57
Eminent domain for erosion, flood/hurricane protection and beach access	36
Parking meter proceeds use	9
Carolinas Partnership —appropriations	424(20.10a)–(20.10b)
Carrboro, Town of —occupancy tax	439(14.1)–(14.2c), (18.1)
Carteret County	
Atlantic Beach, Town of — <i>see</i> that heading	
Beach renourishment from occupancy tax	381(3)
Beaufort, Town of — <i>see</i> that heading	
Bogue Banks beach protection study funds	424(33.3a)–(33.3b)
Bogue, Town of — <i>see</i> that heading	
Cape Carteret, Town of — <i>see</i> that heading	
Cedar Point, Town of — <i>see</i> that heading	
City law enforcement criminal process service in county government complex	60
Convention center occupancy tax use	381(6a)
Core Sound shellfish moratorium extended	213(4)
Emerald Isle, Town of — <i>see</i> that heading	
Eminent domain for erosion, flood/hurricane protection and beach access	36
Family drug treatment courts for District 3B	487(114a)–(114b)
Fraudulent obtaining of ambulance services	106
Indian Beach-Salter Path nourishment funds	424(33.3a)–(33.3b)
Indian Beach, Town of — <i>see</i> that heading	
Morehead City, City of — <i>see</i> that heading	
Newport, Town of — <i>see</i> that heading	
Occupancy tax	381
Payment of delinquent tax prior to recording deeds	513(14)
Pine Knoll Shores, Town of — <i>see</i> that heading	
Salter Path, Town of — <i>see</i> that heading	
Single-prime contract for HHS building	69
State Nature and Historic Preserve land additions.....	217(2)
Cary, Town of	
Buffer zone tree clear-cutting limits and protection	191
Firemen's supplemental retirement fund repealed	23
Regulation of golf carts on streets	485(3)
Road construction outside corporate limits allowed	245
Caswell County —TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)

Catawba County

- Catawba, Town of —*see* that heading
- Catawba Valley Community College —*see* Community Colleges
- Hickory, City of —*see* that heading
- State Nature and Historic Preserve land additions.....217(2)

Catawba River

- Catawba-Wateree river basin water quality and water supply
 - issues study.....491(16.1)
 - Floodplain mapping.....513(25)
 - River basin buffer/water quality do not apply to Catawba
 - River Basin.....418(4b)

- Catawba, Town of**—satellite annexation limit removed 37

Cedar Point, Town of

- No-wake zone..... 65
- Occupancy tax revenues for tourism381(3c)

Cemeteries—*see* Funeral Services

- Cemetery Commission**—appointments and membership 486(1A.64), (2.1)

- Centennial Authority**—appointments and membership 486(1.8), (1A.7)

- Center for Nursing, Board of Directors**—appointments and membership 163(5); 486(1.34)

- Center for the Advancement of Teaching, Board of Trustees**—appointments and membership 486(1.9), (1A.8)

Certificates of Need

- Adult care home development regulation..... 234
- Corrections exemption424(25.19a)–(25.19c)

Certified Public Accountant Examiners, State Board of

- Licensure fees..... 313
- Out-of-state CPAs 313

- Chadbourn, Town of**—water management funds..... 424(33.3a)–(33.3b)

Chapel Hill, Town of

- Annexation 348
- Pretowing notices required for private lots..... 46
- UNC-Chapel Hill —*see* University of North Carolina

Charlotte, City of

- Bid law exemptions..... 248
- Charlotte Coliseum Authority membership.....402(4)
- Charter technical corrections..... 79
- Consolidation of Business and Industry Division offices with Regional Economic Development Division offices study424(20.5)
- Discovery Place grassroots science program grant-in-aid424(19.2)
- Downtown intermodal station status report.....424(27.7)
- Extraterritorial jurisdiction 228
- Firemen's retirement system changes 22
- Infrastructure development public-private reimbursement agreements 329
- Mentor funds for full-time mentors pilot program 424(28.18a)–(28.18b)
- Parking ordinances authorized 88
- Permanent property line markers..... 187
- Quick take procedures 304

Index to Session Laws

*Session Law
Number*

Charlotte, City of—continued	
Road construction outside corporate limits allowed	245
Sports facilities capital investment referendum.....	10
UNC-Charlotte — <i>see</i> University of North Carolina	
Zoning sunset repealed.....	276
Charlotte Coliseum Authority—<i>see</i> Authorities	
Charters	
Bostic boundaries	43
Burgaw consolidation.....	247
Charlotte	
Bid law exemptions.....	248
Coliseum Authority membership	402(4)
Parking ordinances.....	88
Quick take procedures.....	304
Technical corrections	79
Charlotte/Mecklenburg permanent property line markers	187
Duck incorporation.....	394
Durham	
Cleanup	480
Fair housing ordinance technical correction	350(1)
Maintenance of historic properties and landmarks.....	382(1)
Elizabeth City consolidation	227
Fair Bluff boundary clarification.....	55
Fairview incorporation	428
Jonesville and Arlington merger	16
Linden acts validated.....	472(2a)–(2e)
Midland interim council members.....	30
Millers Creek incorporation	45
Navassa	
District elections	325(3)
Mayor's term	325(2)
New London commission and mayor changes	131
Norwood mayor and commissioner's terms.....	15
Oak Island technical correction	478(2.1)
Ocean Isle Beach street and sidewalk assessments	478(2.2)
Plymouth town council election by ward	51
Rennert mayor's term	3
Rockingham amendments	68
Rocky Mount police officer residency requirement repealed.....	330(1)
Stovall mayor and commissioner's terms	100
Chatham County	
One-stop absentee voting site grants	424(14B.1a)–(14B.1b)
Property acquisition for educational purposes.....	427(7a)–(7b)
Cherokee County	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Payment of delinquent tax prior to recording deeds	464
Child Abuse (<i>see also</i> Minors)	
Child abuse and neglect in child care facilities study	491(2.1)
Child Bicycle Safety Act	268
Child Care—<i>see</i> Day Care	

Index to Session Laws

Session Law
Number

Child Care Commission —appointments and membership.....	486(1.10), (1A.9)
Child Custody (<i>see also</i> Minors)	
Adoption — <i>see</i> that heading	
Child welfare changes	208
Court custody of juvenile alleged using weapon in misdemeanor.....	158
Minor or disabled parent's right to guardian ad litem	208(2)
Child Support (<i>see also</i> Child Custody; Minors)	
Affidavit of parentage	237(2)
Employer responsibilities	237(10)
Enforcement pilot enhancement	424(21.53a)–(21.53d)
Health insurer responsibilities	237(11)
Medical support notice required.....	237(8)–(9)
Order for parent to seek work in IV-D case	237(1)
Payment records are admissible evidence	237(7)
Technical corrections and conforming changes.....	237
Urban counties child support services funds	424(21.54A)
Children — <i>see</i> Minors	
Children and Youth, Governor's Advocacy Council on —appointments and membership	486(2.20)
Children With Special Needs — <i>see</i> Disabled Persons; Mental Health; Minors	
Chiropractic Examiners, State Board of	
Appointments and membership.....	486(1.11), (1A.10)
Board compensation.....	493(5)
Fee increases	493(4), (6)
Injunctive relief action for practicing without a license allowed.....	281(4)
Chiropractors	
Licensure fee increases.....	493(4), (6)
Medicaid payment schedule and bases	424(21.19a)
Chowan County	
Chowan River restoration and Pembroke and Rocky Hock Creeks drainage funds	424(33.3a)–(33.3b)
Payment of delinquent tax prior to recording deeds	464
Septic system repair/inspection fees collected as property tax	78(2)–(4)
State Nature and Historic Preserve land additions.....	217(2)
Chowan River —restoration funds.....	424(33.3a)–(33.3b)
Citizenship — <i>see</i> Immigration and Citizenship	
City Council — <i>see</i> particular municipality	
Clay County	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Property acquisition for educational purposes.....	427(7a)–(7b)
Clean Water Management Trust Fund Advisory Council —technical corrections and conforming changes	474(11)
Clean Water Management Trust Fund, Board of Trustees	
Appointments and membership.....	163(4)
Appropriations	
Current operations and expansion	424(2.1), (2.2h)
Employees exempt from State Personnel Act	424(32.16a)–(32.16b)
Operating expenses limited	424(32.17)

Cleveland County

- Kings Mountain, City of —*see* that heading
- Payment of delinquent tax prior to recording deeds513(14)

Coastal Resources (*see also* Ports)

- 30-Foot buffer exception rules for estuaries and public trust waters 418(1), (3)
- Beach and coastal area insurance availability study491(2.1)
- Beach driving ordinance enforcement in Currituck County 33
- Beach plan loss adjustment reimbursements 421(4.1)–(4.2)
- Beach Renourishment —*see* Erosion
- Beaches design funds for Dare County 424(33.3a)–(33.3b)
- Buffer exemptions on public trust and estuarine waters494(1)–(5)
- Cedar Point no-wake zone..... 65
- Currituck Sound water management study funds 424(33.3a)–(33.3b)
- Eminent domain for erosion, flood/hurricane protection and beach access in certain counties 36
- Environmental permitting process study424(19.11a)–(19.11c)
- Environmental rules study.....491(25.3)
- Fisheries —*see* that heading
- Neuse River modeling and monitoring project report452(2.5)
- Ocean regulation authority for Dare County 52
- Oregon Inlet Project funds do not revert424(20.2b)
- Pier modification rules 418(2)–(3)
- Public trust and estuarine waters buffer variances study494(5)
- Sea oat taking unlawful 93

Coastal Resources Commission

- 30-Foot buffer exception rules for estuaries and public trust waters 418(1), (3)
- Buffer exemptions on public trust and estuarine waters 494(1)–(5)
- Environmental rules study.....491(25.3)
- Pier modification rules418(2)–(3), (2)–(3)

Coats, Town of—annexation 47

Code Officials Qualifications Board

- Appointments and membership 486(1.12), (1A.11)
- Technical corrections and conforming changes.....421(2.4)

Colleges and Universities

- Academic Common Market pilot program424(31.2a)–(31.2c)
- Aid to private colleges.....424(31.1a)
- Aid to private medical schools funding formula424(31.3)
- Child welfare training projects424(5.1u)
- College degrees in social work collaborative support395(2.1u)
- Community colleges —*see* that heading
- Duke University aid to private medical schools funding formula424(31.3)
- Emergency response plans for school violence confidential500(3)
- Health care personnel education study491(8.11)
- Higher education residency requirements study491(8.21)
- Legislative tuition grant aid for private colleges 424(31.1a)
- Parental savings trust fund nonresident participation 243
- President of NC Independent Colleges and Universities member of Education Cabinet 123

Index to Session Laws

*Session Law
Number*

Colleges and Universities—continued	
Public Management Fellowship Program.....	424(6.17)
Tuition— <i>see also</i> that heading	
Increases	395(10a)–(10f)
Rates for noncitizen immigrant students study	491(8.9)
UNC Board study.....	491(31.2)
University of North Carolina — <i>see</i> that heading	
Veterans' scholarship program participant clarification	424(7.1a)–(7.1b)
Wake Forest University aid to private medical schools funding formula.....	424(31.3)
Columbus County	
Additional magistrate	424(22.16)
Brunswick, Town of — <i>see</i> that heading	
Chadbourn, Town of — <i>see</i> that heading	
Fair Bluff, Town of — <i>see</i> that heading	
Lake Waccamaw, Town of — <i>see</i> that heading	
Tabor City, Town of — <i>see</i> that heading	
Worthless check program.....	61
Commerce (<i>see also</i> Corporations, For-Profit)	
Acceleration of withholding tax payments	427(5a)–(5d)
Actions on payment bond period shortened	177
Aggregate hauling clarifications.....	487(50e)
Appeals Bureau rate and loss cost decisions no appeal	232(3)
Automotive Bill of Rights clarification	298
Canadian securities dealers and salesmen limited registration	225
Church bond dealer restriction repealed	182
Collection agency modifications	269(1.1)–(1.4)
Commercial fishing vessel registration repealed	213(3)
Community college Umstead Act exemptions	368
Conform futures contracts to federal law	110
Consolidation of Business and Industry Division offices with Regional Economic Development Division offices study	424(20.5)
Consumer Finance Act changes	519
Electronic funds transfer payments required for certain taxes.....	427(6b)
Electronic listing of taxable business personal property.....	279
Farm machinery agreement law clarification	343
Fraudulent filings under Article 9 of UCC	231
Fuel tax refunds for commercial mulch-blowing equipment.....	408
Industrial Recruitment Competitive Fund	424(20.3a)–(20.3b)
Insurance Department examination authority.....	180
Insurance law amendments	223
Insurance risk sharing plan expiration repealed	122
Internet sales and use tax multistate agreement.....	347
Lock requirements on firearms-related buildings.....	324
Loss costs rate-making change.....	232(2)
Mergers, sales and reorganization securities and corporate law changes	201
Microenterprise Loan Program funds.....	424(20.15e)
Money transmission business requires permit.....	443

Index to Session Laws

*Session Law
Number*

Commerce—continued

Newspaper vending machines street vendors for sales
tax purposes..... 509

Offer and sale of stock exemption clarified..... 197

Rescission offers to be filed with Secretary of State 183

Sales tax holiday 424(33.16a)–(33.16d)

Secretary of State administrative proceeding clarification 126(1)–(8)

Securities Act changes 201(2)–(14)

Security interests created by governments under Title 9
clarified 218

Self-insured workers' compensation..... 223(21.1)–(21.3)

Technical corrections and conforming changes..... 487(38c), (62a)–(62gg),
(107a)–(107b)

Tender Offer Disclosure Act repealed.....201(1)

Tourist-oriented directional sign program..... 383

Transitional fisheries licensing provisions repealed213(2)

Trust companies and interstate trust business..... 263

Uniform Electronic Transactions Act..... 295

Uniform national securities regulations.....126(12)

Used motor vehicle dealer licensing.....345(2)

Usury defense change..... 8

Wage reports filing..... 207

Winery/wine grower permits..... 262

Workers' compensation cancellation guidelines, rights,
and obligations 241

Commerce, Department of

Appropriations

Block grants

Community development block grant funds..... 424(5.2a)

Community development block grant funds 395(8a)–(8f)

Current operations and expansion424(2.1)

Division of Employment and Training

Employment and training grant program.....424(20.6b)

Industrial Recruitment Competitive Fund..... 424(20.3a)–(20.3b)

International Trade Show Fund balance transfer to

General Fund.....424(2.2d)

NC Biotechnology Center424(2.1)

No release of funds to nonprofits without required reports.....424(20.14b)

Oregon Inlet Project funds do not revert424(20.2b)

Regional council of government funds 424(20.12a)–(20.12f)

Regional Economic Development Commissions

allocations 424(20.10a)–(20.10b)

Rural Economic Development Center.....424(2.1)

State-Aid424(2.1)

Tourism promotion funds.....424(20.1)

Wanchese Seafood Industrial Park funds..... 424(20.2a)

Worker Training Trust Fund transfer to ESC..... 424(20.6a)

Biotechnology Center —see that heading

Center for Entrepreneurship and Technology abolished..... 424(20.4a)–(20.4b)

Index to Session Laws

Session Law
Number

Commerce, Department of—continued

- Certain authority transferred to State Chief Information Officer 487(21a)–(21h)
- Civil War tourism study424(11.2a)–(11.2c)
- Community development block grant administrators training study..... 395(8f); 424(5.2f)
- Consolidation of Business and Industry Division offices with Regional Economic Development Division offices study424(20.5)
- County enterprise factor ranking information publication..... 476(3a)–(3b)
- Development zone list publication 476(4a)–(4b)
- No release of funds to nonprofits without required reports424(20.14b)
- Nonprofit corporations reporting requirements 424(20.14a)–(20.14b)
- North Carolina Biotechnology Center —*see* that heading
- REAL Enterprises
 - Reports —*see* that heading
- Reports —*see* that heading
- Rural Economic Development Center —*see* that heading
- Savings Institution Division moved to Banking Commission 193(2)–(18)
- Savings Institutions Commission merged with Banking Commission..... 193(2)–(18)
- Science and Technology Board transferred from Administration Department424(7.6)
- Secretary
 - Appointments —*see* that heading
 - Membership on Geographic Information Coordinating Council..... 359
 - Membership on Science and Technology Board.....486(2.21)
 - Salary424(32.2)
- Technological Development Authority —*see* that heading
- William S. Lee Act filing487(123)
- Working group to promote federal DoD contracts 13
- World Trade Center North Carolina
 - Reports —*see* that heading
- Yadkin/Pee Dee Lakes Projects
 - Reports —*see* that heading

Commissions, Committees, Councils and Boards (*see also* particular heading)

- Acupuncture Licensing Board —*see* that heading
- Administrative Procedure Oversight Committee, Joint Legislative —*see* that heading
- Aeronautics Council —*see* that heading
- Agriculture and Forestry Awareness Study Commission —*see* that heading
- Agriculture, Board of —*see* that heading
- Alarm Systems Licensing Board —*see* that heading
- Alcoholic Beverage Control Commission —*see* that heading
- APA applicability to Federal Tax Reform Allocation Committee study491(20.1)
- Appraisal Board —*see* that heading
- Auctioneers Commission —*see* that heading
- Awards, Board of —*see* that heading
- Banking Commission, State —*see* that heading

Commissions, Committees, Councils and Boards—continued

- Building Commission, State —*see* that heading
- Capital Facilities Finance Agency, Board of Directors —*see* that heading
- Carolinas Partnership —*see* that heading
- Center for Nursing, Board of Directors —*see* that heading
- Center for the Advancement of Teaching, Board of Trustees —*see* that heading
- Certified Public Accountant Examiners, State Board of —*see* that heading
- Child Care Commission —*see* that heading
- Children and Youth, Governor's Advocacy Council on —*see* that heading
- Chiropractic Examiners, State Board of —*see* that heading
- Clean Water Management Trust Fund, Board of Trustees —*see* that heading
- Coastal Resources Commission —*see* that heading
- Code Officials Qualifications Board —*see* that heading
- Community Colleges, State Board of —*see* that heading
- Conflicts of interest with public funds 409
- Corrections, Crime Control, and Juvenile Justice Oversight Committee, Joint
Legislative —*see* that heading
- Crime Commission, Governor's —*see* that heading
- Crime Victims Compensation Commission —*see* that heading
- Criminal Justice Education and Training Standards Commission —*see* that
heading
- Criminal Justice Information Network Governing Board —*see* that heading
- Deaf and Hard of Hearing, Council for the —*see* that heading
- Domestic Violence Commission —*see* that heading
- Drug Treatment Court Advisory Committee —*see* that heading
- Economic Security Commission —*see* that heading
- Education, Boards of (local) —*see* that heading
- Education, House Appropriations Subcommittee on —*see* General Assembly
- Education Oversight Committee, Joint Legislative —*see* that heading
- Education, Senate Appropriations Subcommittee on —*see* General Assembly
- Education, State Board of —*see* that heading
- Elections, Boards of (local) —*see* that heading
- Elections, State Board of —*see* that heading
- Electrical Contractors, State Board of Examiners of —*see* that heading
- Emergency Medical Services Advisory Council —*see* that heading
- Emergency Medical Services Disciplinary Committee —*see* that heading
- Employment Security Commission —*see* that heading
- Engineers and Surveyors, State Board of Examiners for —*see* that heading
- Environmental Management Commission —*see* that heading
- Family-Centered Services, Advisory Committee on —*see* that heading
- Federal Tax Reform Allocation Committee —*see* that heading
- Fee-Based Practicing Pastoral Counselors, State Board of Examiners of —*see*
that heading
- Fire and Rescue Commission —*see* that heading
- Future of the North Carolina Railroad Study Commission —*see* that heading
- General Contractors, State Licensing Board for —*see* that heading
- Global TransPark Development Commission —*see* that heading
- Governmental Operations, Joint Legislative Commission on —*see* that heading
- Grape Growers Council —*see* that heading
- Growth Strategies Oversight Committee, Joint Legislative —*see* that heading

Commissions, Committees, Councils and Boards—continued

- Hazardous Waste Management Commission —*see* that heading
- Health and Human Services, House Appropriations Subcommittee on —*see*
 General Assembly
- Health and Human Services, Senate Appropriations Committee on —*see* General
 Assembly
- Health and Wellness Trust Fund Commission —*see* that heading
- Health Care Oversight Committee, Joint Legislative —*see* that heading
- Health Services, Commission for —*see* that heading
- Highway Trust Fund Study Committee —*see* that heading
- Home Inspector Licensure Board —*see* that heading
- House Appropriations Committee —*see* General Assembly
- Housing Finance Agency Board of Directors —*see* Housing Finance Agency
- Human Relations Commission —*see* that heading
- Improving the Academic Achievement of Minority and At-Risk Students,
 Commission on —*see* that heading
- Indian Affairs, Commission of —*see* that heading
- Indigent Defense Services, Commission on —*see* that heading
- Information Resource Management Commission —*see* that heading
- Information Technology, Joint Select Committee on —*see* that heading
- Interim committee activity rules.....491(33.2)
- Judicial Council, State —*see* that heading
- Juvenile Crime Prevention Councils (county) —*see* that heading
- Juvenile Justice and Delinquency Prevention, State Advisory Council on —*see*
 that heading
- Landscape Architects, Board of —*see* that heading
- Legislative Services Commission —*see* General Assembly
- Local drug treatment court management committees membership424(22.8e)
- Local Government Commission —*see* that heading
- Locksmith Licensing Board —*see* that heading
- Low-Level Radioactive Waste, Joint Select Committee on —*see* that heading
- Manufactured Housing Board —*see* that heading
- Marine Fisheries Commission —*see* that heading
- Massage and Bodywork Therapy, Board of —*see* that heading
- Medical Board —*see* that heading
- Medical Care Commission —*see* that heading
- Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint
 Legislative Oversight Committee on —*see* that heading
- Mental Health Study Commission —*see* that heading
- Military Affairs, Advisory Commission on —*see* that heading
- Minority Health Advisory Council —*see* that heading
- Mortuary Science, Board of —*see* that heading
- Museum of Art, Board of Trustees —*see* Museums
- Natural Heritage Trust Fund, Board of Trustees —*see* that heading
- North Carolina Railroad, Board of Directors —*see* North Carolina Railroad
 Company
- Nursing, Board of —*see* that heading
- Nursing Home Administrators, State Board of Examiners for —*see* that heading
- Nursing Scholars Commission —*see* that heading
- Optional Retirement Program Study Commission —*see* that heading

Commissions, Committees, Councils and Boards—continued

- Optometry, State Board of Examiners In —*see* that heading
- Parole Commission —*see* Post-Release Supervision and Parole Commission
- Personnel Commission, State —*see* that heading
- Persons With Disabilities, Governor's Advocacy Council for —*see* that heading
- Petroleum Underground Storage Tank Funds Council —*see* that heading
- Piedmont Triad Partnership —*see* that heading
- Plumbing, Heating, and Fire Sprinkler Contractors, Board of Examiners of —*see* that heading
- Ports Authority, Board of State —*see* that heading
- Ports Railway Commission —*see* that heading
- Positive Racial, Ethnic, and Faith Relations, Commission on —*see* that heading
- Post-Release Supervision and Parole Commission —*see* that heading
- Private Protective Services Board —*see* that heading
- Property Tax Commission —*see* that heading
- Property Tax Study Commission —*see* that heading
- Public Assistance Commission, Joint Legislative —*see* that heading
- Public Employee Deferred Compensation Plan, Board of Trustees —*see* that heading
- Public Health Study Commission —*see* that heading
- Public Officers and Employees Liability Insurance Commission —*see* that heading
- Railroad Study Commission —*see* that heading
- Real Estate Commission —*see* that heading
- Regional Economic Development Commission, Northeastern North Carolina —*see* that heading
- Regional Economic Development Commission, Southeastern North Carolina —*see* that heading
- Regional Economic Development Commission, Western North Carolina —*see* that heading
- Research Triangle Regional Commission —*see* that heading
- Respiratory Care Board —*see* that heading
- Revenue Laws Study Committee —*see* that heading
- Roanoke Island Commission —*see* that heading
- Rules Review Commission —*see* that heading
- Savings Institutions Commission —*see* that heading
- Science and Technology, Board of —*see* that heading
- Senate Appropriations Committee —*see* General Assembly
- Sentencing and Policy Advisory Commission —*see* that heading
- Sheriffs' Education and Training Standards Commission —*see* that heading
- Smart Growth, Growth Management, and Development Issues, Commission to Address —*see* that heading
- Social Services Commission —*see* that heading
- Soil and Water Conservation Commission —*see* that heading
- Soil Scientists, Board of Licensing of —*see* that heading
- Standards Board for Public School Administration —*see* that heading
- State agency furnishing of information to legislative committee/
commissions.....491(33.1)
- State aircraft use limitations.....424(6.12)
- State Bar —*see* that heading

Commissions, Committees, Councils and Boards—continued

- State Occupational Coordinating Committee —see Employment Security Commission
- Tar-Pamlico River Basin local advisory committees established355(2)
- Tax Policy Commission —see that heading
- Teacher Academy, Board of Trustees —see that heading
- Teachers' and State Employees' Comprehensive Major Medical Plan, Board of Trustees —see that heading
- Teaching Fellows Commission —see that heading
- Therapeutic Recreation Certification, State Board of —see that heading
- Transportation Oversight Committee, Joint Legislative —see that heading
- UNC Board of Governors —see that heading
- UNC Board of Governors Study Commission —see that heading
- UNC Center for Public Television, Board of Trustees —see University of North Carolina
- Utility Review Committee, Joint Legislative —see that heading
- Veterans Affairs Commission —see that heading
- Veterinary Medical Board —see that heading
- Virginia-North Carolina Interstate High-Speed Rail Commission —see that heading
- Water Resources and Coastal Fisheries Management, Scientific Advisory Council on —see that heading
- Watershed Protection Advisory Council —see that heading
- Well Contractors Certification Commission —see that heading
- Wildlife Resources Commission —see that heading
- Wireless 911 Board —see that heading
- Women, Council for —see that heading
- Committees**—see Commissions, Committees, Councils and Boards; particular heading
- Community College Optional Retirement Program**—see Retirement
- Community Colleges** (see also Colleges and Universities)
 - Asheville-Buncombe Technical Community College
 - Small Business Center funds do not revert 424(30.12a)–(30.12b)
 - Catawba Valley Community College
 - Hosiery Technology Center funds424(30.5b)
 - College of the Albemarle
 - Bid law exemption66(2)
 - Community College Optional Retirement Program
 - Salary-related contributions424(32.21b)
 - Community colleges study491(8.12)
 - Conflicts of interest with public funds 409
 - Consolidate and coordinate workforce development programs..... 424(30.10a)–(30.10b)
 - Construction and design review by State Building Commission..... 496(11)–(11.1)
 - Disposal of certain property by boards..... 82
 - Employment of minors enrolled as students.....312(3)
 - Faculty
 - Contracts standardized424(30.6)
 - Salary discrepancies study424(30.8)

Community Colleges—continued

Forsyth Technical Community College	
Stokes County satellite campus study	59
Fuel tax exemption	427(9a)–(9b)
Funding flexibility for local colleges.....	424(30.1)
Generic and specific fee definition rules	513(12a)–(12b)
Gifted student enrollment.....	312(2)
Guilford Technical Community College	
Piedmont Triad Center for Advanced Manufacturing funds	424(30.5b)
Halifax Community College service area study	491(8.4)
Higher education residency requirements study	491(8.21)
Human Resources Development	
Course tuition and fees waivers	424(30.3b)
Employability skills training classes development.....	424(30.3a)
Information Highway site evaluation	424(15.7b)
JobLink Career Centers and human resources development	
services delivery integration study	424(30.3c)
Local budget approval procedure	112
Need-based scholarship program	229
New and Expanding Industry Training Program funds transfers.....	424(30.2)
Patentable intellectual property	
Development loans/grants reporting exemption.....	424(15.1a)–(15.1b)
Transfers reporting exemption	424(15.1a)–(15.1b)
Performance budget evaluation measures	186
Personnel salaries	424(32.11)
Plant operations maintenance funds	424(30.13)
Program audit procedures.....	111
Security interests to federal agencies permitted	211
State Board Reserve Fund allocations	424(30.9)
Travel reimbursement for trustees.....	424(30.15A); 513(6)
Tuition— <i>see also</i> that heading	
Increases	395(10a)–(10b)
Refunds for called up reserve and national guard	
personnel	508(7a)–(7b)
Umstead Act exemptions.....	368

Community Colleges, State Board of

Approval procedure for local budgets	112
Disposal of certain property by community college boards	82
Faculty contracts standardized	424(30.6)
Funding flexibility for local colleges.....	424(30.1)
Generic and specific fee definition rules	513(12a)–(12b)
Gifted student enrollment at community colleges	312(2)
Global TransPark education and training center transfer study	424(27.20)
Health care personnel education study	491(8.11)
Human resources development	
Course tuition and fees waivers	424(30.3b)
Employability skills training classes development.....	424(30.3a)
Program reorganization.....	424(30.3a)–(30.3e)
JobLink Career Centers and human resources development	
services delivery integration study	424(30.3c)

Community Colleges, State Board of—continued

Need-based community college scholarship program	229
Performance budget evaluation measures	186
Program audit procedures.....	111
Reports — <i>see</i> that heading	
Salary increase guidelines	424(32.11)
Security interests to federal agencies permitted	211
State Board Reserve Fund allocations	424(30.9)
Teacher Assistant Scholarship Fund created	424(31.5a)–(31.5b)
Travel reimbursement for trustees.....	424(30.15A); 513(6)
Triangle J guidelines for State facilities pilot program.....	415(7a)–(7e)
Tuition increases	395(10a)–(10b)
University admissions and placement measures study	312(1a)–(1c)

Community Colleges System Office

Apprenticeship program

Organization plans	424(30.10b)
Transferred from Labor Department	424(30.10b)

Appropriations

Current operations and expansion	424(2.1)
Enrollment funding	395(10b)
Entrepreneurial skills training program.....	424(20.6b)
Financial aid cash balances transfers	424(30.11)
Focused industrial training program	424(20.6b), (30.5a), (30.5b), (30.15)
Management information system funds do not revert	424(30.4)
New and Expanding Industry Training Program.....	424(30.5a)
Plant operations maintenance funds.....	424(30.13)
Realignment of accounts for institutional and administrative support	424(30.7)

Bureau of Training Initiatives

Program organization plan	424(30.10a)
Transferred from Labor Department	424(30.10a)

Community College Optional Retirement Program

created	424(32.24a)–(32.24c); 513(24)
---------------	--

Electronic procurement program	424(15.6b)–(15.6c)
Emergency response plans for school violence confidential	500(3)
Fuel tax exemption.....	427(9a)–(9b)
Information Highway site evaluation	424(15.7b)
Need-based scholarship program	229
Personnel salaries.....	424(32.11)
President's membership on Geographic Information Coordinating Council	359
Realignment of accounts for institutional and administrative support.....	424(30.7)
Reports — <i>see</i> that heading	
School for the Deaf at Greensboro closure.....	424(21.81a)–(21.81d)
Security standards for information technology.....	424(15.2b)
Teacher education for military personnel.....	146

Community Development—*see* Economic Development

Compacts—*see* Interstate Cooperation

Computers—*see* Information Technology

Concord, City of

 Road construction outside corporate limits allowed 245

 Traffic control/red light cameras286(4)

Condemnation—*see* Eminent Domain

Confidentiality—*see* Privacy

Conservation

 Agency recycled materials use contract specifications

 report change452(3.6)

 Asphalt paving recycling424(27.18)

 Audubon North Carolina special registration plate 498(1a), (3a), (6a)

 Beverage container deposits study491(2.1)

 Bid procedure and purchase report on reusable and more

 durable supplies452(3.3)

 Buffer exemptions on public trust and estuarine waters 494(1)–(5)

 Energy improvement loan program expansion 338

 Environmental permitting process study424(19.11a)–(19.11c)

 Expanding land and water conservation options study491(14.3)

 Farmland preservation funds424(17.3)

 Motor pool operations cost savings measures424(7.4)

 One Million Acres report change452(2.2)

 Recycled materials use contract specifications report change452(3.6)

 Recycling containers at highway rest areas512(13)

 Rocky Mountain Elk Foundation special registration plate498(1b),

 (3b)–(4b), (6b)

 Save the sea turtles special registration plate498(1a),

 (3a)–(4a), (6a)

 School recycling 512(11)–(12)

 Sedimentation program transfer to local governments

 feasibility study424(19.8)

 State energy program and alternative energy conservation

 project financing agreements study491(2.1)

 State government offices recycling program512(14)

 State Nature and Historic Preserve additions 217

 State reports to be printed on both sides of paper 144

 State to use life-cycle cost analysis for facilities 415(1), (3)–(6)

 Triangle J guidelines for State facilities pilot program415(7a)–(7e)

 Tyrrell County wetlands mitigation banking credits disposal 32

Consolidated Judicial Retirement System—*see* Retirement

Constitution, NC

 Redistricting —*see* that heading

 State Nature and Historic Preserve land additions217(3)

Construction

 Asheville force account limit 274

 Bid law exemptions for Charlotte 248

 Certification of minority business for public construction

 study496(13.2)

 Construction flexibility for public entities 496

Construction—continued

Design-build construction for Roanoke Rapids neighborhood resource center	425(3)
Nonbetterment utility relocation in highway construction study	424(27.26)
Prison construction contract authorized.....	424(25.24)
Proposed school location evaluation by DOT for traffic operation and safety	424(27.27)
Public-private infrastructure reimbursement agreements for Charlotte.....	329
Sewer line cleanout required	296
Single-prime contractor for Durham parking deck and transit facility	350(3)–(4)
State purchase of owner-controlled or wrap-up insurance on public works	167
State to use life-cycle cost analysis for facilities	415(1), (3)–(6)
Temporary wastewater holding tanks.....	505(1.2)
Triangle J guidelines for State facilities pilot program.....	415(7a)–(7e)

Consumer Credit (*see also* Debtor and Creditor; Financial Services)

Bond required of credit card companies applying for fuel tax refund	205(5)
Consumer contract mandatory arbitration provisions study	491(2.1)
Credit card solicitation study.....	491(9.4)

Consumer Finance Act 519

Consumer Protection

Administration fees disclosure by motor vehicle dealers	492(1), (3)
Amortization information requirement on home loans.....	340; 413(9); 487(56)
Civil penalties for violating motor vehicle dealer laws	345
Collection agency modifications	269(1.1)–(1.4)
Consolidation of mental health consumer advocacy and ombudsmen programs study.....	437(3c)
Consumer contract mandatory arbitration provisions study	491(2.1)
Finance yield charges disclosure by motor vehicle dealers	492(2)–(3)
Managed care	
Indemnification under patients' bill of rights	508(2)
Patient Assistance Program established	446(1.6)
Utilization review and grievance procedures	417(2)–(12)
MH/DD/SA Advocacy Program.....	437(2)
Motor vehicle repairs	
Generally.....	298
Glass repairs steering and incentives study.....	491(2.1)
Options notification to claimants	451(1)
Payable on death accounts.....	267
Predatory lending laws effectiveness study	393(8)
State Consumer Advocate for mental health	437(2)
Unsolicited loan checks disclosure statements	391

Continuing Education—*see* Vocational Education

Contracts and Purchasing

Actions on payment bond period shortened	177
Adult care home reimbursement rates methodology development RFP	424(21.7b)

Contracts and Purchasing—continued

Agency recycled materials use contract specifications report change.....	452(3.6)
Agricultural contracts enhancing fairness study.....	491(2.1)
Alternative bid process for hot in-place asphalt paving recycling.....	424(27.18)
Asheville force account limit	274
Bid law exemptions for certain municipalities	66
Bid procedure and purchase report on reusable and more durable supplies.....	452(3.3)
Centralized contracts system for HHS.....	424(21.18B)
Certification of minority business for public construction study.....	496(13.2)
Character education implementation.....	424(28.36)
Charlotte bid law exemptions.....	248
Close-custody prison construction	322(5)
College of the Albemarle bid law exemption	66(2)
Competitive bid exemption for school facilities in certain counties	99; 135
Competitive health care information confidentiality	516(5)
Conflicts of interest with public funds	409
Construction flexibility for public entities.....	496
Contract reimbursement rates for medical services not public record.....	516(4)
Contracting for services feasibility for State Laboratory.....	424(21.92b)
Design-build construction	
Roanoke Rapids neighborhood resource center	425(3)
Transportation contracts authorized.....	424(27.2a)–(27.2b)
DHHS contractual services limitations.....	424(21.99a)–(21.99d)
Disposal of local government property procedure.....	328(4)–(6)
Durham contract authority.....	480(3)
Early Childhood Education and Development Initiatives	
competitive bid practices.....	424(21.72b)
Electronic bids authorized for Transportation Department.....	424(27.9a)–(27.9b)
Fair Barn restoration exempt from bid laws	66(1)
Forsyth/Winston-Salem purchase/lease of telecommunications and information technology on request for proposals basis	54
Immunization program restitution for spoiled vaccines	424(21.86a)–(21.86b)
Information technology	
Contractor use by State agencies study.....	424(15.5a)–(15.5d)
Purchasing rules	487(21g)
Inmate health care contracting.....	424(25.23a)–(25.23b)
Inmate prescription contract review	424(25.6b)
Intensive home visiting program no State funds for evaluation contractor	424(21.97a)
Lease-purchase of close security correctional facilities.....	84; 202
Letting public contracts for local government.....	328(1)
Local government information technology purchasing	328(3)
Minimum criteria transportation projects temporary rules.....	424(27.22a)–(27.22b)
Minority business participation goals.....	496(3)–(3.6)

Contracts and Purchasing—continued

More At Four pilot program evaluation component 424(21.76Bd)
 No-cost contract extensions for nongovernmental recipients
 of TANF block grants 424(5.1e)
 Overdue tax collections contract request for proposal..... 424(14D.2)
 Owner-controlled or wrap-up insurance on public works 167
 Personal service contracts reporting requirement 424(6.19a)–(6.19b)
 Pharmacy Board acquisition of real property, equipment and
 liability insurance 407
 Piedmont Triad air cargo center bid exemption sunset extended .. 476(16a)–(16b)
 Prison construction contract authorized..... 424(25.24)
 Reciprocal preferences on out-of-state bids 240
 Recycled materials use Transportation Department contract
 specifications report change 452(3.6)
 Security interests to federal agencies permitted for
 community colleges..... 211
 Single-prime contractor
 Carteret County HHS building 69
 Durham parking deck and transit facility 350(3)–(4)
 State Fair contract review 487(71)
 State purchasing and procurement process study 491(2.1)
 Student information disclosure prohibited by school contractors..... 500(1)
 Tax debt collection 380
 Technical corrections and conforming changes..... 487(21f), (45), (88)
 Temporary public defenders..... 424(22.11d)
 Textbook distribution system study RFP..... 424(28.24)
 Tire retreading contract for DOT 424(27.24)
 TSECMMP contract disputes exempt from Administrative
 Procedure Act..... 192(1)–(3)
 Volume purchase plans and single source procurement
 for Medicaid 424(21.19j)
 Wake County prequalified bidders for school construction..... 44
 Withdrawal of bid on local government contracts..... 328(2)

Controlled Substances—*see* Narcotics; Pharmaceuticals; Substance Abuse

Controller—*see* State Controller

Cornelius, Town of

Charlotte Coliseum Authority membership 402(4)
 Mecklenburg occupancy and meals tax distribution..... 402(1)–(2)
 Zoning sunset repealed..... 276

Corporations, For-Profit (*see also* Commerce)

Action without meeting of shareholders 387(11)
 Arrests and use of force by private corrections officers 378
 Articles of incorporation to include address 387(8)
 Asset protection for insurance companies 223(13.1)–(13.4)
 Attendance at meeting through electronic/remote
 communication means 387(12)
 Center for Entrepreneurship and Technology abolished..... 424(20.4a)–(20.4b)
 Certificate of withdrawal by foreign entity 387(29)–(31)
 Charges against motor vehicle dealer accounts by manufacturers..... 510(1)

Corporations, For-Profit—continued

Coercion and threats to motor vehicle dealer franchise	
by manufacturer	510(6)
Consent to action without meeting may be electronic	387(15)
Consolidation for insurance companies.....	223(7.1)–(7.2)
Conversion	
Articles of incorporation require statements	387(9)
Conversion to LLC	387(92)–(99)
Conversion to/of corporation	387(17)
Plan requirements for mutual insurance company	223(9.5)–(9.6)
Corporate existence effective date.....	387(10)
Dealer plates for specialty vehicles	212
Dealerships owner prohibitions against manufacturer.....	510(3)
Definition changes	387(3)–(5)
Discrimination among motor vehicle dealers by manufacturer	510(4)
Drug company drug program access	424(21.6a)–(21.6d); 513(20)
Electricity sales to manufacturers tax rates	476(17b)–(17g); 487(122a)–(122d)
Electronic commerce —see that heading	
Electronic transactions set forth by bylaws or board action	387(7)
Energy improvement loan program expansion.....	338
Filing of documents electronically	358(4)
Focused industrial training program tuition funds.....	424(30.15)
Foreign entity address requirement	387(27A)
Foreign insurance companies	223(14.1)–(14.2)
Formation and relocation of insurance companies	223(4.1)–(4.2)
Gross receipts report verification repealed.....	487(69a), (69c)
Holding company systems for insurance companies	223(16.1)–(16.7)
Insolvency protection for insurance companies.....	223(5.1)–(5.2)
Insurance Department examination authority.....	180
Insurance risk-based capital requirements.....	223(12.1)–(12.10)
Insurer insolvency refund thresholds.....	223(24.1)–(24.4)
Investments of insurance companies	223(8.1)–(8.18)
Licensing of insurance companies.....	223(2.1)–(2.3)
Life insurance company variable accounts.....	223(6.1)–(6.4)
Limited liability companies (LLCs)	
Annual report filing requirement	387(59)–(59A)
Conversion to LLC	387(92)–(99)
Corporate filing requirements consolidation.....	358(1)–(11)
Definition changes	387(48)–(52)
Director and executive requirements.....	387(68)
Document execution	387(53)
Electronic filing of documents	358(4)
Fees.....	387(54)
Income taxation.....	387(101)
Liability of directors and executives	387(69)–(72)
Limited Liability Company Act.....	387(48)–(102)
Membership	387(64)
Motor vehicle tax	387(151)

Index to Session Laws

*Session Law
Number*

Corporations, For-Profit—continued

Name provisions consolidation	358(12)–(41)
Organization	387(57)–(59)
Registered corporate office/agent provisions consolidation	358(42)–(51c)
Reinstatement.....	387(74), (152)–(153); 390(7)–(15)
Secretary of State to accept service of process for foreign entity	387(85)–(89)
Technical corrections and conforming changes	387(48)–(102), (155)–(174); 487(62i), (62k)–(62p), (107b)
Managing general insurance agents.....	223(20.1)–(20.5)
Medical equipment dispensing registration requirements	339
Merger or share exchange involving foreign entity.....	387(18)–(26)
Mergers, sales and reorganization securities and corporate law changes	201
Microenterprise Loan Program funds.....	424(20.15e)
Mortgage guaranty insurance provisions added	223(11)
Mutual insurance companies	223(9.1)–(9.6)
Name provisions consolidation	358(12)–(41)
Names foreign entities.....	358(15)
Offer and sale of stock exemption clarified.....	197
Office of Historically Underutilized Businesses continuation.....	424(7.9)
Partnerships	
Conversion to limited partnership.....	387(138)–(142)
Conversions and mergers	387(105a)–(117)
Definition changes	387(103)
Fees	387(104)
Filing documents.....	387(104)
Income taxation.....	387(117)
Limited partnership fees.....	387(149)
Merger of limited partnership	387(143)–(147)
Registered limited liability partnerships.....	387(118)–(153)
Technical corrections and conforming changes	387(155)–(174); 487(107b)
Price variations restrictions on motor vehicle manufacturers	510(2)
Promoting and holding for insurance companies repealed	223(15)
Protected cell companies	223(25)
Receiverships of insurance companies	223(19)
Registered office/agent provisions consolidation.....	358(42)–(51c)
Reinstatement following dissolution	390(7)–(15)
Reinsurance	223(3.1)–(3.7), (10.1)–(10.3)
Remedies for dealers from vehicle manufacturer violations	510(5)
Rental car companies to inform renter of no passing school bus.....	331(2)
Reserving methods for insurance companies	223(1.1)–(1.2)
Risk retention groups	223(18)
Secretary of State to accept service of process for foreign entity when no registered agent.....	387(28)

Corporations, For-Profit—continued

Self-insured workers' compensation.....	223(21.1)–(21.3)
Shareholders	
Dissenter's rights	387(27)
Electronic notification to shareholder	387(6)
Electronic signature on shareholder proxy.....	387(14)
Written consent.....	487(62c)
Shareholders list availability	387(13)
Small business carrier insurance rate guarantees.....	334(3)
Surplus lines insurance.....	223(17.1)–(17.2)
Tax apportionment formula study	491(9.5)
Tax holiday	476(18a), (18b)–(18c)
Technical corrections and conforming changes.....	387(155)–(174); 413(6)–(8); 487(18), (20), (38c), (62a)–(62gg), (62d)–(62gg), (107a)–(107b)
Tender Offer Disclosure Act repealed.....	201(1)
Training and reemployment contribution	424(30.5e)–(30.5j)
Transfer of assets to unincorporated entity.....	508(1)
Trust companies and interstate trust business.....	263
Umstead Act exemption for community colleges.....	368
Usury defense change.....	8
Withdrawal of foreign entity	387(45)–(47)
Working group to promote federal DoD contracts	13

Corporations, Nonprofit

Access to civil justice.....	424(22.14a)–(22.14j)
Appropriations disbursements to nonprofits.....	250(5)
Articles of incorporation to include address.....	387(8)
Association of Community Development Corporations	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Boys and Girls Clubs funds.....	424(5.1a), (5.1j), (5.1v)
Child care allocation formula study.....	424(21.69d)
Child caring agencies block grant funds.....	424(5.1i)
Chinqua-Penn Foundation funds	424(31.13)
Coalition of Farm and Rural Families	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Community development block grant funds.....	395(8e)
Community Development Initiative	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Conversion articles of incorporation require statements	387(9)
Conversion plan requirements for mutual insurance company.....	223(9.5)–(9.6)
Corporate existence effective date.....	387(10)
Definition changes	387(3), (34)
Disbursement to nonprofits	424(6.7)
Domestic violence prevention and awareness	395(2.1y)
Easter Seals Society block grant funds.....	395(2.1a); 424(5.1a)

Index to Session Laws

*Session Law
Number*

Corporations, Nonprofit—continued

Electronic filing of documents	358(4)
Energy improvement loan program expansion.....	338
Exemption of certain establishments from food and lodging facilities regulation.....	440(4)
ExplorNet audit.....	424(28.45)
Foreign merger with domestic entity.....	387(36)–(41)
Good Samaritan Law for certain health care providers	230
Governor Morehead School nonprofit corporation assistance.....	412
Guidelines for funds awards to public/private agencies for adoption of special children.....	395(2.1h)
HIV/AIDS	
Awareness and education.....	395(2.1z)
Prevention initiative.....	424(21.18Da)–(21.18Dd)
Indian Cultural Center lease.....	89
Institute for Minority Economic Development	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Insurance risk-based capital requirements.....	223(12.1)–(12.10)
Intensive Family Preservation Services Program	
enhancements	424(21.50a)–(21.50j)
Land Loss Prevention Project	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Legal Aid Society of Northwest North Carolina access	
to civil justice from court costs	424(22.14a)–(22.14j)
Legal Services of North Carolina access to civil justice	
from court costs.....	424(22.14a)–(22.14j)
Legal Services of the Southern Piedmont access to	
civil justice from court costs.....	424(22.14a)–(22.14j)
Mergers and conversion member consent	487(62f)
Minority Support Center	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
NC Rural Center funds.....	424(5.1v)
NC State capital improvement projects funding	
through leases.....	463(5)
NER block grant funds.....	424(5.2e)
No-cost contract extensions for nongovernmental	
TANF recipients.....	395(2.1b)
Nonprofit Corporation Act.....	387
North Central Legal Assistance Program access to	
civil justice from court costs.....	424(22.14a)–(22.14j)
Offer and sale of stock exemption clarified.....	197
Partnership for the Sounds	
No release of funds without required reports	424(20.14b)
Reporting requirements.....	424(20.14a)–(20.14b)
Pisgah Legal Services access to civil justice from	
court costs	424(22.14a)–(22.14j)
Principal office	387(33)

Corporations, Nonprofit—continued

Private agency uniform cost-finding requirement by Division of Mental Health.....	424(21.56)
Rape prevention and education program.....	395(2.1f); 424(5.1f)
Registered office/agent provisions consolidation.....	358(42)–(51c)
Reinstatement following dissolution.....	390(7)–(15)
Rural Economic Development Center matching funds.....	424(20.15e)
Secretary of State as agent.....	387(42)–(43)
Secretary of State to accept service of process for foreign entity when no registered agent.....	387(28)
State money recipients conflict of interest policy.....	424(6.6)
State/nonprofit companies may join certain water and sewer authorities.....	224
Technical corrections and conforming changes.....	387; 414(36); 487(62f)
Unincorporated entity.....	387(35)
United Cerebral Palsy block grant funds.....	395(2.1a); 424(5.1a)
Work Central Career Advancement Center funds.....	424(5.1v)
Correction, Board of —appointments and membership.....	486(2.15)
Correction, Department of (<i>see also</i> Correctional Institutions)	
Appropriations	
Current operations and expansion.....	424(2.1)
Federal grant matching funds.....	424(25.7)
Harriet's House.....	424(25.18a)
IMPACT boot camp program.....	424(25.22a)
Inmate Canteen/Welfare Fund balance transfer to General Fund.....	424(2.2d)
Inmate prescription costs.....	424(25.6b)
Operational funds use limits.....	424(25.3)
Prison Enterprises Fund balance transfer to General Fund.....	424(2.2f)
Prisoners awaiting transfer to State system county reimbursement.....	424(25.4)
Summit House funds reduction.....	424(25.14a)
Transfer from Highway fund for prisoner road crews.....	424(25.11b)
Transfer from Transportation Department for prisoner road crews.....	424(25.11a)
Close-custody prison construction contracts.....	322(5)
Closed prison facilities use plan.....	424(25.5)
Confinement of prisoner outside the county of residence of victim.....	433(10)
Division of Adult Probation and Parole	
Hearing notification victims rights requirement.....	433(8)
Division of Community Corrections	
Community Service Work Program transferred from Crime Control Department.....	424(26.11)
Earned time credit for medically/physically unfit inmates.....	424(25.1a)–(25.1b)
Energy for Committed Offenders contract.....	424(25.10)
Food and health costs for inmates.....	424(25.6a)
Health care contracting for inmates.....	424(25.23a)–(25.23b)
IMPACT boot camp program elimination.....	424(25.22c)
Lease-purchase of close security correctional facilities.....	84; 202
Medical liability coverage for employees.....	424(21.55)

Correction, Department of—continued

Membership on Criminal Justice Education and Training	
Standards Commission	490(1.2)
No inmate contact with victim's family	433(9)
Operational funds use limits	424(25.3)
Post-Release Supervision and Parole Commission —see that heading	
Prescription contract review for inmates	424(25.6b)
Prescription costs for inmates	424(25.6b)
Prison construction contract authorized	424(25.24)
Prisoners awaiting transfer to State system county reimbursement	424(25.4)
Reports —see that heading	
Residential programs for probationers	424(25.22a)–(25.22c)
Secretary	
Membership on Criminal Justice Education and Training	
Standards Commission	490(1.5)
Salary	424(32.2)
Seized and forfeited property transferred to State by	
Federal Government	424(23.1a)–(23.1c)
Sentencing and Policy Advisory Commission —see that heading	
State-County Criminal Justice Partnership	
funding formula	424(25.16a)–(25.16d); 513(11)
Summit House organization/expenditures review	424(25.14b)
Technical corrections and conforming changes	95; 487(47a)–(47g), (91a)–(91b)
Terminally ill and disabled inmates confinement limits	424(25.9a)–(25.9b)
Youth Development Division moved to Juvenile Justice	95(7)–(8)

Correctional Institutions (see also Prisoners)

Arrests and use of force by private corrections officers	378
Assault with bodily fluids/excrement	360
Close-custody prison construction contracts	322(5)
Closed prison facilities use plan	424(25.5)
Confinement limits for terminally ill and disabled inmates	424(25.9a)–(25.9b)
Correction, Department of —see that heading	
County reimbursement for prisoners awaiting transfer to	
State system	424(25.4)
Dobbs Youth Development Center funds	513(10)
Improving performance of students in juvenile facilities study	491(2.1)
Juvenile justice officers entitled to salary continuation plan	
benefits	487(89)
Lease-purchase of close security facilities	84; 202
Prison construction contract authorized	424(25.24)
Prison property tax exemption	427(15a)–(15b)
Prisoners —see that heading	
Procurement of necessities with sheriff's approval	487(95)
Summit House funds reduction	424(25.14a)
Training school redefined as youth development center	95(1)–(5)
Whitaker School transition of students to alternative facilities	424(21.61a)

Corrections and Crime Control Oversight Committee, Joint Legislative—*see*
Corrections, Crime Control, and Juvenile Justice Oversight
Committee, Joint Legislative

**Corrections, Crime Control, and Juvenile Justice Oversight Committee, Joint
Legislative**

 Name change..... 138

 Ongoing study and recommendations of Department of
 Juvenile Justice..... 138

 Summit House organization/expenditures review424(25.14b)

Council of State

 Agriculture Commissioner —*see* Agriculture and Consumer Services,
 Department of

 Attorney General —*see* that heading

 Insurance Commissioner —*see* Insurance, Department of

 Labor Commissioner —*see* Labor, Department of

 Lieutenant Governor —*see* that heading

 Salaries.....424(32.1b)

 Secretary of State —*see* that heading

 State Auditor —*see* that heading

 State Treasurer —*see* that heading

 Superintendent of Public Instruction —*see* Public Instruction, Department of

Counseling—*see* Mental Health

Counties (*see also* particular county)

 Accelerated payment of excise tax on conveyances..... 427(14a)–(14b)

 Accelerated sales and use tax distribution to local
 governments 427(13a)–(13g)

 Access to civil justice from court costs 424(22.14a)–(22.14j)

 Appeals of juvenile court orders study.....491(2.1)

 Area authorities

 Dissolution.....437(1.9)

 Personnel.....437(1.18)

 Powers and duties437(1.10)

 Area board structure437(1.11a)–(1.11c)

 Area directors437(1.12)

 Block grants for Work First.....424(5.1a)

 Boundary correction between Iredell and Mecklenburg Counties.....429(1)

 Building inspection contracts278(1)

 Caldwell-Burke airport district..... 306(1)–(7)

 Candidate notification of campaign sign laws.....512(8)

 Catchment area consolidation plan.....437(3a)

 Child care

 Allocation formula.....424(21.69b)

 Subsidy rates 424(21.73a)–(21.73j)

 Child protective services, foster care, and adoption
 workers funds.....395(2.1a); 424(5.1a)

 Civil penalties for health violations by certain counties 120

 Closed prison facilities use plan424(25.5)

 Competitive bid exemption for school facilities in certain counties..... 99

 Construction flexibility for public entities..... 496

 Cooperative agreements for ABC store management..... 128

Index to Session Laws

*Session Law
Number*

Counties—continued

Criminal records check by area mental health authority..... 155

Defense and judgment payments against soil and water
conservation personnel..... 300

Disposal of property procedure 328(5)–(6)

Early Childhood Education and Development Initiatives county
allocations use424(21.72d)

Elections director training319(1b)

Emergency Medical Services Act revisions 220

Eminent domain for erosion, flood/hurricane protection
and beach access in certain counties..... 36

Enterprise factor ranking information publication..... 476(3a)–(3b)

Forsyth-Guilford Metropolitan Baseball Park District repealed.....414(52)

Governance of mental health system.....437(1.9)

Health and Human Services budget guidance424(21.16)

Hunting/trapping of foxes and raccoons and snare use in certain counties..... 19

Information technology purchasing328(3)

Juvenile members for Juvenile Crime Prevention Councils 199(1)–(2)

Letting public contracts328(1)

Littering
Enforcement.....512(5)
Regulation.....512(6)

Local sales tax option 424(33.14a)–(33.14d)

Long-term care local lead agency study491(22.1)

Medicaid
Cost-share 424(21.21a)–(21.21b);
491(10.4)
Fraud recovery incentives 424(21.19r)

Mental health system
Appropriation and allocation of funds437(1.8)
Business plan437(1.9)

MH/DD/SAS
Appeals Panel 437(1.17b)–(1.17c)
Authorities administrative cost reduction..... 424(21.65a)–(21.65 b)

Mixed beverage elections on barrier islands515(4)

Municipal Boards of Election abolished..... 374

Naming of roads and street number assignment 145

Nonfederal cost of Medicaid allocation.....424(21.19b)

One-stop absentee voting site grants 424(14B.1a)–(14B.1b)

On-site demolition debris disposal 357

Payment of delinquent tax prior to recording deeds for
certain counties.....464; 513(14)

Precinct change notification353(2)

Prisoners awaiting transfer to State system county reimbursement.....424(25.4)

Property acquisition by certain education boards..... 76

Public enterprise billing information not public record 473

Public health authority employees exempt from State
personnel system 92

Public health services in tier 1 counties study491(2.1D)

Readiness plan for mental health programs certification.....437(3a)

Index to Session Laws

Session Law
Number

Counties—continued

Regional council of government funds..... 424(20.12a)–(20.12f)
Register of Deeds —*see* that heading
Regulation of number of toilets in certain buildings 219
Residential wastewater treatment system performance reports505(2.1)
Revenue bond projects 414(48)–(50)
Review of properties exempt from tax 139
Sale of dwellings purchased under hazard mitigation
grant program29; 386(3)
Septic systems
Repair/inspection fees collected as property tax in
certain counties..... 78(2)–(4)
Transfer to multicounty agency78(1)
Special ABC area definition change not applicable to
certain counties.....515(2)
State funding to counties and area authorities study.....437(3d)
State-County Criminal Justice Partnership funding
formula 424(25.16a)–(25.16d);
513(11)
TANF State plan electing counties 395(7c)–(7d);
424(21.51c)–(21.51d)
Tar-Pamlico River Basin local advisory committees
established355(2)
Technical corrections and conforming changes..... 487(44a)–(44b)
Telecommunications tax restrictions 430(17)
Termination of county director of elections 319(1a)
Tourism promotion funds.....424(20.1)
Traffic stop statistics collection.....424(23.7a)–(23.7c)
Transporter plates for programs providing vehicles to
low-income persons..... 147
Two-county industrial parks..... 94
Urban counties child support services funds 424(21.54A)
Voting data maintained by precinct.....466(2)
Wake and Guilford superior court district realignment 333
Withdrawal of bid on local government contracts328(2)
Worthless check program..... 61

County Commissioners

Area board structure437(1.11a)–(1.11c)
Civil penalties for health violations by certain counties 120
County Health and Human Services budget guidance.....424(21.16)
Craven county elections 447
Electronic listing of taxable business personal property..... 279
Gates County residence districts 63
Mitchell County elections306(8)
Occupancy tax authorization for certain counties..... 434
On-site demolition debris disposal reporting 357
Voting systems460(3)

County Commissioners, Association of—Executive Director's membership
on Geographic Information Coordinating Council 359

Index to Session Laws

*Session Law
Number*

Courts

Administrative Office of the Courts (AOC)	
Administrative Officer of the Courts' salary	424(32.4a)
Appellate division reports distribution to Cherokee Supreme Court	280
Assistant Administrative Officer of the Courts' salary	424(32.4a)
Assistant district attorney salaries	424(32.4b)
Comprehensive treatment services program for children at risk for institutionalization	424(21.60d)
Family drug treatment courts services for adults and juveniles	424(22.8a)–(22.8j)
Information technology network costs study	424(15.4e)
Juvenile Assessment Advisory Board	424(24.7b), (24.7d)
Magistrates' salaries	424(32.7)
Reports — <i>see</i> that heading	
Transfer of equipment and supplies funds	424(22.1)
Unnecessary and obsolete reports repealed	424(22.6a)–(22.6c)
Worthless check program	61
Cherokee Supreme Court	
Appellate division reports distribution	280
Civil procedure	
Applicable date for changes	487(107.5a)–(107.5b)
Cover sheets for filings	388(2)
Disabled person definition	487(1)
Disqualification for interest	379(4)
Double damages for destruction of agricultural commodities or production systems	290
Filing of briefs	388(1)
Greenville service of process for rental property	104
Mediation of discovery disputes	379(5)
Preserving exceptions to rulings	379(6)
Procedure to assert right of access	516(1)–(2)
Relief for state agencies under Declaratory Judgment Act	192(3)
Restraining order enhanced notice	379(8)
Secretary of State to accept service of process for foreign entity when no registered agent	387(28)
Service by designated delivery service	379(2)
Service of pleading by FAX	379(3)
Statute of limitations extension in malpractice cases	121
Substitution of judge circumstances expanded	379(7)
Summons alive for 60 days	379(1)
Technical corrections and conforming changes	487(107.5a)–(107.5b)
Clerks of Court	
Assistant and deputy clerks' salaries	424(32.6)
Filings in civil actions	388
Resignation, removal, and renunciation of trustees	413(1)
Salaries	424(32.5)
Workers' compensation agreements, orders and final awards entered as judgments	477
Contingency and emergency fund use	424(6.3a)

Index to Session Laws

*Session Law
Number*

Courts—continued

County appeals of juvenile court orders study	491(2.1)
Court costs	
Access to civil justice funds.....	424(22.14a)–(22.14j)
Court custody of juvenile alleged using weapon in misdemeanor.....	158
Court of Appeals	
Chief Judge's salary	424(32.4a)
Judges' salaries.....	424(32.4a)
Criminal procedure	
City law enforcement criminal process service in Carteret County government complex	60
District attorney discretion in seeking death penalty.....	81
Domestic violence changes.....	518(2)–(2A)
Innocence Protection Act.....	282
No death penalty for mentally retarded.....	346
Pretrial release.....	487(46.5a)–(46.5b)
Statute of limitations for assault and false imprisonment extended	175
Technical corrections and conforming changes	487(46)
Day reporting center disposition for delinquent juvenile.....	179
Distribution of inoperative trust assets	413(3)–(3.1)
District Attorneys — <i>see</i> that heading	
District Court	
Access to civil justice funds.....	424(22.14a)–(22.14j)
Add District Court judgeship.....	424(22.17a)–(22.17c)
Chief Judge's salary	424(32.4a)
Eliminate vacant judgeship.....	424(22.17c)
Emergency marriage ceremony authority for judges	14
Judges' salaries.....	424(32.4a)
Nonpartisan elections.....	403
Residency requirement in District 11.....	400
Settlement procedures in district court actions.....	320
Technical corrections and conforming changes	487(39)
Domestic violence protective orders violations.....	518(5)
DWI seized vehicle release to innocent owner.....	362(4), (6)–(8)
Equitable distribution action does not abate on death	364
Evidence	
Child support payment records are admissible evidence.....	237(7)
DNA sample access	282(4)–(5)
Employment Security Commission records.....	115
Expungement of DNA records.....	282(1)–(3)
Parking violations of leased vehicles and rule of evidence	259
Postconviction DNA testing.....	282(4)–(5)
Privileged communications protection for certain counselors.....	152
Testimonial privilege for rape crises and domestic violence centers.....	277
Traffic control/red light cameras.....	286
Family drug treatment courts	
District 3B.....	487(114a)–(114b)
Services for adults and juveniles.....	424(22.8a)–(22.8j)

Index to Session Laws

*Session Law
Number*

Courts—continued

Full faith and credit to judgments of tribal courts.....	456
Hearings for control of property by personal representative	413(2)–(2.1)
Innocence Protection Act	282
Judges	
Add District Court judgeship	424(22.17a)–(22.17c)
Add Superior Court judgeship	424(22.4b)–(22.4d)
Consolidated Judicial Retirement System (CJRS)	
Salary-related contributions.....	424(32.21b)
Sick leave	424(32.29a)–(32.29b)
DWI seized vehicle release to innocent owner.....	362(8)
Eliminate vacant judgeship	424(22.4b), (22.4d), (22.17a), (22.17c)
Emergency marriage ceremony authority	14
Malpractice cases statute of limitations extension	121
Marriage by Superior Court judges.....	62(17)
Minimum standards rules in capital cases	392
Nonpartisan elections for District Court	403
Order for parent to seek work in IV-D case	237(1)
Residency requirement in District 11.....	400
Salaries	424(32.4a)
Special Superior Court judge	424(22.4a), (22.4d)
Substitution of judge circumstances expanded.....	379(7)
Superior court judge write-in	319(9)
Superior court vacancies	460(10)
Judicial branch officials' salaries no increases.....	424(32.4a)
Judicial officials victims rights responsibilities when issuing	
arrest warrants	433(4)
Judicial sales modification	271(1)–(10)
Jurisdiction and limitation of actions in health insurance policies	334(1)
Juvenile commitment procedures study	491(2.1)
Magistrates	
Additional magistrate for Columbus County	424(22.16)
Salaries	424(32.7)
Special registration license plate.....	482
Marriage of minors.....	62(13)
Mediation and Arbitration — <i>see that heading</i>	
Minor or disabled parent's right to guardian ad litem.....	208(2)
No indexing, docketing or recording of unauthorized liens.....	495
Petition for adoption requirements	150(3)
Posttrial victims rights responsibilities.....	433(6)
Pretrial process victim notification.....	433(2)
Public defenders — <i>see that heading</i>	
Resignation, removal, and renunciation of trustees.....	413(1)
Settlement procedures in district court actions.....	320
Speedy disposition of offenses involving threats to public	
safety funds	424(22.11e)–(22.11f)
Superior Court	
Access to civil justice funds.....	424(22.14a)–(22.14j)
Add Superior Court judgeship	424(22.4b)–(22.4d)

Index to Session Laws

Session Law
Number

Courts—continued

Ballot counting, canvassing and recounts	398(1), (3)–(4)
Eliminate vacant judgeship	424(22.4b), (22.4d)
Emergency marriage ceremony authority for judges	14
Forsyth County districts realignment	507(3)–(4)
Injunctive relief actions allowed Chiropractic Board	281(4)
Judges' salaries	424(32.4a)
Judgeship vacancies	460(10)
Marriage by judges	62(17)
Senior Regular Resident Judge's salary	424(32.4a)
Special Superior Court judge	424(22.4a), (22.4d)
Wake and Guilford district realignment	333
Workers' compensation agreements, orders and final awards entered as judgments	477
Supreme Court	
Associate Justices' salaries	424(32.4a)
Chief Justice's salary	424(32.4a)
Minimum standards rules for judges, attorneys and prosecutors in capital cases	392
Technical corrections and conforming changes	487(29)
Teen Court guidelines codified	424(24.8)
Teen court program annual evaluation	424(24.5)
Termination of parental rights	208
Victim impact evidence at sentencing	433(5)
Voter records under domestic violence protective orders	396

Craven County

Board of Commissioners election	447
Family drug treatment courts for District 3B	487(114a)–(114b)
Property acquisition by board of education	76
State Nature and Historic Preserve land additions	217(2)

Credit Cards—*see* Consumer Credit

Credit Unions—*see* Financial Institutions

Crime Commission, Governor's

Appointments and membership	487(47g)
Drug law enforcement grants legislative review	424(26.3a)
Effectiveness standards development for Juvenile Crime Prevention Councils	424(24.2c)
Reports — <i>see</i> that heading	
Technical corrections and conforming changes	95(6); 487(47g)

Crime Control and Public Safety, Department of

Appropriations	
Current operations and expansion	424(2.1)
Division of Emergency Management	
Terrorism funds	457
Floodplain mapping	513(25)
Terrorism funds	457
Confidential license plates	487(53)–(54)
Crime Victims Compensation Commission — <i>see</i> that heading	
Disaster and emergency damage assessment by Secretary	214(2)–(3)

Index to Session Laws

Session Law
Number

Crime Control and Public Safety, Department of—continued

Division of Alcohol Law Enforcement	
Supervisor positions terminated	424(26.10)
Division of Emergency Management	
Terrorism Preparedness funds.....	457
Division of Victims and Justice Services	
Community Service Work Program	
Positions terminated	424(26.11)
Transferred to Correction Department.....	424(26.11)
Community Service Work Program transferred to	
Correction Department	424(26.11)
Drug law enforcement grants legislative review	424(26.3a)–(26.3b)
Floodplain mapping.....	513(25)
Reports —see that heading	
Secretary	
Disaster and emergency damage assessment	214(2)–(3)
Membership on Geographic Information Coordinating Council.....	359
Salary	424(32.2)
Seized and forfeited property transferred to State by Federal	
Government.....	424(23.1a)–(23.1c)
Statewide Floodplain Mapping Unit transferred from Office	
of Budget and Management.....	424(12.3b)
Tarheel Challenge Program annual evaluation	424(26.2)
Technical corrections and conforming changes.....	487(53), (91a)–(91b)
Underage drinking study	491(11.4)

Crime Victims Compensation Commission

Appointments and membership.....	486(1A.12)
Crime Victims Compensation Fund revision	424(26.5)
Reports —see that heading	

Crimes

Allowing use of identification by another	461(3)
Assault with bodily fluids/excrement	360
Campaign contribution violations criminal penalties	419(2)
Copying drivers license or ID unlawful	487(50b)
Date rape drug analogues study.....	491(19.1)–(19.2)
Domestic violence —see that heading	
Drug sales penalty increased	307; 332
Entering an establishment serving/selling alcohol using	
fraudulent ID	461(2)
Expungement of records for those unlawfully charged due to	
identity theft	108
Firearm discharge across public right-of-way in Caldwell County	67
Fraudulent filings under Article 9 of UCC	231
Fraudulent obtaining of ambulance services	106
Harm to a law enforcement or assistance animal	411(1)
Incest penalty study.....	491(7.1)–(7.2)
Infant abandonment decriminalized	291
Interfering with emergency communications	148
Interfering with school bus.....	26

Crimes—continued

Loss of drivers license for fuel theft second offense	352
Manufacture or possession of fraudulent identification illegal.....	461(1)
Medicaid fraud recovery incentives	424(21.19r)
Misrepresentation of notary public authority	450
No indexing, docketing or recording of unauthorized liens.....	495
Obtaining a marriage license by false representation	62(10)
Precinct officials discharge	169
Probation and parole — <i>see</i> that heading	
Profanity in presence of dead body	294(3)
Provide fraudulent information to obtain a drivers license a misdemeanor	461(1.1)
Rape	
Crisis/victims' services program funds.....	395(2.1a); 424(5.1a)
Prevention and education program	
Funds	395(2.1a); 424(5.1a)
Limitations.....	424(5.1f)
Restraining dogs in cruel manner unlawful	411(2)
School sexual harassment.....	173
Sea oat taking	93
Second degree arson penalty study.....	491(21.2)
Sentencing — <i>see</i> that heading	
Sex offender registration compliance with federal law	373
Spotlighting deer in Wake County	164
Stalking definition expanded.....	518(1)
Statute of limitations for assault and false imprisonment.....	175
Suspension of student for certain false threats, hoaxes, or threats of acts of terrorism.....	500(4)–(6)
Tax fraud prevention	327
Technical corrections and conforming changes.....	487(41), (42a)–(42b), (43a)–(43b), (52)
Termination of group health or life insurance coverage without notice.....	422
Terrorism funds.....	457
Testimonial privilege for rape crises and domestic violence centers.....	277
Transportation of a dead body	294(3)
Vehicle inspection requirements violation	504(13)–(17)
Weapons of mass destruction	470
Worthless check program.....	61
Criminal Justice Education and Training Standards Commission	
Appointments and membership.....	486(1.13), (1A.13); 490(1.2), (1.5)
Criminal justice officer certification enforcement.....	490(1.3)–(1.4)
Technical corrections and conforming changes.....	487(5); 490
Criminal Justice Information Network Governing Board	
Appointments and membership.....	424(23.6b); 486(1.14), (1A.14); 487(90)
Reports — <i>see</i> that heading	
Criminal Records—<i>see</i> Records	

Cullowhee, Town of

Western Carolina University —see University of North Carolina

Cultural Resources

Building rehabilitation code pilot program..... 372
 Charlotte facilities capital investment referendum 10
 Chinqua-Penn Foundation funds 424(31.13)
 Civil War tourism study424(11.2a)–(11.2c)
 Durham cultural arts master plan funding 480(7a)–(9f)
 Durham performing arts theater funding 480(7a)–(9f)
 Governor Samuel Ashe grave site maintenance487(125.1)
 Historic preservation tax credit sunset extension 476(19a)–(19b)
 Maintenance of historic properties and landmarks in Durham382(1)
 Museums —see that heading

Cultural Resources, Department of

Appropriations

Computerization of records for Internet access.....513(27)
 Current operations and expansion424(2.1)
 Information Resource Management Commission project
 certification424(11.1)
 Information technology expansion project..... 424(11.1), (27)
 Civil War tourism study424(11.2a)–(11.2c)
 Computerization of records for Internet access513(27)
 Information Resource Management Commission project
 certification424(11.1)
 Information technology expansion project 424(11.1), (27)
 Internet use for agency publications 424(14.1a)–(14.1b)
 Public records search fee for nonresidents 427(3a)–(3b)
 Reports —see that heading
 Roanoke Island Commission —see that heading
 Secretary
 Appointments —see that heading
 Salary424(32.2)
 Technical corrections and conforming changes.....487(38g)
 WISEOWL web site subscriptions funds utilization 424(28.40a)–(28.40b)

Cumberland County

Cumberland dam/reservoir/state park study 491(2.1B)
 Fayetteville, City of —see that heading
 Godwin, Town of —see that heading
 Juvenile assessment center project continuation 424(24.7a),
 (24.7c)–(24.7d)
 Linden, Town of —see that heading
 Occupancy tax 483
 State Nature and Historic Preserve land removed217(1)
 Worthless check program 61

Current Operations and Capital Improvements Appropriations Act of 2001. 424

Curriculum—see Education

Currituck County

Beach driving ordinance enforcement..... 33
 Currituck Sound water management study funds..... 424(33.3a)–(33.3b)
 Payment of delinquent tax prior to recording deeds 464

Index to Session Laws

Session Law
Number

Currituck County—continued

Septic system repair/inspection fees collected as property tax 78(2)–(4)

- D -

Dallas, Town of—satellite annexation limit removed..... 37

Dams—*see* Lakes and Rivers

Dare County

Beaches design funds 424(33.3a)–(33.3b)

Dare Department of Social Services funds use..... 53

Duck, Town of —*see* that heading

Eminent domain for erosion, flood/hurricane protection and
beach access 36

Kill Devil Hills, Town of —*see* that heading

Kitty Hawk, Town of —*see* that heading

Land transfer tax distribution 394(6)

Manteo, Town of —*see* that heading

Nags Head, Town of —*see* that heading

Occupancy tax 394(5); 439(7.1)–(7.7), (18.1)

Ocean regulation authority 52

Oregon Inlet Project funds do not revert 424(20.2b)

State Nature and Historic Preserve land removed 217(1)

Wanchese Seafood Industrial Park funds 424(20.2a)

Data Systems

Advanced health care directive registry established 455(1)–(6);
513(30a)–(30b)

Biological agent registry 469

Certain records may be kept on optical disks 519(7)–(8)

Organ, eye and tissue donor registry study..... 481(1)

Psychotropic medication use by children database feasibility 124

Student Information Management Program technical corrections..... 487(113)

Victim information repository repealed 433(6)

Davidson County

Lexington, City of —*see* that heading

Payment of delinquent tax prior to recording deeds 513(14)

Thomasville, City of —*see* that heading

Davidson, Town of

Charlotte Coliseum Authority membership 402(4)

Mecklenburg occupancy and meals tax distribution..... 402(1)–(2)

Zoning sunset repealed..... 276

Davie County

Mocksville, Town of —*see* that heading

TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

Day Care

Adult day care

Services block grant funds 395(2.1a); 424(5.1a)

State Adult Day Care Fund slot allocation methodology 424(21.47)

Technical corrections and conforming changes 487(85a)–(85b)

Transportation to comply with Social Services

Commission rules 90

Day Care—continued

Child care

Agencies	424(5.1i)
Allocation formula	424(21.69a)–(21.69d)
Allocation formula study	424(21.69d)
Block grant funds	395(2.1a)
Child abuse and neglect in child care facilities study	491(2.1)
Child care and development fund use	395(2.1x)
Drug sales near centers penalty increased	332
Eligibility	424(21.73a)–(21.73j)
Matching funds requirement	424(21.70)
Quality and availability initiatives funds	424(5.1a)
Revolving loan fund	424(21.71)
Subsidies block grant funds	424(5.1a), (5.11)
Subsidy rates	424(21.73a)–(21.73j)

Early Childhood Education and Development Initiatives

Preschool, kindergarten and child care planning	424(21.75b)
---	-------------

Deaf and Hard of Hearing—*see* Disabled Persons

Deaf and the Hard of Hearing, Council for the—appointments

and membership	424(21.81d); 486(2.14)
----------------------	------------------------

Deannexation—*see* Annexation

Death and Dying (*see also* Estates; Funeral Services; Wills)

Domestic violence fatality review team study	491(2.1)
Equitable distribution action does not abate on death	364
Hospice care Medicaid payment schedule and bases	424(21.19a)
Infant mortality and birth defects activities inventory	424(21.94)
Technical corrections and conforming changes	487(16), (61a)–(61b)
Use of profanity in presence of dead body	294(3)
Viatical settlements	436
Wrongful death proceeds distribution study	491(2.1)

Death Penalty—*see* Capital Punishment

Debtor and Creditor

Actions on payment bond period shortened	177
Amortization information requirement on home loans	340; 413(9); 487(56)
Collection agency modifications	269(1.1)–(1.4)
Dispute resolution of Information Technology Office fees collection	142
Liens — <i>see</i> that heading	
Tax debt collection	380
Technical corrections and conforming changes	487(13), (72)
Usury defense change	8

Deeds—*see* Real Estate; Records; Register of Deeds

Dental Examiners, Board of—enteral sedation standards
 511 |

Dentistry

Dental services/fluoridation funds	424(5.1a)
Dentistry school at ECU feasibility study	424(31.10d)
Enteral sedation standards	511
Medicaid coverage limits	424(21.19g)
Medicaid payment schedule and bases	424(21.19a)

Dentistry—continued

Oral health care access for Medicaid eligible persons..... 424(21.98a)–(21.98b)

DHHS (Department of Health and Human Services)—*see* Health and Human Services, Department of (DHHS)

Dietetics/Nutrition, Board of

Appointments and membership.....342(1)

Fee increases342(5)

Technical corrections and conforming changes..... 342(2)–(4)

Director of the Budget—*see* Budget and Management, Office of State

Disabled Persons

Absentee ballot requests507(1)

Adult care home model for community-based services..... 424(21.54a)–(21.54b)

Assistance animal harm unlawful.....411(1)

Blind operation of vending facilities exemption for farmers markets424(17.4)

Children with disabilities

 Funds allocations424(28.2)

 Law study.....424(28.29b)

Confinement limits for inmates 424(25.9a)–(25.9b)

Definition under civil actions487(1)

Developmentally disabled group homes licensure 209

Earned time credit for medically/physically unfit inmates 424(25.1a)–(25.1b)

Governor Morehead School nonprofit corporation assistance..... 412

HIPAA coverage for pre-existing condition.....334(9)

Homestead tax exclusion..... 308

Hunting and fishing license restrictions91(1)

Intervention Services Unit created in HHS424(21.18A)

Long-term continuum of care system.....424(21.9a)–(21.9c)

Medicaid

 Coverage424(21.19e)

 Supplement guaranteed issuance.....334(10)

Medical services for persons with disabilities study.....491(10.2)

Meeting the needs of students with disabilities study.....491(8.15)

Mobility enhancement device exclusion form motor vehicle definition.....487(51)

Preschool programs for the deaf eliminated424(21.83)

Prescription drugs study491(10.3)

School for the Deaf at Greensboro closure 424(21.81a)–(21.81d)

Students with disabilities testing policies 424(28.17f)

Trust Fund for Mental Health, Developmental Disabilities,
and Substance Abuse Services and Bridge

 Funding Needs created 424(21.58a)–(21.58d)

United Cerebral Palsy block grant funds.....424(5.1a)

Vocational rehabilitation and independent living

 services eligibility 424(21.78a)–(21.78d)

Disasters and Emergencies (*see also* Emergency Management)

Biological agent registry 469

Contingency and emergency funds.....424(6.3a)

Positions to help combat threats of terrorism470(4)

Sale of dwellings purchased under hazard mitigation grant program.....29; 386(3)

Tax penalties waived for filing/reporting delays due to disasters..... 87

Technical corrections and conforming changes.....487(98)

Disasters and Emergencies —continued	
Weapons of mass destruction	470
Disciplinary Hearing Commission of the State Bar — <i>see</i> State Bar	
Disclosures — <i>see</i> Notifications	
Discrimination —State Employee Federal Remedy Restoration Act.....	467
Diseases	
Acquired Immune Deficiency Syndrome (AIDS) — <i>see</i> AIDS (Acquired Immune Deficiency Syndrome)	
AIDS (Acquired Immune Deficiency Syndrome) — <i>see</i> that heading	
Alzheimer's Association chapters funds	424(21.31)
Colorectal screening insurance coverage.....	116
Community-based tuberculosis services	424(5.1a)
Diagnostic laboratory disease reporting requirements.....	28
Foot and mouth disease authority for State Veterinarian.....	12
Hepatitis impact study	491(28.2)
Sickle-cell syndrome purchase of medical care.....	513(26)
V Foundation for Cancer Research special registration plate.....	498(1a), (3a)–(4a), (6a)
Distance Learning —teacher education	146; 424(31.7a)–(31.7b)
District Attorneys	
Assistant district attorney salaries	424(32.4b)
Conference of District Attorneys victims' information repository repealed	302
Discretion in seeking death penalty.....	81
Illegal campaign contributions civil penalties	419(1)
Minimum standards rules in capital cases	392
Victims rights responsibilities	433(3), (6)
Worthless check program.....	61
Divorce	
Domestic violence changes	518(2)–(2A)
Equitable distribution action does not abate on death	364
DNA (Deoxyribonucleic Acid) — <i>see</i> Biotechnology	
Domestic Animals — <i>see</i> Animals	
Domestic Violence	
Criminal law changes	518
Criminal procedure changes.....	518(2)–(2A)
Fatality review team study	491(2.1)
Prevention and awareness	395(2.1a), (2.1v), (2.1y); 424(5.1v), (5.1y)
Privileged communications protection for certain counselors.....	152
Protective order violations.....	518(5)
Services funds for Work First families utilization and allocation.....	395(2.1q)
TANF domestic violence prevention and awareness funds.....	424(5.1a)
Testimonial privilege for rape crises and domestic violence centers.....	277
Victims confidentiality program study	491(2.1)
Voter records under protective orders	396

Domestic Violence—continued

- Work First families services..... 395(2.1v); 424(5.1a),
(5.1q)
- County plan review424(5.1q)
- Funds 395(2.1a), (2.1q);
424(5.1v)

Domestic Violence Commission

- Appointments and membership..... 486(1.16), (1A.15)
- Staffing.....424(7.7)

Drivers Licenses

- Copying license or ID unlawful487(50b)
- Drivers license/motor vehicle registration section
 consolidation study.....424(27.14)
- Driving eligibility certificates funds.....424(28.10)
- Grandparent as supervising driver..... 194
- Information verification system 461(4)–(6)
- Loss of license for fuel theft second offense 352
- Organ donor card availability at DMV.....481(3)
- Proof of residency and identification.....424(27.10Aa)–(27.10Af)
- Provide fraudulent information a misdemeanor461(1.1)
- Provisional license reciprocity 487(51.5a)–(51.5b)
- Short duration licenses authorized..... 513(32a)–(32b)
- Technical corrections and conforming changes..... 487(6)–(9), (55)
- Technology fund established.....461(4)

Driving While Impaired (DWI)

- Innocent owner seized vehicle release..... 362(4), (6)–(8)
- Motor vehicle seizure notification..... 362(1)–(3), (5)
- Technical corrections and conforming changes.....487(8)

Drug Testing—*see* Alcoholic Beverages; Narcotics; Substance Abuse; Testing

Drug Treatment Court Advisory Committee—family drug treatment
 courts services for adults and juveniles424(22.8d)

Drugs—*see* Alcoholic Beverages; Narcotics; Pharmaceuticals; Substance Abuse

Duck, Town of—incorporation..... 394

Durham, City of

- ABC Board expansion.....350(2)
- Buffer zone tree clear-cutting limits and protection 191
- Charter cleanup 480
- Contract authority..... 480(3)
- Cultural arts master plan funding 480(7a)–(9f)
- Duke University —*see* Colleges and Universities
- Fair housing ordinance technical change.....350(1)
- Maintenance of historic properties and landmarks382(1)
- Mayor and council term of office480(2)
- Museum of Life and Science grassroots science program
 grant-in-aid.....424(19.2)
- North Carolina Central University —*see* University of North Carolina
- North Carolina School of Science and Mathematics —*see* University of North
 Carolina
- Occupancy tax 480(6a)–(14)
- Performing arts theater funding..... 480(7a)–(9f)

Durham, City of—continued

- School of Science and Mathematics —*see* University of North Carolina
- Single-prime contractor for parking deck and transit facility 350(3)–(4)
- Stationary container collection 480(5)
- Technical corrections and conforming changes..... 350
- Traffic control/red light cameras 286(1)
- Waterworks authority 480(4)

Durham County

- Chapel Hill annexation..... 348
- Durham, City of —*see* that heading
- One-stop absentee voting site grants 424(14B.1a)–(14B.1b)
- State Nature and Historic Preserve land additions..... 217(2)
- Taking of deer with dogs prohibited..... 382(2)
- Worthless check program..... 61

DWI (Driving While Impaired)—*see* Driving While Impaired (DWI)

- E -

Economic Development (*see also* Rural Development)

- Agriculture Advancement Consortium funds 424(20.15e)
- Community development
 - Block grant administrators training study 395(8f)
 - Block grant funds 395(8a)
 - Corporation definition..... 424(20.15d)
 - Grants funds 424(20.15e)
- Community revitalization funds 424(5.2a)
- County enterprise factor ranking information publication..... 476(3a)–(3b)
- Development zone list publication 476(4a)–(4b)
- Economic impact of military activities study 424(12.1)
- Electricity rate structure for manufacturers study..... 476(15a)–(15b)
- Eligibility for William S. Lee Act credits..... 476(5a)–(6b)
- High Point furniture market improvements from
 - occupancy tax 11
- Industrial Recruitment Competitive Fund 424(20.3a)–(20.3b)
- Living income for citizens study 491(2.1)
- Microenterprise Loan Program funds..... 424(20.15e)
- NER block grant funds..... 424(5.2a)
- Piedmont Triad air cargo center bid exemption sunset
 - extended 476(16a)–(16b)
- Piped natural gas rate structure for manufacturers study..... 476(15c)
- Public-private infrastructure reimbursement agreements
 - for Charlotte 329
- Sanitary district economic development plan agreements..... 221
- Scattered site housing funds 424(5.2a)
- Tax incentives for computer services 476(1b)
- Technical corrections and conforming changes..... 414; 476(1a),
(1b), (2a)
- Tourism industry economic impact study..... 491(2.1)
- Travel and Tourism —*see* that heading
- Two-county industrial parks..... 94
- Wanchese Seafood Industrial Park funds 424(20.2a)

Index to Session Laws

Session Law
Number

Economic Development—continued

William S. Lee Quality Jobs and Business Expansion Act
 Generally..... 94; 476
 Limitations.....476(7a)–(7c)
 Property investment..... 476(13a)–(13b)
Working group to promote federal DoD contracts 13

Economic Development Board

Appointments and membership.....513(13)
Technical corrections and conforming changes..... 487(31); 513(13)

Economic Security Commission

Appropriations
 Expend Reed Act funds.....424(20.18)
Common follow-up evaluation transferred from Budget
 and Management 424(20.17a)–(20.17b)
Government employers of interns under economic
 security laws..... 285
Reports —*see* that heading

Edgecombe County

One-stop absentee voting site grants 424(14B.1a)–(14B.1b)
Worthless check program..... 61

Education

ABCs of public education implementation funds..... 424(28.8a)–(28.8b)
Academically gifted students funds.....424(28.3)
ADM reduction phase in due to charter schools..... 424(28.20a)–(28.20b)
Administrator salary schedules..... 424(28.13a)–(28.13j)
Alternative learning programs for short-term suspension..... 178
At-risk students
 After-school services 395(2.1a), (2.1r),
 (2.1v); 424(5.1a),
 (5.1r), (5.1v)
 Personal education plans..... 424(28.17e), (28.17k)
 Services/alternative schools funds424(28.4)
Boards of Education —*see* Education Boards
Bus driver tort claims act applicability.....424(6.18)
Bus replacement424(28.48)
Central office salaries..... 424(28.14a)–(28.14g)
Character education..... 363(2a)–(2b);
 424(28.36)
Charter schools
 ADM reduction phase in due to charter schools 424(28.20a)–(28.20b)
 Enrollment guidelines424(28.26)
 Evaluation and advisory committee424(28.27)
 Leave to teach in charter schools local flexibility462(1)
 Participation in State retirement system.....462(2)
 Residential charter schools study491(8.2)
Children with disabilities funds allocations.....424(28.2)
Class size
 High priority schools..... 424(29.6b)–(29.6c)
 Reduction funds 395(15a)–(15c), (16)
Classroom experience for school personnel study.....491(8.6)

Index to Session Laws

*Session Law
Number*

Education—continued

Closing the achievement gap.....	424(28.30a)–(28.30i)
Competitive bid exemption for school facilities in certain counties.....	99; 135
Continually low-performing school assistance.....	424(29.3)
Curriculum	
Abstinence education block grant funds	395(2.1f)
Civic and citizenship education requirement	363(2a)–(2b)
History and geography curriculum requirement.....	363(1)
Personal financial literacy curriculum study	491(8.5)
Science, math and technology education study.....	491(8.10)
Definition of school system.....	97(1)
Diplomas for World War II veterans.....	86
Dress codes	363(2c)
Driving eligibility certificates funds.....	424(28.10)
Dropout rates, suspensions, expulsions and alternative placements reporting	424(28.30f)
Drug sales near schools penalty increased.....	307
Early Childhood Education and Development Initiatives	
Preschool, kindergarten and child care planning.....	424(21.75b)
Easy to understand notices of expulsion or suspension	244
Education administration masters programs.....	424(31.10a)–(31.10b)
Education, Boards of (local) — <i>see</i> that heading	
Elementary school assistance funds	395(15a)–(15c)
Eliminate duplicative and unnecessary paperwork.....	151
Emergency response plans for school violence confidential	500(2)–(3)
Employee overtime pay.....	424(28.42)
Employment of minors enrolled as students in higher education	312(3)
English as a Second Language (ESL)	
Easy to understand notices of student expulsion/ suspension for parents	244
Funds allocations	424(28.9a)–(28.9b)
Guidelines for identifying students and providing services.....	424(28.9a)–(28.9b)
Headcount and assessment of students with limited English proficiency	424(28.9b)
ESL (English as a Second Language) — <i>see</i> English as a Second Language (ESL) this heading	
ExplorNet audit.....	424(28.45)
Extracurricular activity participation by nonpublic students study.....	491(8.20)
Field and national tests during end-of-grade test period.....	487(116)
Fiscal resources needed to close academic achievement gap	424(28.30i)
Food service workers/custodians salary study.....	424(28.34)
Global Center funds	424(20.19)
Governor Morehead School	
Nonprofit corporation assistance.....	412
Preschool program transferred to Governor Morehead School.....	424(21.80e)
Health certificate requirements for school employees.....	118
High priority schools	
Assistance initiatives evaluation	424(29.6a)–(29.6d)

Index to Session Laws

*Session Law
Number*

Education—continued

Assistance study	491(8.16)
Elementary school immediate assistance	424(29.1)
High school exit exams	424(28.16)
Improving performance of students in juvenile facilities study	491(2.1)
Information Highway public school site evaluation	424(15.7c)
Instructional personnel/support personnel salary differential study	424(28.37a)–(28.37b)
Instructional supplies funds	424(28.39a)–(28.39b)
Interfering with school bus	26
Kindergarten class size limitations	424(28.44)
Limited English Proficiency — <i>see</i> English as a Second Language (ESL) this heading	
Low-performing schools	
Assistance	424(29.5)
Assistance teams funds	424(28.8b)
Local superintendent's plan additions	424(29.4a)–(29.4b)
Low-wealth schools	
Funding formula review	491(8.14)
Supplemental funding in low-wealth counties	424(28.6a)–(28.6j)
Transition funds	424(28.46a)–(28.46b)
Meeting the needs of students with disabilities study	491(8.15)
Mentor funds for full-time mentors pilot program	424(28.18a)–(28.18b)
Mentors for second-year teachers	424(28.31)
Middle School defined	97(2)
Minority and at-risk students academic achievement study extended	424(28.30h)
Model guidelines and policies for closing the academic achievement gap	424(28.30e)
More At Four pilot program	424(21.76Ba)–(21.76Bg); 487(112)
No national/field tests near end-of-grade/end-of-course tests	424(28.17h)
Noncertified personnel	
Notification requirement for dismissal, demotion and suspension	260
Right to appeal	260
Salaries	424(28.15a)–(28.15d)
Noneducator may serve as school superintendent	174
Noninstructional support personnel funds used for staff development	424(28.22)
North Carolina School of Science and Mathematics — <i>see</i> University of North Carolina	
Nutrition in public schools study	491(8.8)
Parental savings trust fund nonresident participation	243
Part-time teacher benefits to address teacher shortage study	424(29.2c)
Performance and growth standards	424(28.30d)
Personnel criminal history checks	376
Practice tests instruction time limits	424(28.17g)
Preschool programs for the deaf eliminated	424(21.83)
Prescription of ADD/ADHD drugs to children study	491(8.13)

Index to Session Laws

*Session Law
Number*

Education—continued

Principal's authority in determining student grades	424(28.17b), (28.17k)
Priority schools funds allocation	424(29.7)
Proposed school location evaluation by DOT for traffic operation and safety	424(27.27)
Public school building bonds issuance delayed	416(1)
Public school professionals independent professional development study	424(31.4c)
Rape prevention and education program funds	395(2.1f)
Reading at grade level by second grade plan	424(28.30c)
Recycling efforts report	512(11)
Rental car companies to inform renter of no passing school bus	331(2)
Residency requirement for pre-adoptive children	303
Residential schools for the deaf educational needs assessment and plan	424(21.82a)
School for the Deaf at Greensboro closure	424(21.81a)–(21.81d)
Schoolwork of suspended students study	491(8.7)
Sentence reduction for prisoners in education programs	200
Sexual harassment policies	173
Small school system supplemental funding	424(28.7a)–(28.7f)
Speech and language pathology caseloads and severity rating scales study	491(8.19)
Student accountability standards funds for improving reading and math end-of-grade test scores	424(28.33a)–(28.33b)
Student Citizenship Act	363(2)
Student information disclosure prohibited by school contractors	500(1)
Student retention decisions policy	424(28.17c)
Substitute school personnel unemployment definition	424(28.47)
Superintendents	
Authority for expunction of student records	195
Requirement to suspend student for certain violations	487(75)
Support Our Students	424(5.1p)
Funds	395(2.1a), (2.1v); 424(5.1a), (5.1v), (24.1a)
Statewide conference requirement repealed	424(24.1b)
Statewide expansion	395(2.1p)
Support programs for initially certified teachers effectiveness study	424(28.19a)–(28.19b)
Suspension of student for certain false threats, hoaxes, or threats of acts of terrorism	500(4)–(6)
Teacher academy programs	
Small size classes programs	424(28.28b)
Teachers assigned at-risk schools	424(28.28a)
Teachers	
Education for military personnel	146
Initial certification subject area test/assessment	129
Performance-based licensure program	424(28.19b)
Performance-based licensure program study	491(8.17)
Professional teacher development ongoing study	424(31.4a)–(31.4e)

Index to Session Laws

Session Law
Number

Education—continued

Recruitment initiatives funds424(28.43)
Salary schedules..... 424(28.11a)–(28.11h)
Shortage funds 424(29.2a)–(29.2d)
Teaching Fellows Program expansion study424(29.2d)
Technical corrections and conforming changes.....487(76)
Ten commandments/historic documents display on
school property363(2d)
Testing program 424(28.17i), (28.17j)
Textbook distribution system study RFP.....424(28.24)
Traffic control/red light cameras in school zones for certain cities 286
University admissions and placement measures study312(1a)–(1c)
Violence threats reporting study.....491(2.1)
Wake County prequalified bidders for school construction..... 44
WISEOWL web site subscriptions funds utilization 424(28.40a)–(28.40b)

Education Administrators—*see* Teachers and Education Administrators

Education Assistance Authority

Aid to private colleges.....424(31.1a)
Legislative tuition grant relief for active duty military
personnel 508(8b)–(8c)
Private institution contracts to aid students reporting
requirement424(31.1b)
Reports —*see* that heading
Teacher Assistant Scholarship Fund created 424(31.5a)–(31.5b)

Education, Boards of (local)

ABCs of public education implementation funds..... 424(28.8a)–(28.8b)
Academically gifted students funds.....424(28.3)
ADM reduction phase in due to charter schools..... 424(28.20a)–(28.20b)
Alternative learning programs for short-term suspension..... 178
Appropriations
Class size reduction funds for kindergarten395(16)
Elementary school assistance class size reduction395(15a)–(15c)
At-risk students personal education plans 424(28.17e), (28.17k)
Authority97(3)
Bus replacement424(28.48)
Camden County nonpartisan Board of Education election 24
Character education..... 363(2a)–(2b)
Children with disabilities funds allocations.....424(28.2)
Civic and citizenship education requirement..... 363(2a)–(2b)
Competitive bid exemption for school facilities in
Johnston County 135
Comprehensive treatment services program for children
at risk for institutionalization.....424(21.60d)
Definition of school system.....97(1)
Dress codes 363(2c)
Electronic procurement program513(28b)
Eliminate duplicative and unnecessary paperwork..... 151
Emergency response plans for school violence confidential 500(2)–(3)
Gates County residence districts 63
Gifted student enrollment at community colleges312(2)

Index to Session Laws

*Session Law
Number*

Education, Boards of (local)—continued

Health certificate requirements for school employees	118
High priority schools assistance	424(29.1), (29.6a)–(29.6d); 491(8.16)
Instructional supplies funds	424(28.39a)–(28.39b)
Leave to teach in charter schools local flexibility	462(1)
Low-performing schools	
Assistance teams funds	424(28.8b)
Funds	424(29.5)
Local superintendent's plan additions	424(19.4), (29.4a)–(29.4b)
Low-wealth schools	
Funding formula review	491(8.14)
Transition funds	424(28.46a)–(28.46b)
Medicaid outreach	424(28.21)
Mentor funds for full-time mentors pilot program	424(28.18a)–(28.18b)
Model guidelines and policies for local task forces on closing the academic achievement gap	424(28.30e)
Noncertified personnel	
Notification requirement for dismissal, demotion and suspension	260
Right to appeal	260
Salaries	424(28.15a)–(28.15d)
Noneducator may serve as school superintendent	174
Noninstructional support personnel funds used for staff development	424(28.22)
Personnel criminal history checks	376
Property acquisition by certain counties	76; 427(7a)–(7b)
Reading at grade level by second grade plan	424(28.30c)
Recycling programs	512(12)
Reports — <i>see</i> that heading	
Rutherfordton ABC Board distributions	188
Security standards for information technology	424(15.2b)
Sexual harassment policies	173
Small school system supplemental funding	424(28.7a)–(28.7f)
Student retention decisions policy	424(28.17c)
Superintendents' authority for expunction of student records	195
Supplemental funding in low-wealth counties	424(28.6a)–(28.6j)
Suspension of student for certain false threats, hoaxes, or threats of acts of terrorism	500(4)–(6)
Teacher shortage funds	424(29.2a)–(29.2d)
Tyrrell board terms	4
Wake County prequalified bidders for school construction	44
Wilkes County property conveyance to Mountain View Medical Center	58
Education Cabinet —President of NC Independent Colleges and Universities added	123

Education Oversight Committee, Joint Legislative

Appointments and membership.....	486(2.5)
Board of Education advisory members study.....	491(8.18)
Children with disabilities law study.....	424(28.29b)
Classroom experience for school personnel study.....	491(8.6)
Community colleges	
Faculty salary discrepancies study.....	424(30.8)
Study.....	491(8.12)
Extracurricular activity participation by nonpublic students study.....	491(8.20)
Food service workers/custodians salary study.....	424(28.34)
Halifax Community College service area study.....	491(8.4)
Health care personnel education study.....	491(8.11)
High priority school assistance study.....	491(8.16)
Higher education residency requirements study.....	491(8.21)
Instructional personnel/support personnel salary differential study.....	424(28.37a)–(28.37b)
Low-wealth school funding formula review.....	491(8.14)
Management flexibility for special responsibility UNC constituent institutions expansion study.....	424(31.11c)
Meeting the needs of students with disabilities study.....	491(8.15)
Nutrition in public schools study.....	491(8.8)
Part-time teacher benefits to address teacher shortage study.....	424(29.2c)
Performance-based licensure program study.....	491(8.17)
Prescription of ADD/ADHD drugs to children study.....	491(8.13)
Professional teacher development studies review.....	424(31.4d)–(31.4e)
Public school professionals independent professional development study.....	424(31.4c)
Reports — <i>see</i> that heading	
Residential charter schools study.....	491(8.2)
Schoolwork of suspended students study.....	491(8.7)
Science, math and technology education study.....	491(8.10)
Speech and language pathology caseloads and severity rating scales study.....	491(8.19)
State testing program study.....	424(28.17i)
Teaching Fellows Program expansion study.....	424(29.2d)
Teaching personal financial literacy study.....	491(8.5)
Tuition rates for noncitizen immigrant students study.....	491(8.9)

Education, State Board of

ADM reduction phase in due to charter schools.....	424(28.20a)–(28.20b)
Alternative learning programs for short-term suspension.....	178
Appropriations	
ABCs of public education implementation.....	424(28.8a)–(28.8b)
Abstinence education block grant funds.....	395(2.1f); 424(5.1f)
Academically gifted students allocations.....	424(28.3)
At-risk student services/alternative schools.....	424(28.4)
Character education.....	424(28.36)
Charter school evaluation.....	424(28.27)
Children with disabilities funds allocations.....	424(28.2)
Continually low-performing schools funds.....	424(29.5)

Education, State Board of—continued

Driving eligibility certificates	424(28.10)
High priority schools assistance initiatives evaluation.....	424(29.6d)
High school exit exams	424(28.16)
Limited English Proficiency	424(28.9a)–(28.9b)
Litigation reserve funds do not revert	424(28.1a)–(28.1b)
Low-performing schools assistance teams	424(28.8b)
Low-wealth transition funds	424(28.46a)–(28.46b)
Mentors for second-year teachers	424(28.31)
Pending litigation funds authorization	424(28.1c)
Priority schools funds allocation.....	424(29.7)
Small school system supplemental funding	424(28.7a)–(28.7f)
Student accountability standards.....	424(28.33a)–(28.33b), (28.33b)
Supplemental funding in low-wealth counties	424(28.6a)–(28.6j)
Teacher recruitment initiatives.....	424(28.43)
Testing and implementation of student information system.....	424(28.32)
Uniform education reporting system funds do not revert..	424(28.5a)–(28.5b)
Assume duties of Standards Board for Public School	
Administration.....	424(28.25a)–(28.25g)
Board of Education advisory members study	491(8.18)
Character education.....	363(2a)–(2b), (4)
Charter school evaluation and advisory committee	424(28.27)
Civic and citizenship education requirement.....	363(2a)–(2b), (4)
Class size reduction teacher allocation.....	395(15c)
Closing the achievement gap.....	424(28.30a)–(28.30i)
Continually low-performing school comprehensive assistance.....	424(29.3)
Diplomas for World War II veterans.....	86
Educational Services for Exceptional Children, Council on — <i>see</i> that heading	
Eliminate duplicative and unnecessary paperwork.....	151
Enrollment guidelines for charter schools	424(28.26)
ExplorNet funds disbursement if audit incomplete	487(114.6)
Fairness in testing program	424(28.17a)–(28.17k)
Field and national tests during end-of-grade test period.....	487(116)
High priority schools assistance initiatives evaluation	424(29.6a)–(29.6d)
High school exit exams	424(28.16)
Initial teacher certification subject area test/assessment.....	129
Kindergarten class size limitations	424(28.44)
Mentor funds for full-time mentors pilot program	424(28.18a)–(28.18b)
Model guidelines and policies for local task forces on closing the academic achievement gap.....	424(28.30e)
Performance-based licensure program	424(28.19b)
Professional development ongoing study	424(31.4a)–(31.4e)
Reports — <i>see</i> that heading	
School central office salaries.....	424(28.14a)–(28.14g)
School noncertified personnel salaries	424(28.15a)–(28.15d)
School performance and growth standards.....	424(28.30d)
Small school system supplemental funding.....	424(28.7a)–(28.7f)
Statewide testing program objectives	424(28.17j)

Index to Session Laws

Session Law
Number

Education, State Board of—continued

Students with disabilities testing policies	424(28.17f)
Supplemental funding in low-wealth counties	424(28.6a)–(28.6j)
Support programs for initially certified teachers effectiveness study	424(28.19a)–(28.19b)
Teacher Assistant Scholarship Fund created	424(31.5a)–(31.5b)
Test copies to parents benefits study	424(28.17d)
Textbook distribution system study RFP.....	424(28.24)
University admissions and placement measures study	312(1a)–(1c)

Educational Services for Exceptional Children, Council on—appointments

and membership	424(28.29a)
----------------------	-------------

Educational Testing—*see* Testing

Election Laws Revision Commission

Appointments and membership.....	491(32.1)
Appropriations.....	491(32.9)
Created	491(32.1)–(32.9)
Studies	491(32.3)

Elections (*see also* Lobbying; PACS (Political Action Committees))

2-voting-place-per-precinct sunset and limitations removed.....	319(4a)–(4c)
Absentee ballots	
Armed forces.....	466(4a)–(4e)
No excuse absentee voting.....	337
Printing pending/after appeals.....	353(4)
Requests for disabled persons	507(1)
Advertising candidate support statement repealed	353(5)
Ballots— <i>see also</i> Absentee ballots, this heading	
Butterfly and punch-card ballots banned.....	310
Changes.....	460(3), (5), (7)–(9)
Counting, canvassing and recounts	398(1), (3)–(4)
Recount technical corrections	353(7)
Spanish language ballots.....	288
Camden County nonpartisan Board of Education election.....	24
Campaign advertising	
Labeling	317(1)
Liability.....	317(1)
Campaign contribution violations criminal penalties	419(2)
Campaign report	
Notarization requirement repealed.....	235
Requirements	419(3)–(7)
Candidacy filing	
Deadline.....	466(5.1a)–(5.1b)
Filing period postponed for 2002.....	466(1a), (5.1a)–(5.1b)
Candidate notification of campaign sign laws.....	512(7)–(8)
Certification of elections officials	319(2a)
Children in voting enclosure	292
Compensation of officials	398(5)
Congressional districts	471; 479
County elections director training	319(1b)
Craven County Commissioners.....	447
Discharge of precinct officials unlawful	169

Elections—continued

Duck incorporation.....	394
Election laws study.....	491(32.3)
Fairview incorporation.....	428
Filling vacancies for President, Vice President and presidential electors prior to election.....	353(1)
Hours of elections and primaries.....	460(2)–(3)
Illegal contributions civil penalties.....	319(10); 419(1)
Instructions and voting systems rewrite.....	460(1)–(3)
Late filing penalties.....	419(1)
Late registration deadline.....	319(6)
Linden elections validated.....	472(2a)–(2e)
Local sales tax option.....	424(33.14a)–(33.14d)
Millers Creek incorporation.....	45
Mitchell County commissioner elections.....	306(8)
Mixed beverage elections on barrier islands.....	515(4)
Municipal incorporation referendums.....	353(6)
Navassa district elections.....	325(3)
New elections.....	398(2)–(3)
New London commission and mayor changes.....	131
Nominee vacancies.....	460(4)
Nonpartisan elections for District Court judges.....	403
Occupancy tax authorization for certain counties.....	434(1)
One-stop voting.....	319(5a)–(5d); 424(14B.1a)–(14B.1b)
Out-of-precinct voting place sunset removed.....	319(3a)
Plymouth town council election by ward.....	51
Precinct change notification.....	353(2)
Precincts to follow census block boundaries.....	319(10.1)
Preference voting and instant second primaries study.....	491(32.3)
Presidential electors	
Not printed on ballot.....	460(5)
Selection.....	289
Primary election	
Date study.....	491(2.1)
Postponed for 2002.....	466(1b), (1e)
Public funding of campaigns study.....	491(32.3)
Redistricting — <i>see</i> that heading	
Referendums and Initiatives	
Charlotte sports and cultural facilities capital investment.....	10
Jonesville and Arlington merger.....	16
State Nature and Historic Preserve additions.....	217(3)
Residency definition.....	316
Rockingham city council elections.....	68(1)–(2)
Statements of economic interest for General Assembly members.....	119
Stovall mayor and commissioner's terms.....	100
Superior court judgeships	
Vacancies.....	460(10)
Write-in.....	319(9)

Elections—continued

Technical corrections and conforming changes..... 319; 353(7); 398(6)–(15);
460; 466; 487(96),
(97a)–(97b)

Termination of county director of elections 319(1a)

Voter registration

 Address changes by FAX..... 314

 Election day voter registration353(3)

 Electronic transfer of motor-voter registration319(7)

 By FAX..... 315

 List maintenance319(8)

 Permanent voter registration numbers.....319(8.1)

 Voting booth privacy..... 353(8)–(9)

 Voting data maintained by precinct.....466(2)

 Voting systems460(3)

Elections, Boards of (local)

2-voting-place-per-precinct sunset and limitations removed.....319(4a)–(4c)

Absentee ballot printing pending/after appeals353(4)

Ballots

 Butterfly and punch-card ballots banned..... 310

 Changes.....460(3)

 Counting, canvassing and recounts 398(1), (3)–(4)

 Campaign report requirements419(3)–(7)

 Candidate notification of campaign sign laws.....512(8)

 Certification of elections officials 319(2a)

 Compensation of elections officials398(5)

 County elections director training319(1b)

 Election day voter registration.....353(3)

 Elections director termination 319(1a)

 Electronic transfer of motor-voter registration319(7)

 Fairview incorporation referendum..... 428

 Hours of elections and primaries460(3)

 Late voter registration deadline.....319(6)

 Municipal Boards of Election abolished..... 374

 No excuse absentee voting 337

 One-stop voting..... 319(5a)–(5d)

 Out-of-precinct voting place sunset removed319(3a)

 Permanent voter registration numbers319(8.1)

 Precinct change notification353(2)

 Precincts to follow census block boundaries319(10.1)

 Recount technical corrections.....353(7)

 Register by FAX 315

 Voter address changes by FAX 314

 Voter registration list maintenance.....319(8)

 Voting data maintained by precinct.....466(2)

Elections, State Board of

Absentee ballot printing pending/after appeals353(4)

APA exemption study491(32.3)

Appropriations

 Current operations and expansion424(2.1)

Elections, State Board of—continued	
Early voting funds.....	424(14B.1a)
Ballots	
Butterfly and punch-card ballots banned.....	310
Changes.....	460(3)
Counting, canvassing and recounts	398(1), (3)–(4)
Campaign contribution violations criminal penalties	419(2)
Campaign report	
Notarization requirement repealed	235
Requirements	419(3)–(7)
Candidacy filing	
Deadline.....	466(5.1a)–(5.1b)
Filing period postponed for 2002.....	466(1a), (5.1a)–(5.1b)
Candidate notification of campaign sign laws.....	512(7)–(8)
Certification of elections officials	319(2a)
Chair and Executive Secretary-Director membership on	
Election Laws Revision Commission.....	491(32.1)
Civil Penalty and Forfeiture Fund illegal contributions	319(10)
County elections director training	319(1b)
Executive Secretary-Director title change	319(11)
Filing period and primaries rules postponed for 2002	466(1c)
Illegal campaign contributions civil penalties	419(1)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Late filing	
Notice	353(10)
Penalties.....	419(1)
New elections	398(2)–(3)
No excuse absentee voting	337
Nonpartisan elections for District Court judges	403
One-stop absentee voting site grants	424(14B.1a)–(14B.1b)
Postponement of 2002 filing period and primaries rules	466(1d)
Primary election postponed for 2002.....	466(1b), (1e)
Recount technical corrections.....	353(7)
Spanish language ballots	288
Termination of county director of elections	319(1a)
Voting systems	460(3)
Electrical Contractors, State Board of Examiners of	
Acquisition of property	159(1)
Fee increases	159(2)–(3)
Staggered license renewals.....	159(3)
Electricity—see Utilities	
Electrolysis Examiners, Board of	
Appointments and membership.....	486(1A.16)
Licensing fees.....	176
Electrolysis Practice Act.....	176
Electronic Commerce	
Bids authorized for Transportation Department	424(27.9a)–(27.9b)
Consent to action without meeting may be electronic	387(15)
Corporate filing requirements.....	358(4)
Disposal of local government property procedure.....	328(5)

Electronic Commerce—continued

- Exemptions295(2)
- Funds transfer payments required for certain taxes427(6b)
- Listing of taxable business personal property 279
- Notification to shareholder.....387(6)
- Oral communication not electronic record295(5)
- Privacy and security study..... 491(12.1)–(12.2)
- Procurement program..... 424(15.6b)–(15.6c);
513(28a)–(28b)
- Records 295
- Shareholder proxy electronic signature387(14)
- State Controller e-commerce funds424(10.1b)
- Technical corrections and conforming changes..... 295
- Transactions set forth by bylaws or board action387(7)
- Transfer of motor-voter registration319(7)

Elementary Education—*see* Education

Elizabeth City, City of

- Charter consolidation and revision 227
- College of the Albemarle bid law exemption66(2)
- Elizabeth City State University —*see* University of North Carolina
- Opportunities Industrialization Center
 - Accomplishments and expenditures report
requirement 424(20.16b)–(20.16c)
 - Funds424(20.16a)–(20.16c)

Elizabethtown, Town of—consolidation of Business and Industry

- Division offices with Regional Economic
Development Division offices study424(20.5)

Emerald Isle, Town of

- Eminent domain for beach erosion, renourishment and flood control,
hurricane protection and beach access allowed478(2)
- Occupancy tax revenues for beach renourishment381(3c), (6a)

Emergency Management

- Adkin Branch flood control funds 424(33.3a)–(33.3b)
- Biological agent registry 469
- Bioterrorism preparedness study 491(2.1F)
- Declaration of state of disaster by Governor214(3)
- Disaster and emergency damage assessment by Secretary214(2)–(3)
- Disaster service volunteer leave508(6)
- Emergency flood control projects funds..... 424(33.3a)–(33.3b)
- Eminent domain for erosion, flood/hurricane protection in
certain counties.....36; 478(2)
- Floodplain mapping.....513(25)
- Funds use flexibility by Governor authorized 214(2), (4)
- Interfering with emergency communications 148
- Kenly flood control funds..... 424(33.3a)–(33.3b)
- Neuse River Basin flood control feasibility study funds 424(33.3a)–(33.3b)
- Pier modification rules418(2)–(3)
- Positions to help combat threats of terrorism470(4)
- Public security information not public record516(3)

Index to Session Laws

Session Law
Number

Emergency Management—continued	
Sale of dwellings purchased under hazard mitigation grant program.....	29; 386(3)
School emergency response plans for school violence confidential.....	500(2)–(3)
Tax penalties waived for filing/reporting delays due to disasters.....	87
Terrorism funds.....	457
Emergency Medical Services—see Emergency Services	
Emergency Medical Services Act	220
Emergency Medical Services Advisory Council	
Appointments and membership.....	220; 486(1.17)
Emergency Medical Services Act revisions	220
Emergency Medical Services Disciplinary Committee—created	220
Emergency Services	
911 funds study	491(30.1)
Brunswick fire fee	74
Cary firemen's supplemental retirement fund repealed	23
Charlotte firemen's retirement system changes	22
Emergency medical services	
Act revisions	220
Block grant funds.....	395(2.1a)
Funds	424(5.1a)
Regulation.....	210
Fire protection tax	414(33)
Firefighter and rescue squad worker retirement issues study	491(2.1)
Firemen's pension eligibility reporting streamlined.....	222
Fraudulent obtaining of ambulance services	106
Gastonia firemen's supplemental retirement fund repealed	34
Haywood County fire tax district boundary adjustments.....	56
Henderson firemen's supplemental retirement correction.....	71
Interfering with emergency communications	148
Marion firemen's supplemental retirement fund repealed	21
Medicaid payment schedule and bases.....	424(21.19a)
Monroe firemen's supplemental retirement fund repealed.....	70
Morehead City firemen's supplemental retirement fund repealed	18
Operation of vehicle in vicinity of emergency vehicle.....	331(1)
Retirement for fire and rescue squad workers funds	424(2.1)
Temporary custody of abandoned infant	291
Volunteer fire and rescue vehicles exempt from tax	424(33.24d)–(33.24e)
Workers' compensation	
Forest Resources firefighters coverage	204
Volunteers funds.....	424(2.1)
Eminent Domain (see also Annexation; Planning and Zoning)	
Authority for erosion, flood/hurricane protection and beach access in certain counties.....	36
Charlotte quick take procedures	304
Declaration of right-of-way dedicated to public use.....	501

Index to Session Laws

Session Law
Number

Eminent Domain—continued

Eminent domain for beach erosion, renourishment and flood control,
hurricane protection and beach access allowed for certain
municipalities478(2)
Halifax Airport Authority quick take 73
Property acquisition by certain county education boards 76
Regional Public Transportation Authorities quick-take
procedures 239
Technical corrections and conforming changes..... 487(17), (38a)–38b,
(38d)–(38i), (58)

Employment (*see also* particular occupation; Salaries and Benefits; State
Employees; Vocational Education)

ABC permit holder employment of minor age lowered515(5)
Child support medical support notice required..... 237(8)–(9)
Common follow-up evaluation transferred from Budget
and Management to ESC 424(20.17a)–(20.17b)
Criminal records check by area mental health authority..... 155
Discharge of precinct officials unlawful 169
Drug testing..... 487(66a)–(66b)
Employer responsibilities in child support cases237(10)
Employment security study491(2.1G)
Government employers of interns under economic
security laws..... 285
Health certificate requirements for school employees 118
Insurance continuation election period.....334(7)
JobLink Career Centers and human resources development
services delivery integration study 424(30.3c)
Minors enrolled as students in higher education employment.....312(3)
NC Rural Center funds 424(5.1a), (5.1v)
Noncertified school employee
Notification requirement for dismissal, demotion
and suspension 260
Right to appeal 260
Noneducator may serve as school superintendent 174
School sexual harassment policies 173
Self-insured workers' compensation..... 223(21.1)–(21.3)
State Employee Federal Remedy Restoration Act..... 467
Substitute school personnel unemployment definition424(28.47)
Training and reemployment contribution 424(30.5e)–(30.5j)
Training funds424(20.6b)
Unemployment Insurance —*see* Insurance
Work Central Career Advancement Center funds 424(5.1a), (5.1v)
Work First job retention funds 424(5.1a), (5.1v)
Workers' compensation
Cancellation guidelines, rights, and obligations..... 241
Insurance classifications study491(2.1)

Employment Security Commission

Appropriations
Common follow-up management information
system compliance424(20.6b)

Employment Security Commission—continued

Enhanced reemployment services contribution collection and administration	424(30.5c)
Local office funds	424(20.6a)
State Occupational Coordinating Committee Tracking training and education participants	424(20.6b)
Training and employment account Excess funds to Community Colleges Office	424(30.5d)
Transfer to Community Colleges Office.....	424(30.5a)
Chair's salary	424(32.3)
Employment security study	491(2.1G)
Reports — <i>see</i> that heading	
Retention, reproduction and admissibility of records	115
Training and reemployment contribution	424(30.5e)–(30.5j)
Unemployment payments by tribes	184
Wage reports filing.....	207

Engineering

Engineering school at Western Carolina and UNC-Asheville feasibility study	424(31.10d)
Relationship between professions of landscape architecture and engineering study	496(12.1c)

Engineers and Surveyors, State Board of Examiners for—resolution of

disputes with Landscape Architects Board.....	496(12.1b)
---	------------

English as a Second Language (ESL)—*see* Education; Languages

Eno River—State Nature and Historic Preserve land additions.....217(2)

Entertainment Industry

Elevator and amusement device inspection fee use.....	424(18.1)
Facility Authority university chancellor clarification.....	311

Environment (*see also* Conservation)

30-Foot buffer exception rules for estuaries and public trust waters	418(1), (3)
Ambient Air Quality Act implementation	504(4)–(23)
Audubon North Carolina special registration plate	498(1a), (3a), (6a)
Best management practices for Tar-Pamlico Basin	355(3)
Consolidation of various reporting requirements	452
Core Sound shellfish moratorium extended	213(4)
Dry-cleaning solvent cleanup changes	265
Environmental permitting Process study.....	424(19.11a)–(19.11c)
Program costs report change	452(2.4)
Environmental rules study.....	491(25.3)
Expanding land and water conservation options study.....	491(14.3)
Fish kill response protocols	452(2.8); 474(30)
Fishery Management Plan report change	452(2.1)
Inactive hazardous sites report change	452(2.3)
Nags Head town-owned lands use.....	35
Neuse River modeling and monitoring project report	452(2.5)
One Million Acres report change	452(2.2)
Performance-based cleanup of underground petroleum tank discharges	442(1)–(6b)

Index to Session Laws

*Session Law
Number*

Environment—continued

Prohibited solid waste incineration	440(3.1)–(3.4)
Public trust and estuarine waters buffer variances study	494(5)
Riparian buffer protection program surface water training and certification program	404
Rivernet water quality monitoring system pilot program	424(19.5)
Rocky Mountain Elk Foundation special registration plate	498(1b), (3b)–(4b), (6b)
Save the sea turtles special registration plate	498(1a), (3a)–(4a), (6a)
Scrap Tire Disposal Act implementation report change	452(3.4)
State Nature and Historic Preserve additions	217
Technical corrections and conforming changes.....	474; 487(35)
Tyrell County wetlands mitigation banking credits disposal	32
Water quality and sediment sampling for contaminants	440(3.5)
Water Quality Workgroup created	424(19.5)

Environment and Natural Resources, Department of (DENR)

Animal operations inspection pilot program extended	254(5)–(6)
Appropriations	
Adkin Branch flood control	424(33.3a)–(33.3b)
Agricultural cost share	
Nonpoint source pollution control program funds	424(19.2A)
Technical assistance program funds	424(19.2A)
Aquatic weeds control.....	424(33.3a)–(33.3b)
Beaver damage control program funds	424(19.1)
Bogue Banks beach protection study	424(33.3a)–(33.3b)
Brunswick County beach renourishment supplement	424(33.3a)–(33.3b)
Candor Park drainage.....	424(33.3a)–(33.3b)
Capital appropriations.....	424(33.2a)
Chadbourn water management.....	424(33.3a)–(33.3b)
Chowan River restoration and Pembroke and Rocky Hock Creeks drainage	424(33.3a)–(33.3b)
Clean Water Management Trust Fund	424(2.1), (2.2h)
Current operations and expansion	424(2.1)
Currituck Sound water management study	424(33.3a)–(33.3b)
Dare County beaches design	424(33.3a)–(33.3b)
Deep Creek Yadkin County	424(33.3a)–(33.3b)
Division of Air Quality	
Air Permits Fund balance transfer to General Fund.....	424(2.2d)
Division of Environmental Health	
Sleep Products Fund balance transfer to General Fund	424(2.2d)
Division of Land Resources	
Dam Safety Account balance transfer to General Fund.....	424(2.2d)
Land Environmental Controls Fund balance transfer to General Fund.....	424(2.2d)
Sedimentation Fees Fund balance transfer to General Fund	424(2.2d)
Division of Waste Management	
Emergency Response Fund balance transfer to General Fund.....	424(2.2d)
Inactive Hazardous Sites Cleanup Fund balance transfer to General Fund.....	424(2.2d)

Index to Session Laws

*Session Law
Number*

Environment and Natural Resources, Department of (DENR)—continued

Division of Water Quality	
Lab Certification Fees Fund balance transfer	
to General Fund.....	424(2.2d)
Oil Pollution Control Fund balance transfer to	
General Fund.....	424(2.2d)
Wastewater Treatment Maintenance and Repair	
Fund balance transfer to General Fund	424(2.2d)
Water Permits Fund balance transfer to General	
Fund.....	424(2.2d)
Well Construction Fund balance transfer to	
General Fund.....	424(2.2d)
Wetlands Restoration Fund balance transfer to	
General Fund.....	424(2.2d)
Emergency flood control projects	424(33.3a)–(33.3b)
Germanton water project fund	424(19.12a)–(19.12b)
Grassroots science program	424(19.2)
Indian Beach-Salter Path nourishment.....	424(33.3a)–(33.3b)
Jordan Lake water supply	424(33.3a)–(33.3b)
Kenly flood control.....	424(33.3a)–(33.3b)
Kerr Reservoir operations evaluation.....	424(33.3a)–(33.3b)
Lake Gaston aquatic weeds control.....	424(33.3a)–(33.3b)
Little Sugar Creek restoration Project.....	424(33.3a)–(33.3b)
Manteo (Shallowbag) Bay channel maintenance	424(33.3a)–(33.3b)
Mitchell River restoration	424(33.3a)–(33.3b)
Morehead City Harbor maintenance	424(33.3a)–(33.3b)
Muddy Creek stream restoration.....	424(33.3a)–(33.3b)
Neuse River basin flood control feasibility study	424(33.3a)–(33.3b)
Perquimans River and Mill Creek Drainage	424(33.3a)–(33.3b)
Petroleum Underground Storage Tank Program	454(1)
Planning assistance to communities.....	424(33.3a)–(33.3b)
Projected feasibility studies	424(33.3a)–(33.3b)
Pungo River snagging.....	424(33.3a)–(33.3b)
Southern Pines drainage improvements.....	424(33.3a)–(33.3b)
Surf City/North Topsail Beach protection study	424(33.3a)–(33.3b)
Town Fork Creek funds reallocated.....	424(19.12a)–(19.12b)
Walnut Cove/industrial site connection project funds... ..	424(19.12a)–(19.12b)
Washington Park Maple Branch water management	424(33.3a)–(33.3b)
Water resources development projects matching funds	424(33.3d)
West Onslow Beach protection re-analysis	
(Topsail Beach).....	424(33.3a)–(33.3b)
Westport Marina maintenance dredging	424(33.3a)–(33.3b)
Wilmington Harbor deepening and maintenance	424(33.3a)–(33.3b)
Wrightsville Beach renourishment.....	424(33.3a)–(33.3b)
Buffer exemptions on public trust and estuarine waters	494(1)–(5)
Catawba-Wateree river basin water quality and water supply	
issues study.....	491(16.1)
Center for Geographic Information/Geodetic Survey transferred	
from Office of Budget and Management.....	424(12.3a)
Core Sound shellfish moratorium extended	213(4)

Environment and Natural Resources, Department of (DENR)—continued

- Division of Coastal Management
 - Environmental permitting process study.....424(19.11a)–(19.11c)
- Division of Forest Resources
 - Workers' compensation coverage for pickup firefighters 204
- Division of Land Resources
 - Environmental permitting process study.....424(19.11a)–(19.11c)
- Division of Radiation Protection
 - Self-sufficiency plan424(19.7)
- Division of Water Quality
 - Environmental permitting process study.....424(19.11a)–(19.11c)
 - Fish kill response protocols.....474(30)
 - Surface water training and certification program 404
- Environmental permitting process study424(19.11a)–(19.11c)
- Fair geographic representation in appointments 424(19.13a)–(19.13b)
- Field trials and testing of vehicle emissions and safety
 - inspection equipment.....504(18)
- Fisheries Management Plan review213(1)
- Land use restrictions for petroleum underground storage
 - tank cleanup384(2)
- Livestock market animal waste management systems..... 326
- Medical liability coverage for employees.....424(21.55)
- One-stop environmental permit application pilot program.....424(19.6a)–(19.6c)
- On-site demolition debris disposal reporting 357
- On-site subsurface wastewater system approval 505(2.2)–(2.5)
- Performance-based cleanup of underground petroleum
 - tank discharges 442(1)–(6b)
- Planning grants funds may be carried forward494(6)
- Reports —*see* that heading
- Scrap tire program position424(19.14)
- Secretary
 - Membership on Geographic Information Coordinating Council..... 359
 - Salary424(32.2)
 - Submerged lands program manager appointment424(19.9)
 - Zoo fees for marketing424(19.4)
- Sedimentation program transfer to local governments
 - feasibility study424(19.8)
- Senior field officers reclassification report.....424(19.10)
- Septage management
 - Operator training.....505(1.2)
 - Program permits.....505(1.1)
- Septage management program permits.....505(1.4)
- State government offices recycling program512(14)
- Submerged lands program manager appointment424(19.9)
- Technical corrections and conforming changes..... 474(9)–(11), (18)–(22),
(25), (28)–(29),
(31)–(33)
- Transitional fisheries licensing provisions repealed213(2)
- Waste incineration..... 440(3.2)–(3.4)
- Water quality and animal waste system specialist approval 284

Environment and Natural Resources, Department of (DENR)—continued
 Water Quality Workgroup created424(19.5)

Environmental Management Commission
 Appointments and membership..... 424(19.13a)–(19.13b);
 486(1.18), (1A.17),
 (2.16)
 Dry-cleaning solvent assessment/remediation agreements265(2b)
 Environmental rules study.....491(25.3)
 Fishery Management Plan report change452(2.1)
 Municipal waste combustion rules440(3.4)
 Performance-based cleanup of underground petroleum tank
 discharges temporary rules442(6b)
 Reports —see that heading
 River basin buffer/water quality rules extended 418(4a)
 Tar-Pamlico River Basin - Nutrient Sensitive Waters Management
 Strategy 355
 Wake Forest water withdrawal from Neuse River Basin..... 361
 Well separation distance requirements 113

Environmental Review Commission
 Abandoned mobile homes study491(14.6)
 Alternative energy sources study.....491(14.7)
 Environmental permitting program costs report change.....452(2.4)
 Expanding land and water conservation options study.....491(14.3)
 Interconnection of public water systems study.....491(14.4)
 Leaking petroleum underground storage tank programs evaluation454(2)
 Local health director appointments study.....491(14.2)
 Public trust and estuarine waters buffer variances study494(5)
 Reports —see that heading
 Solid Waste Management Plan report change 452(3.1)–(3.2)
 Stormwater programs and policies study.....491(14.5)
 Technical corrections and conforming changes.....474(12)
 Vehicle emission inspection and maintenance program review504(20)

Equitable Distribution—see Divorce

Erosion (see also Coastal Resources; Conservation)
 Beach renourishment from occupancy tax in Carteret County381(3)
 Bogue Banks beach protection study funds 424(33.3a)–(33.3b)
 Brunswick County beach renourishment supplement funds.... 424(33.3a)–(33.3b)
 Dare County occupancy tax for beach renourishment 439(7.1)–(7.7)
 Eminent domain for beach erosion, renourishment and
 flood control, hurricane protection allowed
 for certain municipalities478(2)
 Eminent domain for erosion in certain counties 36
 Environmental permitting process study424(19.11a)–(19.11c)
 Environmental rules study.....491(25.3)
 Indian Beach-Salter Path nourishment funds 424(33.3a)–(33.3b)
 North Topsail Beach occupancy tax proceeds for beach
 renourishment..... 439(5.1)–(5.1c)
 Sedimentation program transfer to local governments
 feasibility study424(19.8)
 Stormwater programs and policies study.....491(14.5)

Index to Session Laws

Session Law
Number

Erosion —continued	
Surf City/North Topsail Beach protection study funds	424(33.3a)–(33.3b)
West Onslow Beach protection re-analysis (Topsail Beach) funds.....	424(33.3a)–(33.3b)
Wrightsville Beach renourishment funds	424(33.3a)–(33.3b)
Escheats — <i>see</i> Property	
ESL (English as a Second Language) — <i>see</i> Education	
Estates and Trusts (<i>see also</i> Death and Dying)	
Antilapse statute amendment.....	83
Distribution of inoperative trust assets	413(3)–(3.1)
Equitable distribution action does not abate on death	364
Fiduciary investment liability.....	413(4)
Hearings for control of property by personal representative	413(2)–(2.1)
Resignation, removal, and renunciation of trustees	413(1)
Technical corrections and conforming changes.....	413(5)–(5.2); 487(16), (61a)–(61b), (103a)
Ethics	
Conflicts of interest with public funds	409
State money recipients conflict of interest policy.....	424(6.6)
Statements of economic interest for General Assembly members.....	119
Evidence — <i>see</i> Courts	
Executive Budget Act	424(15.3a)–(15.3b)
Explosives	
Detonation of explosive devices penalties study	491(21.5)
Technical corrections and conforming changes.....	487(52)
Extraterritoriality — <i>see</i> Planning and Zoning	
- F -	
Facility Authority Act	311
Fair Bluff, Town of —boundary clarification	55
Fairmont, Town of —private sale.....	2
Fairs and Exhibitions — <i>see</i> Agriculture	
Fairview, Town of —incorporation.....	428
Family Planning	
Abortion — <i>see</i> that heading	
Medicaid coverage	424(21.19a), (21.19v)
Family-Centered Services, Advisory Committee on	
Appointments and membership.....	486(1.20)
Repealed.....	424(21.50h)–(21.50j)
Farmers Markets — <i>see</i> Agriculture	
Fayetteville, City of	
Consolidation of Business and Industry Division offices with Regional Economic Development Division offices study	424(20.5)
Fayetteville State University — <i>see</i> University of North Carolina	
Federal Commodity Exchange Act	110
Federal Interagency Committee — <i>see</i> Geographic Information Coordinating Council	

Federal Tax Reform Allocation Committee

Administrative Procedure Act applicability study.....491(20.1)
 Exempt from Administrative Procedure Act299(1)

Fee-Based Practicing Pastoral Counselors, State Board of Examiners of—

appointments and membership486(1.19)

Fees

Access to civil justice funds from court costs 424(22.14a)–(22.14j)
 Advanced health care directive registry455(1)
 Articles of conversion387(2)
 Assessments —*see* Taxes and Assessments
 Auctioneers criminal history check198(1)
 Audubon North Carolina special registration plate 498(3a)–(4a), (6a)
 Blank/master forms of mortgages390(4)
 Chiropractic licensure fee increases 493(4), (6)
 Commercial fishing vessel registration repealed213(3)
 Commission contract agent rate increase424(27.21)
 Community college fee definition rules 513(12a)–(12b)
 Corporate name358(38)
 CPA licensure fees 313
 Dietetics/nutrition fees increase342(5)
 Dispute resolution of Information Technology Office
 fees collection..... 142
 Electrical contractor fee increases 159(2)–(3)
 Electrolysis licensing fees 176
 Elevator and amusement device inspection fee use.....424(18.1)
 Fee increases for persons licensed by Medical Board493(3)
 First in Forestry special registration plate498(3a)–(4a)
 Funeral services licensure and permit fees294(5)
 General contractor licensing..... 140
 Golf cart regulation in Lake Waccamaw356(6)
 Goodness grows license plate fee.....414(31)
 Harley owner's group special registration plate.....498(3b)–(4b), (6b)
 Hunting licenses 91
 Insurance promoting and holding companies repealed.....223(15)
 Insurance regulatory charge 427(1a)–(1b)
 Labor Commissioner fee authority 427(11a)–(11g)
 Limited liability company fees387(54)
 Limited partnerships.....387(149)
 Loan processing fees519(4)
 Locksmith licensure369(1)
 Management flexibility for special responsibility UNC
 constituent institutions.....424(31.11a)–(31.11c)
 Money transmission business licensing..... 443
 Mortgage brokers and bankers licensure 393
 On-site subsurface wastewater system approval 505(2.2)–(2.5)
 Optometry licensing fee increases493(2)
 Oversight of agency fees by General Assembly..... 427(8a)–(8b)
 Partnerships387(104)
 Pharmacy technician registration 375
 Plumbing, heating and fire sprinkler contractors licensure.....270(3)–(4)

Index to Session Laws

Session Law
Number

Fees—continued

Private property designated as public vehicular area.....	441
Procedure to assert right of access to judicial records	516(2)
Public records search fee for nonresidents	427(3a)–(3b)
Registered corporate office/agent.....	358(51c)
Rental car airport fees and charges.....	432
Respiratory care fee increases	455(7)
Right-of-way plan fees	390(6)
Rocky Mountain Elk Foundation special registration plate.....	498(3b)–(4b), (6b)
Save the sea turtles special registration plate.....	498(3a)–(4a), (6a)
Septage management program permits.....	505(1.1), (1.4)
Septic system repair/inspection fees collected as property tax in certain counties.....	78(2)–(4)
Services fees for Register of Deeds.....	390(1), (3)
Special Forces Association special registration plate	498(3a)–(4a), (6a)
State Laboratory fees assessment	424(21.92c)
Substance abuse professional registration	370(4)
Tax debt collection	380
Transportation of a dead body.....	294(3)
Utility regulatory fee	427(2a)–(2c)
V Foundation for Cancer Research special registration plate	498(3a)–(4a), (6a)
Vehicle safety/pollution inspection	504(1)–(3), (1)–(3), (1)–(3)
Viatical settlements licensure requirement	436(3)
Waiver of fees, deadlines, and penalties for deployed military personnel.....	508(3)–(5b)
White goods management	265(5)–(6)
William S. Lee Act filing	476(8a)–(8c); 487(123)
Winery/wine tasting permits	262
Zoo fees for marketing	424(19.4)
Ferries—operation funds	424(3.1)
Fertilizer—see Agriculture	
Financial Institutions	
Appointment of deputy commissioners by Commissioner of Banks.....	193(1)
Certain records may be kept on optical disks	519(7)–(8)
Disclosure statements on unsolicited loan checks	391
Loan processing fees	519(4)
Loanable assets required to be licensed to engage in business	519(2)
Money Transmitters Act.....	443
Payable on death accounts.....	267
Settlement funds disbursement by agricultural credit association or mortgage banker check.....	420
Sharing of information collected by Insurance Department	215
Solicitation of loans with facsimile/negotiable check	519(5)–(6)
Technical corrections and conforming changes.....	193; 215(2); 267; 487(61a)–(61b)
Trust companies and interstate trust business.....	263
Financial Services	
Amortization information requirement on home loans.....	340; 413(9); 487(56)
Canadian securities dealers and salesmen limited registration	225

Financial Services—continued

Check casher post-dated check authorization extended..... 323
 Collection of interest.....519(3)
 Consumer contract mandatory arbitration provisions study491(2.1)
 Consumer credit —*see* that heading
 Credit cards —*see* Consumer Credit
 Disclosure statements on unsolicited loan checks 391
 Estates and trusts —*see* that heading
 Investment advisor definition273(1)
 Loan processing fees519(4)
 Loanable assets requirement to be licensed to engage in business519(2)
 Money transmission business 443
 Money Transmitters Act..... 443
 Mortgage guaranty insurance reserves334(16)
 Payable on death accounts..... 267
 Preneed funeral funds..... 294(7)–(11)
 Settlement funds disbursal by agricultural credit association or
 mortgage banker check..... 420
 Solicitation of loans with facsimile/negotiable check 519(5)–(6)
 Technical corrections and conforming changes.....267; 519(1)
 Trust companies and interstate trust business..... 263
 Usury defense change..... 8
 Viatical settlements 436

Fines and Penalties

Biological agent registry 469
 Campaign contribution violations criminal penalties419(2)
 Civil penalties for health violations by certain counties 120
 Criminal penalties —*see* Sentencing
 Foot and mouth disease authority for State Veterinarian..... 12
 HMO enforcement and penalties..... 5
 Illegal campaign contributions civil penalties419(1)
 Interfering with emergency communications 148
 Late elections filing penalties.....419(1)
 Littering violations512(1)
 Locksmith licensure violations.....369(1)
 Misrepresentation of notary public authority 450
 Motor vehicle dealers
 Remedies for manufacturer violations510(5)
 Violations..... 345
 Penalties applicable to vehicle inspection license holders.....504(12)
 Revocation of ABC license for violations in Urban
 Redevelopment Areas..... 515(3a)–(3b)
 Sea oat taking unlawful 93
 Statements of economic interest for General Assembly members..... 119
 Substance abuse professionals.....370(7)
 Suspension of student for certain false threats, hoaxes, or
 threats of acts of terrorism..... 500(4)–(6)
 Uniform penalties for local meals taxes 264
 Violation of vehicle inspection requirements 504(13)–(17)
 Wage reports filing..... 207

Index to Session Laws

Session Law
Number

Fines and Penalties —continued	
Well contractor certification.....	440(1.4)
Fire and Rescue Commission —appointments and membership ..	486(1.21), (1A.18)
Firearms — <i>see</i> Weapons	
Firefighting — <i>see</i> Emergency Services	
Firemen's and Rescue Squad Workers' Pension Fund — <i>see</i> Retirement	
First Flight Centennial Commission —appointments and membership	486(2.12a)–(2.12b)
Fish — <i>see</i> Wildlife	
Fisheries	
Commercial fishing vessel registration repealed	213(3)
Core Sound shellfish moratorium extended	213(4)
Fisheries Management Plan	
Report change	452(2.1)
Review	213(1)
Transitional licensing provisions repealed	213(2)
Flood Control — <i>see</i> Emergency Management; Lakes and Rivers	
Food Services	
Employment by ABC permit holder of minor age lowered.....	515(5)
Exemption of certain establishments from food and lodging facilities regulation.....	440(4)
Legislative Services Commission authorized to operate LOB snack bar	41
Meals tax — <i>see</i> Taxation, Food tax	
Prepared food tax — <i>see</i> Taxation, Food tax	
Residential private club and sports club ABC permits	130
School food service workers/custodians' salaries	424(28.34)
Uniform penalties for local meals taxes	264
Foreign Languages — <i>see</i> Languages	
Foreign Workers — <i>see</i> Immigrants	
Forest Products	
Samarkand timber sale	424(33.12)
Tax penalties and remedies	414(23)
Forestry	
Best management practices for Tar-Pamlico Basin	355(3)
First in Forestry special registration plate	498(1a), (3a)–(4a)
One Million Acres report change	452(2.2)
Forsyth County	
Competitive bid exemption for school facilities.....	99
Forsyth-Guilford Metropolitan Baseball Park District repealed.....	414(52)
Kernersville, Town of — <i>see</i> that heading	
Mentor funds for full-time mentors pilot program	424(28.18a)–(28.18b)
Payment of delinquent tax prior to recording deeds	464
Piedmont area commuter rail line study	491(5.1)
Purchase/lease of telecommunications and information technology on request for proposals basis	54
Realign Superior Court districts	507(3)–(4)
Stokes County satellite campus study	59
Winston-Salem, City of — <i>see</i> that heading	

Foster Care

Assistance payments 424(21.41a),
(21.41c)–(21.41d)
Child care eligibility for alien residents 424(21.73j)
Child welfare improvements funds..... 395(2.1s); 424(5.1s)
County foster care workers funds..... 395(2.1a); 424(5.1a)
Foster child health insurance coverage..... 334(5)
Indian child welfare issues collaboration 309
Special Needs Adoption Incentive Fund 424(21.42a)–(21.42d)
Technical corrections and conforming changes..... 487(84b)

Franklin County

Louisburg, Town of —*see* that heading

Fuels

Fuel tax —*see* Taxes and Assessments
Loss of drivers license for fuel theft second offense 352
Petroleum underground storage tanks
Land use restrictions for cleanup 384
Leaking tank programs evaluation 454(2)
Performance-based cleanup of discharges 442(1)–(6b)
Program funds..... 454(1)
Technical corrections and conforming changes..... 205

Funds and Accounts

Abortion Fund limitations 424(21.38)
Air Permits Fund balance transfer to General Fund 424(2.2d)
Automation Enhancement and Preservation Fund..... 390(2)
Child Care Revolving Loan Fund..... 424(21.71)
Civil Penalty and Forfeiture Fund illegal contributions 319(10)
Clean Water Management Trust Fund
Funds 424(2.1)
Technical corrections and conforming changes 474(26)
Collection of Worthless Checks Fund use of remaining balance 424(22.7)
Community Colleges Bond Fund technical corrections and
conforming changes 414(46)
Crime Victims Compensation Fund report revision 424(26.5)
Dam Safety Account balance transfer to General Fund..... 424(2.2d)
Drivers License Technology Fund
Created 461(4)
Technical corrections and conforming changes 487(42c)
Dry-Cleaning Solvent Cleanup Fund reimbursement from fund 265(2a)
Emergency management funds use flexibility..... 214(2), (4)
Emergency Response Fund balance transfer to General Fund 424(2.2d)
Farmland Preservation Trust Fund funds 424(17.3)
Firemen's Relief Fund technical corrections and
conforming changes 421(3)
Health and Wellness Trust Fund prescription drug
initiatives grant funds 424(21.100)
Highway Trust Fund —*see* Transportation, Department of
I & M Air Pollution Control Account technical corrections
and conforming changes..... 474(27)

Index to Session Laws

*Session Law
Number*

Funds and Accounts—continued

Inactive Hazardous Sites Cleanup Fund balance transfer to General Fund.....	424(2.2d)
Industrial Recruitment Competitive Fund	424(20.3a)–(20.3b)
Inmate Canteen/Welfare Fund balance transfer to General Fund.....	424(2.2d)
Insurance Regulatory Fund reimbursement authorization ...	424(14E.1a)–(14E.1b)
International Trade Show Fund balance transfer to General Fund.....	424(2.2d)
Lab Certification Fees Fund balance transfer to General Fund	424(2.2d)
Land Environmental Controls Fund balance transfer to General Fund.....	424(2.2d)
Motor Fleet Management Fund balance transfer to General Fund.....	424(2.2e)
Oil Pollution Control Fund balance transfer to General Fund	424(2.2d)
Parental savings trust fund nonresident participation	243
Parks and Recreation Trust Fund	
Public authority eligibility for grants	114
Technical corrections and conforming changes	487(73)
Petroleum Underground Storage Tank Cleanup Fund	
Generally.....	384(4)–(9)
Program funds.....	454(1)
Preneed funeral funds.....	294(7)–(11)
Prison Enterprises Fund balance transfer to General Fund.....	424(2.2f)
Real Estate Recovery Fund technical corrections and conforming changes	487(23c)–(23h)
Regional public transportation authority capital reserve fund accumulation	424(27.28)
Scrap Tire Disposal Account Program position	424(19.14)
Scrap tire tax proceeds redirected to General Fund	424(2.2j)
Sedimentation Fees Fund balance transfer to General Fund.....	424(2.2d)
Sleep Products Fund balance transfer to General Fund.....	424(2.2d)
Solid Waste Management Trust Fund report.....	452(3.1)–(3.2)
Special Children Adoption Fund funds	424(21.40a)–(21.40b)
Special Needs Adoption Incentive Fund created.....	424(21.42a)–(21.42d)
Special Reserve for Oil Overcharge Funds allocation	424(7.8a)–(7.8b)
State employee incentive bonus program modifications	424(7.2c)
State Maternity Home Fund services comparison to other available services.....	424(21.45)
State-County Criminal Justice Partnership Account	
Unexpended balance reversion	513(11)
State-County Criminal Justice Partnership Account	
unexpended balance reversion.....	424(25.16a)–(25.16d)
Teacher Assistant Scholarship Fund	
Created	424(31.5a)–(31.5b)
Criteria	424(31.5a)–(31.5b)
Telecommunications Account vehicle safety/pollution inspection fees distribution.....	504(1)

Index to Session Laws

Session Law
Number

Funds and Accounts—continued

Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs
Created 424(21.58a)–(21.58d)
Dorothea Dix Hospital replacement facility.....424(21.63c)
Mental retardation center transition plan funds.....424(21.62b)
University Improvements Bond Fund technical corrections
and conforming changes.....414(45)
Veterans Home Trust Fund expenditures authority117(1)
Warehouse Investment Fund balance transfer to General
Fund424(2.2d)
Wastewater Treatment Maintenance and Repair Fund
balance transfer to General Fund.....424(2.2d)
Water Permits Fund balance transfer to General Fund.....424(2.2d)
Well Construction Fund balance transfer to General Fund.....424(2.2d)
Wetlands Restoration Fund balance transfer to General Fund424(2.2d)
White goods management tax proceeds redirected to General
Fund424(2.2j)
Worker Training Trust Fund funds transfers 424(20.6a)–(20.6b)

Funeral Services

Burial expense coverage increased under workers' compensation232(1)
Definition clarifications.....294(2)
Licensure294(3)
Licensure and permit fees.....294(5)
Mortuary Science Board membership294(1)
Preneed funeral funds.....294(7)–(11)
Profanity in presence of dead body294(3)
Public health laws apply to funeral establishments294(4)
Student permits repealed294(6)
Technical corrections and conforming changes.....294; 487(38i)
Transportation of a dead body.....294(3)
Veterans cemetery interment eligibility..... 143

Fuquay-Varina, Town of

Buffer zone tree clear-cutting limits and protection 191
Deannexation 38

Furniture Market Improvement Act 11

Future of the North Carolina Railroad Study Commission—appointments and membership486(2.8)

- G -

Gaming

Cherokee gaming compact513(29a)–(29c)
Revenue Department video poker reporting requirement.....414(26)

Garner, Town of—buffer zone tree clear-cutting limits and protection..... 191

Gaston County

Dallas, Town of —see that heading
Gastonia, City of —see that heading
Payment of delinquent tax prior to recording deeds513(14)
State Nature and Historic Preserve land additions.....217(2)

Index to Session Laws

Session Law
Number

Gastonia, City of

- Firemen's supplemental retirement fund repealed 34
- Occupancy tax 439(1.1)–(1.2c), (18.1)
- Schiele Museum of Natural History grassroots science
program grant-in-aid 424(19.2)

Gates County—residence districts for Education Board and Commissioners 63

General Assembly

Administrative Procedure Oversight Committee, Joint Legislative —*see* that heading

Appropriations

- Alcoholic Beverage Control Study Commission, Legislative 491(4.13)
- Current operations and expansion 424(2.1)
- Election Laws Revision Commission 491(32.9)
- LRC studies funds 491(2.4)
- Positive Racial, Ethnic, and Faith Relations, Commission on 491(6.7)
- Property Tax Study Commission 499(3i)
- Tax Policy Commission 491(29.13)
- Underage Drinking Study Commission 491(11.13)
- Virginia-North Carolina Interstate High-Speed Rail
Commission 266(5)

Drug law enforcement grants legislative review 424(26.3a)–(26.3b)

Education Oversight Committee, Joint Legislative —*see* that heading

Fiscal Research Division

- Adult care home reimbursement rates methodology
development RFP 424(21.7b)
- Block grant budget allocation changes requirements 395(2.1d)
- Summit House organization/expenditures review 424(25.14b)

Governmental Operations, Joint Legislative Commission on —*see* that heading

Growth Strategies Oversight Committee, Joint Legislative —*see* that heading

Health and Human Services, House Appropriations Subcommittee on

Block grant budget allocation changes requirements 395(2.1d)

Health and Human Services, Senate Appropriations Committee on

Block grant budget allocation changes requirements 395(2.1d)

Health Care Oversight Committee, Joint Legislative —*see* that heading

House Appropriations Committee appropriations

efficiency review 424(6.9)

House Appropriations Subcommittee on Education

Information Highway use and future funding
review 424(15.7d)

House Select Committee on Various Environmental Rules

Appointments and membership 491(25.2)

Created 91(25.1)–(25.9)

Information Technology, Joint Select Committee on —*see* that heading

Interim committee activity rules 491(33.2)

Internet use for agency publications 424(14.1a)–(14.1b)

Legislative employees' salaries 424(32.10)

Legislative Research Commission —*see* that heading

Legislative Retirement System (LRS)

Membership requirements 424(32.30a)–(32.30c)

Salary-related contributions 424(32.21b)

Index to Session Laws

*Session Law
Number*

General Assembly—continued

Legislative Services Commission	
Authorized to operate LOB snack bar.....	41
Executive orders to be included in Session Laws publication.....	513(16d)
General Assembly Complex security survey study.....	491(27.1)
Session Laws and House and Senate Journals distribution	513(16a)–(16c)
State publications distribution study	513(16e)
Legislative Services Office to provide staff for State Infrastructure Council.....	486(2.24)
Legislative temporary employees exempt from TSERS earnings limits	424(32.21Aa)–(32.21Ab)
Legislative Tuition Grants relief for active duty military personnel	508(8b)–(8c)
Lobbying — <i>see</i> that heading	
Members	
Statements of economic interest.....	119
Technical corrections and conforming changes	474(13)
North Carolina Manual distribution	424(14F.1)
Oversight of agency fees	427(8a)–(8b)
President Pro Tempore	
Appointments — <i>see</i> that heading	
Appropriations — <i>see</i> that heading	
Interim committee activity rules	491(33.2)
Principal Clerks' salaries	424(32.8)
Public Assistance Commission, Joint Legislative — <i>see</i> that heading	
Redistricting	
House districts.....	459
Senatorial districts.....	458
Research Division certification of legislation required by federal law.....	487(79)
Security standards for information technology.....	424(15.2b)
Security survey study	491(27.1)
Selection of Presidential Electors.....	289
Senate Appropriations Committee appropriations efficiency review.....	424(6.9)
Senate Appropriations Subcommittee on Education Information Highway use and future funding review.....	424(15.7d)
Sergeant-at-Arms and reading clerks' salaries.....	424(32.9)
Speaker of the House	
Appointments — <i>see</i> that heading	
Appropriations — <i>see</i> that heading	
Interim committee activity rules	491(33.2)
State agency furnishing of information to legislative committee/ commissions.....	491(33.1)
Transportation Oversight Committee, Joint Legislative — <i>see</i> that heading	
TSERS contribution intent	513(21)
UNC Board of Governors election procedures.....	503
Utility Review Committee, Joint Legislative — <i>see</i> that heading	

Index to Session Laws

*Session Law
Number*

General Contractors, State Licensing Board for—licensing fees 140

General Statutes

Antiquated laws.....424(22.6a)–(22.6c); 474

Chapter 20 (Motor Vehicle Act) consolidation study.....491(26.1)

Session Laws

Executive orders to be included in publication513(16d)

Session Laws and House and Senate Journals distribution513(16a)–(16c)

State publications distribution study 513(16e)

Technical corrections and conforming changes 487(78), (93)

Technical corrections and conforming changes..... 95; 149; 153; 181;
193; 201; 203; 205;
215(2); 223(23.1)–(23.2);
226; 231; 233; 236;
237; 256; 267; 294;
310(3); 316; 319; 334(12);
342(2)–(4); 347(2.1)–(2.22);
358(1)–(11); 367(8)–(12);
370(1)–(3); 384; 387(1),
(48)–(102); 413(5)–(5.2),
(6)–(8), (8.2a); 414; 415(2);
424(21.13a)–(21.13e),
(22.6a)–(22.6c), (22.11a),
(22.11c), (22.11e)–(22.11g),
(28.25a)–(28.25g); 427(4a)–(4d),
(12a)–(12b); 444; 451(3);
460; 466; 474; 487; 513

General Statutes Commission—Chapter 20 (Motor Vehicle Act)
consolidation study.....491(26.1)

Genetics—*see* Biotechnology

Geographic Information Coordinating Council

Created 359

Federal Interagency Committee created 359

GIS Technical Advisory Committee created 359

GIS User Committee, State Government

Created 359

Membership on Geographic Information Coordinating Council..... 359

Local Government Committee

Created 359

Membership on Geographic Information Coordinating Council..... 359

Management and Operations Committee created 359

Statewide Mapping Advisory Committee created 359

Geography

Center for Geographic Information/Geodetic Survey
transferred to DENR.....424(12.3a)

Statewide Floodplain Mapping Unit transferred to Crime Control424(12.3b)

GIS Technical Advisory Committee—*see* Geographic Information Coordinating
Council

GIS User Committee, State Government—*see* Geographic Information
Coordinating Council

Global TransPark Authority	
Airport assets transfer study	424(27.19)
Appointments and membership	486(1.22), (1A.19)
Education and training center transfer study	424(27.20)
Global TransPark Development Commission	
Appointments and membership	424(20.13a)–(20.13b)
Appropriations	424(20.10a)–(20.10b)
Removal of a member	424(20.13b)
Reports —see that heading	
Godwin, Town of —satellite annexation limit removed	37
Good Funds Settlement Act	420
Governmental Operations, Joint Legislative Commission on	
Appointments and membership	486(2.6)
Block grant budget allocation changes requirements	395(2.1d)
Drug law enforcement grants legislative review	424(26.3b)
Electronic distribution of Auditor's reports	424(9.1b)
New receipt-supported positions require consultation....	424(32.19Aa)–(32.19Ab)
Printing cost reductions study	491(15.1)
State Fair contract review	487(71)
Technical corrections and conforming changes	414(25)
UNC capital projects funding changes consultation	463(3)
Video poker and escheats reporting requirement	414(26)
Governor	
Appointment deadline for State Controller	42
Appropriations	
Reserve for special appropriations	424(2.1)
Terrorism funds	457(2)
Budget and Management, Office of State —see that heading	
Declaration of state of disaster	214(3)
Emergency management funds use flexibility	214(2), (4)
Housing Finance Agency —see that heading	
Internet use for agency publications	424(14.1a)–(14.1b)
Military Affairs, Advisory Commission on —see that heading	
Military leave policy	513(23a)–(23c)
Progress Board membership	486(2.18)
Public Management Fellowship Program	424(6.17)
Reports —see that heading	
Salary	424(32.1a)
Selection of Presidential Electors	289
Technical corrections and conforming changes	487(92)
Waiver of fees, deadlines, and penalties for deployed military personnel	508(3)–(5b)
Graham County	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Payment of delinquent tax prior to recording deeds	464
Special ABC area definition change not applicable	515(2)
Graham-Leach-Bliley Act	215; 351; 451(1)–(2.2)
Granite Falls, Town of —Boards of Election abolition does not apply	374(2)

Index to Session Laws

Session Law
Number

Grants

Aviation grants funds 424(27.15)
Block grants 424(5.1a)(5.1aa),
(5.2a)–(5.2f)
Clean water bonds 416(3)–(5)
Corrections Department federal grant matching funds 424(25.7)
Development of patentable intellectual property
 reporting requirement 424(15.1a)–(15.1b)
Drug law enforcement grants legislative review 424(26.3a)–(26.3b)
Grassroots science program grants-in-aid 424(19.2)
Intensive Family Preservation Services Program 424(21.50g)
Legislative tuition grant relief for active duty military
 personnel 508(8b)–(8c)
One-stop absentee voting site grants 424(14B.1a)–(14B.1b)
Parks and Recreation Trust Fund public authority
 eligibility 114
State-County Criminal Justice Partnership funding
 formula 424(25.16a)–(25.16d);
 513(11)
Travel and tourism capital incentive grants study 491(9.3)

Granville County

Butner, Town of —*see* that heading
Granville County Museum Commission grassroots science
 program grant-in-aid 424(19.2)
Harris Gallery grassroots science program grant-in-aid 424(19.2)
Oxford, City of —*see* that heading
Payment of delinquent tax prior to recording deeds 464
Stovall, Town of —*see* that heading

Grape Growers Council

Wine tax proceeds 475

Greensboro, City of

Natural Science Center of Greensboro grassroots science
 program grant-in-aid 424(19.2)
North Carolina A&T State University —*see* University of North Carolina
Police disciplinary disposition information disclosure 20
School for the Deaf at Greensboro closure 424(21.81a)–(21.81d)
UNC-Greensboro —*see* University of North Carolina

Greenville, City of

East Carolina University —*see* University of North Carolina
Pretowing notices required for private lots 46
Service of process for rental property 104

Group Homes—family foster homes and therapeutic homes exempt

 from sanitation requirements 109

Growth Strategies Oversight Committee, Joint Legislative

Appointments and membership 491(3.1)
Created 491(3.1)–(3.3)
Report requirement and sunset 491(3.3)

Guardianship—grandparent may act as supervising driver for minor

 with learners permit 194

Index to Session Laws

Session Law
Number

Guilford County

- Forsyth-Guilford Metropolitan Baseball Park District repealed.....414(52)
- Guilford Technical Community College —*see* Community Colleges
- Piedmont area commuter rail line study491(5.1)
- Superior court district realignment 333

- H -

Habitual Felon Law491(21.3)

Halifax County

- Fraudulent obtaining of ambulance services 106
- Halifax Airport Authority quick take 73
- Halifax Community College service area study491(8.4)
- Roanoke Rapids, City of —*see* that heading
- State Nature and Historic Preserve land additions.....217(2)
- Weldon, Town of —*see* that heading

Harnett County

- Averasboro Township occupancy tax.....439(12.1)
- Coats, Town of —*see* that heading
- Occupancy tax439(18.1)
- Payment of delinquent tax prior to recording deeds 464
- Residency requirement in District Court District 11 400(1)–(2)
- Subdivision definition 50

Haywood County

- Fire tax district boundary adjustments..... 56
- National Heritage Area Designation Commission created 491(18.1)–(18.10)
- Payment of delinquent tax prior to recording deeds 464
- Waynesville, Town of —*see* that heading

Hazardous Substances (*see also* Radioactive Materials)

- Anhydrous ammonia installation modifications440(2)
- Dry-cleaning solvent
 - Assessment/remediation agreements.....265(2b)
 - Reimbursement from cleanup fund 265(2a)
 - Special handling rules repealed.....265(3)
 - Temporary cleanup rules period extended265(4)
- Exemption from Uniform Electronic Transactions Act295(2)
- Inactive hazardous sites report change452(2.3)
- Siting facility near landfill.....474(23)
- Technical corrections and conforming changes..... 474(2)–(6), (2)–(6),
(16)–(17), (23)
- Weapons of mass destruction 470

Hazardous Waste—*see* Hazardous Substances; Waste Management

Hazardous Waste Management Commission—repealed.....474(1)

Health and Human Services, Department of (DHHS) 513(1a)–(1m)

- Adolescent parenting program
 - Contractual services limitations424(21.99a)
 - Effectiveness evaluation424(21.99d)
- Adult care homes —*see* Nursing Homes
- AIDS Drug Assistance Program (ADAP)
 - Eligibility 424(21.90b), (21.90d)
 - Information management system development.....424(21.90a)

Index to Session Laws

*Session Law
Number*

Health and Human Services, Department of (DHHS)—continued

Treatment adherence program development	424(21.90a)
Appropriations	
Adolescent parenting program contractual services	
limitations.....	424(21.99a), (21.99b)
Allocation of savings from eliminated positions.....	424(21.18)
Area Agencies on Aging cost savings study	424(21.32b)
Block grants	395(2.1a)
Abstinence education.....	424(5.1f)
Adult day care services.....	395(2.1a); 424(5.1a)
Adult severe and persistently mentally ill plan	
funds	395(2.1a); 424(5.1a)
After-school services for at-risk children.....	395(2.1v); 424(5.1a), (5.1r), (5.1v)
Alcohol and drug abuse treatment centers	424(5.1a)
Boys and Girls Clubs.....	395(2.1a), (2.1k), (2.1v); 424(5.1a), (5.1j), (5.1v)
Business process reengineering project reserve	395(2.1a), (2.1w); 424(5.1a), (5.1w)
Cash assistance reserve.....	395(2.1a), (2.1v); 424(5.1v)
Child care and development fund	395(2.1a), (2.1x); 424(5.1w)
Child care quality and availability initiatives	424(5.1a)
Child care subsidies	395(2.1a), (2.1l); 424(5.1a), (5.1l)
Child caring agencies.....	395(2.1a); 424(5.1i)
Child medical evaluation	395(2.1a); 424(5.1a)
Child residential mental health treatment services...	395(2.1a); 424(5.1a); 513(1e), (1f)
Child welfare improvements.....	424(5.1s)
Child welfare training	424(5.1a), (5.1u)
Child welfare workers and services for local departments.....	424(5.1a)
Childhood injury prevention.....	395(2.1a); 424(5.1a)
Community action agencies.....	424(5.1a)
Community services	395(2.1a); 424(5.1a)
Community-based mental health services to children	
funds	424(5.1a)
Community-based services to children funds	395(2.1a)
Community-based substance abuse services.....	395(2.1a); 424(5.1a)
Community-based tuberculosis services	424(5.1a)
Comprehensive substance abuse treatment services	
program.....	424(5.1a), (5.1t); 513(1a), (1e), (1f)
County child protective services, foster care, and	
adoption workers.....	395(2.1a); 424(5.1a)
Crisis intervention.....	395(2.1a)
Dental services/fluoridation.....	395(2.1a); 424(5.1a)

Health and Human Services, Department of (DHHS)—continued

Domestic violence prevention and awareness.....	395(2.1v); 424(5.1a), (5.1v), (5.1y)
Domestic violence services for Work First families	395(2.1a), (2.1v); 424(5.1a), (5.1q), (5.1v)
Emergency medical services.....	395(2.1a); 424(5.1a)
Energy assistance programs.....	395(2.1a); 424(5.1a)
Family Focus	395(2.1a); 424(5.1a)
Federal funds availability	395(2.1b)–(2.1c); 424(5.1b)–(5.1d)
Healthy mothers/healthy children.....	395(2.1a); 424(5.1a)
Heating air repair and replacement program.....	395(2.1a); 424(5.1a)
High-risk maternity clinic services	395(2.1a); 424(5.1a)
HIV/AIDS services	395(2.1a), (2.1z); 424(5.1a), (5.1z)
Indian Affairs Commission in-home services for the elderly	424(5.1a)
Individual development accounts	395(2.1a), (2.1aa), (2.1v); 424(5.1aa), (5.1v)
In-home services.....	424(5.1a)
Intensive family preservation program	395(2.1a), (2.1v); 424(5.1a), (5.1v)
Limited purpose agencies	424(5.1a)
Low-income energy.....	395(2.1a); 424(5.1a)
Maternal and child health	395(2.1a); 424(5.1a)
Medical child care pilot	424(5.1j)
Mental health services	395(2.1a); 424(5.1a)
NC Rural Center.....	395(2.1a); 424(5.1a), (5.1v)
Newborn screenings	395(2.1a); 424(5.1a)
Office of Minority Health.....	424(5.1a)
Out-of-wedlock births reduction.....	395(2.1a), (2.1v); 424(5.1a), (5.1v)
Perinatal education and training	395(2.1a); 424(5.1a)
Pregnant women/women with children substance abuse services	395(2.1a); 424(5.1a)
Preventative health services.....	395(2.1a); 424(5.1a), (5.1f)
Quality and availability initiatives	395(2.1a)
Rape crisis/victims' services program.....	395(2.1a); 424(5.1a)
Rape prevention and education program	424(5.1a), (5.1f)
Residential substance abuse services for women with children	395(2.1a), (2.1v); 424(5.1a), (5.1o), (5.1v)
Services to children with special health care needs ...	395(2.1a); 424(5.1a)
Social services	395(2.1a); 424(5.1a); 513(1a)
Social services transfer for HIV/AIDS education, counseling and testing.....	424(5.1a)

Index to Session Laws

*Session Law
Number*

Health and Human Services, Department of (DHHS)—continued

Social services transfer to maternal and child health for newborn screenings	424(5.1a)
Special children adoption fund	395(2.1a); 424(5.1a), (5.1h)
State administration	424(5.1a)
Statewide health promotion programs	395(2.1a); 424(5.1a)
Substance abuse prevention and treatment	395(2.1a); 424(5.1a)
Substance abuse services to children and adolescents	395(2.1a); 424(5.1a)
Substance abuse services to IV drug users and others at risk for HIV	395(2.1a); 424(5.1a)
Support Our Students.....	395(2.1v); 424(5.1a), (5.1p), (5.1v)
TANF	395(2.1a); 424(5.1a), (5.1n)
Teen pregnancy prevention.....	395(2.1v); 424(5.1a), (5.1v)
Transfer for emergency medical services	424(5.1a)
Transfer for HIV/AIDS prevention activities	424(5.1a)
Transfers	395(2.1a), (2.1v)
UNC-CH Cares	395(2.1a); 424(5.1a)
Weatherization program	395(2.1a); 424(5.1a)
Work Central Career Advancement Center	395(2.1a); 424(5.1a), (5.1v)
Work First.....	395(2.1a), (2.1v); 424(5.1a), (5.1m), (5.1v)
Child care revolving loan fund.....	424(21.71)
Division of Aging	
Alzheimer's Association chapters	424(21.31)
Block grant funds.....	424(5.1a)
Current operations and expansion.....	424(2.1)
Home and community care block grant funds	395(2.1a)
Senior center outreach	424(21.30a)–(21.30c)
Division of Child Development	
Child care subsidies	424(5.11)
Current operations and expansion.....	424(2.1)
Early Childhood Education and Development Initiatives evaluation	424(21.76)
Division of Educational Services	
Current operations and expansion.....	424(2.1)
Division of Facilities Services	
Block grant funds.....	395(2.1a); 424(5.1a)
Division of Facility Services	
Current operations and expansion.....	424(2.1)
Division of Medical Assistance	
Circumcision funds.....	513(19)
Current operations and expansion.....	424(2.1)

Health and Human Services, Department of (DHHS)—continued

Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Block grant funds.....	395(2.1a); 424(5.1a)
Child residential treatment services program funds.....	513(1e), (1f)
Comprehensive substance abuse treatment services program.....	395(2.1t); 424(5.1t); 513(1a), (1e), (1f)
Comprehensive treatment services program for children at risk for institutionalization	424(21.60d), (21.60f)
Current operations and expansion.....	424(2.1)
Developmentally disabled waiting list for services....	395(2.1a); 424(5.1a)
Residential substance abuse services for women with children	395(2.1o); 424(5.1o)
Work First substance abuse services and drug testing.....	395(2.1a); 424(5.1a)
Division of Public Health	
Current operations and expansion.....	424(2.1)
Rape prevention and education program	395(2.1a); 424(5.1a)
Sickle-cell syndrome purchase of medical care	513(26)
Teen pregnancy prevention.....	395(2.1a); 424(5.1a)
Division of Services for the Blind	
Block grant funds.....	395(2.1a); 424(5.1a)
Consolidation and transfer of program funds	424(21.77)
Current operations and expansion.....	424(2.1)
Division of Services for the Deaf and Hard of Hearing	
Current operations and expansion.....	424(2.1)
Division of Social Services	
Administration.....	395(2.1a), (2.1n)
Adult care home resident assessment services staff.....	424(21.35)
After-school services for at-risk children.....	395(2.1a), (2.1r); 424(5.1r)
Child caring agencies.....	424(5.1i)
Child support services for urban counties.....	424(21.54A)
Child welfare improvements.....	395(2.1s); 424(5.1s)
Child welfare training	395(2.1a), (2.1u); 424(5.1u)
Current operations and expansion.....	424(2.1)
Domestic violence prevention and awareness.....	395(2.1a), (2.1y); 424(5.1y)
Domestic violence services for Work First families .	395(2.1q); 424(5.1q)
Placement of children ineligible for federal IV-E funds	395(2.1i)
Special Children Adoption Fund	424(5.1h), (21.40a)–(21.40b)
Staff development.....	395(2.1a)
TANF administration.....	424(5.1a), (5.1n)
TANF staff development	424(5.1a)
Work First evaluation	395(2.1g); 424(5.1g)
Work First Housing Initiative	395(2.1a), (2.1m); 424(5.1m)

Health and Human Services, Department of (DHHS)—continued

Division of Vocational Rehabilitation	
Current operations and expansion.....	424(2.1)
Easter Seals Society block grant funds	395(2.1a); 424(5.1a)
United Cerebral Palsy block grant funds	395(2.1a); 424(5.1a)
Drug company drug program access.....	424(21.6a); 513(20)
Enhanced adoption services for special children.....	395(2.1h)
Immunization programs	424(21.87a)–(21.87b)
Long-term continuum of care system use of non-State funds.....	424(21.9b)
Medicaid	424(21.19a)–(21.19y)
Medicaid cost-containment activities.....	424(21.25)
Medical child care pilot.....	395(2.1j)
More At Four pilot program.....	424(21.76Ba), (21.76Bf)
NC Health Choice	
Current operations and expansion.....	424(2.1)
Office of Minority Health	395(2.1a); 424(5.1a)
Office of the Secretary	
Current operations and expansion.....	424(2.1)
Office of Economic Opportunity for N.C. Senior Citizens' Federation block grant.....	424(5.1a)
Outreach services for low-income elderly	395(2.1a)
Oral health care access for Medicaid eligible persons ..	424(21.98a)–(21.98b)
Organ, eye and tissue donor registry study funds.....	481(4)
Physician services	424(21.12)
Prescription drug assistance program.....	424(21.88)
Special assistance demonstration project	424(21.29a)–(21.29b)
Teen pregnancy prevention contractual services limitations.....	424(21.99a)
Transfer of funds authorization.....	424(21.11)
Transfer of funds from Juvenile Justice	424(24.10a)
Weatherization assistance program	424(7.8a)
Area Agencies on Aging cost savings study.....	424(21.32a)–(21.32b)
Area authorities — <i>see</i> Authorities; Mental Health	
Biological agent registry	469
Carolina ACCESS program improvements	424(21.27)
Cash assistance reserve flexibility.....	513(33)
Catchment area consolidation plan.....	437(3a)
Centralization of statistical management and analysis functions.....	424(21.93)
Centralized contracts system	424(21.18B)
Child care	
Allocation formula	424(21.69a)–(21.69d)
Allocation formula study	424(21.69d)
Matching funds requirement	424(21.70)
Subsidy rates	424(21.73a)–(21.73j)
Child support enforcement pilot enhancement	424(21.53a)–(21.53d)
Child welfare system pilots	424(21.46a)–(21.46c)

Health and Human Services, Department of (DHHS)—continued	
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60a)–(21.60h)
Consolidation of consumer advocacy and ombudsmen programs study	437(3c)
Consumer Advocacy Program operational procedures and criteria.....	437(3a)
Cost-containment programs for Medicaid.....	424(21.19k)
County Health and Human Services budget guidance.....	424(21.16)
Criminal record check functions centralization.....	424(21.2)
Disproportionate share receipt disposition	424(21.23a)–(21.23b)
Division of Aging	
Consolidation of sections	424(21.33)
Senior center outreach funds.....	424(21.30a)–(21.30c)
State Adult Day Care Fund slot allocation methodology	424(21.47)
Division of Child Development	
Criminal history records checks study	465(3a)
Early Childhood Education and Development Initiatives budgeting fund tracking code	424(21.75c)
Preschool programs for the deaf elimination transition plan.....	424(21.83)
Reorganization	424(21.74)
Division of Early Intervention and Education	
Developmental Evaluation Centers transferred to Public Health.....	424(21.80d)
Dissolved	424(21.80b)
Early intervention program transferred to Public Health	424(21.80c)
Division of Facilities Services	
Developmentally disabled group homes licensure	209
Oversight and survey practices review.....	385(2d)
Quality Improvement Consultation Program	385(1d)
Skilled Nursing Facility Quality Improvement Consultation Program.....	385(2a)
Temporary change of hospital bed capacity	410(1)
Division of Information Research Management	
Information technology project positions.....	424(21.17a)–(21.17b)
Division of Medical Assistance	
Cost-containment and growth reduction	424(21.24a)–(21.24e)
Disproportionate share receipt disposition	424(21.23a)–(21.23b)
Management information and claims processing equipment funds	424(21.19s)
Medicaid —see that heading	
Therapeutic mental health services coding system.....	424(21.19x)
Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	
Area authorities —see Authorities; Mental Health	
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60a)–(21.60h)
Functional area consolidation feasibility study	424(21.64b)–(21.64c)
HIV/AIDS prevention initiative coordination	424(21.18Da)–(21.18Dd)
Mental retardation centers downsizing	424(21.67a)–(21.67b)
Multiply-diagnosed adults services.....	424(21.66a)–(21.66d)

Index to Session Laws

*Session Law
Number*

Health and Human Services, Department of (DHHS)—continued

Physician services	424(21.12)
Prescription drug assistance program management	424(21.3a)–(21.3c)
Private agency uniform cost-finding requirement	424(21.56)
Reorganization	424(21.64a)–(21.64c)
Residential schools for the deaf	
Educational needs assessment and plan	424(21.82a)
Plan for emotionally disturbed children	424(21.82b)
Residential substance abuse services for women with children	
AIDS campaign coordination	424(5.1z)
Expansion	395(2.1o)
Substance abuse services for juveniles AIDS campaign coordination.....	424(5.1z)
Division of Public Health	
Developmental Evaluation Centers	
Maximization of receipts	424(21.79)
Transferred from Early Intervention and Education	424(21.80d)
Early intervention program	
Services maximization of receipts	424(21.79)
System evaluation.....	424(21.85a)–(21.85d)
Transferred from Early Intervention and Education	424(21.80c)
High-risk maternity clinic AIDS campaign coordination.....	424(5.1z)
HIV/AIDS prevention initiative coordination	424(21.18Da)–(21.18Dd)
Infant mortality and birth defects activities inventory.....	424(21.94)
Intensive home visiting program	
No State funds for evaluation	424(21.97a)
Participation data collection.....	424(21.97b)
Maternity home services comparison to other available services....	424(21.45)
Organ, eye and tissue donor registry study	481(1)
Out-of-wedlock births reduction AIDS campaign coordination.....	424(5.1z)
Perinatal education and training AIDS campaign coordination	424(5.1z)
Preschool programs for the deaf elimination transition plan.....	424(21.83)
Prescription drug assistance program management	424(21.3a)–(21.3c)
Public health educator positions consolidation feasibility.....	424(21.91Ab)
Public health nurse consultants consolidation feasibility	424(21.91Aa)
Public information and training AIDS campaign coordination.....	424(5.1z)
Reorganization	424(21.91a)–(21.91c)
School health AIDS campaign services coordination	424(5.1z)
Sickle-cell syndrome purchase of medical care	513(26)
Student Information Management Program	
Improvement and evaluation	424(21.84a)
No expansion	424(21.84a)
Technical corrections and conforming changes	487(113)
Technical assistance to local health departments AIDS campaign coordination	424(5.1z)
Teen pregnancy prevention AIDS campaign coordination	424(5.1z)
Division of Services for the Blind	
Consolidation and transfer of program funds.....	424(21.77)
Non-Medicaid reimbursement changes.....	424(21.59)
Prescription drug assistance program management	424(21.3a)–(21.3c)

Index to Session Laws

*Session Law
Number*

Health and Human Services, Department of (DHHS)—continued

Division of Social Services	
Adult care home resident assessment services staff	424(21.35)
After-school services for at-risk children	
AIDS campaign coordination	424(5.1z)
Expansion	395(2.1r)
Generally	424(5.1r)
New position.....	424(5.1r)
Child welfare system pilots.....	424(21.46a)–(21.46c)
College degrees in social work collaborative support.....	395(2.1u)
Domestic violence prevention and awareness.....	395(2.1y); 424(5.1z)
Domestic violence services for Work First families	
AIDS campaign coordination	424(5.1z)
County plan review.....	424(5.1q)
Funds allocation.....	395(2.1q)
Funds restrictions.....	395(2.1q)
HIV/AIDS prevention initiative coordination.....	424(21.18Da)–(21.18Dd)
Indian child welfare issues collaboration	309
Maternity home services comparison to other available services.....	
.....	424(21.45)
Regional child welfare training center	395(2.1u)
Reorganization	424(21.49)
Residential child care facilities training	395(2.1u)
Special Children Adoption Fund	
Funds reallocation.....	424(21.40b)
Guidelines.....	424(21.40a)–(21.40b)
Work First	
Boys and Girls Clubs AIDS campaign coordination	424(5.1z)
Evaluation.....	395(2.1g); 424(5.1g)
Division of Vocational Rehabilitation	
Prescription drug assistance program management	424(21.3a)–(21.3c)
Dorothea Dix Hospital replacement facility.....	424(21.63a)–(21.63e)
Drug company drug program access	424(21.6a)–(21.6d); 513(20)
Early Childhood Education and Development Initiatives	
Administrative costs.....	424(21.72a)
Allocation, nonduplication and reporting policies development ..	424(21.75a)
Budgeting fund code for tracking administrative and operation expenditures	424(21.75c)
Carryforward funds allocation prohibited	424(21.75e)
Competitive bid practices.....	424(21.72b)
County allocations use	424(21.72d)
Enhancements	424(21.75a)–(21.75k)
Evaluation.....	424(21.76)
Intervention Services Unit created in HHS	424(21.18A)
Match funds requirement	424(21.72c)
Performance-based evaluation	424(21.72e)
Emergency medical services	
Act revisions	220
Regulation.....	210

Health and Human Services, Department of (DHHS)—continued

Emergency Medical Services Disciplinary Committee
Created 220

Exemption of certain establishments from food and lodging
facilities regulation.....440(4)

Family foster homes and therapeutic homes exempt from
sanitation requirements..... 109

Family resource centers
AIDS campaign coordination.....424(5.1z)
Elimination of duplicate effort 424(21.48c)
Evaluation 424(21.48a), (21.48f)
Funding allocation424(21.48d)
Performance measurement protocol.....424(21.48b)

Family support AIDS campaign coordination 424(5.1z)

Family support services coordination..... 424(21.18C)

Family-Centered Services, Advisory Committee on —*see that heading*

Federal transfer of assets policies application424(21.19y)

Foster care and adoption assistance payments..... 424(21.41a)–(21.41d)

Governor Morehead School
Nonprofit corporation assistance..... 412
Preschool program transferred to Governor Morehead School..... 424(21.80e)

Health care disparities elimination study.....491(23.1)

Health insurance program for children —*see NC Health Choice this heading*

HIV/AIDS prevention initiative424(21.18Da)–(21.18Dd)

Immunization program
Funding..... 424(21.87a)–(21.87b)
Restitution..... 424(21.86a)–(21.86b)

Independent living AIDS campaign coordination424(5.1z)

Information technology project positions..... 424(21.17a)–(21.17b)

Intensive Family Preservation Services Program
Advisory committee repealed 424(21.50h)–(21.50j)
Enhancements 424(21.50a)–(21.50j)
Grants.....424(21.50g)
Performance-based funding protocol424(21.50d)

Land reservation for community building on Butner Reservation..... 424(21.57)

LOB snack bar removed from visually handicapped preference 41

Local Health Services section chief position.....424(21.91b)

Long-term care
Continuum of care system.....424(21.9a)–(21.9c)
Local lead agency study.....491(22.1)
Quality criteria development.....424(21.36)

Medicaid —*see that heading*

Medical Assistance Program —*see Medicaid*

Medical coverage policy adoption for Medicaid424(21.20a)–(21.20c)

Medical liability coverage for employees.....424(21.55)

Mental Health, Developmental Disabilities, and Substance Abuse Services
Appeals Panel 437(1.17b)–(1.17c)
Authorities administrative cost reduction..... 424(21.65a)–(21.65 b)
Consumer Advocacy Program437(2)
Rules review437(3a)

Health and Human Services, Department of (DHHS)—continued

State plan	437(1.5), (3a)
Trust Fund created	424(21.58a)–(21.58d)
Mental health patient service needs analysis and transition plan.....	424(21.63b)
Mental health system rules	437(3b)
Mental retardation centers	
Downsizing	424(21.67a)–(21.67b)
Transition plan	424(21.62a)–(21.62d)
More At Four pilot program	
Created	424(21.76Ba)–(21.76Bg)
Pre-K Task Force	424(21.76Bb); 487(112)
Reallocation of funds from existing programs	424(21.76Bf)
Multiply-diagnosed adults services	424(21.66a)–(21.66d)
NC Health Choice	
Funds not to exceed those appropriated	424(21.22a)
Uninsured definition change	424(21.22b)
No-cost contract extensions for nongovernmental recipients	
of TANF block grants	424(5.1e)
Nonfederal cost of Medicaid allocation.....	424(21.19b)
Non-Medicaid reimbursement changes	424(21.59)
Office of Education Services	
Created	424(21.80b)
Preschool programs for the deaf elimination transition plan.....	424(21.83)
Office of Policy and Planning	
Certain personnel exempt employees.....	487(110)
Created	424(21.14a)–(21.14c)
Organ, eye and tissue donor registry study.....	481(1)
Police officer positions transferred from Juvenile Justice	424(24.10a)
Preschool programs for the deaf eliminated	424(21.83)
Prescription drug assistance program management.....	424(21.3a)–(21.3c)
Psychotropic medication use by children database feasibility.....	124
Readiness plan for mental health programs certification.....	437(3a)
Recodification of administrative rules.....	424(21.10)
Regional interdisciplinary pilots no expansion.....	424(21.84b)
Regional office consolidation.....	424(21.1a)
Reports —see that heading	
Residential schools and facilities AIDS campaign coordination	424(5.1z)
Residential schools for the deaf	
Educational needs assessment and plan	424(21.82a)
Plan for emotionally disturbed children	424(21.82b)
School for the Deaf at Greensboro closure.....	424(21.81a)–(21.81d)
Secretary	
Area authority failure to provide adequate services	437(1.13a)–(1.13b)
Consolidation of mental health consumer advocacy and	
ombudsmen programs study.....	437(3c)
Division of Education Services authority repealed	424(21.80a)
Early intervention services responsibilities.....	437(1.20a)–(1.20b)
HIV/AIDS awareness and education position	395(2.1z)
HIV/AIDS prevention activities position	424(5.1z)
Intervention Services Unit created.....	424(21.18A)

Health and Human Services, Department of (DHHS)—continued	
Jurisdiction over State facilities	437(1.19)
Membership on Geographic Information Coordinating Council.....	359
Mental Health, Developmental Disabilities, and Substance Abuse Services Advocacy Program created	437(2)
Office of Policy and Planning created.....	424(21.14a)–(21.14c)
Powers	437(1.7a)–(1.7b)
Salary	424(32.2)
Skilled Nursing Facility Quality Improvement Consultation Program.....	385(2a)
Smart Start — <i>see</i> Early Childhood Education and Development Initiatives this heading	
Special Needs Adoption Incentive Fund	424(21.42d)
State Consumer Advocate	437(2)
State Laboratory	
Contracting for services feasibility	424(21.92b)
Equipment replacement schedule.....	424(21.92a)
Fees assessment	424(21.92c)
State Maternity Home Fund comparison of available services and maternity home services	424(21.45)
State Medical Assistance Program — <i>see</i> Medicaid	
State psychiatric hospital bed allocation plan.....	424(21.68A)
State/County special assistance rates and eligibility.....	424(21.44a)–(21.44d)
Survey team members to have basic training in a nursing home.....	385(2c)
TANF (Temporary Assistance to Needy Families) — <i>see</i> Welfare	
Technical corrections and conforming changes.....	487(31)
Teen pregnancy prevention	
Contractual services limitations	424(21.99a)
Effectiveness evaluation	424(21.99d)
Initiatives	424(21.89a)–(21.89d)
Toll-free line inventory and consolidation feasibility study	424(21.5a)–(21.5b)
Underage drinking study	491(11.4)
Vocational rehabilitation and independent living services eligibility	424(21.78a)–(21.78d)
Volume purchase plans and single source procurement for Medicaid	424(21.19j)
Wake County office inventory	424(21.1b)
Whitaker School transition of students to alternative facilities	424(21.61a)
Work First — <i>see</i> Welfare	
Workers' compensation treatment payments to hospitals.....	410(3); 413(8.2a)
Health and Wellness Trust Fund Commission	
Prescription drug initiatives grant funds.....	424(21.100)
Reports — <i>see</i> that heading	
Temporary rule authority.....	487(124)
Health Care Oversight Committee, Joint Legislative	
County share of Medicaid costs study.....	491(10.4)
Long-term care aide workforce issues study	491(10.5)
Medical services for persons with disabilities study.....	491(10.2)
Prescription drugs study	491(10.3)

Index to Session Laws

*Session Law
Number*

Health Departments (local)

County Health and Human Services budget guidance.....424(21.16)
Diagnostic laboratory disease reporting requirements..... 28
Early intervention
 Services maximization of receipts.....424(21.79)
 System evaluation 424(21.85a)–(21.85d)
Healthy mothers/healthy children funds395(2.1a); 424(5.1a)
Immunization program funding..... 424(21.87a)–(21.87b)
Local health director appointments study.....491(14.2)
Maternal and child health technical assistance funds 424(5.1a)
Public health authority employees exempt from State
 personnel system 92
Public health nurse consultants consolidation feasibility 424(21.91Aa)

Health Services

Abortion fund limitations424(21.38)
Access to specialist care in managed care 446(1.2)–(1.2A)
Additional health coverage mandates prohibited.....453(1)
Adult care homes
 Model for community-based services 424(21.54a)–(21.54b)
 Moratorium extended.....234(3)
 Population study234(4)
Adult day care transportation to comply with Social
 Services Commission rules 90
Adult severe and persistently mentally ill plan funds..... 424(5.1a)
Advanced health care directive registry established..... 455(1)–(6);
 513(30a)–(30b)
Ambulatory surgical facility definition change242(1)
Area Health Education Centers funds424(2.1)
Child medical evaluation program block grant funds..... 424(5.1a)
Childhood injury prevention funds..... 424(5.1a)
Circumcision funds513(19)
Clinical trial coverage446(3.1)
Colorectal screening insurance coverage..... 116
Competitive health care information confidentiality516(5)
Contract reimbursement rates for medical services not public record516(4)
Corrections licensure and certificate of need
 exemption.....424(25.19a)–(25.19c),
 (25.19a)–(25.19c)
Dentistry school at ECU feasibility study424(31.10d)
Diagnostic laboratory disease reporting requirements..... 28
Direct payment of counselors under health plans..... 297
Emergency Medical Services Act revisions 220
EMS regulation 210
Enteral sedation standards for dentistry..... 511
Family planning services by Medicaid.....424(21.19v)
Fee increases for persons licensed by Medical Board493(3)
Good Samaritan Law for certain health care providers 230
Health care disparities elimination study.....491(23.1)
Health care personnel education study491(8.11)
Health care provider definition under prompt payment law417(1)

Index to Session Laws

*Session Law
Number*

Health Services—continued

Health plan liability	446(4.7)–(6)
Healthy mothers/healthy children funds	395(2.1a)
High-risk maternity clinic services funds	424(5.1a)
HIV/AIDS education, counseling, and testing funds	424(5.1a)
HIV/AIDS prevention and care programs study	491(28.3)
HMO definition correction	417(13)
Home and community-based Medicaid waiver	424(21.28A)
Hospice care Medicaid payment schedule and bases	424(21.19a)
Immunity for honoring portable do not resuscitate order	445
Inmate costs	424(25.6a)
Inmate health care contracting	424(25.23a)–(25.23b)
Inmate prescription costs	424(25.6b)
Licensed Psychological Associates (Masters level psychologists) study	491(2.1)
Long-term care	
Aide workforce issues study	491(10.5)
Continuum of care system	424(21.9a)–(21.9c)
Facilities, hospitals, and physicians liability insurance study	491(2.1C)
Facilities to post staffing level information	85
Malpractice cases statute of limitations extension	121
Managed care	
External review	446(4.1)–(4.6A)
Patient Assistance Program established	446(1.6)
Reporting and disclosure requirements	446(2.1)
Utilization review and grievance procedures	417(2)–(12)
Mandated benefits by insurers	446(3.1)–(3.2)
Maternal and child health	
Block grant	424(5.1a)
Public information and education funds	424(5.1a)
Medicaid — <i>see that heading</i>	
Medical child care pilot funds	395(2.1j); 424(5.1j)
Medical equipment dispensing registration requirements	339
Medical facilities plan determinative effect extended	242(3)
Medical services for persons with disabilities study	491(10.2)
Naturopathy study	491(2.1)
New institutional health services definition	242(2), (4)
Newborn screenings	
Funds	395(2.1a); 424(5.1a)
Hearing screening coverage	446(3.2)
No discrimination in selection of providers	446(1.7)
Non-Medicaid reimbursement changes	424(21.59)
Oral health care access for Medicaid eligible persons	424(21.98a)–(21.98b)
Organ donations — <i>see that heading</i>	
Organ, eye and tissue donor registry study	481(1)
Pediatrician direct access for minors	446(1.4)
Perinatal education and training funds	424(5.1a)
Pharmacy school at ECSU feasibility study	424(31.10c)
Pregnancy Medicaid payment schedule and bases	424(21.19a)
Pregnant women and children coverage by Medicaid	424(21.19n)

Health Services—continued

Prescription drugs study	491(10.3)
Property tax exclusion for retirement facilities.....	17
Provider incentives prohibited.....	446(1.8)
Psychotropic medication use by children database feasibility.....	124
Public health services in tier 1 counties study.....	491(2.1D)
Rape victims and health care workers at risk for HIV infection study.....	491(28.4)
Restricted access prescription drug access	446(1.5)
Rules for licensing neonatal care beds	410(2)
Services to children with special health care needs.....	395(2.1a); 424(5.1a)
Special assistance in-home care demonstration project.....	424(21.29a)–(21.29b)
Specialist as primary care provider	446(1.3)
Speech and language pathology caseloads and severity rating scales study.....	491(8.19)
Successor plan coverage for confinement/pregnancy.....	334(6)
Temporary change of hospital bed capacity	410(1)
Uniform provider credentialing.....	172

Health Services, Commission for

Biological agent registry	469
Diagnostic laboratory disease reporting requirements.....	28
Dry-cleaning solvent rules.....	265(3)–(4)
On-site subsurface wastewater system approval rules.....	505(2.2), (2.5)
Septage management program rules.....	505(1.3)
Siting hazardous waste facility near landfill.....	474(23)
Technical corrections and conforming changes.....	474(23)–(24)

Heart Disease and Stroke Prevention Task Force

Reports— <i>see</i> that heading	
Sunset extended.....	424(21.95)

Henderson, City of—firemen's supplemental retirement correction 71

Henderson County

National Heritage Area Designation Commission created	491(18.1)–(18.10)
TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)

Hickory, City of—Catawba Science Center grassroots science

program grant-in-aid	424(19.2)
----------------------------	-----------

High Point, City of—furniture market improvements from occupancy tax 11

Higher Education—*see* Colleges and Universities; Community Colleges; University of North Carolina

Highway Trust Fund Study Committee

Appointments and membership.....	424(27.6b), (27.6d)–(27.6e)
Created	424(27.6a)–(27.6f)

Historic Preservation—*see* Cultural Resources

HIV—*see* Acquired Immune Deficiency Syndrome (AIDS)

HMOs—*see* Insurance; Managed Care

Hoffman, Town of—residential programs for probationers 424(25.22a)

**Holden Beach, Town of—eminent domain for beach erosion,
renourishment and flood control, hurricane protection
and beach access allowed** 478(2)

Home Health Care—*see* Health Services

Home Inspector Licensure Board

- Appointments and membership.....486(1A.20)
- Members may not participate in continuing education.....421(2.5)

Horticulture—fuel tax refunds for commercial mulch-blowing

- equipment..... 408

Hospice Care—*see* Death and Dying; Health Services

Hospitals and Clinics

- Ambulatory surgical facility definition242(1)
- Competitive health care information confidentiality516(5)
- Conflicts of interest with public funds 409
- Contract reimbursement rates for medical services not
public record.....516(4)
- Dorothea Dix Hospital replacement facility.....424(21.63a)–(21.63e)
- Emergency response plans for school violence confidential500(3)
- Good Samaritan Law for certain health care providers 230
- Jurisdiction over State mental health facilities by Secretary
of HHS437(1.19)
- Long-term care facilities, hospitals, and physicians liability
insurance study491(2.1C)
- Medicaid payment schedule and bases.....424(21.19a)
- Medical facilities plan determinative effect extended242(3)
- Mental retardation centers
 - Downsizing 424(21.67a)–(21.67b)
 - Transition plan 424(21.62a)–(21.62d)
- New institutional health services definition 242(2), (4)
- No discrimination in selection of providers.....446(1.7)
- Provider incentives prohibited.....446(1.8)
- Rules for licensing neonatal care beds410(2)
- State psychiatric hospital bed allocation plan.....424(21.68A)
- Technical corrections and conforming changes..... 487(80a)–(80b)
- Temporary change of hospital bed capacity410(1)
- Temporary custody of abandoned infant 291
- UNC Hospitals at Chapel Hill —*see* University of North Carolina
- Workers' compensation treatment payments253(2); 410(3);
413(8.2a)

Hotels and Motels

- Occupancy tax —*see* Taxes and Assessments

Housing

- Abandoned mobile homes study491(14.6)
- Affidavit for permanent attachment of manufactured home
to real property506(3)
- Closing rental to avoid orders to repair or remove 283
- Community development block grant funds.....395(8a)
- Declaration of intent to affix manufactured home to real property506(3)
- Family foster homes and therapeutic homes exempt from
sanitation requirements..... 109
- Historic preservation tax credit sunset extension 476(19a)–(19b)
- HOME program matching funds424(16.1a)–(16.1c)
- Homestead tax exclusion..... 308
- Housing development funds424(5.2a)

Housing—continued

Housing tax credit allocation by pass-through entity	431
Manufactured home qualification as real property	506(1)
Metered water use cost charged as rent to encourage water conservation.....	502
Modular home transit regulation	424(27.17a)–(27.17c)
NER block grant funds.....	424(5.2a)
No funds for housing multiply-diagnosed adults.....	424(21.66c)
Property tax reductions.....	308
Sewer line cleanout required	296
Surrender of manufactured home title when qualified as real property	506(2)
Work First Housing Initiative funds.....	395(2.1a), (2.1m), (2.1v); 424(5.1a), (5.1m), (5.1v)

Housing Authorities (local)—Local Government Budget and Fiscal

Control Act applicability	206
---------------------------------	-----

Housing Finance Agency

Administrative Procedure Act	
Applicability study.....	491(20.1)
Exemption.....	299(1.1)
Appointments and membership.....	486(1.24), (1A.21)
Appropriations	
Current operations and expansion.....	424(2.1)
HOME program matching funds.....	424(16.1a)–(16.1c)
Cap on outstanding bonds raised.....	185
Executive Director's salary.....	424(32.3)
HOME program matching funds.....	424(16.1a)–(16.1c)
Investments in certain bonds authorized.....	181
Technical corrections and conforming changes.....	181

Human Relations Commission—appointments and membership

486(2.19)	
Huntersville, Town of	
Charlotte Coliseum Authority membership.....	402(4)
Mecklenburg occupancy and meals tax distribution.....	402(1)–(2)
Zoning sunset repealed.....	276

Hunting and Fishing (*see also* Wildlife)

Alcohol use while hunting in Orange County	165
Bear hunting in Martin County.....	64
Bear/wild boar license	91(3)
Disabled resident license restriction	91(1)
Enforcement of Bertie County hunting regulations.....	367(7)
Fox trapping season in Richmond County	133
Hunting near government buildings in Orange County	165
Hunting on private land	
Bertie County.....	367(2)–(4)
Perquimans County.....	330(3)–(5)
Hunting/trapping of foxes and raccoons and snare use in certain counties.....	19
License fees.....	91
No hunting from right-of-way in Bertie County.....	367(1)
Nonresident license changes	91(2)–(4), (7)

Hunting and Fishing—continued

Perquimans center-fire rifle hunting.....	330(2), (4)–(5)
Spotlighting deer in Wake County	164
Taking of deer from a boat prohibited in Bertie County	367(5)
Taking of deer with dogs prohibited in Durham County	382(2)

Hyde County

Hunting/trapping of foxes and raccoons and snare use	19
Pungo River snagging funds.....	424(33.3a)–(33.3b)

- I -

Identification Systems

Allowing use of identification by another illegal	461(3)
Copying drivers license or ID unlawful	487(50b)
Drivers license information verification system	461(4)–(6)
Entering an establishment serving/selling alcohol using fraudulent ID illegal	461(2)
Manufacture or possession of fraudulent identification illegal.....	461(1)
Proof of residency and identification for drivers license .424(27.10Aa)–(27.10Af)	
Provide fraudulent information to obtain a drivers license a misdemeanor.....	461(1.1)
Social Security number conforming change.....	256
TANF recipient ID system repealed.....	424(21.52)
Technical corrections and conforming changes.....	487(42a)–(42b)

Illegal Aliens—*see* Immigrants

Immigration and Citizenship

Child care eligibility.....	424(21.73j)
Civic and citizenship education requirement.....	363(2a)–(2b)
Higher education residency requirements study	491(8.21)
Short duration licenses authorized.....	513(32a)–(32b)
Tuition rates for noncitizen immigrant students study	491(8.9)

Improving the Academic Achievement of Minority and At-Risk Students,

Commission on

Appointments and membership.....	424(28.30g)
Extended.....	424(28.30h)
Fiscal resources needed to close achievement gap study added	424(28.30i)
Reports — <i>see</i> that heading	

Indian Affairs, Commission of

Appointments and membership.....	318(1); 486(1.25), (1A.22)
Appropriations	
In-home services for the elderly block grant.....	395(2.1a); 424(5.1a)
Child welfare issues collaboration.....	309
Low-income energy block grant funds.....	424(5.1a)
Triangle Native American Society membership.....	318(1)
Tribal trust lands authority	344

Indian Beach, Town of

Eminent domain for erosion, flood/hurricane protection and beach access	36
Occupancy tax revenues for beach renourishment	381(3c), (6a)

Indian Cultural Center, Board of Directors —appointments and membership	318(3)–(4)
Indian Housing Authority —appointments and membership	318(2)
Indigent Defense Services, Commission on	
Appointments and membership	424(22.11b)
Assistant public defender salaries	424(32.4b)
Membership on Judicial Council	96
Minimum standards rules for judges, attorneys and prosecutors in capital cases	392
Technical corrections and conforming changes	424(22.11c)
Indigent Defense Services, Office of	
Appropriations	
Assistant public defender positions	424(22.13a)
Current operations and expansion	424(2.1)
Support staff positions	424(22.13b)
Transfer of funds from Judicial Department	424(22.9)
Contracts for temporary public defenders	424(22.11d)
Reports —see that heading	
Speedy disposition of offenses involving threats to public safety funds	424(22.11e)–(22.11f)
Technical corrections and conforming changes	487(29)
Indigents —defense services funds	424(2.1)
Industrial Commission	
Appropriations	
Contingency and emergency fund	424(6.3a)
Erroneous conviction clarification and compensation increase	424(25.12a)–(25.12b)
Workers' compensation	
Agreements, orders and final awards entered as judgments	477
Changes applicable to pending cases	487(102b)
Real parties in interest	216
Information Resource Management Commission	
Appointments and membership	166; 486(1.26), (1A.23)
Project certification	424(11.1)
Technical corrections and conforming changes	487(21b), (21c), (21d)
Information Technology	
Advanced health care directive registry access via Internet	455(1); 513(30a)–(30b)
AOC network costs study	424(15.4e)
Automation Enhancement and Preservation Fund	390(2)
Budget Act information technology provisions	424(15.3a)–(15.3b)
Certain records may be kept on optical disks	519(7)–(8)
Computer networking costs definition	424(15.4a)–(15.4b)
Computerization of records for Internet access	513(27)
Contractor conversion to State employee pilot program feasibility study	424(15.5e)
Contractor use by State agencies study	424(15.5a)–(15.5d)
Drivers license technology fund established	461(4)

Information Technology—continued

Electronic listing of taxable business personal property.....	279
Expansion project.....	424(27)
ExplorNet audit.....	424(28.45)
Forsyth/Winston-Salem purchase/lease on request for proposals basis.....	54
Information Highway	
Community colleges site evaluation	424(15.7b)
Funds	424(15.7a)
Public school site evaluation.....	424(15.7c)
Use and future funding review	424(15.7d)
Internet sales and use tax multistate agreement.....	347
Internet use for agency publications.....	424(14.1a)–(14.1b)
Local government information technology purchasing	328(3)
Management flexibility for special responsibility UNC constituent institutions.....	424(31.11a)–(31.11c)
Medicaid management information and claims processing equipment funds	424(21.19s)
Patentable intellectual property	
Development loans/grants reporting requirement	424(15.1a)–(15.1b)
Transfers reporting requirement.....	424(15.1a)–(15.1b)
Personnel categories.....	424(15.4c)
Practicing medicine over Internet and telephone.....	27
Project positions in HHS	424(21.17a)–(21.17b)
Retirement Systems Division optical imaging system replacement funds	395(14)
Rural Economic Development Center President serves on Rural Internet Access Authority	171
Rural Internet Access Authority — <i>see</i> that heading	
Security standards for State agencies	424(15.2a)–(15.2d)
State Controller data processing funds	424(10.1b)
State developed intellectual property transfer and use	424(15.1c)–(15.1e)
Student Information Management Program improvement and evaluation	424(21.84a)
Tax incentives for computer services	476(1b)
Telecommunications data and video ITS services billing	424(15.4d)
Telephone, telecommunications data, and computer data processing expenditure reductions.....	424(15.8a)
Testing and implementation of student information system funds	424(28.32)
UNC-Chapel Hill bond project substitution	424(31.9)
William S. Lee Act eligibility expanded	476(6a)–(6b)
WISEOWL web site subscriptions funds utilization	424(28.40a)–(28.40b)
Information Technology, Joint Select Committee on	
Appointments and membership.....	486(2.7)
Electronic commerce privacy and security study	491(12.1)–(12.2)
Information technology contractor conversion to State employee pilot program feasibility study	424(15.5e)
Review of Cultural Resources information technology expansion.....	424(11.1)
Information Technology Services, Office of	
Appropriations	
Information Highway.....	424(15.7a)

Index to Session Laws

Session Law
Number

Information Technology Services, Office of

Transfers to General Fund.....424(2.2i)
 Chief Information Officer
 Applicability of administrative hearings provisions.....487(21h)
 Board of Awards membership487(21e)
 Membership on Geographic Information Coordinating
 Council..... 359
 Salary424(32.3)
 Wireless 911 Board membership487(21a)
 Computer networking costs definition 424(15.4a)–(15.4b)
 Dispute resolution in fees collection 142
 Electronic procurement program 424(15.6b)–(15.6c)
 Financial business infrastructure study..... 491(17.1)–(17.3)
 Information Highway
 Community colleges site evaluation424(15.7b)
 Public school site evaluation.....424(15.7c)
 Information technology contractor use by State agencies
 study 424(15.5a)–(15.5d)
 No rate increases to offset reductions424(15.8b)
 Rates shall not increase424(2.2i)
 Reports —*see* that heading
 Security standards for State information technology 424(15.2a)–(15.2d)
 Technology procurement rules487(21g)
 Telecommunications data and video ITS services billing424(15.4d)
 Telephone, telecommunications data, and computer data
 processing expenditure reductions.....424(15.8a)

Infrastructure—community development block grant funds395(8a)

Infrastructure Council, State—staff services provided by

 Legislative Services Council486(2.24)

Innocence Protection Act 282

Inspections

Animal operations inspection pilot program extended 254(5)–(6)
 Elevator and amusement device inspection fee use.....424(18.1)
 Field trials and testing of vehicle emissions and safety
 inspection equipment.....504(18)
 Foot and mouth disease authority for State Veterinarian..... 12
 Local government building inspection contracts 278
 Penalties applicable to vehicle inspection license holders.....504(12)
 Septic system repair/inspection fees collected as property tax
 in certain counties..... 78(2)–(4)
 Vehicle emission inspection and maintenance program review504(20)
 Vehicle safety/pollution inspections
 Fees increase 504(1)–(3)
 Safety inspection program study504(21)
 Vehicle age limitations 504(4)–(8)
 Violation of vehicle inspection requirements 504(13)–(17)
 Waiver for vehicle missing emissions control devices504(9)

Institutionalized Persons (*see also* Juvenile Facilities; Mental Health)

 Comprehensive treatment services program for children
 at risk for institutionalization..... 424(21.60a)–(21.60h)

Index to Session Laws

Session Law
Number

Institutionalized Persons—continued

Mental retardation center transition plan..... 424(21.62a)–(21.62d)

Insurance (*see also* Rate Bureau)

Accident

Claim status report334(15)

Intoxicants and narcotics screening and intervention promotion334(4)

Actuarial rules334(17)

Agent and broker licensing conform to national standard 203

Beach plan

Loss adjustment reimbursements 421(4.1)–(4.2)

Casualty

Insurance company reserving methods 223(1.1)–(1.2)

Companies —*see* Corporations, For-Profit; Corporations, Nonprofit

Disability

Claim status report334(15)

Disability Income Plan conforming change 424(32.32A)

Guaranty

Mortgage guaranty insurance..... 223(11); 334(16)

Health

Additional health coverage mandates prohibited453(1)

Child health insurance tax credit repealed 424(33.21a)–(33.21b)

Child support medical support notice required 237(8)–(9)

Claim status report334(15)

Clinical trial coverage446(3.1)

Colorectal screening coverage 116

Continuation election period334(7)

Deemer provisions334(14)

Direct payment of counselors under health plans..... 297

Exemption from Uniform Electronic Transactions Act295(2)

Health care provider definition under prompt payment law417(1)

Health insurer responsibilities in child support cases..... 237(11)

Health plan liability..... 446(4.7)–(6)

High-risk health insurance pools study491(2.1)

HIPAA coverage for pre-existing condition334(9)

HMO group coverage premium change notice334(8)

HMO/medical service company tax equalization..... 424(33.22a)–(33.22f)

Intoxicants and narcotics screening and intervention

promotion334(4)

Jurisdiction and limitation of actions in policies334(1)

Managed care

Access to specialist care 446(1.2)–(1.2A)

Clinical trial coverage.....446(3.1)

Continuity of care in HMOs446(1)

External review..... 446(4.1)–(4.6A)

Health care provider definition under prompt payment law417(1)

Health plan liability 446(4.7)–(6)

HMO and medical service corporations' temporary tax

modifications 489(2a)–(2h)

HMO definition correction417(13)

HMO enforcement and penalties 5

Index to Session Laws

Session Law
Number

Insurance—continued

HMO group coverage premium change notice	334(8)
HMO/medical service company tax equalization	424(33.22a)–(33.22f)
Indemnification under patients' bill of rights	508(2)
Insurance holding company systems	223(16.1)–(16.7)
Managed Care Patient Assistance Program established	446(1.6)
Mandated benefits.....	446(3.1)–(3.2)
Newborn hearing screening coverage	446(3.2)
No discrimination in selection of providers	446(1.7)
Payment obligations disclosure	446(2.3)
Pediatrician direct access for minors	446(1.4)
Preferred provider plan clarification	334(2)
Provider directory information	446(2.2)
Provider incentives prohibited.....	446(1.8)
Rate filings for HMOs	487(106a)–(106b)
Reporting and disclosure requirements.....	446(2.1)
Restricted access prescription drug access.....	446(1.5)
Risk-based capital requirements	223(12.1)–(12.10)
Specialist as primary care provider.....	446(1.3)
Utilization review and grievance procedures.....	417(2)–(12)
Managed care reporting and disclosure requirements	446(2.1)
Mandated benefits	446(3.1)–(3.2)
Mandates moratorium study.....	491(2.1)
Mandates study	453(2)
Medicaid — <i>see that heading</i>	
NC Health Choice	424(21.22a)–(21.22b)
Newborn, foster child and adopted child coverage	334(5)
Newborn hearing screening coverage	446(3.2)
No discrimination in selection of providers	446(1.7)
Payment obligations disclosure.....	446(2.3)
Pediatrician direct access for minors.....	446(1.4)
Preferred provider plan clarification	334(2)
Prescription drugs study.....	491(10.3)
Provider directory information.....	446(2.2)
Provider incentives prohibited	446(1.8)
Rate filings for HMOs	487(106a)–(106b)
Reconstructive surgery notices	334(13)
Reserve to implement Health Insurance Portability and Accountability Act	424(6.11a)–(6.11e)
Restricted access prescription drug access	446(1.5)
Risk-based capital requirements	223(12.1)–(12.10)
SHPPA technical correction.....	334(12)
Small business carrier insurance rate guarantees	334(3)
Specialist as primary care provider	446(1.3)
Successor plan coverage for confinement/pregnancy	334(6)
Uniform provider credentialing.....	172
Unlawful to terminate coverage without notice	422
Workers' compensation real parties in interest.....	216
Liability	
Arrests and use of force by private corrections officers	378(3)

Index to Session Laws

Session Law
Number

Insurance—continued

Auctioneers Commission	198(3)
Coverage for local health department sanitarians.....	505(3)
Liability insurance required for UNC parking permit	336
Local government pooling clarification	334(18)
Long-term care facilities, hospitals, and physicians liability insurance study	491(2.1C)
Motorcycle rate setting	389
Pharmacy Board acquisition	407
Reinsurance Facility umbrella coverage	236
State purchase of owner-controlled or wrap-up insurance on public works	167
Umbrella insurance facilitation effective date extended	423(3)
Life	
Company variable accounts	223(6.1)–(6.4)
Unlawful to terminate coverage without notice	422
Viatical settlements	436
Managed care — <i>see</i> Health, this heading	
Managing general agents.....	223(20.1)–(20.5)
Medicaid — <i>see</i> that heading	
Motor vehicle	
Discounts for accident prevention courses	423(1)–(2)
Insurer must inform claimants of repair services options.....	451(1)
Liability insurance required for UNC parking permit	336
Motor vehicle insurers/no mandates/nonoriginal crash parts study	491(2.1)
Motorcycle rate setting	389
Reinsurance Facility umbrella coverage	236
Technical corrections and conforming changes	203
Uninsured motorist coverage study.....	491(2.1)
Mutual insurance companies	223(9.1)–(9.6)
Privacy disclosure notice requirements	351
Property	
Local government pooling clarification	334(18)
Protected cell companies	223(25)
Regulatory charge	427(1a)–(1b)
Reinsurance	
Domestic companies	223(3.1)–(3.7)
Intermediaries	223(10.1)–(10.3)
Reserving methods	223(1.1)–(1.2)
Risk retention groups	223(18)
Risk sharing plan expiration repealed	122
Risk-based capital requirements.....	223(12.1)–(12.10)
State purchase of owner-controlled or wrap-up insurance on public works	167
Surety— <i>see also</i> Surety and Fidelity	
Insurance company reserving methods	223(1.1)–(1.2)
Surplus lines insurance.....	223(17.1)–(17.2)
Licensee report countersigned.....	451(2)
Premium tax remittance	451(2.2)

Index to Session Laws

Session Law
Number

Insurance—continued

Technical corrections and conforming changes	203(1)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP)	
Appropriations	322(2); 395(11a)–(11b)
Board power to set deductible.....	253(1a)
Cardiac rehabilitation coverage.....	253(1j)
Comment period before adopting TSECMMP rules or regulations.....	253(1r)
Cost saving and services improvement pilot programs	487(85.5)
Deductible.....	253(1f)
Deductible and stop-loss set.....	253(1b)–(1c)
Election period for coverage of former employees	487(86a)
Emergency room coverage.....	253(1m); 513(22a)–(22b)
Exempt contract disputes from Administrative Procedure Act.....	192(1)–(3)
Health plan liability.....	446(5d)–(5f)
Hospital coverage	253(1m); 513(22a)–(22b)
In-hospital speech and occupational therapy coverage	253(1g)
Lifetime benefits	253(1n)
Marriage and family therapist coverage for mental health and chemical dependency.....	258
Out-of-pocket expenditures.....	253(1f), (1m)
Prescription drug coverage and copayments	253(1e)
Prior approvals for botulinum toxin, growth hormone, weight loss and nail fungus treatments on State plan.....	253(1l)
Private duty nursing coverage.....	487(86b)
Provider payment plan to be developed	253(1s)
Salary-related contributions	424(32.21e)–(32.21f)
Second surgical opinion coverage cut.....	253(1d), (1m); 513(22a)–(22b)
Skilled nursing care coverage limits	253(1h)
Skilled nursing facility coverage.....	253(1m); 513(22a)–(22c)
Technical corrections and conforming changes	487(86b)
Therapeutic shoes coverage	253(1i), (1k)
Technical corrections and conforming changes.....	203; 223(23.1)–(23.2); 236; 334(12); 487(18), (63), (103a)–(103b), (104)–(105b), (106a)–(106b)
Unemployment	
Base period definition sunset removed	251(1)
Family hardship clarifications.....	251(3)–(4)
No disqualification for family hardship sunset removed.....	251(2)
Reed Act funds expenditure	424(20.18)
Technical corrections and conforming changes	414(34)–(44)
Unlawful to terminate coverage without notice.....	422
Workers' compensation	
Agreements, orders and final awards entered as judgments.....	477

Index to Session Laws

*Session Law
Number*

Insurance—continued

Appeals Bureau rate and loss cost decisions no appeal	232(3)
Assets and invested assets for self-insured.....	223(21.2)
Burial expense coverage increased	232(1)
Cancellation guidelines, rights, and obligations.....	241
Coverage for Forest Resources pickup firefighters	204
Group termination of members participation	451(3)
Hansen v. Crystal Ford-Mercury modification	216
Hazardous financial condition definition for self-insured	223(21.1)
Hospital payments.....	253(2); 410(3); 413(8.2a)
Insurance classifications study.....	491(2.1)
Local government pooling clarification	334(18)
Loss costs rate-making change.....	232(2)
Medical treatment/services payments	
Continuation	322(3)
Extended	395(9)
Real parties in interest.....	216
Severability added to changes.....	487(102a)
State purchase of owner-controlled or wrap-up insurance	
on public works	167
Technical corrections and conforming changes	451(3); 487(102a)–(102c)
Third-party administrators for groups repealed.....	223(21.3)
Volunteer safety workers funds	424(2.1)

Insurance, Department of

Actuarial rules	334(17)
Agent and broker licensing conform to national standard	203
Appeals Bureau rate and loss cost decisions no appeal	232(3)
Appropriations	
Current operations and expansion	424(2.1)
Volunteer safety workers' compensation.....	424(2.1)
Bail bondsmen modifications	269(2.1)–(2.8)
Beach plan loss adjustment reimbursements	421(4.1)–(4.2)
Building rehabilitation code pilot program.....	372
Commissioner	
Salary	424(32.1b)
Sharing of information with State and federal regulatory	
agencies.....	215
Consolidation of companies	223(7.1)–(7.2)
Continuing care retirement communities	
Governing board meeting requirement	223(22.2)
Licensure.....	223(22.1)
Deemer provisions	334(14)
Examination authority	180
External review for managed care	446(4.1)–(4.6A)
Formation and relocation of companies	223(4.1)–(4.2)
HMO enforcement and penalties.....	5
Holding company systems.....	223(16.1)–(16.7)
Information compliance with federal law.....	351
Insolvency protection for companies.....	223(5.1)–(5.2)

Insurance, Department of—continued

Insurance and fidelity bonds for State to be placed by Department	424(6.2)
Internet use for agency publications	424(14.1a)–(14.1b)
Investments of companies	223(8.1)–(8.18)
Liability for fiscal note requirement for building code changes	421(1.1)
Licensing of companies	223(2.1)–(2.3)
Life insurance company variable accounts	223(6.1)–(6.4)
Lock requirements on firearms-related buildings	324
Managing general insurance agents	223(20.1)–(20.5)
Medicaid supplement and long-term care rules	334(11)
Mortgage guaranty insurance provisions added	223(12)
Motor vehicle discounts for accident prevention courses	423(1)–(2)
Mutual insurance companies	223(9.1)–(9.6)
Promoting and holding companies repealed	223(15)
Protected cell companies	223(25)
Regulatory Fund reimbursement authorization	424(14E.1a)–(14E.1b)
Reinsurance for domestic companies	223(3.1)–(3.7)
Reports — <i>see</i> that heading	
Reserving methods of companies	223(1.1)–(1.2)
Restriction on license	223(2.1)–(2.3)
Risk retention groups	223(18)
Risk-based capital requirements	223(12.1)–(12.10)
Sharing of information with State and federal regulatory agencies	180; 215
Surplus lines insurance	
Generally	223(17.1)–(17.2)
Licensee report countersigned	451(2)
Technical corrections and conforming changes	215(2); 487(63)
Uniform provider credentialing	172
Viatical settlements licensure requirement	436(3)
Workers' compensation cancellation guidelines, rights, and obligations	241
Insurance Holding Company Act	215
Intellectual Property (<i>see also</i> Commerce)	
Loans/grants for development of patentable intellectual property reporting requirement	424(15.1a)–(15.1b)
Royalty income reporting option	327(1)
State developed intellectual property transfer and use	424(15.1c)–(15.1e)
State employee incentive bonus program modifications	424(7.2g)
Transfers of patentable intellectual property reporting requirement	424(15.1a)–(15.1b)
Interest —Rural Economic Development Center use of interest on State funds	424(20.15c)
International Trade — <i>see</i> Commerce; Corporations, For-Profit; Corporations, Nonprofit	
Internet — <i>see</i> Information Technology; Telecommunications	
Internships —Public Management Fellowship Program	424(6.17)
Interstate Cooperation (<i>see also</i> Commerce)	
Internet sales and use tax agreement	347
Virginia-North Carolina Interstate High-Speed Rail Commission created	266
Interstate Trade — <i>see</i> Commerce; Interstate Cooperation	

Index to Session Laws

Session Law
Number

Investigations

- Criminal records —*see* Records
- Insurance Department examination authority 180

Investments—*see* Financial Services; Securities

Iredell County

- Boundary correction with Mecklenburg County429(1)
- Payment of delinquent tax prior to recording deeds513(14)
- State Nature and Historic Preserve land additions.....217(2)
- Statesville, Town of —*see* that heading
- TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

- J -

Jackson County

- Cullowhee, Town of —*see* that heading
- National Heritage Area Designation Commission created 491(18.1)–(18.10)
- Payment of delinquent tax prior to recording deeds 464

Jails—*see* Correctional Institutions

Job Training—*see* Vocational Education

Johnston County

- Competitive bid exemption for school facilities 135
- Indian Affairs Commission membership.....318(1)
- Kenly, Town of —*see* that heading
- Residency requirement in District Court District 11 400(1), (4)
- Selma, Town of —*see* that heading
- Smithfield, Town of —*see* that heading

Jonesville, Town of—merger with Arlington..... 16

Jordan Lake—water supply funds 424(33.3a)–(33.3b)

Judges—*see* Courts

Judicial Council, State—appointments and membership96; 486(1A.24)

Judicial Department

- Administrative Office of the Courts (AOC) —*see* Courts
- Appropriations
 - Current operations and expansion424(2.1)
 - Indigent defense424(2.1)
 - Transfer of equipment and supplies funds424(22.1)
 - Transfer of funds to Indigent Defense Services424(22.9)
- Collection of Worthless Checks Fund use of remaining balance424(22.7)
- Community mediation centers report requirements.....424(22.2)
- Family drug treatment courts services for adults and juveniles 424(22.8a)–(22.8j)
- Indigent Defense Services, Office of —*see* that heading
- Reports—*see* that heading
- Security standards for information technology.....424(15.2b)
- Staff salaries 424(32.4c)
- Technical corrections and conforming changes.....424(22.11a)
- Unnecessary and obsolete reports repealed424(22.6a)–(22.6c)

Justice, Department of

- Appropriations
 - Current operations and expansion424(2.1)
- Attorney General —*see* that heading

Justice, Department of—continued

Auctioneers criminal history check fees	198(1)
Criminal records checks	
Area mental health authority	155
Fee increase feasibility study	424(23.5b)
Nurse criminal background checks	371
DARE program	424(23.9a)
Litigation expenses to be paid by client agencies and boards.....	424(23.3)
Office of Inspector General repealed.....	424(23.10)
Reimbursement for legal expenses by UNC Board of Governors	424(23.4)
Reports — <i>see</i> that heading	
SBI (State Bureau of Investigation) — <i>see</i> Law Enforcement	
Seized and forfeited property transferred to State by Federal Government.....	424(23.1a)–(23.1c)
State Bureau of Investigation (SBI) — <i>see</i> Law Enforcement	
Traffic enforcement statistics positions authorized	513(9)
Traffic stop statistics collection.....	424(23.7a)–(23.7c)

Juvenile Code (*see also* Courts; Minors)

Court custody of juvenile alleged using weapon in misdemeanor.....	158
Day reporting center disposition for delinquent juvenile.....	179
Juvenile commitment procedures study	491(2.1)
Juveniles without capacity to proceed study	491(2.1)
Marriage of minors.....	62(13)
Technical corrections and conforming changes.....	95; 208; 487(2)–(4); 490(2.1)–(2.41)
Training school redefined as youth development center	95(1)–(5)

Juvenile Crime Prevention Councils (county)

Appointments and membership.....	199(1)–(2)
Effectiveness standards development.....	424(24.2c)
Grant funds use certification	424(24.2b)
Grants	424(24.2a)

Juvenile Facilities—*see* Correctional Institutions

Juvenile Justice and Delinquency Prevention, Department of

Alternative learning programs for short-term suspension.....	178
Appropriations	
Block grants	
Support Our Students.....	395(2.1a), (2.1p), (2.1v)
Current operations and expansion	424(2.1)
Eckerd Wilderness Camp expansion.....	424(24.11); 513(5)
State funds used as federal matching funds.....	424(24.4)
Support Our Students.....	424(5.1a), (5.1p), (24.1a)
Transfer of funds to DHHS.....	424(24.10a)
Camp Woodson wilderness camp program annual evaluation	424(24.5)
Community programs annual evaluation.....	424(24.5)
Comprehensive treatment services for children at risk for institutionalization	424(21.60c), (21.60d)
Dobbs Youth Development Center funds.....	513(10)
Eckerd Wilderness Camp	
Annual evaluation	424(24.5)

Index to Session Laws

*Session Law
Number*

Juvenile Justice and Delinquency Prevention, Department of—continued	
Expansion	424(24.11)
Effectiveness standards development for Juvenile Crime Prevention Councils	424(24.2c)
Governor's One-on-One program annual evaluation	424(24.5)
HIV/AIDS awareness and education	395(2.1z)
HIV/AIDS prevention initiative	424(21.18Dc)
Juvenile Assessment Advisory Board	424(24.7b), (24.7d)
Juvenile assessment center project in Cumberland County continuation	424(24.7a)–(24.7d)
Juvenile Crime Prevention Councils (county) — <i>see</i> that heading	
Juvenile justice officers entitled to salary continuation plan benefits	487(89)
Membership	
Criminal Justice Education and Training Standards Commission	490(1.2)
Criminal Justice Information Network Governing Board	424(23.6b)
Oversight by Corrections, Crime Control, and Juvenile Justice Oversight Committee	138
Police officer positions transferred to DHHS	424(24.10a)
Psychotropic medication use by children database feasibility	124
Samarkand timber sale	424(33.12)
Save Our Students program annual evaluation	424(24.5)
Secretary	
Membership on Criminal Justice Education and Training Standards Commission	490(1.2)
Salary	424(32.2)
Support Our Students	
Statewide conference requirement repealed	424(24.1b)
Statewide expansion	395(2.1p)
Technical corrections and conforming changes	95
Teen court	
Annual evaluation	424(24.5)
Guidelines codified	424(24.8)
Underage drinking study	491(11.4)
Whitaker School transition of students to alternative facilities	424(21.61a)
Youth development centers long-range plan	424(24.9)
Youth Development Division moved from Corrections	95(7)–(8)
Juvenile Justice and Delinquency Prevention, State Advisory Council on—	
appointments and membership	199(3)
Juveniles—<i>see</i> Minors	
- K -	
Kenly, Town of—flood control funds	424(33.3a)–(33.3b)
Kernersville, Town of—private sale	80
Kill Devil Hills, Town of—eminent domain for erosion, flood/hurricane protection and beach access	36
Kindergarten—<i>see</i> Education	
Kings Mountain, City of—occupancy tax	439(2.1)–(2.2c), (18.1)

Index to Session Laws

Session Law
Number

Kinston, City of

Consolidation of Business and Industry Division offices with Regional Economic Development Division offices study	424(20.5)
Opportunities Industrialization Center Accomplishments and expenditures report requirement	424(20.16b)–(20.16c)
Funds	424(20.16a)–(20.16c)

Kitty Hawk, Town of

Eminent domain for erosion, flood/hurricane protection and beach access.....	36
Mayor ex-officio member of First Flight Centennial Commission.....	486(2.12a)

Knightdale, Town of—buffer zone tree clear-cutting limits and protection

Kure Beach, Town of

Boundary adjustment with Carolina Beach	57
Eminent domain for erosion, flood/hurricane protection and beach access.....	36
Parking meter proceeds use	9

- L -

Labor, Department of

Apprenticeship program transferred to Community Colleges System	424(30.10b)
Appropriations Apprenticeship program.....	424(20.6b)
Bureau of Training Initiatives training of the unemployed and working poor	424(20.6b)
Current operations and expansion	424(2.1)
Elevator and amusement device inspection fees	424(18.1)
Bureau of Training Initiatives transferred to Community Colleges System	424(30.10a)
Commissioner Fee authority	427(11a)–(11g)
Salary	424(32.1b)
Elevator and amusement device inspection fee use.....	424(18.1)
Employer drug testing rules	487(66b)
Fee authority	427(11a)–(11g)

Laboratories

Medicaid payment schedule and bases	424(21.19a)
State Laboratory equipment replacement schedule	424(21.92a)

Lake Gaston—aquatic weeds control funds.....

Lake Norman—State Nature and Historic Preserve land additions

Lake Waccamaw, Town of—golf cart regulation.....

Lakes and Rivers (see also particular lake or river)

30-Foot buffer exception rules for estuaries and public trust waters	418(1), (3)
Adkin Branch flood control funds.....	424(33.3a)–(33.3b)
Buffer exemptions on public trust and estuarine waters	494(1)–(5)

Lakes and Rivers—continued

Catawba-Wateree river basin water quality and water supply issues study	491(16.1)
Cumberland dam/reservoir/state park study	491(2.1B)
Deep Creek Yadkin County funds.....	424(33.3a)–(33.3b)
Emergency flood control projects funds.....	424(33.3a)–(33.3b)
Eminent domain for erosion, flood/hurricane protection and beach access in certain counties.....	36
Fish kill response protocols report change	452(2.8)
Floodplain mapping.....	513(25)
Kenly flood control funds.....	424(33.3a)–(33.3b)
Kerr Reservoir operations evaluation	424(33.3a)–(33.3b)
Little Sugar Creek restoration project funds.....	424(33.3a)–(33.3b)
Maple Branch water management funds	424(33.3a)–(33.3b)
Muddy Creek stream restoration funds	424(33.3a)–(33.3b)
Neuse River modeling and monitoring project report	452(2.5)
On-site demolition debris disposal	357
Pembroke and Rocky Hock Creeks drainage funds.....	424(33.3a)–(33.3b)
Perquimans River and Mill Creek drainage funds.....	424(33.3a)–(33.3b)
Riparian buffers	
Buffer/water quality do not apply to Catawba River Basin.....	418(4b)
Buffer/water quality rules extended	418(4a)
Protection program surface water training and certification program.....	404
Rivernet water quality monitoring system pilot program	424(19.5)
Tar-Pamlico River Basin	
Local advisory committees established.....	355(2)
Nutrient Sensitive Waters Management Strategy.....	355
Town Fork Creek funds reallocated	424(19.12a)–(19.12b)
Wake Forest water withdrawal from Neuse River Basin.....	361
Water Quality Workgroup created	424(19.5)
Water supply plan implementation report	452(2.7)

Landowners

Declaration of right-of-way dedicated to public use.....	501
Hunting on private land	
Bertie County.....	367(2)–(4)
Perquimans County.....	330(3)–(5)
Metered water use cost charged as rent to encourage water conservation	502
On-site demolition debris disposal	357
Private property designated as public vehicular area.....	441
Public health nuisance liens	448
Watershed improvement projects liability.....	272

Landscape Architects, Board of

Definition of landscape architecture.....	496(12.1a)
Resolution of disputes with Engineers and Surveyors Board	496(12.1b)

Landscaping

Definition of landscape architecture.....	496(12.1a)
Fuel tax refunds for commercial mulch-blowing equipment.....	408

Index to Session Laws

*Session Law
Number*

Landscaping—continued

Relationship between professions of landscape architecture and engineering study.....	496(12.1c)
Resolution of disputes between Landscape Architects Board Engineers and Surveyors Board	496(12.1b)

Languages

English as a Second Language (ESL) — <i>see</i> Education	
Global Center funds	424(20.19)
Notice of student expulsion/suspension for parents in native language.....	244
Spanish language ballots	288
Speech and language pathology caseloads and severity rating scales study.....	491(8.19)

Laundries

Dry-cleaning solvent	
Assessment/remediation agreements.....	265(2b)
Cleanup temporary rules period extended.....	265(4)
Tax effective date.....	265(1)
Reimbursement from cleanup fund	265(2a)
Special handling rules for certain dry-cleaning solvent waste repealed	265(3)

Law Enforcement

Alcohol Law Enforcement supervisor positions terminated.....	424(26.10)
Alcohol use while hunting in Orange County	165
Arrests and use of force by private corrections officers	378
Assault with bodily fluids/excrement	360
Beach driving ordinance enforcement in Currituck County	33
Biological agent registry	469
City law enforcement criminal process service in Carteret County government complex	60
Confidential license plates.....	424(6.14a)–(6.14h); 487(53)–(54)
Criminal justice officer certification enforcement.....	490(1.3)–(1.4)
DARE program	424(23.9a), (23.9b)
Disciplinary disposition information disclosure by Greensboro police	20
Drug law enforcement grants legislative review	424(26.3a)–(26.3b)
DWI motor vehicle seizure notification	362(1)–(3), (5)
Early retirement for State employees and law enforcement officers study.....	491(2.1)
Enforcement of Bertie County hunting regulations.....	367(7)
General Assembly Complex security survey study	491(27.1)
Highway Patrol special event services compensation study.....	491(2.1)
Hunting near government buildings in Orange County	165
Joint security forces at state mental health facilities.....	125
Law enforcement agency consolidation study.....	491(2.1)
Motor pool vehicle assignment	424(7.4)
Motor vehicle law application on West Side Landowners Association streets.....	132
Perquimans hunting changes enforcement	330(5)
Police officer positions transferred from Juvenile Justice to DHHS.....	424(24.10a)

Index to Session Laws

Session Law
Number

Law Enforcement—continued

Political party consultation in filling sheriff vacancy in Alexander County	257(2)
Private plates on public vehicles	424(6.14a)–(6.14h)
Public security information not public record	516(3)
Regulate parking on certain streets at UNC-Greensboro.....	170
Rocky Mount residency requirement repealed	330(1)
Seized and forfeited property transferred to State by Federal Government.....	424(23.1a)–(23.1c)
Sex offender registration compliance with federal law	373
Sheriff's approval required for procurement of necessities by prisoners.....	487(95)
State Bureau of Investigation (SBI) DARE program	424(23.9a)
State Highway Patrol Revenues and expenditures reporting requirement	424(27.25)
State Law Enforcement Officers Retirement Program Salary-related contributions	424(32.21b)
Technical corrections and conforming changes.....	487(37)
Temporary custody of abandoned infant	291
Terrorism funds.....	457(2)
Traffic control/red light cameras For certain cities.....	286
Systems use study	491(2.1)
Traffic enforcement Citation procedure for foreign diplomats	498(7)
Statistics positions authorized.....	513(9)
Stop statistics collection.....	424(23.7a)–(23.7c)
TVA officer assistance to State and local authorities	257(1)
UNC campus law enforcement jurisdiction.....	397
Unlawful to harm a law enforcement animal.....	411(1)
Vehicle weight inspection authority clarification.....	487(50f)

Law Enforcement Officers—*see* Law Enforcement

Laws Amended or Repealed

1868-69 Private Laws Chapter 131.....	227
1874-75 Public Laws Chapter 189.....	227
1879 Private Laws Chapter 23.....	247
1887 Private Laws Chapter 174.....	247
1895 Private Laws Chapter 135.....	227
1899 Public Laws Chapter 115.....	227
1901 Private Laws Chapter 111.....	227
Chapter 170.....	227
Chapter 278.....	227

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

1901 Public Laws	
Chapter 365.....	16
1903 Private Laws	
Chapter 46.....	227
Chapter 99.....	227
Chapter 262.....	227
1905 Private Laws	
Chapter 212.....	15
Chapter 350.....	227
1907 Private Laws	
Chapter 81.....	227
Chapter 91.....	131
Chapter 117.....	227
Chapter 379.....	227
Chapter 497.....	247
1909 Private Laws	
Chapter 317.....	247
Chapter 319.....	227
Chapter 330.....	227
1911 Private Laws	
Chapter 120.....	227
1913 Private Laws	
Chapter 257.....	227
Chapter 262.....	227
Chapter 265.....	247
Chapter 398.....	472(2d)
Chapter 487.....	227
Chapter 672.....	247
1913 Private Laws (Extra Session)	
Chapter 25.....	55
Chapter 127.....	227
Chapter 698.....	247
1915 Private Laws	
Chapter 191.....	43
Chapter 341.....	227
1921 Private Laws	
Chapter 50.....	227
Chapter 202.....	227
Chapter 248.....	227
1921 Private Laws (Extra Session)	
Chapter 45.....	227
Chapter 90.....	227
1921 Public-Local Laws	
Chapter 299.....	227
1923 Private Laws	
Chapter 217.....	227
Chapter 246.....	227
1923 Public-Local Laws	
Chapter 240.....	227

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 461.....	227
1933 Public Laws	
Chapter 232.....	227
Chapter 263.....	227
1937 Private Laws	
Chapter 23.....	247
1939 Public-Local Laws	
Chapter 481.....	227
1945 Session Laws	
Chapter 301.....	227
1947 Session Laws	
Chapter 926.....	22
1949 Session Laws	
Chapter 508.....	227
Chapter 537.....	34
1951 Session Laws	
Chapter 629.....	247
1953 Session Laws	
Chapter 157.....	247
Chapter 332.....	472(2d)
Chapter 772.....	79
Chapter 997.....	227
1955 Session Laws	
Chapter 427.....	227
Chapter 1376.....	367(8)
1957 Session Laws	
Chapter 111.....	34
Chapter 268.....	227
Chapter 1450.....	227
1959 Session Laws	
Chapter 84.....	227
Chapter 810.....	71
1961 Session Laws	
Chapter 98.....	247
Chapter 303.....	79
1963 Session Laws	
Chapter 24.....	227
Chapter 158.....	227
Chapter 252.....	367(9)–(10)
Chapter 753.....	8
Chapter 806.....	79
Chapter 938.....	330(1)
1965 Session Laws	
Chapter 694.....	227
1967 Session Laws	
Chapter 35.....	227
Chapter 107.....	227
Chapter 298.....	79
Chapter 755.....	8

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 1096.....	424(33.16c); 427(13e)
1969 Session Laws	
Chapter 374.....	71
Chapter 427.....	330(1)
Chapter 830.....	79
1973 Session Laws	
Chapter 159.....	227
Chapter 228.....	79
1973 Session Laws (Regular Session 1974)	
Chapter 1047.....	63
Chapter 1048.....	63
Chapter 1160.....	35
Chapter 1265.....	68
Chapter 1333.....	367(11)
1975 Session Laws	
Chapter 31.....	70
Chapter 51.....	34
Chapter 287.....	367(12)
Chapter 289.....	367(12)
Chapter 671.....	350(1); 382(1); 480(1)–(5)
1977 Session Laws	
Chapter 77.....	325; 485(1)–(2)
Chapter 133.....	71
Chapter 173.....	24
Chapter 202.....	53
Chapter 300.....	3
Chapter 478.....	134
1979 Session Laws	
Chapter 26.....	21
Chapter 350.....	188
Chapter 424.....	485(2)
Chapter 449.....	79
Chapter 596.....	100
Chapter 852.....	480(1)
1981 Session Laws	
Chapter 111.....	71
Chapter 364.....	79
Chapter 532.....	70
1983 Session Laws	
Chapter 119.....	79
Chapter 370.....	480(3)
Chapter 908.....	162; 402(1)–(3)
1983 Session Laws (Regular Session 1984)	
Chapter 930.....	227
Chapter 983.....	483(1)
Chapter 1016.....	34
1985 Session Laws	
Chapter 159.....	23

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 169.....	480(3)
Chapter 449.....	394(5); 439(7.1)–(7.7)
Chapter 525.....	394(6)
1985 Session Laws (Regular Session 1986)	
Chapter 826.....	394(5); 439(7.1)–(7.7)
Chapter 844.....	227
Chapter 875.....	33
Chapter 942.....	162
Chapter 969.....	480(11)
1987 Session Laws	
Chapter 32.....	349
Chapter 142.....	439(12.1)
Chapter 173.....	71
Chapter 225.....	79
Chapter 342.....	3
Chapter 376.....	434(8); 439(15.1)
Chapter 379.....	439(8.1)–(8.2)
1987 Session Laws (Regular Session 1988)	
Chapter 907.....	211
Chapter 969.....	439(13.1)
Chapter 970.....	439(6.1)
1989 Session Laws	
Chapter 295.....	227
Chapter 603.....	452(1.2)
Chapter 658.....	439(17.1)
1989 Session Laws (Regular Session 1990)	
Chapter 727.....	452(1.2)
Chapter 821.....	402(1)–(3)
Chapter 922.....	402(1)–(3)
Chapter 924.....	23
Chapter 1074.....	89
1991 Session Laws	
Chapter 147.....	23
Chapter 158.....	365(1)
Chapter 177.....	394(5); 439(7.1)–(7.7)
Chapter 616.....	211
Chapter 665.....	480(12)
1991 Session Laws (Regular Session 1992)	
Chapter 823.....	247
Chapter 830.....	22
Chapter 882.....	439(8.1)–(8.2)
Chapter 897.....	71
Chapter 900.....	89
Chapter 906.....	394(5); 439(7.1)–(7.7)
Chapter 977.....	517(1)
Chapter 990.....	452(1.2)
1993 Session Laws	
Chapter 88.....	89
Chapter 229.....	79

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 321.....	111
Chapter 342.....	480(1)
Chapter 471.....	265(5)
Chapter 472.....	439(16.1)
Chapter 545.....	349
Chapter 561.....	89
Chapter 681.....	517(2)
1993 Session Laws (Regular Session 1994)	
Chapter 602.....	365(2)
Chapter 636.....	71
Chapter 640.....	22
Chapter 669.....	382(2)
Chapter 745.....	265(6)
1995 Session Laws	
Chapter 17.....	517(2)
Chapter 144.....	79
Chapter 171.....	22
Chapter 324.....	424(19.10), (21.38)
Chapter 325.....	51
Chapter 495.....	517(1)–(2)
Chapter 502.....	357(2)
Chapter 507.....	424(21.38)
1995 Session Laws (Regular Session 1996)	
Chapter 547.....	213(4)
Chapter 633.....	213(4)
Chapter 679.....	53
Chapter 698.....	68
1995 Session Laws (Second Extra Session 1996)	
Chapter 18.....	213(4); 452(1.1)
1997 Session Laws	
Chapter 37.....	135
Chapter 41.....	89; 318(3)–(4)
Chapter 98.....	188
Chapter 132.....	19
Chapter 148.....	487(21c)
Chapter 161.....	34
Chapter 246.....	50
Chapter 255.....	349
Chapter 256.....	213(4)
Chapter 347.....	213(4)
Chapter 380.....	414(52)
Chapter 391.....	323
Chapter 400.....	213(2), (4)
Chapter 404.....	251(1)
Chapter 410.....	7; 439(16.1)
Chapter 412.....	496(8a), (8b)–(8c)
Chapter 417.....	427(13f)

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 443.....	234; 254(5)–(6); 424(24.7a)–(24.7b); 452(1.1); 517(1)–(2)
Chapter 458.....	254(1)–(2); 452(1.1)
Chapter 483.....	452(1.1)
1997 Session Laws (Regular Session 1998)	
Chapter 15.....	429(1)
Chapter 19.....	318(3)–(4)
Chapter 23.....	213(4)
Chapter 50.....	480(5)
Chapter 55.....	476(16a)–(16b)
Chapter 56.....	213(4)
Chapter 64.....	33
Chapter 86.....	9
Chapter 106.....	487(99)
Chapter 132.....	416(7b)
Chapter 188.....	254(1)–(2)
Chapter 212.....	17(2); 234; 424(15.6a), (24.7a)–(24.7b), (32.25a), (32.25b); 452(1.1); 487(74c)
Chapter 217.....	424(32.25a), (32.25b); 487(74c)
Chapter 225.....	213(3)
1999 Session Laws	
Chapter 58.....	107
Chapter 66.....	478(2.1)
Chapter 86.....	19
Chapter 100.....	22
Chapter 102.....	496(10a)–(10b)
Chapter 135.....	234
Chapter 174.....	227
Chapter 196.....	251(2)
Chapter 207.....	496(10c)
Chapter 209.....	213(4)
Chapter 237.....	229; 424(6.16), (15.6a), (25.11c); 452(1.1)
Chapter 268.....	217(3)
Chapter 321.....	424(30.5f)
Chapter 323.....	74
Chapter 329.....	254(1)–(2), (5)–(6)
Chapter 341.....	380(6)
Chapter 359.....	452(1.1)
Chapter 389.....	476(19a)–(19b)
Chapter 426.....	319(3a)
Chapter 431.....	486(1A.43a)
Chapter 525.....	496(4.1)

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

1999 Session Laws (Regular Session 2000)

Chapter 19.....	265(1), (3)–(4)
Chapter 20.....	17(2)
Chapter 26.....	79; 88; 187;248; 304; 402(4)
Chapter 33.....	107
Chapter 38.....	107
Chapter 51.....	384(12)
Chapter 56.....	414(1)
Chapter 59.....	88
Chapter 65.....	102
Chapter 67.....	234; 424(15.6a),(19.6a), (19.6a)–(19.6c),(21.73b), (22.11g), (27.4b), (32.25a); 490(1.5)
Chapter 77.....	275
Chapter 84.....	276
Chapter 89.....	304
Chapter 91.....	30
Chapter 120.....	380(6)
Chapter 134.....	504(6)–(8)
Chapter 135.....	242(4)
Chapter 140.....	414(1)
Chapter 144.....	424(22.11a), (22.11c)
Chapter 181.....	486(1A.4)

2001 Session Laws

Chapter 387.....	487(62a)–(62gg)
Chapter 40.....	498(2)
Chapter 49.....	425(1)–(2)
Chapter 62.....	487(60), (83)
Chapter 76.....	427(7a)
Chapter 84.....	202; 474(8)
Chapter 85.....	487(85a)–(85b)
Chapter 87.....	414(24)
Chapter 93.....	487(43a)
Chapter 95.....	487(47g)
Chapter 109.....	487(84a)
Chapter 114.....	487(73)
Chapter 141.....	421(1.1), (1.3), (1.4), (1.5); 487(21h)
Chapter 162.....	480(14); 483(2)
Chapter 177.....	487(100)
Chapter 192.....	474(35)
Chapter 203.....	451(1), (2.1)
Chapter 208.....	487(101)
Chapter 214.....	487(98)
Chapter 216.....	487(102)
Chapter 218.....	487(57)
Chapter 223.....	487(103a)–(103b)

Index to Session Laws

*Session Law
Number*

Laws Amended or Repealed—continued

Chapter 236.....	423(3)
Chapter 244.....	500(6.1)
Chapter 250.....	287; 322; 395(1)–(2); 424(6.20a)–(6.20c)
Chapter 253.....	395(9); 513(22a)–(22b); 516(4)
Chapter 260.....	500(6)
Chapter 262.....	487(49a), (49b), (49c)–(49g)
Chapter 266.....	486(2.22)
Chapter 267.....	487(61a)–(61b)
Chapter 279.....	487(70)
Chapter 281.....	487(104)
Chapter 287.....	322; 395(1); 424(6.20a)–(6.20c)
Chapter 294.....	486(2.3a)–(2.3b)
Chapter 297.....	487(105a)–(105b)
Chapter 299.....	395(6c); 474(34)
Chapter 305.....	480(14); 483(2)
Chapter 312.....	487(76)
Chapter 319.....	487(96)
Chapter 320.....	487(39)
Chapter 321.....	480(14); 483(2)
Chapter 322.....	395(1), (9); 424(6.20a)–(6.20c)
Chapter 325.....	485(1)–(2)
Chapter 327.....	427(10a)
Chapter 328.....	487(88); 496(4)–(5)
Chapter 334.....	487(106a)–(106b)
Chapter 340.....	413(9); 487(56)
Chapter 347.....	414(18); 424(33.16b); 427(6a); 476(18a); 489(3a)–(3b)
Chapter 354.....	487(99)
Chapter 356.....	487(50a)
Chapter 357.....	474(22)
Chapter 358.....	387(174); 390(15); 487(107b)
Chapter 364.....	478(2)
Chapter 377.....	487(59)
Chapter 379.....	487(107.5a)
Chapter 381.....	480(14); 483(2)
Chapter 387.....	390(15); 413(6), (8)
Chapter 390.....	413(7), (7.1), (7.2), (7.3), (7.4)
Chapter 393.....	399(3)–(4)
Chapter 395.....	424(6.20a)–(6.20c); 474(34)
Chapter 398.....	460(3.1)
Chapter 403.....	460(10); 466(5.1a)–(5.1b)

Index to Session Laws

Session Law
Number

Laws Amended or Repealed—continued

Chapter 406.....497(1a)
Chapter 409.....487(44a)–(44b), (45)
Chapter 410..... 413(8.2a)–(8.2b)
Chapter 414.....474(36)
Chapter 424.....474(34); 486(2.9a)–(2.9b),
(2.21); 487(53)–(54),
(68), (74a)–(74c), (90),
(109)–(110), (112)–(113),
(114.6), (114a)–(114b),
(115a)–(115b), (116);
489(1a)–(2a), , (2f)–(2g);
496(3.5); 497(2a)–(2c);
513(1a)–(1m), (2)–(9),
(11), (15), (17)–(18),
(20), (24), (27),
(28a)–(28b), (33)
Chapter 427.....474(8); 487(118a)–(118b)
Chapter 430.....424(33.25a)–(33.25c);
487(67a)–(67e),
(69a)–(69b), (119)
Chapter 433.....487(120)
Chapter 434..... 480(14); 483(2)
Chapter 437..... 487(79.5), (80a)
Chapter 439..... 433(8); 480(14);
483(2)
Chapter 446.....508(2)
Chapter 450.....487(120)
Chapter 455.....513(30b)
Chapter 459.....487(77)
Chapter 460..... 466(3a), (3b)
Chapter 461.....487(42a)–(42c)
Chapter 464.....513(14)
Chapter 468..... 480(14); 483(2)
Chapter 471.....479(1)
Chapter 476.....487(122a)–(122c)
Chapter 486.....487(125.5)
Chapter 492.....487(123.5)

League of Municipalities—Executive Director's membership on
Geographic Information Coordinating Council..... 359

Leasing—see Sales and Leases

Lee County

Payment of delinquent tax prior to recording deeds 464
Residency requirement in District Court District 11400(1), (3)

Legislative Research Commission (see also Studies)

2001 studies bill 491
Advertising inserts in DMV mailings study513(31)
Agricultural contracts enhancing fairness study491(2.1)
Agricultural operations conversion funding mechanics study491(2.1H)
Appointments and membership.....491(2.2)

Legislative Research Commission—continued

Bail bondsmen study	491(2.1A)
Beach and coastal area insurance availability study	491(2.1)
Beverage container deposits study	491(2.1)
Bioterrorism preparedness study	491(2.1F)
Cellular phone use in vehicles study	491(2.1)
Certification of minority business for public construction study	496(13.2)
Child abuse and neglect in child care facilities study	491(2.1)
Clear cutting and development growth management in the City of Raleigh study	491(2.1)
Consumer contract mandatory arbitration provisions study	491(2.1)
County appeals of juvenile court orders study	491(2.1)
Criminal history records checks study.....	465(3a)
Cumberland dam/reservoir/state park study	491(2.1B)
Definition of "child" in Veterans' Scholarship Program study	491(2.1)
Domestic violence fatality review team study.....	491(2.1)
Domestic violence victims confidentiality program study	491(2.1)
Early retirement for State employees and law enforcement officers study	491(2.1)
Efficient location of State offices study	491(2.1)
Employment security study	491(2.1G)
Firefighter and rescue squad worker retirement issues study	491(2.1)
Government tort claims study	491(2.1)
Health insurance mandates moratorium study.....	491(2.1)
Health insurance mandates study	453(2)
High-risk health insurance pools study	491(2.1)
Highway Patrol special event services compensation study.....	491(2.1)
Improving performance of students in juvenile facilities study.....	491(2.1)
Juvenile commitment procedures study	491(2.1)
Juveniles without capacity to proceed study	491(2.1)
Landscape architecture and engineering professions relationship study	496(12.1c)
Law enforcement agency consolidation study.....	491(2.1)
Licensed Psychological Associates (Masters level psychologists) study	491(2.1)
Living income for citizens study	491(2.1)
Long-term care facilities, hospitals, and physicians liability insurance study.....	491(2.1C)
Motor vehicle glass repairs steering and incentives study.....	491(2.1)
Motor vehicle insurers/no mandates/nonoriginal crash parts study	491(2.1)
Naturopathy study	491(2.1)
Nonbetterment utility relocation in highway construction study	424(27.26)
North Carolina Portrait Gallery Commission establishment study	491(2.1)
Post-towing procedures study	491(2.1)
Predatory lending laws effectiveness study	393(8)
Primary election date study	491(2.1)
Public health services in tier 1 counties study	491(2.1D)
Safety measures in State building code study.....	491(2.1)
School violence threats reporting study.....	491(2.1)

Index to Session Laws

Session Law
Number

Legislative Research Commission—continued

State energy program and alternative energy conservation
project financing agreements study491(2.1)

State Medical Examiner system study491(2.1)

State Personnel Office restructuring study491(2.1)

State personnel system study 491(2.1E)

State purchasing and procurement process study491(2.1)

Tourism industry economic impact study.....491(2.1)

Traffic control photographic systems use study491(2.1)

UNC municipal services costs payments study491(2.1)

Uninsured motorist coverage study491(2.1)

Visitor safety in State parks study491(2.1)

Workers' compensation insurance classifications study491(2.1)

Wrongful death proceeds distribution study491(2.1)

Zero-based budgeting study491(2.1)

Legislative Retirement System—see Retirement

Legislative Services Commission—see General Assembly

Lenoir County

Kinston, City of —see that heading

One-stop absentee voting site grants 424(14B.1a)–(14B.1b)

State Nature and Historic Preserve land additions.....217(2)

TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

Lexington, City of

Occupancy tax 365(2)–(3)

Overgrown vegetation ordinance violator notification 107

Liability

Advanced health care directive registry455(1)

Bus driver tort claims act applicability.....424(6.18)

Fiduciary trust investment liability.....413(4)

Good Samaritan Law for certain health care providers 230

Health plan liability 446(4.7)–(6)

Identification verification in sale of alcohol/tobacco.....461(5)

Immunity for honoring portable do not resuscitate order 445

Landowners associated with watershed improvement projects 272

LLC directors and executives 387(69)–(72)

Managed care indemnification under patients' bill of rights.....508(2)

Medical liability coverage for certain State employees424(21.55)

Reinsurance for domestic companies 223(3.1)–(3.7)

Viatical settlements436(11)

License Plates

Audubon North Carolina special registration plate 498(1a), (3a)–(4a)

Combat infantry badge special registration plate 482

Commercial vehicle weight clarification.....487(50d)

Commission contract agent
Rate increase424(27.21)
Study 491(13.2)

Confidential license plates..... 424(6.14a)–(6.14h);
487(53)–(54)

License Plates—continued

Deadline for release of property tax after surrendering
registration plates extended 497(1a)–(1b)

Dealer plates for specialty vehicles 212

Desert Storm special registration plate
Created 40
Repealed 498(2)

Drivers license/motor vehicle registration section
consolidation study..... 424(27.14)

First in Forestry special registration plate 498(1a), (3a)–(4a)

Golf cart regulation in Lake Waccamaw 356(6)

Goodness grows fee 414(31)

Harley owner's group special registration plate..... 498(1b),
(3b)–(4b), (6b)

Magistrate special registration plate 482

Military veteran special registration plate 498(1a)

Military wartime veteran special registration plate 498(1a)

Prevent double taxation of motor vehicles 406

Private plates on public vehicles 424(6.14a)–(6.14h)

Rocky Mountain Elk Foundation special registration
plate..... 498(1b),
(3b)–(4b), (6b)

Salvage vehicle title clarification 492(5)

Save the sea turtles special registration plate..... 498(1a),
(3a)–(4a), (6a)

Special Forces Association special registration plate 498(1a),
(3a)–(4a), (6a)

Surrender of manufactured home title when qualified as
real property 506(2)

Technical corrections and conforming changes..... 414(31); 487(53)

Transporter plates for programs providing vehicles to
low-income persons..... 147

US Navy submariner special registration plate..... 498(1a)

V Foundation for Cancer Research special registration plate 498(1a),
(3a)–(4a), (6a)

Vehicle registration requirements compliance study 491(13.3)

Vietnam veteran special registration plate repealed 498(2)

Licenses and Permits

Adult care home development regulation..... 234

Automatic animal waste system approval repealed 254(3)–(4)

Continuing care retirement communities licensure 223(22.1)

Developmentally disabled group homes licensure 209

Drivers licenses —*see* that heading

EMS regulation 210

Environmental permitting
Process study..... 424(19.11a)–(19.11c)
Program costs report change 452(2.4)

Foreign insurance companies 223(14.1)–(14.2)

Funeral services permit fees 294(5)

Licenses and Permits—continued

Hunting

- Bear/wild boar.....91(3)
- Disabled hunting and fishing license restriction91(1)
- License fees 91
- Nonresident hunting license changes 91(2)–(4), (7)
- Insurance company licensing 223(2.1)–(2.3)
- License Plates —*see* that heading
- Livestock market animal waste management systems..... 326
- Loanable assets required to be licensed to engage in business519(2)
- Lock requirements on firearms-related buildings..... 324
- Marriage license
 - Changes..... 62
 - Written consent for minor notarization not required487(60)
- Medical equipment dispensing registration requirements 339
- Mixed beverage elections on barrier islands515(4)
- Money transmission business
 - Licensing..... 443
 - Permit required 443
- Motor vehicle dealer surety bond protection increase492(4)
- Motor vehicle safety and pollution inspections —*see* Inspections; Motor Vehicles
- Municipal and domestic wastewater collection system
 - permit program report452(2.6)
- One-stop environmental permit application pilot program.....424(19.6a)–(19.6c)
- Reinsurance intermediaries 223(10.1)–(10.3)
- Residential private club and sports club ABC permits 130
- Revocation of ABC license for violations in Urban
 - Redevelopment Areas..... 515(3a)–(3b)
- Rules for licensing neonatal care beds410(2)
- Septage management program permits.....505(1.1)
- Solid waste incineration 440(3.2)–(3.4)
- Special ABC area definition change.....515(1)
- Technical corrections and conforming changes.....487(83)
- Temporary license issuance for security services.....487(64c)
- Transitional fisheries licensing provisions repealed213(2)
- Transportation of a dead body294(3)
- Waiver of fees, deadlines, and penalties for deployed
 - military personnel..... 508(3)–(5b)
- Winery/wine tasting permits 262; 487(49a),
(49b)–(49g)

Licensing and Certification

- Auctioneers 198
- Bail bondsmen
 - Modifications..... 269(2.1)–(2.8)
 - Study491(2.1A)
- Canadian securities dealers and salesmen limited registration 225
- Chiropractic licensure fee increases 493(4), (6)
- Civil penalties for violating motor vehicle dealer laws 345
- Corrections licensure and certificate of need exemption.....424(25.19a)–(25.19c)
- Criminal justice officer certification enforcement..... 490(1.3)–(1.4)

Licensing and Certification—continued

Dietetics/nutrition fees increase	342(5)
Electrical contractors.....	159(2)–(3)
Electrolysis licensing fees	176
EMS regulation	210; 220
Escort driver certification program authorized.....	424(27.10)
Fee increases for persons licensed by Medical Board	493(3)
Funeral services licensure	294(3), (5)
General contractor fees.....	140
Initial teacher certification subject area test/assessment.....	129
Injunctive relief actions allowed Chiropractic Board	281(4)
Insurance agent and broker licensing conform to national standard.....	203
Investment advisor registration and notice filing	273(2)–(4)
Locksmith 'grandfather' clause	369(2)
Locksmith Licensing Act	369
Manufactured housing sales manager.....	421(2.1)
Mortgage brokers and bankers	393
Nurse criminal background checks.....	371
Optometry licensing fee increases.....	493(2)
Performance-based teacher licensure program study	491(8.17)
Pharmacy technician registration	375
Plumbing, heating and fire sprinkler contractors.....	270(2)
Practicing medicine over Internet and telephone.....	27
Real estate appraisers	399
Respiratory care fee increases	455(7)
Substance abuse professional	
Approved supervisor.....	370(6)
Disciplinary action.....	370(7)
Fees.....	370(4)
Surface water training and certification program	404
Surplus lines licensee report countersigned.....	451(2)
Used motor vehicle dealer licensing.....	345(2)
Viatical settlements licensure requirement.....	436(3)
Well contractors	440(1.1)–(1.5)

Liens (*see also* Debtor and Creditor)

Actions on payment bond period shortened	177
DWI motor vehicle seizure notification	362(5)
Insurer insolvency refund thresholds.....	223(24.1)–(24.4)
No indexing, docketing or recording of unauthorized liens.....	495
Physicians liens	377
Public health nuisances	448
Technical corrections and conforming changes.....	487(59), (72)

Lieutenant Governor

Appointments — <i>see</i> that heading	
Appropriations	
Current operations and expansion	424(2.1)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Salary	424(32.1b)

Limited English Proficiency—*see* Education

Limited Liability Companies (LLCs)—*see* Corporations, For-Profit

Index to Session Laws

*Session Law
Number*

Limited Liability Company Act	387(48)–(102)
Lincoln County	
Lincolnton, City of— <i>see</i> that heading	
State Nature and Historic Preserve land additions.....	217(2)
TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)
Lincolnton, City of —occupancy tax	439(3.1)–(3.2c), (18.1)
Linden, Town of —validating certain acts	472(2a)–(2e)
Littering — <i>see</i> Pollution	
Livestock and Poultry	
Animal operations inspection pilot program extended.....	254(5)–(6)
Automatic waste system approval repealed.....	254(3)–(4)
Best management practices for pasture-based livestock production.....	355(4)
Foot and mouth disease authority for State Veterinarian.....	12
Livestock market animal waste management systems.....	326
Swine farm and lagoon moratorium extended.....	254(1)–(2)
Loans	
Amortization information requirement on home loans.....	340; 413(9); 487(56)
Check casher post-dated check authorization extended.....	323
Clean water bonds reallocations.....	416(3)
Collection of interest.....	519(3)
Development of patentable intellectual property reporting requirement	424(15.1a)–(15.1b)
Disclosure statements on unsolicited loan checks	391
Energy improvement loan program expansion.....	338
Loan processing fees	519(4)
Loanable assets required to be licensed to engage in business	519(2)
Microenterprise Loan Program funds.....	424(20.15e)
Mortgage guaranty insurance	
Provisions added.....	223(11)
Reserves.....	334(16)
Mortgage Lending Act	393
Predatory lending laws effectiveness study	393(8)
Settlement funds disbursal by agricultural credit association or mortgage banker check	420
Solicitation of loans with facsimile/negotiable check	519(5)–(6)
Technical corrections and conforming changes.....	487(14a)–(14o), (57)
Lobbying (<i>see also</i> General Assembly)	
Limitations on agency legislative liaison	424(6.10a)–(6.10c)
Local Government (<i>see also</i> Counties; Municipalities; Tribal Government)	
Accelerated sales and use tax distribution to local governments	427(13a)–(13g)
Baseball park districts repealed.....	414(52)
Bid law exemptions for certain municipalities	66
Building inspection contracts	278
Cemetery trustees technical corrections and conforming changes	487(38i)
City law enforcement criminal process service in Carteret County government complex	60
Civil penalties for health violations by certain counties	120

Index to Session Laws

Session Law
Number

Local Government—continued

Clean water bonds	
Payments.....	416(2)
Reallocations.....	416(3)
Closed prison facilities use plan.....	424(25.5)
Community action agency funds.....	424(5.1a)
Community development block grant funds.....	395(8e); 424(5.1a)
Community-based substance abuse services funds.....	424(5.1a)
Conflicts of interest with public funds.....	409
Contracts for temporary public defenders.....	424(22.11d)
Cooperative agreements for ABC store management.....	128
Coordinated transportation plans process modification.....	168
Dare County ocean regulation authority.....	52
Defense and judgment payments against soil and water conservation personnel.....	300
Economic development plan agreements by Sanitary Districts allowed.....	221
Electronic listing of taxable business personal property.....	279
Eminent domain for erosion, flood/hurricane protection and beach access in certain counties.....	36
Energy improvement loan program expansion.....	338
Facility Authority university chancellor clarification.....	311
Forsyth/Winston-Salem purchase/lease of telecommunications and information technology on request for proposals basis.....	54
Insurance pooling clarification.....	334(18)
Intangibles tax reimbursement repeal delayed.....	395(17)
Limited purpose agency funds.....	424(5.1a)
Local government audits compliance supplements approval responsibility transferred.....	160
Local Government Budget and Fiscal Control Act applicability.....	206
Local Government Employees' Retirement System (LGERS) — <i>see</i> Retirement	
Local government tax reimbursements.....	424(33.15a)–(33.15b)
Local quality care consumer advocacy programs.....	437(2)
Local sales tax option.....	424(33.14a)–(33.14d)
Mental health system appropriation and allocation of funds by cities and counties.....	437(1.8)
Occupancy tax — <i>see</i> Taxes and Assessments	
Parking meter proceeds use in certain cities.....	9
Properties exempt from tax review.....	139
Proposed school location evaluation by DOT for traffic operation and safety.....	424(27.27)
Public health authority employees exempt from State personnel system.....	92
Regional Public Transportation Authorities quick-take procedures.....	239
Reserve for reimbursements to local governments and shared tax revenues.....	424(6.1b)
Rockingham zoning protest procedures.....	48
Sale of dwellings purchased under hazard mitigation grant program.....	29; 386(3)

Index to Session Laws

Session Law
Number

Local Government—continued

Sanitary district satellite annexation..... 301

Security interests created by governments under Title 9
clarified 218

Social services block grants funds..... 424(5.1a)

Speedy disposition of offenses involving threats to
public safety funds 424(22.11e)–(22.11f)

State and local mental health system governance changes 437(1.1)–(1.21)

Subdivision definition in Harnett County..... 50

Technical corrections and conforming changes..... 487(44a)–(44b)

Uniform penalties for local meals taxes 264

Water and sewer special obligation bonds..... 238

Wine tasting permits..... 262

Local Government Commission

Appointments and membership..... 486(1.27), (1A.25)

Conflicts of interest with public funds 409

Local government audits compliance supplements approval
responsibility 160

Technical corrections and conforming changes..... 487(45)

Local Government Committee—see Geographic Information Coordinating Council

Local Government Debt

Local Government Budget and Fiscal Control Act applicability..... 206

Revenue bonds

Project definition change 414(48)–(49)

Utility projects 414(50)

Security interests created by governments under Title 9 clarified 218

Water and sewer special obligation bonds..... 238

Local Government Employees' Retirement System (LGERS)—see Retirement

Locksmith Licensing Act..... 369

Locksmith Licensing Board

Appointments and membership..... 369(1)

Created 369(1)

Licensure of locksmiths 369

Louisburg, Town of—satellite annexation limit removed..... 37

Low-Level Radioactive Waste, Joint Select Committee on—technical
corrections and conforming changes 474(12)

- M -

Macon County

National Heritage Area Designation Commission created 491(18.1)–(18.10)

TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

Madison County

Add Superior Court judgeship..... 424(22.4b)–(22.4d)

National Heritage Area Designation Commission created 491(18.1)–(18.10)

Payment of delinquent tax prior to recording deeds..... 464

Magistrates—see Courts

Managed Care—see Insurance, Health

Management and Operations Committee—see Geographic Information
Coordinating Council

Manteo, Town of—Manteo (Shallowbag) Bay channel
 maintenance funds..... 424(33.3a)–(33.3b)

Manufactured Homes—*see* Housing; Motor Vehicles

Manufactured Housing Board
 Appointments and membership.....486(1.28)
 Continuing education 421(2.2)–(2.3)
 Members may not participate in continuing education.....421(2.2)

Marine Fisheries Commission (*see also* Fisheries)
 Appointments and membership..... 213(5)–(6)
 Fisheries Management Plan review213(1)
 Staggered terms for members 213(5)–(6)

Marion, City of
 Firemen's supplemental retirement fund repealed 21
 Satellite annexation limit removed..... 37

Marriage and Family
 Child custody —*see* that heading
 Child health insurance tax credit repealed..... 424(33.21a)–(33.21b)
 Child support —*see* that heading
 Child tax credit increased 424(33.20a)–(33.20b)
 Child welfare changes 208
 Divorce —*see* that heading
 Domestic violence —*see* that heading
 Emergency marriage ceremony authority for judges..... 14
 Family planning —*see* that heading
 Incest penalty study..... 491(7.1)–(7.2)
 Intensive family preservation program..... 395(2.1a), (2.1v);
 424(5.1a), (5.1v)
 Marriage license written consent for minor notarization
 not required487(60)
 Marriage of minors..... 62(2)–(4)
 Marriage tax penalty eliminated 424(33.19a)–(33.19b)
 Marriage without a license unlawful 62(6)–(7)
 Persons authorized to solemnize marriage 62(1), (17)
 Recognition of Native American sanctioned marriages 62(5)–(6)
 Settlement procedures in district court actions 320
 Technical corrections and conforming changes.....487(83)

Martin County
 Bear hunting..... 64
 Payment of delinquent tax prior to recording deeds.....513(14)

Mass Transit—*see* Public Transportation

Massage and Bodywork Therapy, Board of—appointments and
 membership 163(3); 486(1.29)

Matthews, Town of
 1974 Matthews Depot lease 102
 Annexation 103
 Charlotte Coliseum Authority membership.....402(4)
 Mecklenburg occupancy and meals tax distribution..... 402(1)–(2)
 Zoning sunset repealed..... 276

Mayodan, Town of—satellite annexation exemptions 405

Mayors—*see* particular municipality

Index to Session Laws

Session Law
Number

McDowell County

Marion, City of —see that heading
Muddy Creek stream restoration funds 424(33.3a)–(33.3b)
National Heritage Area Designation Commission created 491(18.1)–(18.10)
Old Fort, Town of —see that heading
Property acquisition by board of education 76
TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

Mecklenburg County

1974 Matthews Depot lease 102
Boundary correction with Iredell County 429(1)
Charlotte, City of —see that heading
Cornelius, Town of —see that heading
Davidson, Town of —see that heading
Huntersville, Town of —see that heading
Matthews, Town of —see that heading
Meals tax sunset 402(3)
Mentor funds for full-time mentors pilot program 424(28.18a)–(28.18b)
Mint Hill, Town of —see that heading
Occupancy and meals tax distribution 402(1)–(2)
Permanent property line markers 187
Pineville, Town of —see that heading
State Nature and Historic Preserve land additions 217(2)
Zoning sunset repealed
 certain cities 276
 county 275

Media

Campaign ad liability 317(2)
Newspaper vending machines street vendors for sales tax purposes 509

Mediation and Arbitration

Community mediation centers report requirements 424(22.2)
Mediation of discovery disputes rule 379(5)
Motor vehicle manufacturer charges against dealer accounts 510(1)
Resolution of disputes between Landscape Architects Board
 Engineers and Surveyors Board 496(12.1b)
Settlement procedures in district court actions 320
Technical corrections and conforming changes 487(39)

Medicaid (see also Health and Human Services, Department of (DHHS))

19-21 year-olds coverage 424(21.19m)
Acute and long-term care services report 424(21.19q)
Carolina ACCESS program improvements 424(21.27)
Circumcision funds 513(19)
Copayment 424(21.19c)
Cost-containment
 Activities 424(21.25)
 Generally 395(3a)–(4)
 Growth reduction 395(3a)–(4);
 424(21.24a)–(21.24e)
 Programs 424(21.19k)

Index to Session Laws

Session Law
Number

Medicaid—continued

County cost-share	
Generally.....	424(21.21a)–(21.21b)
Study.....	491(10.4)
Coverage policy.....	395(6a)–(6c); 424(21.20a)–(21.20c)
Dental coverage limits.....	424(21.19g)
Disproportionate share receipt disposition.....	424(21.23a)–(21.23b)
Disregard earned income credit for eligibility.....	424(21.19p)
Early intervention services maximization of receipts.....	424(21.79)
Elderly, blind and disabled coverage.....	424(21.19e)
Eligibility	
Income limit updates.....	424(21.19l)
Standards.....	424(21.19d)
Enrollment for categorically needy families continuous.....	424(21.19o)
Family planning services.....	424(21.19v)
Federal transfer of assets policies application.....	424(21.19y)
Five-year fiscal analysis of proposed policy changes required.....	395(3e)
Fraud recovery incentives.....	424(21.19r)
Funds restrictions.....	395(4)
Generic drug dispensing.....	424(21.19h)
ICF and ICF/MR work incentive allowances.....	424(21.19f)
Management information and claims processing equipment funds.....	424(21.19s)
Nonfederal cost of Medicaid allocation.....	424(21.19b)
Optional services study.....	424(21.28a)–(21.28b)
Payment schedule and bases.....	424(21.19a)
Pharmacy management plan.....	395(5b)
Prescription drug assistance program management.....	424(21.3a)–(21.3c)
Program management.....	395(5a)–(5c); 424(21.26a)–(21.26c)
Provider rates establishment.....	424(21.19w)
Service limitations exceptions.....	424(21.19i)
Special assistance in-home care demonstration project.....	424(21.29a)–(21.29b)
Supplement and long-term care rules.....	334(11)
Supplement guaranteed issuance for disabled.....	334(10)
TBI waiver.....	424(21.28A)
Temporary rules.....	424(21.19t)
Therapeutic mental health services coding system.....	424(21.19x)
Volume purchase plans and single source procurement.....	424(21.19j)

Medical Board

Emergency Medical Services Act revisions.....	220
Fee increases.....	493(3)
Practicing medicine over Internet and telephone.....	27

Medical Care Commission

Emergency Medical Services Act revisions.....	220
EMS regulation.....	210
Hospital payments for workers' compensation treatment.....	410(3); 413(8.2a)
Rules for licensing neonatal care beds.....	410(2)

Medical Care Commission—continued

Technical corrections and conforming changes.....487(31)

Medical Examiner—State Medical Examiner system study491(2.1)

Medical Records—*see* Privacy; Records

Medicare—*see* Insurance, Health

Mental Health

Adult care home model for community-based services..... 424(21.54a)–(21.54b)

Adult severe and persistently mentally ill plan funds395(2.1a); 424(5.1a)

Advanced health care directive registry established455(1)–(6);
513(30a)–(30b)

Area authorities —*see* Authorities

Area board structure437(1.11a)–(1.11c)

Area directors437(1.12)

Child residential treatment services program funds395(2.1a); 424(5.1a)

Community-based mental health services to children funds 424(5.1a)

Community-based services to children funds..... 395(2.1a)

Comprehensive treatment services program for children

at risk for institutionalization..... 424(21.60a)–(21.60h)

Consolidation of consumer advocacy and ombudsmen

programs study 437(3c)

Corrections licensure and certificate of need exemption.....424(25.19a)–(25.19c)

County governance of mental health system437(1.9)

Criminal justice clients services coordination487(79.5)

Death penalty prohibition for mentally retarded..... 346

Direct payment of counselors under health plans..... 297

Dorothea Dix Hospital replacement facility424(21.63a)–(21.63e)

Early intervention services

Maximization of receipts424(21.79)

Responsibilities of Secretary of HHS..... 437(1.20a)–(1.20b)

Energy for Committed Offenders contract424(25.10)

HIV/AIDS counseling funds 395(2.1a)

Intervention Services Unit created in HHS 424(21.18A)

Joint security forces at state mental health facilities..... 125

Jurisdiction over State facilities by Secretary of HHS.....437(1.19)

Licensed Psychological Associates (Masters level

psychologists) study491(2.1)

Local quality care consumer advocacy programs.....437(2)

Marriage and family therapist coverage under State plan..... 258

Medicaid payment schedule and bases 424(21.19a)

Medical liability coverage for certain State employees424(21.55)

Mental health, developmental disabilities, and substance abuse services

Advocacy Program created437(2)

Authorities administrative cost reduction..... 424(21.65a)–(21.65 b)

State plan 437(1.5), (3a)

Mental health system

Appropriation and allocation of funds by cities and counties437(1.8)

Business plan437(1.9)

Reform implementation 437

Mental retardation centers

Downsizing 424(21.67a)–(21.67b)

Mental Health—continued

Transition plan	424(21.62a)–(21.62d)
MH/DD/SA Appeals Panel	437(1.17b)–(1.17c)
No discrimination in selection of providers.....	446(1.7)
Non-Medicaid reimbursement changes	424(21.59)
Privileged communications protection for certain counselors.....	152
Provider incentives prohibited.....	446(1.8)
Psychotropic medication use by children database feasibility.....	124
Rape crisis/victims' services program funds.....	424(5.1a)
Readiness plan for mental health programs certification.....	437(3a)
Residential schools for the deaf plan for emotionally disturbed children.....	424(21.82b)
Single portal of entry designation for facilities	437(1.14)
State and local system governance changes	437(1.1)–(1.21)
State Consumer Advocate	437(2)
State funding to counties and area authorities study.....	437(3d)
State psychiatric hospital bed allocation plan.....	424(21.68A)
Technical corrections and conforming changes.....	487(29), (40a), (40c), (80a)–(80b)
Testimonial privilege for rape crises and domestic violence centers.....	277
Therapeutic mental health services coding system for Medicaid	424(21.19x)
Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs created	424(21.58a)–(21.58d)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for	
Appointments and membership.....	437(1.21b); 486(1.30), (1A.26), (2.13); 487(90.5)
Date rape drug analogues study.....	491(19.1)–(19.2)
Duties	437(1.21a)
Human rights committees.....	437(1.3)
Mental Health, Developmental Disabilities, and Substance Abuse Services rules review.....	437(3a)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee on —state funding to counties and area authorities study.....	437(3d)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for —technical corrections and conforming changes	487(22)
Mental Health Study Commission —adult severe and persistently mentally ill plan funds.....	395(2.1a)
Mental Retardation — <i>see</i> Mental Health	
Midland, Town of	
Annexation	366; 472(1a)–(1b)
Interim council members.....	30
Midwifery	
Medicaid payment schedule and bases.....	424(21.19a)
Registered nurse definition.....	98

Migrant Workers—*see* Immigrants

Military Affairs, Advisory Commission on
 Appointments and membership.....424(12.1);
 486(2.9a)–(2.9b)
 Created424(12.1)
 Economic impact of military activities study424(12.1)

Millers Creek, Town of—incorporation 45

Minimum Housing Standards Act..... 283

Minnesott Beach, Town of
 Extraterritorial jurisdiction 134

Minorities (*see also* Tribal Government; Women)
 Certification of minority business for public construction
 study496(13.2)
 Cherokee gaming compact513(29a)–(29c)
 Health care disparities elimination study.....491(23.1)
 Indian Affairs Commission membership.....318(1)
 Indian child welfare issues collaboration 309
 Indian Cultural Center
 Board membership..... 318(3)–(4)
 Lease..... 89
 Indian Housing Authority membership318(2)
 Minority and at-risk students academic achievement study
 extended424(28.30h)
 Minority business participation goals..... 496(3)–(3.6)
 Office of Historically Underutilized Businesses continuation.....424(7.9)
 Positive Racial, Ethnic, and Faith Relations Commission
 created 491(6.1)–(6.7)
 Race designations expanded and made voluntary on marriage
 license.....62(11)
 Sickle-cell syndrome purchase of medical care.....513(26)
 Spanish language ballots 288
 Traffic stop statistics collection.....424(23.7a)–(23.7c)
 Tribal trust lands 344

Minority Health Advisory Council
 AIDS services coordination..... 424(5.1z)
 HIV/AIDS awareness and education..... 395(2.1z)

Minors
 Academically gifted students funds.....424(28.3)
 Adolescent parenting program contractual services
 limitations..... 424(21.99a), (21.99b)
 Adoption —*see* that heading
 After-school services for at-risk children
 Expansion 395(2.1r)
 Funds 395(2.1a), (2.1v);
 424(5.1a), (5.1r),
 (5.1v)
 Bicycle helmet and restraining seat use..... 268
 Boys and Girls Clubs funds 395(2.1a), (2.1k),
 (2.1v); 424(5.1a),
 (5.1j)

Index to Session Laws

Session Law
Number

Minors—continued

Camp Woodson wilderness camp program annual evaluation	424(24.5)
Child abuse and neglect in child care facilities study	491(2.1)
Child care — <i>see</i> Day Care	
Child protective services staff	424(5.1s)
Child welfare	
Changes.....	208
Improvements funds.....	395(2.1s)
System pilots.....	424(21.46a)–(21.46c)
Training funds.....	395(2.1a), (2.1u)
Childhood injury prevention	395(2.1a); 424(5.1a)
Children in voting enclosure	292
Community programs annual evaluation.....	424(24.5)
Community-based mental health services to children funds.....	395(2.1a); 424(5.1a)
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60a)–(21.60h)
Day reporting center disposition for delinquent juvenile.....	179
Disabilities funds allocations.....	424(28.2)
Drug sales	
Near day care centers penalty increased.....	332
Near schools penalty increased	307
Early intervention system evaluation	424(21.85a)–(21.85d)
Eckerd Wilderness Camp	
Annual evaluation	424(24.5)
Expansion	424(24.11)
Employment by ABC permit holder of minor age lowered.....	515(5)
Employment of students enrolled in higher education	312(3)
Family drug treatment courts services	424(22.8a)–(22.8j)
Family Focus funds	395(2.1a); 424(5.1a)
Foster care and adoption assistance payments.....	424(21.41a)–(21.41d)
Gifted student enrollment at community colleges	312(2)
Governor's One-on-One program annual evaluation	424(24.5)
Grandparent as supervising driver for minor with learners permit	194
Health insurance program for children — <i>see</i> NC Health Choice this heading	
Health insurance tax credit repealed.....	424(33.21a)–(33.21b)
Healthy mothers/healthy children funds.....	395(2.1a); 424(5.1a)
Incest penalty study.....	491(7.1)–(7.2)
Indian child welfare issues collaboration	309
Infant abandonment decriminalized	291
Infant mortality and birth defects activities inventory	424(21.94)
Intensive Family Preservation Services Program enhancements	424(21.50a)–(21.50j)
Juvenile Code — <i>see</i> that heading	
Juvenile commitment procedures study	491(2.1)
Juvenile member of State Advisory Council on Juvenile Justice and Delinquency Prevention.....	199(3)
Juveniles without capacity to proceed study	491(2.1)

Minors—continued

Marriage license written consent for minor notarization
not required487(60)

Marriage of minors..... 62(2)–(4), (13)

Maternal and child health block grant 424(5.1a)

Medicaid coverage424(21.19n)

Medicaid coverage to 19-21 year-olds 424(21.19m)

Medical child care pilot funds 395(2.1j); 424(5.1j)

Medical evaluation block grant funds395(2.1a); 424(5.1a)

Minor or disabled parent's right to guardian ad litem208(2)

More At Four pilot program..... 424(21.76Ba)–(21.76Bg)

NC Health Choice 424(21.22a)–(21.22b)

Newborn

 Foster child and adopted child health insurance coverage334(5)

 Hearing screening insurance coverage446(3.2)

 Screenings funds395(2.1a); 424(5.1a)

 Pediatrician direct access for minors.....446(1.4)

 Prescription of ADD/ADHD drugs to children study491(8.13)

 Project Challenge North Carolina reporting requirement 424(24.3a)

 Psychotropic medication use by children database feasibility 124

 Public school residency requirement for pre-adoptive children 303

 Residential substance abuse services for women with children

 Expansion395(2.1o)

 Funds395(2.1o)

 Residential treatment services program funds395(2.1a); 424(5.1a)

 Save Our Students program annual evaluation.....424(24.5)

 Services to children with special health care needs funds395(2.1a); 424(5.1a)

 Special Needs Adoption Incentive Fund 424(21.42a)–(21.42d)

 Substance abuse services funds395(2.1a); 424(5.1a)

 Tarheel Challenge Program annual evaluation424(26.2)

 Tax credit increased 424(33.20a)–(33.20b)

 Teen court

 Annual evaluation424(24.5)

 Guidelines codified424(24.8)

 Teen pregnancy prevention

 Contractual services limitations 424(21.99a)

 Funds 395(2.1a); 424(5.1v)

 Generally.....395(2.1v)

 Initiatives 424(21.89a)–(21.89d)

 Underage drinking study491(11.4)

Mint Hill, Town of

Charlotte Coliseum Authority membership.....402(4)

Mecklenburg occupancy and meals tax distribution..... 402(1)–(2)

Zoning sunset repealed..... 276

Mitchell County

Add Superior Court judgeship..... 424(22.4b)–(22.4d)

County commissioner elections.....306(8)

National Heritage Area Designation Commission created 491(18.1)–(18.10)

Mitchell River—restoration funds..... 424(33.3a)–(33.3b)

Mocksville, Town of—satellite annexation limit removed 37

Index to Session Laws

Session Law
Number

Money Transmitters Act	443
Monroe, City of	
Firemen's supplemental retirement fund repealed	70
Occupancy tax	439(4.1)–(4.2c), (18.1)
Property acquisition and conveyance	190(1)–(3)
Road construction outside corporate limits allowed	245
Montgomery County	
Airport leases	485(3.1a)–(3.1b)
Candor Park, Town of — <i>see</i> that heading	
Occupancy tax authorization	434(1), (4)–(5c)
Payment of delinquent tax prior to recording deeds	464
Property acquisition by board of education	76
State Nature and Historic Preserve land additions	217(2)
Tourism Development Authority	434(5)–(5c)
Troy, Town of — <i>see</i> that heading	
Moore County	
Motor vehicle law application on West Side Landowners Association streets	132
Pinehurst, Village of — <i>see</i> that heading	
Southern Pines, Town of — <i>see</i> that heading	
More At Four Pre-K Task Force	
Appointments and membership	424(21.76Bb); 487(112)
Created	424(21.76Bb)
Morehead City, City of	
Annexation	75
Firemen's supplemental retirement fund repealed	18
Morehead City Harbor maintenance funds	424(33.3a)–(33.3b)
Occupancy tax revenues for tourism	381(3c)
Single-prime contract for HHS building	69
Morganton, City of	
Boards of Election abolition does not apply	374(2)
Residential programs for probationers	424(25.22a)
Residential schools for the deaf educational needs assessment and plan	424(21.82a)
Morrisville, Town of —buffer zone tree clear-cutting limits and protection	191
Mortgage Lending Act	393
Mortgages — <i>see</i> loans	
Mortuary Science, Board of	
Appointments and membership	294(1), (12); 486(1.31), (1A.27), (2.3a)–(2.3b)
Licensure	294(3)
Licensure and permit fees	294(5)
Student permits repealed	294(6)
Motor Vehicle Act	491(26.1)
Motor Vehicles (<i>see also</i> Trailers)	
Aggregate hauling clarifications	487(50e)
Automotive Bill of Rights clarification	298
Beach driving ordinance enforcement in Currituck County	33

Index to Session Laws

Session Law
Number

Motor Vehicles—continued

Cellular phone use in vehicles study	491(2.1)
Deadline for release of property tax after surrendering registration plates extended	497(1a)–(1b)
Dealers	
Administration fees disclosure.....	492(1), (3)
Finance yield charges disclosure.....	492(2)–(3)
Remedies for manufacturer violations	510(5)
Surety bond protection increase	492(4)
Drivers licenses — <i>see</i> that heading	
DWI seized vehicle	
Notification	362(1)–(3), (5)
Release to innocent owner	362(4), (6)–(8)
Emission inspection and maintenance program review	504(20)
Escort driver certification program authorized.....	424(27.10)
Field trials and testing of vehicle emissions and safety inspection equipment.....	504(18)
Glass repairs steering and incentives study	491(2.1)
Golf cart regulation in Lake Waccamaw	356(6)
Gross vehicle weight hauling capacity clarification	487(50a)
Highway use tax cap repeal transition	489(1a)–(1b)
Insurance discounts for accident prevention courses.....	423(1)–(2)
Insurer must inform claimants of repair services options.....	451(1)
Insurers/no mandates/nonoriginal crash parts study.....	491(2.1)
Leased vehicle tax change.....	424(33.24b)
Liability insurance required for UNC parking permit	336
License Plates — <i>see</i> that heading	
Low-speed vehicles	356
Luxury car tax cap repealed	424(33.24a)
Manufactured home qualification as real property	506(1)
Manufacturers	
Charges against dealer accounts.....	510(1)
Dealer coercion and threats to franchise	510(6)
Discrimination among dealers.....	510(4)
Prohibitions of owning dealerships	510(3)
Restrictions on price variations.....	510(2)
Motor pool operations cost savings measures	424(7.4)
Motorcycle insurance rate setting.....	389
Operation of vehicle in vicinity of emergency vehicle.....	331(1)
Parking	
Ordinances in Charlotte	88
Violations of leased vehicles and rule of evidence.....	259
Penalties applicable to vehicle inspection license holders.....	504(12)
Prevent double taxation.....	406
Railroad crossing stop requirement clarification	487(50g)
Recreational vehicles	
Definition and size limits	341
Highway use tax cap	497(2a)–(2d)
Regulation of golf carts on streets in Cary	485(3)
Reinsurance Facility umbrella coverage.....	236

Motor Vehicles—continued

Rental car	
Airport fees and charges	432
Companies to inform renter of no passing school bus.....	331(2)
Repair shop consumer protection	298
Safety/pollution inspections	
Fees increase	504(1)–(3)
Safety inspection program study	504(21)
Vehicle age limitations	504(4)–(8)
Vehicle definition clarification	487(51)
Vehicles subject to inspection.....	504(10)–(11)
Salvage vehicle title clarification	492(5)
Surrender of manufactured home title when qualified	
as real property	506(2)
Tax exemption for co-owner title transfer	487(68)
Technical corrections and conforming changes.....	414(51); 487(10)–(11), (37)
Towing	
Post-towing procedures study	491(2.1)
Pretowing notices required in certain municipalities	46
Traffic citation procedure for foreign diplomats	498(7)
Traffic control/red light cameras	286
Traffic enforcement statistics positions authorized	513(9)
Transportation of a dead body.....	294(3)
Truck loading requirements to prevent blowing/dropped debris	512(2)
Uninsured motorist coverage study	491(2.1)
Used motor vehicle dealer licensing.....	345(2)
Violation of vehicle inspection requirements	504(13)–(17)
Volunteer fire and rescue vehicles exempt from tax	424(33.24d)–(33.24e)
Waiver for vehicle missing emissions control devices	504(9)
Weight inspection authority clarification	487(50f)
West Side Landowners Association streets application of law.....	132

Motor Vehicles, Division of

Advertising inserts in DMV mailings study	513(31)
Civil penalties for violation of motor vehicle dealer laws	345
Commission contract agent	
Rate increase	424(27.21)
Study.....	491(13.2)
Commissioner's salary.....	424(32.3)
Confidential license plates.....	424(6.14a)–(6.14h); 487(53)–(54)
Drivers license information verification system.....	461(4)–(6)
Drivers license/motor vehicle registration section	
consolidation study.....	424(27.14)
Drivers licenses — <i>see that heading</i>	
Drivers license technology fund established	461(4)
Electronic transfer of motor-voter registration	319(7)
Field trials and testing of vehicle emissions and safety	
inspection equipment.....	504(18)
License Plates — <i>see that heading</i>	
Loss of drivers license for fuel theft second offense	352

Motor Vehicles, Division of—continued

Membership on Criminal Justice Information Network
 Governing Board487(90)
 Organ donor card availability481(3)
 Private plates on public vehicles 424(6.14a)–(6.14h)
 Proof of residency and identification for drivers license .424(27.10Aa)–(27.10Af)
 Recreational vehicle definition and size limits 341
 Surrender of manufactured home title when qualified
 as real property506(2)
 Used motor vehicle dealer licensing345(2)
 Vehicle registration requirements compliance study491(13.3)

Mount Airy, Town of

Extraterritorial jurisdiction 101
 Planning Board 101
 Tourism Development Authority membership 7
 Zoning Board of Adjustment 101

Municipal Incorporation

Fairview 428
 Millers Creek 45
 Referendum petitions and tolling353(6)

Municipal Incorporations, Joint Legislative Commission on—referendum

 petitions and tolling353(6)

Municipalities

Accelerated sales and use tax distribution to local
 governments 427(13a)–(13g)
 Annexation —*see* that heading
 Bid law exemptions for certain municipalities 66
 Boards of Election abolished 374
 Boundary adjustment between Kure Beach and Carolina Beach 57
 Buffer zone tree clear-cutting limits and protection in certain cities 191
 Building inspection contracts278(2)
 Closed prison facilities use plan424(25.5)
 Closing rental property to avoid orders to repair or remove 283
 Construction flexibility plan agreements496
 Cooperative agreements for ABC store management 128
 Coordinated transportation plans process modification 168
 Dare County occupancy tax distribution394(5)
 Defense and judgment payments against soil and water
 conservation personnel 300
 Disposal of property procedure 328(4)–(6)
 Economic development plan agreements allowed 221
 Eminent domain for erosion, flood/hurricane protection and
 beach access in certain cities 36
 Incorporation —*see* Municipal Incorporation
 Information technology purchasing328(3)
 Jonesville and Arlington merger 16
 Land transfer tax distribution in Dare County394(6)
 Letting public contracts328(1)
 Local election ballot changes 460(7)–(9)
 Mental health system appropriation and allocation of funds437(1.8)

Municipalities—continued

Municipal and domestic wastewater collection system permit program report	452(2.6)
Municipal waste combustion rules	440(3.4)
Overgrown vegetation ordinance violator notification	107
Parking meter proceeds use in certain cities	9
Pretowing notices required in certain municipalities	46
Property tax reductions	308
Public enterprise billing information not public record	473
Regional council of government funds	424(20.12a)–(20.12f)
Revenue bonds	
Project definition change	414(48)–(49)
Utility projects	414(50)
Review of properties exempt from tax	139
Revocation of ABC license for violations in Urban Redevelopment Areas	515(3a)–(3b)
Road construction outside corporate limits allowed for certain cities	245
Roadway improvements in extraterritorial jurisdiction for certain cities	261
Sanitary district satellite annexation	301
Small urban transportation construction projects funds	424(27.3)
Subdivision definition in Harnett County	50
Tax reimbursements	308
Technical corrections and conforming changes	487(37), (44a)–(44b)
Telecommunications tax	
Distribution	430(10)
Restrictions	430(16)
Telephone Membership Corporation city share computation	487(67d), (67f)
Traffic control/red light cameras for certain cities	286
Traffic stop statistics collection	424(23.7a)–(23.7c)
Unsafe buildings regulation	386(1)–(2)
Withdrawal of bid on local government contracts	328(2)
Zoning sunset repealed for certain cities	276

Museum of Art—*see* Museums

Museums (*see also* Cultural Resources; Zoos and Aquariums)

Aurora Fossil Museum grassroots science program grant-in-aid	424(19.2)
Cape Fear Museum grassroots science program grant-in-aid	424(19.2)
Catawba Science Center grassroots science program grant-in-aid	424(19.2)
Charlotte facilities capital investment referendum	10
Children's Museum of Iredell County grassroots science program grant-in-aid	424(19.2)
Colburn Gem and Mineral Museum grassroots science program grant-in-aid	424(19.2)
Discovery Place grassroots science program grant-in-aid	424(19.2)
Granville County Museum Commission grassroots science program grant-in-aid	424(19.2)
Grassroots science program grants-in-aid	424(19.2)
Harris Gallery grassroots science program grant-in-aid	424(19.2)

Index to Session Laws

Session Law
Number

Museums—continued

Health Adventure Museum at Pack Place grassroots science program grant-in-aid	424(19.2)
Imagination Station grassroots science program grant-in-aid.....	424(19.2)
Museum of Art	
Board of Trustees appointments and membership	486(1A.28), (2.10)
Conservation of privately owned works.....	127
Director's salary	424(32.3)
Museum of Coastal Carolina grassroots science program grant-in-aid.....	424(19.2)
Museum of Life and Science grassroots science program grant-in-aid.....	424(19.2)
Natural Science Center of Greensboro grassroots science program grant-in-aid	424(19.2)
North Carolina Portrait Gallery Commission establishment study.....	491(2.1)
Rocky Mount Children's Museum grassroots science program grant-in-aid.....	424(19.2)
Schiele Museum of Natural History grassroots science program grant-in-aid.....	424(19.2)
SciWorks Science Center and Environmental Park grassroots science program grant-in-aid.....	424(19.2)
Western North Carolina Nature Center grassroots science program grant-in-aid	424(19.2)

- N -

Nags Head, Town of

Eminent domain for erosion, flood/hurricane protection and beach access	36
Town-owned lands use.....	35
Traffic control/red light cameras	286(1)

Narcotics (*see also* Substance Abuse; Testing)

Controlled substances conformed to federal law	233
DARE program	424(23.9a), (23.9b)
Date rape drug analogues study.....	491(19.1)–(19.2)
Drug law enforcement grants legislative review	424(26.3a)–(26.3b)
Offenses study.....	491(21.4)
Sales penalty increased.....	307; 332
Screening and intervention promotion	334(4)
Substance abuse services to IV drug users and others at risk for HIV funds	395(2.1a)
Technical corrections and conforming changes.....	487(22)

Nash County

Occupancy tax.....	349
Rocky Mount, City of — <i>see</i> that heading	
Worthless check program.....	61

National Guard Pension Fund—*see* Retirement

National Heritage Area Designation Commission

Appointments and membership.....	491(18.4)–(18.5)
Created	491(18.1)–(18.10)

National Heritage Area Designation Commission —continued	
Purpose.....	491(18.6)
Native Americans — <i>see</i> Minorities; Tribal Government	
Natural Heritage Trust Fund, Board of Trustees —appointments and membership	486(1A.29), (2.23a)–(2.23b)
Navassa, Town of	
Annexation	325(1)
District elections.....	325(3)
Mayor's term	325(2)
Town Board temporary expansion to include annexed area.....	485(1)–(2)
Negotiable Instruments	
Check casher post-dated check authorization extended.....	323
Settlement funds disbursal by agricultural credit association or mortgage banker check	420
Solicitation of loans with facsimile/negotiable check	519(5)–(6)
Worthless check program.....	61
Neuse River	
Flood control feasibility study funds.....	424(33.3a)–(33.3b)
Modeling and monitoring project report	452(2.5)
Wake Forest water withdrawal.....	361
New Hanover County	
Carolina Beach, Town of — <i>see</i> that heading	
Corning access bridge right-of-way	1
Fraudulent obtaining of ambulance services	106
Kure Beach, Town of — <i>see</i> that heading	
State Nature and Historic Preserve land additions.....	217(2)
Wilmington, City of — <i>see</i> that heading	
Worthless check program.....	61
Wrightsville Beach, Town of — <i>see</i> that heading	
New London, Town of —commission and mayor changes.....	131
New River —State Nature and Historic Preserve land additions	217(2)
Newport, Town of —occupancy tax revenues for tourism.....	381(3c)
Nonprofit Corporation Act	387
North Carolina Biotechnology Center —appropriations.....	424(2.1)
North Carolina Railroad Company	
Board of Directors appointments and membership	486(1.43), (1A.42)
Dividend income distribution.....	424(2.2b)
North Topsail Beach, Town of	
Eminent domain for erosion, flood/hurricane protection and beach access.....	36
Occupancy tax.....	439(5.1)–(5.1c), (18.1)
Surf City/North Topsail Beach protection study funds.....	424(33.3a)–(33.3b)
Northeastern North Carolina Regional Economic Development Commission — <i>see</i> Regional Economic Development Commission, Northeastern North Carolina	
Norwood, Town of —mayor and commissioner's terms	15
Notary Public	
Campaign report notarization requirement repealed.....	235
Misrepresentation of authority	450

Index to Session Laws

*Session Law
Number*

Notary Public—continued

Notary Public Act study450(4)
Validation of certain acts..... 154

Notification

Action without meeting of shareholders.....387(11)
Amortization information requirement on home loans..... 340; 413(9); 487(56)
Building Code Council subject to Administrative
 Procedure Act..... 141
Certificate of withdrawal by foreign entity 387(29)–(31)
Child support medical support notice required..... 237(8)–(9)
Custodial agency victims rights notification requirements433(7)
DA victims rights responsibilities433(3)
Disclosure statements on unsolicited loan checks 391
DWI motor vehicle seizure notification 362(1)–(3), (5)
Easy to understand notices of student expulsion/suspension
 for parents 244
Electronic notification to shareholder.....387(6)
Execution sales modification..... 271(11)–(18)
Greenville service of process for rental property..... 104
Group termination of members participation in workers'
 compensation.....451(3)
Insurance agent and broker licensing conform to national
 standard 203
Insurance privacy disclosure notice requirements 351
Land use restrictions for petroleum underground storage
 tank cleanup 384
Late filing of reports to Board of Elections353(10)
Limited liability company annual report filing requirement.....387(59A)
Long-term care facilities to post staffing level information 85
Motor vehicle manufacturer charges against dealer accounts.....510(1)
Noncertified school employee notification requirement for
 dismissal, demotion and suspension 260
Parking violations of leased vehicles and rule of evidence 259
Parole and probation hearing notification victims rights requirement.....433(8)
Payment obligations disclosure by health insurers446(2.3)
Precinct change notification353(2)
Pretowing notices required in certain municipalities..... 46
Pretrial process victims rights 433(2)
Prevent misrepresentation of notary public authority 450
Reconstructive surgery notices.....334(13)
Rental car companies to inform renter of no passing school bus.....331(2)
Resignation, removal, and renunciation of trustees413(1)
Restraining order enhanced notice379(8)
Review of properties exempt from tax 139
School violence threats reporting study.....491(2.1)
Secretary of State to accept service of process
 Foreign entity when no registered agent387(28)
 Foreign LLC 387(85)–(89)
Septage management program permit fees.....505(1.4)
Service by designated delivery service.....379(2)

Index to Session Laws

Session Law
Number

Notification—continued

Service of pleading by FAX	379(3)
Shareholder dissenter's rights	387(27)
Summons alive for 60 days	379(1)
Suspension of foreign insurance company license	223(2.1)–(2.3)
Temporary change of hospital bed capacity	410(1)
Termination of parental rights in adoption	150(4)
Unlawful to terminate group health or life insurance coverage without notice.....	422
Vehicle safety/pollution inspection fees posted.....	504(1)
Viatical settlements	436(3), (7)
Withdrawal of foreign nonprofit entity	387(45)–(47)

Nursing

Criminal background checks	371
Discipline and probation	98
EMS regulation	210
Medicaid payment schedule and bases.....	424(21.19a)
Rape victims and health care workers at risk for HIV infection study.....	491(28.4)
Registered nurse definition.....	98
Skilled Nursing Facility Quality Improvement Consultation Program.....	385(2a)

Nursing, Board of

Criminal history checks for nurse applicants.....	371
Discipline and probation	98
Registered nurse definition.....	98
Technical corrections and conforming changes.....	98

Nursing, Center for—*see* Center for Nursing, Board of Directors

Nursing Home Administrator Act..... 153

Nursing Home Administrators, State Board of Examiners for—technical
corrections and conforming changes

153

Nursing Homes

Adult care homes

Development regulation.....	234
Model for community-based services	424(21.54a)–(21.54b)
Moratorium extended.....	234(3)
Oversight and survey practices review.....	385(1e)
Population study	234(4); 385(1h)
Quality Improvement Consultation Program	385(1d)
Quality of care assessment instrument	482
Reduction of county share of Special Assistance study	385(1f)
Reimbursement rates	
Implementation plan	424(21.7a)–(21.7b)
Methodology development RFP	424(21.7b)
Resident assessment services staff	424(21.35)
Reward for quality study.....	385(1a)–(1b)
Special care units reimbursement study	385(1g)
Technical corrections and conforming changes	487(31)

Continuing care retirement communities

Governing board meeting requirement	223(22.2)
---	-----------

Index to Session Laws

Session Law
Number

Nursing Homes—continued

- Licensure.....223(22.1)
- Criminal history records checks study.....465(3a)
- Developmentally disabled group homes licensure 209
- Joint training by DHHS..... 385(1c), (2b)
- Long-term care facilities
 - Aide workforce issues study491(10.5)
 - Continuum of care system.....424(21.9a)–(21.9c)
 - Criminal history checks for certain facilities suspended 465(1a)–(2b)
 - Liability insurance study..... 491(2.1C)
 - Local lead agency study.....491(22.1)
 - To post staffing level information..... 85
 - Quality criteria development.....424(21.36)
- Medicaid
 - Cost-share424(21.21b)
 - Payment schedule and bases424(21.19a)
 - Oversight and survey practices review.....385(2d)
 - Property tax exclusion for retirement facilities..... 17
 - Skilled Nursing Facility Quality Improvement
 - Consultation Program.....385(2a)
- Special care units
 - Cost reports..... 157
 - Reimbursement system 157
 - State/County special assistance rates and eligibility..... 424(21.44a)–(21.44d)
 - Technical corrections and conforming changes..... 153

Nursing Practice Act 98

Nursing Scholars Commission—appointments and membership..... 486(1.35), (1A.31)

Nutrition—nutrition in public schools study491(8.8)

- O -

Oak Island, Town of—charter technical correction478(2.1)

Obsolete Laws—*see* General Statutes

Occupational Testing—*see* testing

Ocean Isle Beach, Town of

- Assessments for streets and sidewalks478(2.2)
- Museum of Coastal Carolina grassroots science
 - program grant-in-aid424(19.2)

Old Fort, Town of—Boards of Election abolition does not apply374(2)

Onslow County

- Eliminate vacant judgeship 424(22.4b), (22.4d)
- Fraudulent obtaining of ambulance services 106
- Swansboro, Town of —*see* that heading
- Worthless check program..... 61

Optional Retirement Program Study Commission

- Appointments and membership..... 424(32.24Aa)
- Created424(32.24Aa)–(32.24Ad)
- Study424(32.24Ab), (32.24Ad)

Optometrists

- Licensing fee increases.....493(2)

Index to Session Laws

Session Law
Number

Optometrists—continued	
Medicaid payment schedule and bases.....	424(21.19a)
No discrimination in selection of providers.....	446(1.7)
Non-Medicaid reimbursement changes.....	424(21.59)
Optometry, State Board of Examiners In	
Board compensation.....	493(1)
Fee increases.....	493(2)
Orange County	
Alcohol use while hunting in Orange County.....	165
Carrboro, Town of — <i>see</i> that heading	
Chapel Hill, Town of — <i>see</i> that heading	
Hunting near government buildings regulation.....	165
Indian Affairs Commission membership.....	318(1)
One-stop absentee voting site grants.....	424(14B.1a)–(14B.1b)
Organ Donations	
Donor card availability at DMV.....	481(3)
Durability of gift.....	481(2)
Organ, eye and tissue donor registry study.....	481(1)
Qualified individual definition.....	255
Tissue bank definition.....	255
Oxford, City of—satellite annexation limit removed.....	37

- P -

Pamlico County	
Family drug treatment courts for District 3B.....	487(114a)–(114b)
Minnesott Beach, Town of — <i>see</i> that heading	
Property acquisition by board of education.....	76
Pamlico River—Tar-Pamlico River Basin - Nutrient Sensitive	
Waters Management Strategy.....	355
Parks and Recreation Areas	
Cumberland dam/reservoir/state park study.....	491(2.1B)
Drug sales penalty increased.....	307
National Heritage Area Designation Commission	
created.....	491(18.1)–(18.10)
Rutherfordton ABC Board distributions.....	188
Technical corrections and conforming changes.....	487(38e)
Visitor safety in State parks study.....	491(2.1)
Watershed improvement projects landowner liability.....	272
Parks and Recreation Authority	
Appointments and membership.....	424(19.3a)–(19.3b); 486(1.36), (1A.32)
Public authority eligibility for grants from Parks and	
Recreation Trust Fund.....	114
Parole—<i>see</i> Probation and Parole	
Parole Commission—<i>see</i> Post-Release Supervision and Parole Commission	
Partnership for Children, Inc.	
Child care allocation formula study.....	424(21.69d)
Early Childhood Education and Development Initiatives	
Allocation, nonduplication and reporting policies	
development.....	424(21.75a)

Partnership for Children, Inc.—continued
 Budgeting fund code for tracking administrative and operation expenditures 424(21.75c)
 Competitive bid practices.....424(21.72b)
 Match funds requirement424(21.72c)
 Preschool, kindergarten and child care planning.....424(21.75b)
 Revised funding formula feasibility424(21.75j)
 More At Four Pre-K Task Force membership.....487(112)
 Reports —see that heading

Partnerships (corporate)—see Corporations, For-Profit

Pasquotank County
 Elizabeth City, City of —see that heading
 Payment of delinquent tax prior to recording deeds 464
 Septic system repair/inspection fees collected as property tax 78(2)–(4)

Pembroke, Town of
 Satellite annexation limit removed 37
 UNC-Pembroke —see University of North Carolina

Pender County
 Burgaw, Town of —see that heading
 Fraudulent obtaining of ambulance services 106
 Governor Samuel Ashe grave site maintenance487(125.1)
 North Topsail Beach, Town of —see that heading
 Occupancy tax439(6.1)–(6.3c), (18.1)
 Surf City, Town of —see that heading
 Topsail Beach, Town of —see that heading
 West Onslow Beach protection re-analysis (Topsail Beach) funds..... 424(33.3a)–(33.3b)
 Worthless check program..... 61

Perquimans County
 Center-fire rifle hunting 330(2), (4)–(5)
 Hunting on private land without permission unlawful 330(3)–(5)
 Payment of delinquent tax prior to recording deeds 464
 Perquimans River and Mill Creek drainage funds..... 424(33.3a)–(33.3b)
 Septic system repair/inspection fees collected as property tax 78(2)–(4)

Perquimans River—Perquimans River and Mill Creek drainage funds 424(33.3a)–(33.3b)

Person County—payment of delinquent tax prior to recording deeds.....513(14)

Personnel Commission, State—appointments and membership486(1A.53)

Persons With Disabilities, Governor's Advocacy Council for—appointments and membership 486(1.23), (1A.33)

Petroleum Underground Storage Tank Funds Council—appointments and membership 486(1.37), (1A.34)

Pharmaceuticals
 ADD/ADHD drugs prescribed to children study.....491(8.13)
 Contracting for inmates 424(25.23a)–(25.23b)
 Controlled substances conformed to federal law 233
 Costs for inmates424(25.6b)
 Date rape drug analogues study..... 491(19.1)–(19.2)

Index to Session Laws

Session Law
Number

Pharmaceuticals—continued

Drug company drug program access	424(21.6a)–(21.6d); 513(20)
Drug coverage under State plan	253(1e)
Generic drug dispensing with Medicaid	424(21.19h)
Managed care reporting and disclosure requirements	446(2.1)
Medical equipment dispensing registration requirements	339
Payment schedule and bases for Medicaid	424(21.19a)
Pharmacy management plan for Medicaid	395(5b)
Prescription drug assistance program	
Funding	424(21.88)
Management	424(21.3a)–(21.3c)
Prescription drug initiatives grant funds.....	424(21.100)
Prescription drugs study	491(10.3)
Prior approvals for botulinum toxin, growth hormone, weight loss and nail fungus treatments on State plan	253(11)
Program management for Medicaid	424(21.26b)
Psychotropic medication use by children database feasibility.....	124
Restricted access prescription drug access	446(1.5)

Pharmacists

Contract reimbursement rates for medical services not public record.....	516(4)
No discrimination in selection of providers.....	446(1.7)
Pharmacy school at ECSU feasibility study	424(31.10c)

Pharmacy, Board of

Acquisition of real property, equipment and liability insurance.....	407
Medical equipment dispensing registration requirements	339
Pharmacy technician registration	375

Pharmacy Practice Act.....

	375
--	-----

Physicians

Advanced health care directive registry	455(3)–(5)
Contract reimbursement rates for medical services not public record.....	516(4)
Discrimination in selection of providers prohibited	446(1.7)
Fee increases for persons licensed by Medical Board	493(3)
Immunity for honoring portable do not resuscitate order	445
Liens.....	377
Long-term care facilities, hospitals, and physicians liability insurance study.....	491(2.1C)
Malpractice cases statute of limitations extension.....	121
Medicaid payment schedule and bases	424(21.19a)
Medical liability coverage for certain State employees	424(21.55)
Practicing medicine over Internet and telephone.....	27
Provider incentives prohibited.....	446(1.8)
Rape victims and health care workers at risk for HIV infection study.....	491(28.4)

Piedmont Triad Partnership

Appropriations.....	424(20.10a)–(20.10b)
Reports —see that heading	

Pilot Programs

2-voting-place-per-precinct sunset and limitations removed.....319(4a)–(4c)
 Academic Common Market pilot program.....424(31.2a)–(31.2c)
 Adult care home quality of care assessment instrument..... 482
 Alternative learning programs for short-term suspension.....178
 Animal operations inspection pilot program extended 254(5)–(6)
 Budgeting pilot programs 424(6.8a)–(6.8b)
 Building rehabilitation code pilot program..... 372
 Cabarrus Work Over Welfare program extended 354
 Child support enforcement pilot enhancement 424(21.53a)–(21.53d)
 Child welfare system pilots424(21.46a)–(21.46c)
 Cost saving and services improvement pilot programs
 authorized for TSECMMP487(85.5)
 Incentive pay productivity pilot program for Transportation
 Department 424(27.22A)
 Information technology contractor conversion to State
 employee pilot program feasibility study 424(15.5e)
 Medical child care pilot funds395(2.1j); 424(5.1j)
 Mentor funds for full-time mentors pilot program 424(28.18a)–(28.18b)
 More At Four pilot program..... 424(21.76Ba)–(21.76Bg)
 Regional interdisciplinary pilots no expansion.....424(21.84b)
 Special assistance in-home care demonstration project..... 424(21.29a)–(21.29b)
 Student Information Management Program
 Improvement and evaluation.....424(21.84a)
 No expansion 424(21.84a)
 Triangle J guidelines for State facilities construction
 and operation.....415(7a)–(7e)
 Worthless check program..... 61

Pine Knoll Shores, Town of

Eminent domain for erosion, flood/hurricane protection
 and beach access..... 36
 Occupancy tax revenues for beach renourishment381(3c), (6a)
 Westport Marina maintenance dredging funds..... 424(33.3a)–(33.3b)

Pinehurst, Village of—Fair Barn restoration exempt

from bid laws.....66(1)

Pineville, Town of

Charlotte Coliseum Authority membership.....402(4)
 Mecklenburg occupancy and meals tax distribution..... 402(1)–(2)
 Zoning sunset repealed..... 276

Pitt County

Greenville, City of —*see* that heading
 Payment of delinquent tax prior to recording deeds 464
 Winterville, Town of —*see* that heading

Planning and Zoning (see also Building Codes; Eminent Domain)

Annexation —*see* that heading
 Bostic boundaries 43
 Boundary clarification for Fair Bluff..... 55
 Buffer zones
 Exemptions on public trust and estuarine waters 494(1)–(5)
 Tree clear-cutting limits and protection in certain cities 191

Planning and Zoning—continued

- Clear cutting and development growth management in the
City of Raleigh study.....491(2.1)
- Eminent domain —*see* that heading
- Extraterritorial jurisdiction
 - Charlotte 228
 - Minnesott Beach 134
 - Mount Airy 101
 - Rockingham..... 6
- Land use restrictions for petroleum underground storage tank cleanup 384
- Overgrown vegetation ordinance violator notification..... 107
- Permanent property line markers for Charlotte/Mecklenburg 187
- Quick take procedures for Charlotte..... 304
- Roadway improvements in extraterritorial jurisdiction
for certain cities..... 261
- Satellite annexation —*see* Annexation
- Sidewalk improvement authority for Swansboro429(2)
- Subdivision definition for certain counties..... 50; 189
- Zoning protest procedures for Rockingham 48
- Zoning sunset repealed
 - Certain cities 276
 - Mecklenburg County 275

Plumbing, Heating, and Fire Sprinkler Contractors, Board of Examiners of

- Acquisition of property authorized.....270(1)
- Fees 270(3)–(4)
- Licensure modifications270(2)

Plymouth, Town of—town council election by ward..... 51

POELI Commission—*see* Public Officers and Employees Liability Insurance
Commission

Political Parties

- Campaign report requirements 419(3)–(7)
- Filling vacancies for President, Vice President and presidential
electors prior to election.....353(1)
- Nominee vacancies.....460(4)
- Nonpartisan elections for District Court judges 403
- Political party consultation in filling sheriff vacancy in
Alexander County257(2)

Polk County—National Heritage Area Designation Commission
created 491(18.1)–(18.10)

Pollution (*see also* Environment)

- Agricultural cost share technical assistance program funds 424(19.2A)
- Air quality improvement study.....491(30.2)
- Ambient Air Quality Act implementation 504(4)–(23)
- Candidate notification of campaign sign laws..... 512(7)–(8)
- County enforcement of littering laws512(5)
- County regulation of littering512(6)
- Land use restrictions for petroleum underground storage
tank cleanup 384
- Leaking petroleum underground storage tank programs
evaluation454(2)

Pollution—continued

Littering	
Enforcement, prevention, and removal report.....	512(9)–(10)
Enforcement signs.....	512(4)
Penalties for violation	512(1)
Removal.....	512(3)
Performance-based cleanup of underground petroleum	
tank discharges	442(1)–(6b)
Petroleum Underground Storage Tank Program funds.....	454(1)
Rivernet water quality monitoring system pilot program	424(19.5)
Technical corrections and conforming changes.....	487(35)
Truck loading requirements.....	512(2)
Vehicle pollution inspection.....	504(1)–(4),

Ports

Manteo (Shallowbag) Bay channel maintenance funds.....	424(33.3a)–(33.3b)
Morehead City Harbor maintenance funds.....	424(33.3a)–(33.3b)
Oregon Inlet Project funds do not revert	424(20.2b)
State ports tax credit sunset extended.....	517
Westport Marina maintenance dredging funds.....	424(33.3a)–(33.3b)
Wilmington Harbor deepening funds	424(33.3a)–(33.3b)

Ports Authority, Board of State

Appointments and membership.....	486(1.38), (1A.35)
Technical corrections and conforming changes.....	487(33)

Ports Railway Commission—General Manager's salary

	424(32.3)
--	-----------

Positive Racial, Ethnic, and Faith Relations, Commission on

Appointments and membership.....	491(6.2)
Appropriations.....	491(6.7)
Created	491(6.1)–(6.7)
Reports —see that heading	

Post-Release Supervision and Parole Commission

Chair's salary	424(32.3)
Members' salary	424(32.3)
Reports —see that heading	

Poverty (see also Medicaid)

Low-income energy block grant funds.....	424(5.1a)
Medicaid enrollment for categorically needy families	
continuous	424(21.19o)

Pregnancy—see Health Services; Women

President Pro Tempore—see Appointments; General Assembly

Prisoners (see also Correctional Institutions; Prisoners)

Assault with bodily fluids/excrement	360
Confinement limits for terminally ill and disabled	424(25.9a)–(25.9b)
Confinement outside the county of residence of victim	433(10)
Contact with victim's family prohibited	433(9)
Earned time credit for medically/physically unfit	424(25.1a)–(25.1b)
Energy for Committed Offenders contract	424(25.10)
Erroneous conviction clarification and compensation	
increase.....	424(25.12a)–(25.12b)
Food and health costs	424(25.6a)
Health care contracting.....	424(25.23a)–(25.23b)

Index to Session Laws

Session Law
Number

Prisoners—continued

Postconviction DNA testing 282(4)–(5)
Prescription costs 424(25.6b)
Prisoners awaiting transfer to State system county
 reimbursement 424(25.4)
Procurement of necessities with sheriff's approval 487(95)
Road crew funds 424(25.11a)–(25.11b)
Sentence reduction for education, training, and
 rehabilitation programs 200
Technical corrections and conforming changes 487(13)

Prisons—*see* Correctional Institutions

Privacy

Adoption records 150(6), (8), (12)–(13)
Advanced health care directive registry 455(2)
Competitive health care information confidentiality 516(5)
Confidentiality of EMS patient information 220
Contract reimbursement rates for medical services not
 public record 516(4)
Disciplinary information disclosure by Greensboro police 20
Domestic violence victims confidentiality program study 491(2.1)
Drivers license information verification system 461(5)
Electronic commerce privacy and security study 491(12.1)–(12.2)
Insurance Dept. sharing of information 180; 215
Insurance information compliance with federal law 351
Insurance privacy disclosure notice requirements 351
Local/State consumer advocate 437(2)
Medical records 446(5a)
Money transmission businesses 443
Motor carrier information disclosure for national
 criminal justice database 205(1)
Privileged communications protection for certain counselors 152
Public enterprise billing information 473
Public security information not public record 516(3)
School emergency response plans for school violence
 confidential 500(2)–(3)
Social Security number conforming change 256
State Privacy Act amendment 256
Student information disclosure prohibited by school
 contractors 500(1)
Technical corrections and conforming changes 487(40a)–(40n),
 (62i), (87)
Testimonial privilege for rape crises and domestic
 violence centers 277
Viatical settlements 436(3)
Voter records under domestic violence protective orders 396
Voting booth privacy 353(8)–(9)

Private Protective Services Board

Appointments and membership 486(1.39), (1A.36)
Courier service profession definition 487(64a)
Pay for use of State facilities 424(23.2)

Private Protective Services Board—continued

Technical corrections and conforming changes.....	487(64a), (64b)–(64c), (64d), (64e)–(64j)
Temporary license issuance.....	487(64c)

Privatization

Arrests and use of force by private corrections officers	378
Biotechnology Center profit sharing with State	424(20.8a)–(20.8d)
Information technology contractor use by State agencies study	424(15.5a)–(15.5d)
Tax debt collection.....	380
Technological Development Authority profit sharing with State.....	424(20.8a)–(20.8d)

Probation and Parole

Caseload report.....	424(25.20)
Hearing notification victims rights requirement.....	433(8)
IMPACT boot camp program elimination.....	424(25.22c)
Inmates eligible for parole report	424(25.21)
Residential programs for probationers	424(25.22a)–(25.22c)
Technical corrections and conforming changes.....	487(47a)–(47g)

Professional Education—*see* Vocational Education

Progress Board

Appointments and membership.....	424(31.12a), (31.12c); 486(2.18)
Appropriations Operating funds.....	424(31.12d); 513(6)
Encourage regional progress boards.....	424(31.12b)
Executive Director's appointment.....	424(31.12c)
Reporting requirements	424(31.12c)
Responsibilities expanded.....	424(31.12b)

Property (*see also* Real Estate)

Auctioneers Commission acquisition	198(3)
Disposal of certain property by community college boards	82
Disposal of local government property procedure.....	328(4)–(6)
Electronic listing of taxable business personal property.....	279
Escheats Abandoned stock and equity interests clarification	226
Execution sales modification.....	271(11)–(18)
Judicial sales modification	271(1)–(10)
Pass-through distribution of partnership income tax credits.....	335
Pharmacy Board acquisition of real property, equipment.....	407
Plumbing, Heating and Fire Sprinkler Contractors Board acquisition	270(1)
Property acquisition by certain county education boards	76; 427(7a)–(7b)
Revenue Department escheats reporting requirement	414(26)
Sale of dwellings purchased under hazard mitigation grant program.....	29; 386(3)
Seized and forfeited property transferred to State by Federal Government.....	424(23.1a)–(23.1c)
Surplus property guidelines for UNC.....	424(31.8)
Transfer of assets to unincorporated entity.....	508(1)

Index to Session Laws

Session Law
Number

Property Tax Commission —appointments and membership.....	486(1A.37)
Property Tax Study Commission	
Appointments and membership.....	499(3b)
Appropriations.....	499(3i)
Created.....	499(3a)–(3i)
Study.....	499(3c)
Psychology — <i>see</i> Mental Health	
Public Assistance Commission, Joint Legislative —repealed..	424(21.13a)–(21.13e)
Public Defenders	
Assistant public defender	
Position funds.....	424(22.13a)
Salaries.....	424(32.4b)
Contracts for temporary public defenders.....	424(22.11d)
Longevity retroactive.....	424(22.11a)
Support staff positions.....	424(22.13b)
Technical corrections and conforming changes.....	424(22.11e)–(22.11g)
Public Employee Deferred Compensation Plan, Board of Trustees —	
appointments and membership.....	486(1.40), (1A.38)
Public Health	
AIDS (Acquired Immune Deficiency Syndrome) — <i>see</i> that heading	
AIDS Drug Assistance Program (ADAP).....	424(21.90a)–(21.90d)
Bicycle helmet and restraining seat use by minors.....	268
Childhood injury prevention.....	395(2.1a); 424(5.1a)
Civil penalties for health violations by certain counties.....	120
Community-based tuberculosis services.....	395(2.1a); 424(5.1a)
Dental services/fluoridation funds.....	395(2.1a); 424(5.1a)
Disease reporting requirements for diagnostic laboratories.....	28
Educator positions consolidation feasibility.....	424(21.91Ab)
Exemption of certain establishments from food and lodging	
facilities regulation.....	440(4)
Health certificate requirements for school employees.....	118
Health laws apply to funeral establishments.....	294(4)
Healthy mothers/healthy children funds.....	424(5.1a)
Hepatitis impact study.....	491(28.2)
High-risk maternity clinic services.....	395(2.1a); 424(5.1a)
HIV — <i>see</i> AIDS (Acquired Immune Deficiency Syndrome)	
Immunization program	
Funding.....	424(21.87a)–(21.87b)
Restitution for spoiled vaccines.....	424(21.86a)–(21.86b)
Infant abandonment decriminalized.....	291
Infant mortality and birth defects activities inventory.....	424(21.94)
Intervention Services Unit created in HHS.....	424(21.18A)
Newborn screenings funds.....	395(2.1a); 424(5.1a)
Nuisance liens.....	448
Nurse consultants consolidation feasibility.....	424(21.91Aa)
Nutrition in public schools study.....	491(8.8)
Perinatal education and training.....	395(2.1a); 424(5.1a)
Prescription of ADD/ADHD drugs to children study.....	491(8.13)
Rape victims and health care workers at risk for HIV	
infection study.....	491(28.4)

Index to Session Laws

Session Law
Number

Public Health—continued

Services in tier 1 counties study491(2.1D)
Sickle-cell syndrome purchase of medical care.....513(26)
Statewide health promotion programs funds395(2.1a); 424(5.1a)
Technical corrections and conforming changes..... 474(18)–(21)
Teen pregnancy prevention initiatives..... 424(21.89a)–(21.89d)
Well separation distance requirements 113

Public Health Study Commission

Hepatitis impact study491(28.2)
HIV/AIDS prevention and care programs study.....491(28.3)
Rape victims and health care workers at risk for HIV
infection study.....491(28.4)

Public Instruction, Department of

Abstinence education block grant funds..... 424(5.1f)
Alternative learning programs for short-term suspension..... 178
Appropriations
Abstinence education block grant funds 395(2.1f)
Base budget reduction flexibility424(28.38)
Current operations and expansion424(2.1)
Instructional supplies funds 424(28.39a)–(28.39b)
Testing and implementation of student
information system.....424(28.32)
WISEOWL web site subscriptions..... 424(28.40a)–(28.40b)
Base budget reduction flexibility.....424(28.38)
Children with disabilities law study424(28.29b)
Early Childhood Education and Development Initiatives
preschool, kindergarten and child care planning424(21.75b)
Electronic procurement program 424(15.6b)–(15.6c)
Eliminate duplicative and unnecessary paperwork..... 151
Gifted student enrollment at community colleges312(2)
Headcount and assessment of students with limited
English proficiency424(28.9b)
Health care personnel education study491(8.11)
HIV/AIDS
Awareness and education.....395(2.1z)
Prevention initiative 424(21.18Dc)
Information Highway public school site evaluation424(15.7c)
Medicaid outreach reimbursement424(28.21)
More At Four pilot program
Generally.....424(21.76Ba)–(21.76Bg)
More At Four Pre-K Task Force membership change487(112)
Preschool programs for the deaf elimination transition plan424(21.83)
Reports —see that heading
Residential schools for the deaf educational needs
assessment and plan424(21.82a)
School for the Deaf at Greensboro closure..... 424(21.81a)–(21.81d)
Superintendent
Membership on Geographic Information
Coordinating Council 359
Salary424(32.1b)

Index to Session Laws

Session Law
Number

Public Instruction, Department of—continued	
Teacher education for military personnel	146
Whitaker School transition of students to alternative facilities	424(21.61a)
Public Meetings	
Building Code Council subject to Administrative Procedure Act	141
Certain public use project financing corporations exempt from Open Meetings Law	84(4)
Craven County Commissioners elections	447
Naming of roads and street number assignment	145
School emergency response plans for school violence confidential	500(2)–(3)
Public Officers and Employees Liability Insurance Commission	
Appointments and membership	486(1A.39)
Insurance coverage for local health department sanitarians	505(3)
Public Officials (<i>see also</i> Appointments; Ethics)	
Certification of elections officials	319(2a)
Conflicts of interest with public funds	409
County elections director training	319(1b)
Discharge of precinct officials unlawful	169
Residency definition	316
Technical corrections and conforming changes	487(44a)–(44b)
Termination of county director of elections	319(1a)
Public Records—see Records	
Public Telecommunications, Agency for	
Appointments and membership	486(1.41), (1A.40)
Executive Director's salary	424(32.3)
Public Transportation (<i>see also</i> Transportation)	
Charlotte downtown intermodal station status report	424(27.7)
Charlotte quick take procedures	304
Public transit funds	424(3.1)
Regional Authorities quick-take procedures	239
Publications (State)	
Acid-free paper	144
Appellate division reports distribution to Cherokee Supreme Court	280
Building codes	141
Child support enforcement pilot performance report	424(21.53b)
Distribution study	513(16e)
Executive orders to be included in Session Laws publication	513(16d)
Internet use for agency publications	424(14.1a)–(14.1b)
North Carolina Manual distribution	424(14F.1)
Printing cost reductions study	491(15.1)
Reports to be printed on both sides of paper	144
Session Laws and House and Senate Journals distribution	513(16a)–(16c)
Pungo River—snagging funds	424(33.3a)–(33.3b)
Purchasing—see Contracts and Purchasing	

- R -

Radiation Protection Commission —technical corrections	
and conforming changes.....	474(6)
Radioactive Materials (<i>see also</i> Hazardous Substances; Waste Management)	
Technical corrections and conforming changes.....	474(2)–(6), (16)–(17), (36)
Weapons of mass destruction	470
Railroad Study Commission — <i>see</i> Future of the North Carolina Railroad Study Commission	
Railroads	
Funds and Accounts	424(3.1)
Piedmont area commuter rail line study	491(5.1)
Rail track and signal improvement funds	487(115a)–(115b)
Railroad bridge placement project planning and preliminary engineering funds.....	424(27.29); 487(115a)–(115b)
Virginia-North Carolina Interstate High-Speed Rail Commission created.....	266
Western rail operations and station right-of-way funds.....	424(27.5a)–(27.5c)
Raleigh, City of	
ABC Complex sign change	424(20.20)
Clear cutting and development growth management in the City of Raleigh study.....	491(2.1)
Dorothea Dix Hospital replacement facility	424(21.63a)–(21.63e)
North Carolina State University — <i>see</i> University of North Carolina	
Randolph County	
Archdale, City of — <i>see</i> that heading	
TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)
Trinity, City of — <i>see</i> that heading	
Rape — <i>see</i> Crimes	
Rate Bureau —motorcycle insurance rate setting	389
Real Estate (<i>see also</i> Buildings; Property)	
Acquisition of property by Electrical Contractors Board	159(1)
Affidavit for permanent attachment of manufactured home to real property	506(3)
Appraiser licensure.....	399
Auctioneers Commission acquisition	198(3)
Beach plan loss adjustment reimbursements	421(4.1)–(4.2)
Burlington private sale	190(4)
Charlotte/Mecklenburg permanent property line markers	187
Condemnation — <i>see</i> Eminent Domain	
Corporate name provisions consolidation	358(12)–(41)
Declaration of intent to affix manufactured home to real property	506(3)
Declaration of right-of-way dedicated to public use.....	501
Disbursal by agricultural credit association or mortgage banker check.....	420
Disposal of certain property by community college boards	82
Eminent domain — <i>see</i> that heading	

Index to Session Laws

Session Law
Number

Real Estate—continued

Execution sales modification.....	271(11)–(18)
Fairmont private sale.....	2
Good Funds Settlement Act.....	420
Indian Cultural Center lease.....	89
Judicial sales modification.....	271(1)–(10)
Kernersville private sale.....	80
Land transfer tax distribution in Dare County.....	394(6)
Land use restrictions for petroleum underground storage tank cleanup.....	384
Maintenance of historic properties and landmarks in Durham.....	382(1)
Manufactured home qualification as real property.....	506(1)
Monroe property acquisition and conveyance to county.....	190(1)–(3)
Montgomery County airport leases.....	485(3.1a)–(3.1b)
Nags Head town-owned lands use.....	35
Pass-through distribution of partnership income tax credits.....	335
Payment of travel agents to procure potential vacation renters.....	293
Pharmacy Board acquisition of real property.....	407
Plumbing, Heating and Fire Sprinkler Contractors Board acquisition.....	270(1)
Present-use value amendments.....	499(1)–(2)
Private property designated as public vehicular area.....	441
Property acquisition by certain county education boards.....	76; 427(7a)–(7b)
Property tax — <i>see</i> Taxes and Assessments	
Property tax study.....	499(3d)
Public health nuisance liens.....	448
Technical corrections and conforming changes.....	487(23a)–(23m)
Tribal trust lands.....	344
Wilkes County property conveyance to Mountain View Medical Center.....	58
Yadkin County convey certain property.....	31

Real Estate Commission

Payment of travel agents to procure potential vacation renters.....	293
Technical corrections and conforming changes.....	487(23a)–(23m)

Reapportionment—*see* Redistricting

Recordation of Instruments—*see* Records; Register of Deeds

Records

Adoption records.....	150(12)
Advanced health care directive registry established.....	455(1)–(6); 513(30a)–(30b)
Blank/master forms of mortgages.....	390(4)
Child support payment records are admissible evidence.....	237(7)
Child welfare changes.....	208
Competitive health care information confidentiality.....	516(5)
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60d)
Computerization of records for Internet access.....	513(27)
Conference of District Attorneys victims' information repository repealed.....	302

Records—continued

Confidentiality —*see* Privacy

Contract reimbursement rates for medical services not
public record.....516(4)

Criminal records

 Auctioneers criminal history check fees198(1)

 Centralize HHS functions424(21.2)

 Check by area mental health authority 155

 History checks for certain long-term care facilities
 suspended 465(1a)–(2b)

 History records checks study465(3a)

 Nurses licensure371

 Records checks fee increase feasibility study424(23.5b)

 Records checks report by Justice Department for
 concealed handgun permits424(23.5a)

 School personnel criminal history checks376

 Sex offender registration compliance with federal law373

Electronic distribution of Auditor's reports 424(9.1a)–(9.1b)

Electronic notification to shareholder.....387(6)

Electronic signature on shareholder proxy387(14)

Eliminate duplicative and unnecessary paperwork in
public schools..... 151

Expungement of DNA records282(1)–(3)

Expungement of records for those unlawfully charged
due to identity theft 108

Fraudulent filings under Article 9 of UCC231

Insurance Dept. sharing of information..... 180; 215

Marriage license changes 62

Mortgage brokers and bankers 393

Open Meetings Law exemption for certain public use
project financing corporations.....84(4)

Optical disk storage for certain records 519(7)–(8)

Oral communication not electronic record295(5)

Payment of delinquent tax prior to recording deeds for
certain counties.....464; 513(14)

Privacy —*see* that heading

Procedure to assert right of access to judicial records 516(1)–(2)

Public enterprise billing information not public record..... 473

Public security information not public record516(3)

Registration of instruments390(5)

Retention, reproduction and admissibility of Employment
Security Commission records..... 115

Right-of-way plan fees390(6)

School emergency response plans for school violence
confidential..... 500(2)–(3)

Search fee for nonresidents 427(3a)–(3b)

Services fees for Register of Deeds..... 390(1), (3)

Superintendents' authority for expunction of student records..... 195

Technical corrections and conforming changes.....215(2); 387(1)

Uniform Electronic Transactions Act..... 295

Records—continued

- Validation of certain notary acts..... 154
- Voter records under domestic violence protective orders..... 396
- Voting data maintained by precinct.....466(2)

Recreation and Leisure

- Dare County ocean regulation authority..... 52
- Low-speed vehicles 356
- Recreational vehicle definition and size limits 341

Recycling—*see* Conservation; Waste Management

Redistricting

- Congressional districts 471; 479
- House districts..... 459
- Postpone 2002 primary election 466(1b), (1e)
- Postponement of 2002 filing period and primaries rules 466(1c), (1d)
- Senatorial districts 458
- Technical corrections and conforming changes..... 487(77), (121.5)

Referendums and Initiatives—*see* Elections

Regional Economic Development Commission, Northeastern North Carolina

- Appointments and membership.....486(1.33), (1A.43a),
(1A.43b)
- Appropriations..... 424(20.10a)–(20.10b)
- Reports —*see* that heading

Regional Economic Development Commission, Southeastern North Carolina

- Appointments and membership..... 486(1.50), (1A.44)
- Appropriations..... 424(20.10a)–(20.10b)
- Reports —*see* that heading

Regional Economic Development Commission, Western North Carolina

- Appointments and membership..... 486(1.58), (1A.61)
- Appointments made —*see* Appointments
- Appropriations..... 424(20.10a)–(20.10b)
- Consolidation of Business and Industry Division offices with Regional Economic
Development Division offices study424(20.5)
- Reports —*see* that heading

Register of Deeds

- Accelerated payment of excise tax on conveyances 427(14a)–(14b)
- Automation Enhancement and Preservation Fund.....390(2)
- Blank/master forms of mortgages390(4)
- Declaration of intent to affix manufactured home to real
property506(3)
- Issuance of marriage licenses62(8)
- Land use restrictions for petroleum underground storage
tank cleanup 384
- Payment of delinquent tax prior to recording deeds for
certain counties.....464; 513(14)
- Registration of instruments390(5)
- Right-of-way plan fees390(6)
- Services fees..... 390(1), (3)
- Settlement funds disbursal by agricultural credit association
or mortgage banker check 420
- Technical corrections and conforming changes.....487(83)

Index to Session Laws

Session Law
Number

Registries—*see* Data Systems

Religion

- Positive Racial, Ethnic, and Faith Relations
 - Commission created 491(6.1)–(6.7)
- Ten commandments/historic documents display
 - on school property.....363(2d)

Remote Learning—*see* Distance Learning

Rennert, Town of—mayor's term..... 3

Rentals—*see* Sales and Leasing

Reports

- Administration, Department of
 - Bid procedure and purchase report on reusable and more durable supplies.....452(3.3)
 - Inmate prescription contract review424(25.6b)
 - Surplus property guidelines for UNC.....424(31.8)
 - Triangle J guidelines for State facilities pilot program415(7e)
- Administrative Office of the Courts (AOC)
 - Access to civil justice funds.....424(22.14i)
 - Business Court statistics.....424(22.5)
 - Litter enforcement, prevention, and removal report.....512(9)–(10)
- Administrative Procedure Oversight Committee, Joint Legislative
 - Administrative Procedure Act applicability to Federal Tax Reform Allocation Committee and Housing Finance Agency study.....491(20.1)
- Agency recycled materials use contract specifications report change.....452(3.6)
- Agricultural Finance Authority
 - Rural Rehabilitation Corporation transfer424(17.2c)
- Agriculture and Consumer Services, Department of
 - Center for Turfgrass Environmental Research and Education funds.....514(2c)
- Alcoholic Beverage Control Study Commission, Legislative491(4.12)
- Association of Community Development Corporations
 - Reporting requirements.....424(20.14a)–(20.14b)
- Attorney General
 - Pending lawsuits424(23.11a)–(23.11b)
- Banking Commission, State
 - State-chartered banks and savings institutions regulation study.....193(19)
- Biotechnology Center
 - Audited financial statement424(20.7c)
 - Budget, personnel, and salary report for biennium
 - budget requests.....424(20.7d)
 - Expenditures and accomplishments424(20.7c)
- Budget and Management, Office of State
 - AOC information technology network costs study424(15.4e)
 - Computer networking costs definition424(15.4a)–(15.4b)
 - Criminal records checks fee increase feasibility study.....424(23.5b)
 - Excess Salary Adjustment Fund funds for approved reclassified positions424(32.19b)

Index to Session Laws

*Session Law
Number*

Reports—continued

HIPAA	
Actual and proposed expenditures	424(6.11e)
Strategic plan	424(6.11d)
HIPAA strategic plan	513(8)
Information technology contractor use by State	
agencies study	424(15.5d)
Motor fleet management study.....	424(7.3)
Personal service contracts reporting requirement.....	424(6.19b)
Quarterly appropriations allotment report.....	424(6.1a)
Repairs and Renovations Reserve Account expenditures	424(33.6)
Salary adjustment reserves transfer.....	424(6.4)
State aircraft use.....	424(6.12)
State funds used as federal matching funds.....	424(24.4)
Coalition of Farm and Rural Families	
Reporting requirements.....	424(20.14a)–(20.14b)
Commerce, Department of	
Civil War tourism study.....	424(11.2c)
Community development block grant administrators training study.....	395(8f); 424(5.2f)
Consolidation of Business and Industry Division offices with Regional Economic Development Division	
offices study	424(20.5)
Industrial Recruitment Competitive Fund.....	424(20.3b)
William S. Lee Act requirements.....	476(2a)
Working group to promote federal DoD contracts.....	13
Communities In Schools	
Annual reporting requirement	424(24.3c)
Community Colleges, State Board of	
Global TransPark education and training center	
transfer study.....	424(27.20)
Human Resources Development Program reorganization.....	424(30.3d)
JobLink Career Centers and human resources development	
services delivery integration study	424(30.3c)
Community Colleges System Office	
Apprenticeship program organization plans.....	424(30.10b)
Bureau of Training Initiatives program organization plan	424(30.10a)
Community Development Initiative	
Reporting requirements.....	424(20.14a)–(20.14b)
Correction, Department of	
Closed prison facilities use plan.....	424(25.5)
Federal grant matching funds.....	424(25.7)
Federal grants reporting requirement	424(25.2)
Funds transfers for prisoner road crews	424(25.11e)
IMPACT boot camp program	
Elimination	424(25.22c)
Funding reduction.....	424(25.22b)
Inmate food and health costs.....	424(25.6a)
Inmate health care contracting	424(25.23b)

Index to Session Laws

*Session Law
Number*

Reports—continued

Inmate prescriptions	
Contract review	424(25.6b)
Costs	424(25.6b)
Inmate road crews	424(25.11d)
Litter enforcement, prevention, and removal report.....	512(9)–(10)
nonprofit programs reports.....	424(25.18a)–(25.18d)
Prisoners awaiting transfer to State system	
county reimbursement	424(25.4)
Probation and parole caseload.....	424(25.20)
Seized and forfeited property transferred to State by	
Federal Government.....	424(23.1a)–(23.1b)
State-County Criminal Justice Partnership Program	
status report	424(25.16d)
Crime Commission, Governor's	
State funds used as federal matching funds.....	424(24.4)
Crime Control and Public Safety, Department of	
Federal grants reporting requirement	424(25.2)
Litter enforcement, prevention, and removal report.....	512(9)–(10)
Seized and forfeited property transferred to State by	
Federal Government.....	424(23.1a)–(23.1b)
Tarheel Challenge Program annual evaluation.....	424(26.2)
Terrorism funds.....	457
Victims assistance network expenditures.....	424(26.4)
Crime Victims Compensation Commission	
Crime Victims Compensation Fund revision	424(26.5)
Criminal Justice Information Network Governing Board	
Report requirement	424(23.6a)
Cultural Resources, Department of	
Civil War tourism study.....	424(11.2c)
WISEOWL web site subscriptions funds utilization.....	424(28.40b)
Education Assistance Authority	
Private institution contracts to aid students.....	424(31.1b)
Education, Boards of (local)	
Class size reduction.....	395(15c)
Instructional supplies funds	424(28.39b)
Education Oversight Committee, Joint Legislative	
Board of Education advisory members study.....	491(8.1)
Children with disabilities law study	424(28.29b)
Classroom experience for school personnel study	491(8.1)
Community college faculty salary discrepancies study.....	424(30.8)
Community colleges study.....	491(8.1)
Extracurricular activity participation by nonpublic	
students study	491(8.1)
Halifax Community College service area study.....	491(8.1)
Health care personnel education study.....	491(8.1)
High priority school assistance study.....	491(8.1)
Higher education residency requirements study.....	491(8.1)
Low-wealth school funding formula review	491(8.1)

Index to Session Laws

*Session Law
Number*

Reports—continued

Management flexibility for special responsibility UNC constituent institutions expansion study	424(31.11c)
Meeting the needs of students with disabilities study	491(8.1)
Nutrition in public schools study	491(8.1)
Part-time teacher benefits to address teacher shortage study	424(29.2c)
Performance-based teacher licensure program study	491(8.1)
Prescription of ADD/ADHD drugs to children study	491(8.1)
Professional teacher development studies	424(31.4d)
Residential charter schools study	491(8.1)
School food service workers/custodians' salaries	424(28.34)
School instructional personnel/support personnel salary differential study	424(28.37a)–(28.37b)
Schoolwork of suspended students study	491(8.1)
Science, math and technology education study	491(8.1)
Speech and language pathology caseloads and severity rating scales study	491(8.1)
State testing program study	424(28.17i)
Teaching personal financial literacy study	491(8.1)
Tuition rates for noncitizen immigrant students study	491(8.1)
Education, State Board of	
Analysis and recommendations of statewide student accountability standards resources	424(28.17a)
Closing the achievement gap	424(28.30b)
Dropout rates, suspensions, expulsions and alternative placements	424(28.30f)
High priority schools assistance initiatives evaluation	424(29.6d)
Mentor funds for full-time mentors pilot program	424(28.18b)
Professional development ongoing study	424(31.4a)
School recycling efforts report	512(11)
Small school system supplemental funding	424(28.7e)–(28.7f)
Statewide testing program objectives	424(28.17j)
Supplemental funding in low-wealth counties	424(28.6i)
Support programs for initially certified teachers effectiveness study	424(28.19a)
Test copies to parents benefits study	424(28.17d)
Textbook distribution system study RFP	424(28.24)
Election Laws Revision Commission	
APA exemption for State Board of Elections study	491(32.6)
Election laws study	491(32.6)
Preference voting and instant second primaries study	491(32.6)
Public funding of campaigns study	491(32.6)
Employment Security Commission	
Common follow-up evaluation	424(20.17b)
Energy for Committed Offenders	
Cost and effectiveness	424(25.10)
Environment and Natural Resources, Department of (DENR)	
Animal operations inspection pilot program deadlines extended	254(6)

Index to Session Laws

*Session Law
Number*

Reports—continued

Catawba-Wateree river basin water quality and water supply issues study	491(16.1)
Division of Radiation Protection self-sufficiency plan	424(19.7)
Environmental permitting process study	424(19.11c)
Fish kill response protocols report change	452(2.8)
Fishery Management Plan report change	452(2.1)
Litter enforcement, prevention, and removal report	512(9)–(10)
One Million Acres report change	452(2.2)
One-stop environmental permit application pilot program	424(19.6b)
Performance-based cleanups of underground petroleum tank discharges	442(7)
Permitting program costs report change	452(2.4)
Scrap Tire Disposal Act implementation report change	452(3.4)
Sedimentation program transfer to local governments feasibility study	424(19.8)
Senior field officers reclassification	424(19.10)
Solid Waste Management Plan report change	452(3.1)–(3.2)
Submerged lands program manager appointment	424(19.9)
Wastewater Discharge Elimination Program annual report	452(2.9)
Water resources development projects funds	424(33.3c)
Water supply plan implementation report	452(2.7)
White goods management	265(5); 452(3.5)
Environmental Management Commission	
Municipal and domestic wastewater collection system permit program report	452(2.6)
Environmental Review Commission	
Abandoned mobile homes study	491(14.1)
Alternative energy sources study	491(14.1)
Expanding land and water conservation options study	491(14.1)
Inactive hazardous sites report change	452(2.3)
Interconnection of public water systems study	491(14.1)
Leaking petroleum underground storage tank programs evaluation	454(2)
Local health director appointments study	491(14.1)
Public trust and estuarine waters buffer variances study	494(5)
Stormwater programs and policies study	491(14.1)
Vehicle emission inspection and maintenance program review	504(20)
Forsyth Technical Community College Stokes County satellite campus study	59
General Statutes Commission	
Chapter 20 (Motor Vehicle Act) consolidation study	491(26.1)
Global TransPark Development Commission	
Accomplishments and expenditures report requirement	424(20.11a)–(20.11b)
Governmental Operations, Joint Legislative Commission on Printing cost reductions study	491(15.1)
Governor	
Budgeting pilot programs	424(6.8b)

Index to Session Laws

*Session Law
Number*

Reports—continued

Terrorism funds.....	457(2)
Harriet's House	
Expenditures	424(25.18a)
Health and Human Services, Department of (DHHS).....	513(17)
Acute and long-term care Medicaid services report.....	424(21.19q)
Adolescent parenting program	424(21.99c)
Adult care homes	
Model for community-based services	424(21.54b)
Population delineation study.....	385(1h)
Population study	234(4)
Quality of care assessment instrument.....	482
Reimbursement rates implementation plan.....	424(21.7a)
Reward for quality study	385(1b)
Special care unit costs and reimbursement	157
Special care units reimbursement study.....	385(1g)
After-school services for at-risk children	
Expansion	395(2.1r)
Position.....	424(5.1r)
AIDS campaign coordination with agency programs.....	424(5.1z)
AIDS Drug Assistance Program (ADAP) utilization	424(21.90c)
Area Agencies on Aging cost savings study	424(21.32a)
Cabarrus Work Over Welfare program extended.....	354
Catchment area consolidation plan	437(3a)
Child care allocation formula study	424(21.69d)
Child support enforcement pilot enhancement.....	424(21.53d)
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60g), (21.60h); 513(17)
Consolidation of mental health consumer advocacy and ombudsmen programs study.....	437(3c)
Consumer Advocacy Program	437(3a)
Contracting for services feasibility for State Laboratory	424(21.92d)
Cost-containment and growth reduction plans	424(21.24d)
Criminal record check functions centralization.....	424(21.2)
Domestic violence	
Prevention and awareness.....	395(2.1y); 424(5.1y)
Services for Work First families fund utilization.....	424(5.1q)
Services funds for Work First families utilization and allocation.....	395(2.1q)
Dorothea Dix Hospital replacement facility.....	424(21.63d), (21.63e)
Drug company drug program access.....	424(21.6d); 513(20)
Early Childhood Education and Development Initiatives	
expenditures and activities	424(21.75k)
Early intervention system evaluation	424(21.85d)
Family resource centers	
Activities	424(21.48e)
Evaluation.....	424(21.48f)
Health care disparities elimination study	491(23.1)

Index to Session Laws

*Session Law
Number*

Reports—continued

HIV/AIDS	
Awareness and education	395(2.1z)
Prevention initiative.....	424(21.18Dd)
Home and community-based Medicaid waiver.....	424(21.28A)
Infant mortality and birth defects activities inventory.....	424(21.94)
Intensive Family Preservation Services Program	
enhancements	424(21.50e)
Intensive home visiting program participation.....	424(21.97b)
Long-term care	
Continuum of care system	424(21.9c)
Local lead agency study.....	491(22.1)
Maternity home services comparison to other available	
services.....	424(21.45)
Medicaid	
Cost-containment and growth reduction	395(3d)
Optional services study.....	424(21.28b)
Pharmacy management plan	395(5c)
Program changes	424(21.19u)
Program management	424(21.26c)
Mental Health Division	
Functional area consolidation feasibility study.....	424(21.64c)
Reorganization.....	424(21.64c)
Mental health system reform.....	437(3a)
Mental retardation centers	
Closure.....	424(21.62d)
Downsizing	424(21.67b)
Transition plan.....	424(21.62c)
MHDDSAS	
Authorities administrative cost reduction	424(21.65b)
State plan	437(3a)
More At Four pilot program.....	424(21.76Bg)
Multiply-diagnosed adults services.....	424(21.66d); 513(18)
Newborn screenings program	424(21.96)
Office of Policy and Planning created.....	424(21.14c)
Organ, eye and tissue donor registry study	481(1)
Prescription drug assistance program management	424(21.3c)
Psychotropic medication use by children database	
feasibility.....	124
Public Health Division reorganization	424(21.91c)
Public health educator positions consolidation	
feasibility.....	424(21.91Ac)
Public health nurse consultants consolidation	
feasibility.....	424(21.91Ac)
Quality Improvement Consultation Program	385(1d)
Reduction of county share of Special Assistance	
study	385(1f)
Regional office consolidation	424(21.1a), (21.1c)
Residential schools for the deaf	424(21.82c)

Index to Session Laws

*Session Law
Number*

Reports—continued

Residential substance abuse services for women with children.....	395(2.1o); 424(5.1o)
Skilled Nursing Facility Quality Improvement Consultation Program.....	385(2a)
Special assistance in-home care demonstration project	424(21.29b)
Special Needs Adoption Incentive Fund	424(21.42d)
State Adult Day Care Fund slot allocation methodology	424(21.47)
State Laboratory	
Equipment replacement schedule	424(21.92d)
Fees assessment	424(21.92d)
State psychiatric hospital bed allocation plan	424(21.68A)
Student Information Management Program improvement and evaluation	424(21.84a)
Teen pregnancy prevention program.....	424(21.99c)
Toll-free line inventory and consolidation feasibility study	424(21.5b)
Vocational rehabilitation and independent living services eligibility	424(21.78d)
Wake County office inventory	424(21.1b)–(21.1c)
Whitaker School transition of students to alternative facilities	424(21.61a)
Work First evaluation	395(2.1g); 424(5.1g)
Health and Wellness Trust Fund Commission	
Prescription drug initiatives grant funds	424(21.100)
Health Care Oversight Committee, Joint Legislative	
County share of Medicaid costs study.....	491(10.1)
Long-term care aide workforce issues study	491(10.1)
Medical services for persons with disabilities study	491(10.1)
Prescription drugs study.....	491(10.1)
Heart Disease and Stroke Prevention Task Force	
Extended	424(21.95)
Highway Trust Fund Study Committee	
Highway Trust Fund study.....	424(27.6k)
House Select Committee on Various Environmental Rules	
Environmental rules study	491(25.4)
Improving the Academic Achievement of Minority and At-Risk Students, Commission on	
Fiscal resources needed to close academic achievement gap.....	424(28.30h)
Report extended	424(28.30h)
Indigent Defense Services, Office of	
Annual reporting requirement	424(22.12)
Contracts for provision of temporary court personnel.....	424(22.11g)
New staff positions	424(22.13c)
Transfer of funds from Judicial Department	424(22.9)
Information Technology, Joint Select Committee on	
Electronic commerce privacy and security study	491(12.2)
Information technology contractor conversion to State employee pilot program feasibility study	424(15.5e)

Index to Session Laws

*Session Law
Number*

Reports—continued

Information Technology Services, Office of	
Computer networking costs definition	424(15.4a)–(15.4b)
Information technology contractor use by State	
agencies study	424(15.5d)
Security standards for State information technology	424(15.2b)
Institute for Minority Economic Development	
Reporting requirements	424(20.14a)–(20.14b)
Insurance, Department of	
Motorcycle insurance rate setting	389(5.1)
John Hyman Foundation	
Expenditures and effectiveness	424(25.18d)
Judicial Department	
Collection of Worthless Checks Fund use of	
remaining balance	424(22.7)
Federal grants reporting requirement	424(25.2)
Sentencing services	424(22.3)
Transfer of funds to Indigent Defense Services	424(22.9)
Unnecessary and obsolete reports repealed	424(22.6a)–(22.6c)
Justice, Department of	
Federal grants reporting requirement	424(25.2)
Records checks for concealed handgun permits	424(23.5a)
Seized and forfeited property transferred to State	
by Federal Government	424(23.1a)–(23.1b)
Juvenile Justice and Delinquency Prevention, Department of	
Alternative learning programs for short-term	
suspension	178
Community programs annual evaluation	424(24.5)
Comprehensive treatment services program for	
children at risk for institutionalization	424(21.60g); 513(17)
Federal grants reporting requirement	424(25.2)
Juvenile assessment center effectiveness	424(24.3b)
Juvenile Crime Prevention Councils	
Effectiveness standards development	424(24.2c)
Grants	424(24.2a)
Psychotropic medication use by children database	
feasibility	124
State funds used as federal matching funds	424(24.4)
Youth development centers long-range plan	424(24.9)
Juvenile Justice Institute	
DARE program review	424(23.9b)
Land Loss Prevention Project	
Reporting requirements	424(20.14a)–(20.14b)
Legislative Research Commission	
Advertising inserts in DMV mailings study	513(31)
Agricultural contracts enhancing fairness study	491(2.3)
Agricultural operations conversion funding mechanics	
study	491(2.3)
Bail bondsmen study	491(2.3)
Beach and coastal area insurance availability study	491(2.3)

Index to Session Laws

*Session Law
Number*

Reports—continued

Beverage container deposits study	491(2.3)
Bioterrorism preparedness study.....	491(2.3)
Cellular phone use in vehicles study	491(2.3)
Certification of minority business for public construction study	496(13.2)
Child abuse and neglect in child care facilities study.....	491(2.3)
Clear cutting and development growth management in the City of Raleigh study.....	491(2.3)
Consumer contract mandatory arbitration provisions study.....	491(2.3)
County appeals of juvenile court orders study	491(2.3)
Criminal history records checks study	465(3a)
Cumberland dam/reservoir/state park study.....	491(2.3)
Definition of "child" in Veterans' Scholarship Program study	491(2.3)
Domestic violence	
Fatality review team study.....	491(2.3)
Victims confidentiality program study	491(2.3)
Early retirement for State employees and law enforcement officers study.....	491(2.3)
Efficient location of State offices study	491(2.1)
Employment security study.....	491(2.3)
Firefighter and rescue squad worker retirement issues study.....	491(2.3)
Government tort claims study.....	491(2.3)
Health insurance mandates	
Moratorium study	491(2.3)
Study.....	453(2)
High-risk health insurance pools study	491(2.3)
Highway Patrol special event services compensation study.....	491(2.3)
Improving performance of students in juvenile facilities study.....	491(2.3)
Juvenile commitment procedures study	491(2.3)
Juveniles without capacity to proceed study	491(2.3)
Law enforcement agency consolidation study	491(2.3)
Licensed Psychological Associates (Masters level psychologists) study	491(2.3)
Living income for citizens study.....	491(2.3)
Long-term care facilities, hospitals, and physicians liability insurance study.....	491(2.3)
Motor vehicle glass repairs steering and incentives study.....	491(2.3)
Motor vehicle insurers/no mandates/nonoriginal crash parts study	491(2.3)
Naturopathy study.....	491(2.3)
Nonbetterment utility relocation in highway construction study	424(27.26)
North Carolina Portrait Gallery Commission establishment study	491(2.3)
Post-towing procedures study	491(2.3)
Predatory lending laws effectiveness study.....	393(8)
Primary election date study.....	491(2.3)

Index to Session Laws

*Session Law
Number*

Reports—continued

Public health services in tier 1 counties study.....	491(2.3)
Relationship between professions of landscape architecture and engineering study.....	496(12.1c)
Safety measures in State building code study	491(2.3)
School violence threats reporting study	491(2.3)
State energy program and alternative energy conservation project financing agreements study	491(2.3)
State Medical Examiner system study	491(2.3)
State Personnel Office restructuring study.....	491(2.3)
State personnel system study	491(2.3)
State purchasing and procurement process study.....	491(2.3)
Tourism industry economic impact study	491(2.3)
Traffic control photographic systems use study.....	491(2.3)
UNC municipal services costs payments study.....	491(2.3)
Uninsured motorist coverage study.....	491(2.3)
Visitor safety in State parks study.....	491(2.3)
Workers' compensation insurance classifications study.....	491(2.3)
Wrongful death proceeds distribution study	491(2.3)
Zero-based budgeting study	491(2.3)
Legislative Services Commission	
General Assembly Complex security survey study.....	491(27.1)
State publications distribution study	513(16e)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Commission for	
Date rape drug analogues study	491(19.2)
Mental Health, Developmental Disabilities, and Substance Abuse Services, Joint Legislative Oversight Committee on	
State funding to counties and area authorities study	437(3d)
Military Affairs, Advisory Commission On	
Economic impact of military activities study.....	424(12.1)
Minority Support Center	
Reporting requirements.....	424(20.14a)–(20.14b)
More At Four Pre-K Task Force	
More At Four pilot program.....	424(21.76Bg)
Neuse River modeling and monitoring project report	452(2.5)
Office of Historically Underutilized Businesses	
Quarterly reports	424(7.9)
Opportunities Industrialization Centers	
Accomplishments and expenditures report requirement	424(20.16b)–(20.16c)
Optional Retirement Program Study Commission	
Optional retirement programs study.....	424(32.24Ad)
Partnership for Children, Inc.	
Early Childhood Education and Development Initiatives.....	424(21.75h)–(21.75i), (21.75k)
Partnership for the Sounds	
Reporting requirements.....	424(20.14a)–(20.14b)

Index to Session Laws

*Session Law
Number*

Reports—continued

Patentable intellectual property	
Development loans/grants reporting requirement	424(15.1a)–(15.1b)
Transfers reporting requirement.....	424(15.1a)–(15.1b)
Personal service contracts reporting requirement.....	424(6.19a)–(6.19b)
Piedmont Triad Partnership	
Accomplishments and expenditures report requirement	424(20.11a)–(20.11b)
Positive Racial, Ethnic, and Faith Relations, Commission on	
Reporting requirements.....	491(6.6)
Post-Release Supervision and Parole Commission	
Inmates eligible for parole	424(25.21)
Staff reorganization and reduction	424(25.17)
Project Challenge North Carolina	
Annual reporting requirement	424(24.3a)
Property Tax Study Commission.....	499(3d)
Public Health Study Commission	
Hepatitis impact study.....	491(28.1)
HIV/AIDS prevention and care programs study	491(28.1)
Rape victims and health care workers at risk for HIV infection study	491(28.1)
Public Instruction, Department of	
Alternative learning programs for short-term suspension	178
Base budget reduction position transfer and reclassification flexibility	424(28.38)
Comprehensive treatment services program for children at risk for institutionalization.....	424(21.60g); 513(17)
Instructional supplies funds	424(28.39b)
More At Four pilot program.....	424(21.76Bg)
WISEOWL web site subscriptions funds utilization.....	424(28.40b)
REAL Enterprises	
Accomplishments and expenditures report requirement	424(20.9a)–(20.9b)
Regional councils of government	
Accomplishments and expenditures report requirement	424(20.12f)
Regional Economic Development Commission, Northeastern North Carolina	
Accomplishments and expenditures report requirement.....	424(20.11a)–(20.11b)
Regional Economic Development Commission, Southeastern North Carolina	
Accomplishments and expenditures report requirement.....	424(20.11a)–(20.11b)
Regional Economic Development Commission, Western North Carolina	
Accomplishments and expenditures report requirement.....	424(20.11a)–(20.11b)
Research Triangle Regional Commission	
Accomplishments and expenditures report requirement.....	424(20.11a)–(20.11b)
Revenue, Department of	
Business and energy credits	414(11)

Index to Session Laws

*Session Law
Number*

Reports—continued

Escheats reporting requirement.....	414(26)
Overdue tax collections contract request for proposal	424(14D.2)
Review of accelerated tax payments	427(6g)
Supplemental funding in low-wealth counties revenue reports.....	424(28.6j)
Tax fraud prevention and tax law compliance monitoring.....	327(4)
Telecommunications tax collection simplification.....	430(15)
Video poker reporting requirement.....	414(26)
Revenue Laws Study Committee	
Credit card solicitation study	491(9.1)
Electric power company reporting requirements and franchise tax distribution study	427(6h)
Electricity rate structure for manufacturers study	476(15a)–(15b)
Piped natural gas rate structure for manufacturers study.....	476(15c)
Tax apportionment formula study	491(9.1)
Tax law compliance study.....	491(9.1)
Travel and tourism capital incentive grants study	491(9.1)
Rural Economic Development Center	
Accomplishments and expenditures report requirement	424(20.15g)
Budget, personnel, and salary report.....	424(20.15b)
Clean water bonds.....	416(7b)
Science and Technology, Board of	
State developed intellectual property transfer and use	424(15.1e)
Second degree arson penalty study.....	491(21.1)
Secretary of State	
Notary Public Act study.....	450(4)
Qualified business ventures	414(12)
Sentencing and Policy Advisory Commission	
Detonation of explosive devices penalties study.....	491(21.1)
Drug offenses study	491(21.1)
Habitual felon law study	491(21.1)
Incest penalty study.....	491(7.2)
Structured sentencing study	424(25.8b)
State Controller	
Computer networking costs definition	424(15.4a)–(15.4b)
Financial business infrastructure study	491(17.3)
Information technology contractor use by State agencies study	424(15.5d)
Overpayments revenue deposits and disbursements	424(10.1c)
State Highway Patrol	
Revenues and expenditures reporting requirement	424(27.25)
State Personnel, Office of	
Information technology contractor use by State agencies study	424(15.5d)
Information technology personnel categories	424(15.4c)
Personal service contracts reporting requirement.....	424(6.19b)
State reports to be printed on both sides of paper.....	144
State Treasurer	
Actuarial services efficiency	424(32.26)

Index to Session Laws

*Session Law
Number*

Reports—continued

Cash-flow management evaluation for Transportation Department.....	424(27.23c)
Summit House Expenditures	424(25.18b)
Technological Development Authority Accomplishments and expenditures report requirement ...	424(20.9a)–(20.9b)
Transportation, Department of Bid procedure and purchase report on reusable and more durable supplies.....	452(3.3)
Cash-flow management evaluation	424(27.23c)
Charlotte downtown intermodal station status	424(27.7)
Design-build transportation construction contracts	424(27.2a)–(27.2b)
Drivers license/motor vehicle registration section consolidation study.....	424(27.14)
Drivers license technology fund.....	461(4)
Funds transfers for prisoner road crews	424(25.11e)
Global TransPark airport assets transfer study	424(27.19)
Highway Trust Fund transfer of funds for certain projects	424(27.23f)
Incentive pay productivity pilot program for Transportation Department.....	424(27.22A)
Inmate road crews	424(25.11d)
Litter enforcement, prevention, and removal report.....	512(9)–(10)
Norfolk Southern track use negotiations for Western passenger rail service	424(27.5a), (27.5c)
Piedmont area commuter rail line study.....	491(5.1)
Recycled materials use contract specifications report change.....	452(3.6)
Small urban and contingency funds	424(27.3)
Western passenger rail service engineering infrastructure	424(27.5a)
Western rail operations and station right-of-way funds	424(27.5a)–(27.5c)
Transportation Oversight Committee, Joint Legislative Commission contract agent study	491(13.1)
Nonbetterment relocation costs study	491(13.1)
Substandard subdivision roads study	491(13.1)
Transportation funding equity study	491(13.1)
Vehicle registration requirements compliance study.....	491(13.1)
Vehicle safety inspection program study	504(21)
UNC Board of Governors Academic Common Market pilot program	424(31.2c)
Center for Turfgrass Environmental Research and Education funds.....	514(2c)
Dentistry school at ECU feasibility study	424(31.10d)
Engineering school at Western Carolina and UNC-Asheville feasibility study	424(31.10d)
Fayetteville State stadium study.....	491(24.1)
Overhead receipts.....	424(31.14)
Pharmacy school at ECSU feasibility study.....	424(31.10c)
Repairs and Renovations Reserve Account expenditures	424(33.6)
Surplus property guidelines for UNC.....	424(31.8)
Teacher Assistant Scholarship Fund criteria	424(31.5a)

Reports—continued

Teacher education through distance learning	424(31.7b)
University admissions and placement measures study	312(1a)–(1c)
UNC Board of Governors Study Commission	491(31.2)
Underage Drinking Study Commission	
Underage drinking study	491(11.12)
Utility Review Committee, Joint Legislative	
911 funds study	491(30.1)
Air quality improvement study	491(30.2)
Virginia-North Carolina Interstate High-Speed Rail Commission	266(4)
Wake County Board of Education	
Prequalified bidders for school construction	44
Water Quality Workgroup	
Annual report requirement	424(19.5)
Wildlife Resources Commission	
Litter enforcement, prevention, and removal report	512(9)–(10)
Women at Risk	
Expenditures and effectiveness	424(25.18c)
World Trade Center North Carolina	
Accomplishments and expenditures report requirement ...	424(20.9a)–(20.9b)
Yadkin/Pee Dee Lakes Projects	
Accomplishments and expenditures report requirement ...	424(20.9a)–(20.9b)

Research Triangle Regional Commission

Appropriations	424(20.10a)–(20.10b)
Reports —see that heading	

Residency—see Immigration and Citizenship

Respiratory Care Board

Appointments and membership	163(2)
Fee increases	455(7)

Retailing—see Commerce; Corporations, For-Profit

Retirement

Cary firemen's supplemental retirement fund repealed	23
Charlotte firemen's retirement system changes	22
Community College Optional Retirement Program	
Created	424(32.24a)–(32.24c); 513(24)
Salary-related contributions	424(32.21b)
Consolidated Judicial Retirement System (CJRS)	
Actuarial services efficiency report	424(32.26)
Cost-of-living increase	424(32.22b)
Investment authority of State Treasurer	444
Salary-related contributions	424(32.21b)
Sick leave	424(32.29a)–(32.29b)
Dues deductions for retirees	424(32.31)
Early retirement for State employees and law	
enforcement officers study	491(2.1)
Firefighter and rescue squad worker retirement issues study	491(2.1)
Firemen's and Rescue Squad Workers' Pension Fund	
Actuarial services efficiency report	424(32.26)
Eligibility reporting streamlined	222

Retirement—continued

Gastonia firemen's supplemental retirement fund repealed	34
Henderson firemen's supplemental retirement correction.....	71
Legislative Retirement System (LRS)	
Cost-of-living increase	424(32.22c)
Investment authority of State Treasurer	444
Membership requirements.....	424(32.30a)–(32.30c)
Salary-related contributions	424(32.21b)
Legislative temporary employees exempt from TSERS	
earnings limits	424(32.21Aa)–(32.21Ab)
Local Government Employees' Retirement System (LGERS)	
Actuarial services efficiency report.....	424(32.26)
Benefits for visa holders	426(1)
Benefits increase	424(32.23a)–(32.23d)
Cost-of-living increase	424(32.22d)
Discontinued service retirement allowance.....	435
Investment authority of State Treasurer	444
Marion firemen's supplemental retirement fund repealed	21
Monroe firemen's supplemental retirement fund repealed.....	70
Morehead City firemen's supplemental retirement fund repealed	18
National Guard Pension Fund	
Actuarial services efficiency report.....	424(32.26)
Amortization period	424(32.21d)
Optional retirement programs study	424(32.24Ab), (32.24Ad)
PREPARE program abolished.....	424(13.1)
Retirement for fire and rescue squad workers funds	424(2.1)
State Law Enforcement Officers Retirement Program	
Salary-related contributions	424(32.21b)
Teachers' and State Employees' Retirement System (TSERS)	
Actuarial services efficiency report.....	424(32.26)
Benefits for visa holders	426(2)–(3)
Charter school participation	462(2)
Cost-of-living increase	424(32.22a)
Creditable service at retirement	487(82)
Investment authority of State Treasurer	444
Purchase of withdrawal service.....	424(32.32a)–(32.32d)
Retired teacher definition change.....	487(74c)
Salary-related contributions	424(32.21b)
Sick leave credit to retirement cap removed	424(32.28a)–(32.28b)
State repayment to system intent.....	513(21)
Technical corrections and conforming changes	487(74a)–(74c)
Time requirement between retirement and return to	
work for teachers shortened.....	424(32.25a)–(32.25c)
University Employees' Optional Retirement System	
Salary-related contributions	424(32.21b)
Senior administrators program extension.....	424(32.27)
Retirement Facilities — <i>see</i> Nursing Homes	
Revenue, Department of	
Accelerated payment of excise tax on conveyances	427(14a)–(14b)

Index to Session Laws

Session Law
Number

Revenue, Department of—continued

Accelerated sales and use tax distribution to local governments	427(13a)–(13g)
Accelerated tax payments funds	427(6i)
Appropriations	
Accelerated tax payments funds	427(6i)
Current operations and expansion	424(2.1)
Project Collect Tax fund	424(14D.1)
Sales and use tax collections transfer for Wildlife Resources Commission	424(32.15)
Sales tax rate administration	424(14D.3)
Tax collection	395(13)
Technical corrections and conforming changes	513(4)
Bond required of credit card companies applying for fuel tax refund	205(5)
Electronic funds transfer payments required for certain taxes	427(6b)
Internet use for agency publications	424(14.1a)–(14.1b)
Local government tax reimbursements	424(33.15a)–(33.15b)
Local sales tax option	424(33.14a)–(33.14d)
Monitor tax fraud and compliance enhancement changes	327(4)
Motor carrier information disclosure for national criminal justice database	205(1)
Overdue tax collections contract request for proposal	424(14D.2)
Project collect tax	395(13)
Properties exempt from tax	139
Reports — <i>see</i> that heading	
Review of accelerated tax payments	427(6g)
Review of properties exempt from tax	139
Royalty income reporting option	327(1)
Sales tax rate administration personnel	424(14D.3)
Scrap tire tax proceeds redirected to General Fund	424(2.2j)
Secretary	
Membership on Economic Development Board	513(13)
Membership on Geographic Information Coordinating Council	359
Salary	424(32.2)
Tax debt collection	380
Tax penalties waived for filing/reporting delays due to disasters	87
Telecommunications tax distribution	430(10)
Uniform telecommunications gross receipts tax distribution	424(33.25b)
Video poker and escheats reporting requirement	414(26)
White goods management tax proceeds redirected to General Fund	424(2.2j)

Revenue Laws Study Committee

Apportionment formula study	491(9.5)
Credit card solicitation study	491(9.4)
Electric power company reporting requirements and franchise tax distribution study	427(6h)
Electricity rate structure for manufacturers study	476(15a)–(15b)
Piped natural gas rate structure for manufacturers study	476(15c)
Tax law compliance study	491(9.2)

Revenue Laws Study Committee—continued	
Technical corrections and conforming changes.....	414
Telecommunications tax collection federal conforming recommendations	430(19)
Travel and tourism capital incentive grants study	491(9.3)
Rhodhiss, Town of—Boards of Election abolition does not apply.....	374(2)
Richmond County	
Fox trapping season.....	133
Hoffman, Town of — <i>see</i> that heading	
Occupancy tax.....	439(13.1), (18.1)
Rockingham, City of — <i>see</i> that heading	
Subdivision definition	189
Roads and Highways (see also Ferries)	
Aid to municipalities funds	424(3.1)–(4.1)
Bid law exemptions for Charlotte.....	248
Blue Star Memorial and American Ex-POW Highway	196
Construction funds	424(3.1)
Coordinated transportation plans process modification.....	168
Corning access bridge right-of-way	1
Declaration of right-of-way dedicated to public use.....	501
Discharge of firearm across public right-of-way in Caldwell County unlawful.....	67
Farm product promotion at rest areas	424(17.1)
Governor's Highway Safety Program	
Funds	424(3.1)
Transfer to Secretary of Transportation	424(27.11a)–(27.11b)
Infrastructure public-private reimbursement agreements for Charlotte	329
Intrastate system funds	424(4.1)
Litter removal.....	512(3)
Littering violation penalties.....	512(1)
Low-speed vehicles	356
Maintenance funds	424(3.1)
Modular home transit regulation	424(27.17a)–(27.17c)
Motor vehicle law application on West Side Landowners Association streets.....	132
Naming of roads and street number assignment	145
No hunting from right-of-way in Bertie County.....	367(1)
Nonbetterment relocation costs study.....	491(13.6)
Operation of vehicle in vicinity of emergency vehicle.....	331(1)
Private property designated as public vehicular area.....	441
Proposed school location evaluation by DOT for traffic operation and safety	424(27.27)
Railroad crossing stop requirement clarification	487(50g)
Recycling containers at highway rest areas	512(13)
Regulate parking on certain streets at UNC-Greensboro.....	170
Regulation of golf carts on streets in Cary	485(3)
Rental car companies to inform renter of no passing school bus.....	331(2)
Road construction outside corporate limits allowed for certain cities	245

Roads and Highways—continued

Roadway improvements in extraterritorial jurisdiction for certain cities.....	261
Small urban transportation construction projects funds.....	424(27.3)
Substandard subdivision roads study.....	491(13.4)
Technical corrections and conforming changes.....	487(37)
Tourist-oriented directional sign program.....	383
Traffic control/red light cameras	
Certain cities.....	286
Systems use study.....	491(2.1)
Truck loading requirements to prevent blowing/dropped debris.....	512(2)
Urban loop funds.....	424(4.1)

Roanoke Island Commission

Appointments and membership.....	486(1.44), (1A.45)
Appropriations	
Current operations and expansion.....	424(2.1)

Roanoke Rapids, City of—design-build construction for neighborhood

Resource Center.....	425(3)
----------------------	--------

Robeson County

Fairmont, Town of — <i>see</i> that heading	
Pembroke, Town of — <i>see</i> that heading	
Rennert, Town of — <i>see</i> that heading	

Rockingham, City of

City attorney appointment.....	68(4)
Council elections.....	68(1)–(2)
Extraterritorial jurisdiction.....	6
Mayor and council compensation.....	68(3)
Satellite annexation limit removed.....	37
Settlement of claims.....	68(7)
Zoning protest procedures.....	48

Rockingham County

Eliminate vacant judgeship.....	424(22.17a), (22.17c)
Fraudulent obtaining of ambulance services.....	106
Mayodan, Town of — <i>see</i> that heading	
Payment of delinquent tax prior to recording deeds.....	513(14)
Worthless check program.....	61

Rocky Mount, City of

Occupancy tax.....	349
Opportunities Industrialization Center	
Accomplishments and expenditures report requirement.....	424(20.16b)–(20.16c)
Funds.....	424(20.16a)–(20.16c)
Police officer residency requirement repealed.....	330(1)
Rocky Mount Children’s Museum grassroots science program grant-in-aid.....	424(19.2)

Rowan County

Occupancy tax.....	439(8.1)–(8.2), (18.1)
Payment of delinquent tax prior to recording deeds.....	513(14)
Salisbury, City of — <i>see</i> that heading	
Spencer, Town of — <i>see</i> that heading	

Index to Session Laws

Session Law
Number

Rowan County—continued
State Nature and Historic Preserve land additions.....217(2)

Rules Review Commission
Appointments and membership..... 486(1.45), (1A.46)
Appropriations
 Current operations and expansion424(2.1)
Internet use for agency publications..... 424(14.1a)–(14.1b)

Rural Development
Rural Economic Development Center —*see* that heading
Rural Internet Access Authority —*see* that heading

Rural Economic Development Center
Appropriations
 Agriculture Advancement Consortium424(20.15e)
 Allocations 424(20.15a)–(20.15g)
 Community development grants funds424(20.15e)
 Current operations and expansion424(2.1)
 Funds reduction..... 424(20.15f)
 Matching funds424(20.15e)
 Microenterprise Loan Program424(20.15e)
 Opportunities Industrialization Center424(20.16a)–(20.16c)
Clean water bonds416(3)–(7b)
Community development corporation definition.....424(20.15d)
President serves on Rural Internet Access Authority 171
Reports —*see* that heading
Use of interest on State funds.....424(20.15c)

Rural Electrification Authority—technical corrections and
 conforming changes 487(38f)

Rural Internet Access Authority—appointments and membership...171; 486(1.46),
 (1A.47)

Rural Redevelopment Authority—appointments and membership.....486(1A.48)

Rural Rehabilitation Corporation—transferred to Agricultural
 Finance Authority..... 424(17.2a)–(17.2d)

Rutherford County
Bostic, Town of —*see* that heading
National Heritage Area Designation Commission created 491(18.1)–(18.10)
Property acquisition for educational purposes..... 427(7a)–(7b)

Rutherfordton, Town of
ABC Board distributions..... 188
Satellite annexation limit removed..... 37

- S -

Safety
Bicycle helmet and restraining seat use by minors 268
Cellular phone use in vehicles study491(2.1)
Governor's highway safety funds424(3.1)
Governor's Highway Safety Program transferred to Secretary
 of Transportation 424(27.11a)–(27.11b)
Gross vehicle weight hauling capacity clarification487(50a)
Lock requirements on firearms-related buildings..... 324

Index to Session Laws

Session Law
Number

Safety—continued

Proposed school location evaluation by DOT for traffic operation and safety	424(27.27)
Public security information not public record	516(3)
Railroad crossing stop requirement clarification	487(50g)
Safety measures in State building code study	491(2.1)
Vehicle safety inspection	
Fees increase	504(1)–(3)
Program study	504(21)
Vehicle age limitations	504(4)–(8)
Visitor safety in State parks study	491(2.1)

Safety Equipment—*see* Safety

Salaries and Benefits (*see also* Employment; Retirement)

Assistant and deputy clerks of court salaries	424(32.6)
Assistant district attorney salaries	424(32.4b)
Assistant public defender salaries	424(32.4b)
Benefits for visa holders	426
Chiropractic Board compensation	493(5)
Clerks of Court salaries	424(32.5)
Community colleges	
Faculty salary discrepancies study	424(30.8)
Personnel salaries	424(32.11)
Study	491(8.12)
Council of State salaries	424(32.1b)
Disability Income Plan — <i>see</i> Insurance	
Elections officials compensation	398(5)
Excess Salary Adjustment Fund funds for approved reclassified positions	424(32.19b)
Executive branch officials no salary increases	424(32.3)
Governor's salary	424(32.1a)
High priority elementary school immediate assistance	424(29.1)
Judicial branch officials' salaries no increases	424(32.4a)
Juvenile justice officers entitled to salary continuation plan benefits	487(89)
Legislative employees' salaries	424(32.8), (32.9), (32.10)
Magistrates' salaries	424(32.7)
Management flexibility for special responsibility UNC constituent institutions	424(31.11a)–(31.11c)
Nonelected department head no salary increases	424(32.2)
Optometry Board compensation	493(1)
Part-time teacher benefits to address teacher shortage study	424(29.2c)
Public defender longevity retroactive	424(22.11a)
Rockingham mayor and council compensation	68(3)
School administrator salary schedules	424(28.13a)–(28.13j)
School central office salaries	424(28.14a)–(28.14g)
School employee overtime pay	424(28.42)
School food service workers/custodians' salaries	424(28.34)
School instructional personnel/support personnel salary differential study	424(28.37a)–(28.37b)

Index to Session Laws

Session Law
Number

Salaries and Benefits—continued

School noncertified personnel salaries 424(28.15a)–(28.15d)
Severance pay..... 424(32.19a)
State employee incentive bonus program modifications 424(7.2a)–(7.2h)
State employee salary increases clarification322(4)
State personnel salaries424(32.13a)–(32.14e)
Teacher salary schedules..... 424(28.11a)–(28.11h)
Teacher shortage funds..... 424(29.2a)–(29.2d)
Teachers' and State Employees' Comprehensive Major Medical Plan
(TSECMMP) —*see* Insurance
Travel reimbursement for community college trustees 424(30.15A)
TSECMMP benefit changes..... 253
UNC personnel salaries 424(32.12a)–(32.12b)
Wildlife Resources Commission staff salaries424(32.15)
Workers' compensation —*see* Insurance

Sales and Leases

1974 Matthews Depot lease 102
Airport leases for Montgomery County..... 485(3.1a)–(3.1b)
Burlington private sale 190(4)
Disposal of certain property by community college boards 82
Execution sales modification..... 271(11)–(18)
Farm machinery agreement law clarification 343
Indian Cultural Center lease 89
Judicial sales modification 271(1)–(10), (1)–(10)
Kernersville private sale..... 80
Lease-purchase of close security correctional facilities..... 84; 202
Metered water use cost charged as rent to encourage water
conservation 502
Monroe property acquisition and conveyance to county 190(1)–(3)
Motor vehicle dealers
Administration fees disclosure.....492(1), (3)
Finance yield charges disclosure by motor vehicle dealers..... 492(2)–(3)
NC State capital improvement projects funding through leases463(5)
Pharmacy Board acquisition of real property and equipment..... 407
Rental cars
Airport fees and charges 432
Companies to inform renter of no passing school bus.....331(2)
Sale of dwellings purchased under hazard mitigation
grant program29; 386(3)
Tax change424(33.24b)
Wilkes County property conveyance to Mountain View
Medical Center 58
Yadkin County convey certain property..... 31
Salisbury, City of—satellite annexation limit removed 72
Salter Path, Town of—occupancy tax revenues for beach
renourishment.....381(3c), (6a)
Sampson County—TANF State plan 395(7c)–(7d);
424(21.51c)–(21.51d)

Sanitation

Economic development plan agreements by Sanitary Districts 221

Sanitation—continued
 Family foster homes and therapeutic homes exempt from requirements..... 109
 Regulation of number of toilets in certain buildings 219

Savings and Loan Associations—*see* Financial Institutions

Savings Institutions Commission
 Merged with Banking Commission..... 193(2)–(18)
 Repealed193(3)

SBI (State Bureau of Investigation)—*see* Law Enforcement

School Of Science and Mathematics—*see* University of North Carolina

Science and Technology
 Grassroots science program grants-in-aid424(19.2)
 Science, math and technology education study491(8.10)

Science and Technology, Board of
 Appointments and membership..... 486(1.48), (1A.49),
 (2.21)
 Clarification of duties.....486(2.21)
 State-developed intellectual property transfer and use424(15.1c)–(15.1e)
 Transferred from Administration to Commerce424(7.6)

Scotland County
 Close-custody prison construction322(5)
 Prison construction contract authorized.....424(25.24)

Seafood Industrial Park Authority
 Appointments and membership..... 486(1.49), (1A.50)
 Wanchese Seafood Industrial Park funds424(20.2a)

Seatbelts and Restraints—*see* Safety

Secondary Education—*see* Education

Secretary of State
 Address requirement for foreign entity applying to
 transact business.....387(27A)
 Administrative proceedings clarification..... 126(1)–(8)
 Advance health care directive registry funds..... 513(30a)–(30b)
 Advanced health care directive registry established..... 455(1)–(6)
 Agent for nonprofit entity..... 387(42)–(43)
 Appropriations
 Advance health care directive registry 513(30a)
 Current operations and expansion424(2.1)
 Articles of incorporation to include address.....387(8)
 Ballot counting, canvassing and recounts..... 398(1), (3)–(4)
 Business entity conversion to LLC..... 387(92)–(99)
 Canadian securities dealers and salesmen limited registration 225
 Certificate of withdrawal by foreign entity 387(29)–(31)
 Corporate conversion
 Articles of incorporation require statements387(9)
 To limited partnership..... 387(138)–(142)
 To/of corporation387(17)
 Corporate name provisions consolidation 358(12)–(41)
 Effective date for corporate existence387(10)
 Election recount technical corrections.....353(7)
 Electronic filing of corporate documents358(4)
 Filing partnership documents387(104)

Secretary of State—continued

Filing requirements for corporate consolidation.....	358(1)–(11)
Foreign corporate entities names.....	358(15)
Foreign merger with domestic nonprofit entity.....	387(36)–(41)
Fraudulent filings under Article 9 of UCC.....	231
Hearing officer designation.....	126(9)–(11)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Limited liability companies (LLCs)	
Annual report filing requirement.....	387(59)–(59A)
Fees.....	387(54)
Reinstatement.....	387(74)
Limited partnership fees.....	387(149)
Membership on Geographic Information Coordinating Council.....	359
Merger of limited partnership.....	387(143)–(147)
Merger or share exchange involving foreign entity.....	387(18)–(26)
Money transmission business service of process agent.....	443
North Carolina Manual distribution.....	424(14F.1)
Notary Public Act study.....	450(4)
Organ, eye and tissue donor registry study.....	481(1)
Partnership conversions and mergers.....	387(105a)–(117)
Partnership fees.....	387(104)
Registered corporate office/agent provisions consolidation.....	358(42)–(51c)
Registered limited liability partnerships.....	387(118)–(153)
Reinstatement following dissolution.....	390(7)–(15)
Reports — <i>see</i> that heading	
Rescission offers to be filed.....	183
Salary.....	424(32.1b)
Secretary of State to accept service of process	
foreign entity when no registered agent.....	387(28)
Foreign LLC.....	387(85)–(89)
Session Laws and House and Senate Journals distribution.....	513(16a)–(16c)
Technical corrections and conforming changes.....	413(6)–(8); 414(12)
Trust companies and interstate trust business.....	263
Uniform national securities regulations.....	126(12)
Withdrawal of foreign nonprofit entity.....	387(45)–(47)

Securities

Abandoned stock and equity interests clarification.....	226
Canadian securities dealers and salesmen limited registration.....	225
Church bond dealer restriction repealed.....	182
Conform futures contracts to federal law.....	110
Dividends and distributions for insurance companies.....	223(5.2)
Holding company systems for insurance companies.....	223(16.1)–(16.7)
Investment advisor	
Definition.....	273(1)
Registration and notice filing.....	273(2)–(4)
Investments for insurance companies.....	223(8.1)–(8.18)
Liability of LLC directors in wrongful distribution.....	387(72)

Securities—continued

Mergers, sales and reorganization securities and corporate law changes 201

Mutual insurance companies 223(9.1)–(9.6)

Offer and sale of stock exemption clarified..... 197

Promoting and holding companies for insurance companies repealed223(15)

Rescission offers to be filed with Secretary of State 183

Securities Act changes 201(2)–(14)

Subsidiary dividend deduction conformed to accepted treatment327(3)

Technical corrections and conforming changes..... 149; 201

Tender Offer Disclosure Act repealed.....201(1)

Trust companies and interstate trust business..... 263

Uniform national securities regulations..... 126(12)

Viatical settlements 436(6)–(14)

Securities Act 149; 201

Security Services

Courier service profession definition 487(64a)

Temporary license issuance.....487(64c)

Selma, Town of—occupancy tax439(10.1)–(10.2), (18.1)

Sentencing (*see also* Courts)

Campaign contribution violations criminal penalties419(2)

Capital Punishment —*see* that heading

Community Service Work Program

 Positions terminated.....424(26.11)

 Transferred to Correction Department424(26.11)

Day reporting center disposition for delinquent juvenile..... 179

Detonation of explosive devices penalties study491(21.5)

Domestic violence protective orders violations.....518(5)

Drug offenses study.....491(21.4)

Drug sales penalty increased 307; 332

Habitual felon law study.....491(21.3)

Incest penalty study 491(7.1)–(7.2)

Probation and parole —*see* that heading

Second degree arson penalty study.....491(21.2)

Sentencing services report.....424(22.3)

Sex offender registration compliance with federal law 373

Structured sentencing study..... 424(25.8a)–(25.8b)

Technical corrections and conforming changes..... 487(91a)–(91b)

Victim impact evidence at sentencing433(5)

Sentencing and Policy Advisory Commission

Detonation of explosive devices penalties study491(21.5)

Drug offenses study.....491(21.4)

Effectiveness standards development for Juvenile Crime

 Prevention Councils424(24.2c)

Habitual felon law study.....491(21.3)

Incest penalty study 491(7.1)–(7.2)

Reports —*see* that heading

Second degree arson penalty study.....491(21.2)

Structured sentencing study..... 424(25.8a)–(25.8b)

Service of Process—*see* Courts; Notification

Sex Offenses—*see* Crimes

Sexual Harassment—*see* Crimes

Sheriffs—*see* Law Enforcement

Sheriffs' Education and Training Standards Commission—appointments
and membership486(1A.51)

Signs—*see* Advertising

Small Business

- Certification of minority business for public construction study496(13.2)
- Insurance rate guarantees334(3)
- Microenterprise Loan Program funds424(20.15e)
- Minority business participation goals496(3)–(3.6)
- Office of Historically Underutilized Businesses continuation424(7.9)
- Small Business Center funds do not revert424(30.12a)–(30.12b)

Smart Growth, Growth Management, and Development Issues, Commission to

- Address**—extended424(6.16)

Smart Start—*see* Health and Human Services, Department of (DHHS)

Smithfield, Town of—occupancy tax439(11.1)–(11.2), (18.1)

Social Services

- Block grant funds424(5.1a)
- Child welfare
 - Improvements424(5.1s)
 - System pilots424(21.46a)–(21.46c)
 - Training funds424(5.1a)
 - Workers and services for local departments of social
services funds424(5.1a)
- Early intervention services maximization of receipts424(21.79)
- Family resource centers
 - Elimination of duplicate effort424(21.48c)
 - Evaluation424(21.48a), (21.48f)
 - Funding allocation424(21.48d)
 - Performance measurement protocol424(21.48b)
- Family support services coordination in HHS424(21.18C)
- Foster care and adoption assistance payments for HIV
infected children424(21.41c)–(21.41d)
- Indian child welfare issues collaboration309
- Intensive Family Preservation Services Program
 - enhancements424(21.50a)–(21.50j)
- Intervention Services Unit created in HHS424(21.18A)
- Maternity home services comparison to other available
services424(21.45)
- Special Needs Adoption Incentive Fund424(21.42a)–(21.42d)
- Trust Fund for Mental Health, Developmental Disabilities,
and Substance Abuse Services and Bridge
 - Funding Needs created424(21.58a)–(21.58d)
- Vocational rehabilitation and independent living
services eligibility424(21.78a)–(21.78d)
- Weatherization assistance program424(7.8a)

Social Services Commission

- Adult day care transportation to comply with Commission rules90

Social Services Commission—continued

- Developmentally disabled group homes licensure 209
- Individual development accounts rules 424(5.1aa)
- Special Needs Adoption Incentive Fund rules..... 424(21.42c)
- TANF individual development accounts..... 395(2.1aa)

Social Services, Departments of (local)

- After-school services for at-risk children funds 424(5.1r)
- Block grants395(2.1a); 424(5.1a)
- Child care allocation formula 424(21.69b), (21.69d)
- Child protective services staff 424(5.1s)
- Child welfare changes 208
- Comprehensive treatment services program for children
 - at risk for institutionalization.....424(21.60d)
- County child protective services, foster care, and adoption
 - workers funds395(2.1a); 424(5.1a)
- Dare funds use..... 53
- Domestic violence services for Work First families
 - County plan review424(5.1q)
 - Funds utilization and allocation 395(2.1q); 424(5.1q)
- Improvements funds for child welfare..... 395(2.1s)
- In-home services block grant funds.....395(2.1a); 424(5.1a)
- Mental health, developmental disabilities, and substance
 - abuse services authorities administrative
 - cost reduction 424(21.65a)–(21.65 b)
- Reduction of county share of Special Assistance study..... 385(1f)
- Residential substance abuse services for women with children
 - Expansion395(2.1o)
 - Funds424(5.1o)
- System pilots for child welfare.....424(21.46a)–(21.46c)
- Workers and services for local departments of social
 - services funds for child welfare..... 424(5.1a)

Social Workers

- Child welfare training..... 395(2.1a), (2.1u);
424(5.1a), (5.1u)
- County child protective services, foster care, and adoption
 - workers funds 424(5.1a)
- Privileged communications protection for certain counselors..... 152
- Regional child welfare training center.....395(2.1u)
- Technical corrections and conforming changes..... 487(40b)–(40n)

Soil and Water Conservation Commission

- Pasture-based livestock production best management practices.....355(4)
- Tar-Pamlico Basin best management practices355(3)
- Water quality and animal waste system specialist approval 284

Soil Scientists, Board of Licensing of—appointments and
membership 486(1.51), (1A.52)

Soils—*see* Conservation; Erosion

Solid Waste—*see* Waste Management

Southeastern North Carolina Regional Economic Development Commission—
see Regional Economic Development Commission, Southeastern
North Carolina

Index to Session Laws

Session Law
Number

Southern Dairy Compact Commission—appointments and membership486(1.52)

Southern Pines, Town of—drainage improvements funds 424(33.3a)–(33.3b)

Speaker of the House—*see* Appointments; General Assembly

Special Economic Zones—*see* Economic Development

Spencer, Town of—buffer zone tree clear-cutting limits and protection..... 191

Sports

- Baseball park districts repealed414(52)
- Charlotte Coliseum Authority membership402(4)
- Charlotte facilities capital investment referendum 10
- Facility Authority university chancellor clarification 311
- Forsyth-Guilford Metropolitan Baseball Park District repealed414(52)
- Residential private club and sports club ABC permits 130

Standards Board for Public School Administration—repealed 424(28.25a)–(28.25g)

Stanly County

- Albemarle, City of —*see* that heading
- Competitive bid exemption for school facilities 99
- New London, Town of —*see* that heading
- Norwood, Town of —*see* that heading
- Occupancy tax authorization 434(1), (6)–(7)
- Payment of delinquent tax prior to recording deeds 464
- State Nature and Historic Preserve land additions217(2)
- Tourism Development Authority434(7)

State Auditor

- Appropriations
 - Current operations and expansion424(2.1)
- Dispute resolution of Information Technology Office
 - fees collection 142
- Electronic distribution of reports 424(9.1a)–(9.1b)
- Electronic procurement program 424(15.6b)–(15.6c)
- ExplorNet audit 424(28.45); 487(114.6)
- Internet use for agency publications 424(14.1a)–(14.1b)
- Local government audits compliance supplements
 - approval responsibility 160
- Salary424(32.1b)
- Security standards for State information technology424(15.2c)

State Bar

- Access to civil justice funds allocation424(22.14g)
- Appropriations
 - Death penalty litigation training424(22.10)
- Disciplinary Hearing Commission
 - Appointments and membership 486(1.15); 163(1)

State Buildings—*see* Buildings

State Bureau of Investigation (SBI)—*see* Law Enforcement

State Controller

- Appointment by Governor 42
- Appropriations
 - Current operations and expansion424(2.1)

Index to Session Laws

Session Law
Number

State Controller—continued

Data processing, debt collection, and e-commerce funds.....	424(10.1b)
Budget Act information technology provisions.....	424(15.3a)–(15.3b)
Computer networking costs definition	424(15.4a)–(15.4b)
Electronic procurement program	424(15.6b)–(15.6c)
Financial business infrastructure study.....	491(17.1)–(17.3)
Funds shall not be transferred on June 30	250(7)
Information technology contractor use by State agencies study.....	424(15.5a)–(15.5d)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Overpayments	
Audit	424(10.1a)–(10.1e)
Special reserve account.....	424(10.1a)
Reports — <i>see</i> that heading	
Salary	424(32.3)
Savings Reserve Account funds transfer	514(3)

State Employee Federal Remedy Restoration Act 467

State Employees

Adult care home resident assessment services staff	424(21.35)
After-school services for at-risk children position	424(5.1r)
Aging Division consolidation sections	424(21.33)
Alcohol Law Enforcement supervisor positions terminated.....	424(26.10)
APA exemption for State Board of Elections study	491(32.3)
Assistant public defender position funds.....	424(22.13a)
Clean Water Management Trust Fund employees exempt from State Personnel Act.....	424(32.16a)–(32.16b)
Community College faculty contracts standardized	424(30.6)
Community Service Work Program positions terminated	424(26.11)
DHHS survey team members to have basic training in a nursing home	385(2c)
Disability Income Plan — <i>see</i> Insurance	
Domestic Violence Commission staffing	424(7.7)
Early retirement for State employees and law enforcement officers study	491(2.1)
Federal Remedy Restoration Act.....	467
Government employers of interns under economic security laws	285
Governor Morehead School nonprofit corporation assistance.....	412
HIV/AIDS	
Awareness and education position in DHHS	395(2.1z)
Prevention activities position.....	424(5.1z)
Incentive pay productivity pilot program for Transportation Department.....	424(27.22A)
Information technology	
Contractor conversion to State employee pilot program feasibility study	424(15.5e)
Personnel categories.....	424(15.4c)
Project positions in HHS.....	424(21.17a)–(21.17b)
Juvenile justice officers entitled to salary continuation plan benefits	487(89)

State Employees—continued

Legislative temporary employees exempt from TSERS
 earnings limits 424(32.21Aa)–(32.21Ab)

Liability coverage for local health department sanitarians 505(3)

Limitations on agency legislative liaison 424(6.10a)–(6.10c)

Local Health Services section chief position 424(21.91b)

Medical liability coverage for certain employees 424(21.55)

New permanent positions and salary increases procedure 424(6.1a)

New receipt-supported positions require consultation
 with Governmental Operations 424(32.19Aa)–(32.19Ab)

Office of Policy and Planning
 Created in HHS 424(21.14a)

 Exempt employees 487(110)

Police officer positions transferred from Juvenile
 Justice to DHHS 424(24.10a)

PREPARE program abolished 424(13.1)

Public defender support staff positions 424(22.13b)

Public health authority employees exempt from
 State personnel system 92

Public health educator positions consolidation feasibility 424(21.91Ab)

Public health nurse consultants consolidation feasibility 424(21.91Aa)

Reclassification of Administrative Hearings positions 424(8.1)

Salaries and benefits — *see* that heading

Salary-related contributions 424(32.21a)–(32.21f)

Sales tax rate administration personnel 424(14D.3)

Scrap tire program position 424(19.14)

Senior DENR field officers reclassification report 424(19.10)

State personnel system study 491(2.1E)

Submerged lands program manager appointment 424(19.9)

Teachers' and State Employees' Comprehensive Major Medical Plan
 (TSECMP) — *see* Insurance

Technical corrections and conforming changes 474(15); 487(30a)–(30b)

Terrorism threat positions 470(4)

Traffic enforcement statistics positions authorized 513(9)

Veterans home additional staff 117(2)

Volunteer leave for disaster service 508(6)

Workers' compensation coverage for Forest Resources
 pickup firefighters 204

State Government Debt

Cap on outstanding bonds raised for Housing Finance
 Agency 185

Clean water bonds 416(1)–(7)

Higher education bonds technical corrections and
 conforming changes 487(26)

Natural gas bonds issuance delayed 416(1)

Public school building bonds issuance delayed 416(1)

Security interests created by governments under
 Title 9 clarified 218

State energy program and alternative energy conservation
 project financing agreements study 491(2.1)

State Government Debt —continued	
Technical corrections and conforming changes.....	474(37)–(39)
UNC capital projects special obligation bonds.....	463(4)
UNC-Chapel Hill bond project substitution	424(31.9)
State Law Enforcement Officers Retirement Program — <i>see</i> Retirement	
State Personnel, Office of	
Director's salary.....	424(32.3)
Financial business infrastructure study.....	491(17.1)–(17.3)
Information technology contractor use by State	
agencies study	424(15.5a)–(15.5d)
Information technology personnel categories.....	424(15.4c)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Positions reclassification in Administrative Hearings	424(8.1)
PREPARE program abolished.....	424(13.1)
Public Management Fellowship Program.....	424(6.17)
Reports — <i>see</i> that heading	
Restructuring study	491(2.1)
State employee incentive bonus program modifications	424(7.2a)–(7.2h)
State personnel system study.....	491(2.1E)
State Publications — <i>see</i> Publications (State)	
State Symbols —State fruit and berries	488
State Treasurer	
Access to civil justice funds	424(22.14a)–(22.14j)
Appropriations	
Current operations and expansion	424(2.1)
Retirement for fire and rescue squad workers	424(2.1)
Retirement Systems Division optical imaging system	
replacement funds	395(14)
Cash-flow management evaluation for Transportation	
Department.....	424(27.23c)
Clean water bonds issuance delayed	416(1)
Disproportionate share receipt disposition	424(21.23a)–(21.23b)
Dorothea Dix Hospital replacement facility.....	424(21.63d)
Electronic procurement program.....	424(15.6b)–(15.6c)
Firemen's pension eligibility reporting streamlined.....	222
Implement PREPARE program model.....	424(13.1)
Internet use for agency publications.....	424(14.1a)–(14.1b)
Investment authority.....	444
Mental Health, Developmental Disabilities, and Substance	
Abuse Services Trust Fund created	424(21.58a)–(21.58d)
Natural gas bonds issuance delayed	416(1)
Public school building bonds issuance delayed.....	416(1)
Reports — <i>see</i> that heading	
Retirement Systems Division	
Optical imaging system replacement	395(14)
Salary	424(32.1b)
Technical corrections and conforming changes.....	444
State Veterans Home Act	117
State Veterinarian —authority to combat Foot and mouth disease	12

Index to Session Laws

Session Law
Number

Statesville, Town of —Children's Museum of Iredell County grassroots science program grant-in-aid	424(19.2)
Statewide Mapping Advisory Committee — <i>see</i> Geographic Information Coordinating Council	
Stokes County	
Forsyth CC to study Stokes County satellite campus	59
Germanton water project fund.....	424(19.12a)–(19.12b)
State Nature and Historic Preserve land additions.....	217(2)
Walnut Cove/industrial site connection project funds	424(19.12a)–(19.12b)
Storage Systems	
Land use restrictions for petroleum underground storage tank cleanup	384
Leaking petroleum underground storage tank programs evaluation	454(2)
Performance-based cleanup of underground petroleum tank discharges.....	442(1)–(6b)
Petroleum Underground Storage Tank Program funds.....	454(1)
Stovall, Town of	
Mayor and commissioner's terms	100
Student Citizenship Act	363(2)
Students — <i>see</i> Education	
Studies (<i>see also</i> Legislative Research Commission)	
911 funds	491(30.1)
2001 studies bill	491
Abandoned mobile homes	491(14.6)
Administrative Procedure Act applicability to Federal Tax Reform Allocation Committee and Housing Finance Agency study.....	491(20.1)
Adult care home population	385(1h)
Adult care homes	
Population	234(4)
Reward for quality	385(1a)–(1b)
Special care units reimbursement.....	385(1g)
Advertising inserts in DMV mailings.....	513(31)
Agency use of information technology contractors	424(15.5a)–(15.5d)
Agricultural contracts enhancing fairness	491(2.1)
Agricultural operations conversion funding mechanics	491(2.1H)
Air quality improvement	491(30.2)
Alcoholic beverage control	491(4.4)
Alternative energy sources	491(14.7)
Analysis and recommendations of statewide student accountability standards resources	424(28.17a)
AOC information technology network costs	424(15.4e)
APA exemption for State Board of Elections.....	491(32.3)
Appropriations efficiency review	424(6.9)
Area Agencies on Aging cost savings	424(21.32a)–(21.32b)
Bail bondsmen study	491(2.1A)
Beach and coastal area insurance availability.....	491(2.1)
Beverage container deposits.....	491(2.1)
Bioterrorism preparedness.....	491(2.1F)

Index to Session Laws

*Session Law
Number*

Studies—continued

Board of Education advisory members	491(8.18)
Cash-flow management evaluation for Transportation Department	424(27.23c)
Catawba-Wateree river basin water quality and water supply issues study	491(16.1)
Cellular phone use in vehicles	491(2.1)
Certification of minority business for public construction	496(13.2)
Chapter 20 (Motor Vehicle Act) consolidation study	491(26.1)
Child care	
Allocation formula	424(21.69d)
Child abuse and neglect in child care facilities	491(2.1)
Subsidy market rate study repealed	424(21.73a)
Children with disabilities law	424(28.29b)
Civil War tourism	424(11.2a)–(11.2c)
Classroom experience for school personnel	491(8.6)
Clear cutting and development growth management in the City of Raleigh	491(2.1)
Commission contract agent	491(13.2)
Community colleges	
Faculty salary discrepancies	424(30.8)
Study	491(8.12)
Community development block grant administrators training	395(8f); 424(5.2f)
Consolidation of Business and Industry Division offices	
with Regional Economic Development Division offices	424(20.5)
Consolidation of mental health consumer advocacy and ombudsmen programs	437(3c)
Consumer contract mandatory arbitration provisions	491(2.1)
Contracting for services feasibility for State Laboratory	424(21.92b)
County appeals of juvenile court orders	491(2.1)
County share of Medicaid costs	491(10.4)
Credit card solicitation	491(9.4)
Criminal history records checks	
Fee increase feasibility	424(23.5b)
Study	465(3a)
Cumberland dam/reservoir/state park	491(2.1B)
DARE program review	424(23.9b)
Date rape drug analogues	491(19.1)–(19.2)
Definition of "child" in Veterans' Scholarship Program	491(2.1)
Dentistry school at ECU feasibility	424(31.10d)
Detonation of explosive devices penalties	491(21.5)
Domestic violence	
Fatality review team	491(2.1)
Victims confidentiality program	491(2.1)
Drivers license/motor vehicle registration section consolidation	424(27.14)
Drug offenses	491(21.4)
Early retirement for State employees and law enforcement officers	491(2.1)
Economic impact of military activities	424(12.1)

Index to Session Laws

*Session Law
Number*

Studies—continued

Efficient location of State offices	491(2.1)
Election laws	491(32.3)
Electric power company reporting requirements and franchise tax distribution	427(6h)
Electricity rate structure for manufacturers	476(15a)–(15b)
Electronic commerce privacy and security	491(12.1)–(12.2)
Employment security.....	491(2.1G)
Engineering school at Western Carolina and UNC-Asheville feasibility	424(31.10d)
Environmental permitting process.....	424(19.11a)–(19.11c)
Expanding land and water conservation options	491(14.3)
Extracurricular activity participation by nonpublic students	491(8.20)
Financial business infrastructure study.....	491(17.1)–(17.3)
Firefighter and rescue squad worker retirement issues.....	491(2.1)
Fiscal resources needed to close academic achievement gap	424(28.30i)
Forsyth CC to study Stokes County satellite campus	59
General Assembly Complex security survey study	491(27.1)
Global TransPark	
Airport assets transfer	424(27.19)
Education and training center transfer.....	424(27.20)
Government tort claims	491(2.1)
Habitual felon law	491(21.3)
Halifax Community College service area.....	491(8.4)
Health care disparities elimination	491(23.1)
Health care personnel education.....	491(8.11)
Health insurance mandates	
Moratorium	491(2.1)
Study	453(2)
Hepatitis impact	491(28.2)
High priority schools	
Assistance	491(8.16)
Assistance initiatives evaluation	424(29.6d)
High speed rail between North Carolina and Virginia.....	266(2)
Higher education residency requirements	491(8.21)
High-risk health insurance pools	491(2.1)
Highway Patrol special event services compensation	491(2.1)
Highway Trust Fund.....	424(27.6c), (27.6k)
HIV/AIDS prevention and care programs	491(28.3)
Improving performance of students in juvenile facilities	491(2.1)
Information Highway	
Community colleges site evaluation	424(15.7b)
Use and future funding review	424(15.7d)
Information technology contractor conversion to State employee pilot program feasibility	424(15.5e)
Inmate prescription contract review	424(25.6b)
Interconnection of public water systems	491(14.4)
Interim committee activity rules.....	491(33.2)
JobLink Career Centers and human resources development services delivery integration.....	424(30.3c)

Index to Session Laws

*Session Law
Number*

Studies—continued

Juvenile commitment procedures	491(2.1)
Juveniles without capacity to proceed	491(2.1)
Law enforcement agency consolidation	491(2.1)
Leaking petroleum underground storage tank programs evaluation	454(2)
Licensed Psychological Associates (Masters level psychologists)	491(2.1)
Living income for citizens	491(2.1)
Local health director appointments	491(14.2)
Long-term care	
Aide workforce issues	491(10.5)
Facilities, hospitals, and physicians liability insurance	491(2.1C)
Local lead agency	491(22.1)
Low-wealth school funding formula review	491(8.14)
Management flexibility for special responsibility UNC	
constituent institutions expansion	424(31.11c)
Maternity home services comparison to other available services	424(21.45)
Medicaid optional services	424(21.28b)
Medical services for persons with disabilities	491(10.2)
Meeting the needs of students with disabilities	491(8.15)
Mental Health Division functional area consolidation	
feasibility	424(21.64b)–(21.64c)
Mental health patient service needs analysis and	
transition plan	424(21.63b)
Minority and at-risk students academic achievement	
study extended	424(28.30h)
Motor fleet management	424(7.3)
Motor vehicle glass repairs steering and incentives	491(2.1)
Motor vehicle insurers/no mandates/nonoriginal crash parts	491(2.1)
Naturopathy	491(2.1)
Nonbetterment utility relocation	
Costs	491(13.6)
Highway construction	424(27.26)
North Carolina Portrait Gallery Commission creation	491(2.1)
Notary Public Act	450(4)
Nutrition in public schools	491(8.8)
Optional retirement programs	424(32.24Ab), (32.24Ad)
Organ, eye and tissue donor registry	481(1)
Oversight and survey practices review	385(1e)
Part-time teacher benefits to address teacher shortage	424(29.2c)
Performance-based teacher licensure program	491(8.17)
Personnel categories for information technologies	424(15.4c)
Pharmacy school at ECSU feasibility	424(31.10c)
Piedmont area commuter rail line	491(5.1)
Piped natural gas rate structure for manufacturers	476(15c)
Post-towing procedures	491(2.1)
Predatory lending laws effectiveness	393(8)
Preference voting and instant second primaries	491(32.3)
Prescription drugs	491(10.3)
Prescription of ADD/ADHD drugs to children	491(8.13)

Index to Session Laws

*Session Law
Number*

Studies—continued

Primary election date.....	491(2.1)
Printing cost reductions study	491(15.1)
Professional teacher development ongoing study.....	424(31.4a)–(31.4e)
Property tax	499(3d)
Psychotropic medication use by children database feasibility	124
Public funding of campaigns	491(32.3)
Public health nurse consultants consolidation feasibility	424(21.91Aa)
Public health services in tier 1 counties.....	491(2.1D)
Public school professionals independent professional development study.....	424(31.4c)
Public trust and estuarine waters buffer variances.....	494(5)
Rape victims and health care workers at risk for HIV infection.....	491(28.4)
Reduction of county share of Special Assistance	385(1f)
Relationship between professions of landscape architecture and engineering	496(12.1c)
Residential charter schools	491(8.2)
Safety measures in State building code	491(2.1)
School food service workers/custodians salaries.....	424(28.34)
School instructional personnel/support personnel salary differential	424(28.37a)–(28.37b)
School violence threats reporting	491(2.1)
Schoolwork of suspended students.....	491(8.7)
Science, math and technology education.....	491(8.10)
Second degree arson penalty	491(21.2)
Sedimentation program transfer to local governments feasibility.....	424(19.8)
Speech and language pathology caseloads and severity rating scales	491(8.19)
State developed intellectual property transfer and use	424(15.1c)–(15.1e)
State energy program and alternative energy conservation project financing agreements.....	491(2.1)
State Medical Examiner system	491(2.1)
State Personnel Office restructuring.....	491(2.1)
State personnel system	491(2.1E)
State publications distribution	513(16e)
State purchasing and procurement process.....	491(2.1)
State testing program.....	424(28.17i)
State-chartered banks and savings institutions regulation	193(19)
Stormwater programs and policies	491(14.5)
Structured sentencing	424(25.8a)–(25.8b)
Substandard subdivision roads	491(13.4)
Summit House organization/expenditures review	424(25.14b)
Support programs for initially certified teachers effectiveness.....	424(28.19a)–(28.19b)
Tax apportionment formula.....	491(9.5)
Tax law compliance	491(9.2)
Teaching Fellows Program expansion.....	424(29.2d)
Teaching personal financial literacy.....	491(8.5)
Test copies to parents benefits.....	424(28.17d)

Index to Session Laws

*Session Law
Number*

Studies—continued

Textbook distribution system	424(28.24)
Toll-free line inventory and consolidation feasibility study for HHS	424(21.5b)
Tourism industry economic impact	491(2.1)
Traffic control photographic systems use	491(2.1)
Transportation funding equity	491(13.5)
Travel and tourism capital incentive grants	491(9.3)
Tuition rates for noncitizen immigrant students	491(8.9)
UNC Board of Governors.....	491(31.2)
UNC municipal services costs payments.....	491(2.1)
Underage drinking.....	491(11.4)
Uninsured motorist coverage.....	491(2.1)
University admissions and placement measures	312(1a)–(1c)
Vehicle emission inspection and maintenance program review	504(20)
Vehicle registration requirements compliance	491(13.3)
Vehicle safety inspection program	504(21)
Visitor safety in State parks.....	491(2.1)
Western passenger rail service engineering infrastructure	424(27.5a)
Workers' compensation insurance classifications.....	491(2.1)
Wrongful death proceeds distribution	491(2.1)
Zero-based budgeting.....	491(2.1)

Substance Abuse

Adult care home model for community-based services.....	424(21.54a)–(21.54b)
Alcohol and drug abuse treatment centers funds	424(5.1a)
Assessments	370(9)
Block grants funds.....	395(2.1a)
Child residential treatment services program funds	424(5.1a); 513(1e), (1f)
Children and adolescents services funds	395(2.1a); 424(5.1a)
Community-based services funds.....	395(2.1a); 424(5.1a)
Comprehensive substance abuse treatment services program Funds	395(2.1t); 513(1a), (1e), (1f)
Generally.....	424(5.1t)
Corrections licensure and certificate of need exemption.....	424(25.19a)–(25.19c)
Criminal justice clients services coordination	487(79.5)
Early intervention services maximization of receipts	424(21.79)
Family drug treatment courts	424(22.8a)–(22.8j); 487(114a)–(114b)
Family Focus funds	395(2.1a); 424(5.1a)
Intervention Services Unit created in HHS	424(21.18A)
Intoxicants and narcotics screening and intervention promotion	334(4)
IV drug users and others at risk for HIV services funds.....	395(2.1a); 424(5.1a)
Marriage and family therapist coverage under State plan.....	258
Medicaid payment schedule and bases	424(21.19a)
Pregnant women and women with children services funds	395(2.1a); 424(5.1a)
Residential substance abuse services for women with children Expansion	395(2.1o)

Index to Session Laws

*Session Law
Number*

Substance Abuse—continued	
Funds	395(2.1a), (2.1o), (2.1v); 424(5.1a), (5.1o), (5.1v)
Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs created	424(21.58a)–(21.58d)
Work First services funds	395(2.1a); 424(5.1a)
Substance Abuse Professional Certification Act	370
Substance Abuse Professional Certification Board	
Registration and fees	370(4)–(9)
Technical corrections and conforming changes.....	370(1)–(3)
Surety and Fidelity	
Actions on payment bond period shortened	177
Bail	
Bail bondsmen study.....	491(2.1A)
Bondsmen modifications.....	269(2.1)–(2.8)
Pretrial release.....	487(46.5a)–(46.5b)
Trust accounts.....	269(2.5)
Bond required of credit card companies applying for fuel tax refund	205(5)
Collection agency modifications	269(1.3)
Insurance and fidelity bonds for State to be placed by Insurance Department.....	424(6.2)
Insurance company reserving methods.....	223(1.1)–(1.2)
Money transmission business	443
Mortgage brokers and bankers	393
Motor vehicle dealer surety bond protection increase	492(4)
Reinsurance for domestic companies	223(3.1)–(3.7)
Resignation, removal, and renunciation of trustees.....	413(1)
Technical corrections and conforming changes.....	487(100)
Trust companies and interstate trust business.....	263
Surf City, Town of	
Eminent domain for erosion, flood/hurricane protection and beach access.....	36
Surf City/North Topsail Beach protection study funds.....	424(33.3a)–(33.3b)
Surry County	
Appointments to Mount Airy Planning Board and Zoning Board of Adjustment	101
Mitchell River restoration funds.....	424(33.3a)–(33.3b)
Mount Airy, Town of — <i>see</i> that heading	
State Nature and Historic Preserve land additions.....	217(2)
TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)
Swain County	
Bryson City, Town of — <i>see</i> that heading	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Payment of delinquent tax prior to recording deeds	464
Special ABC area definition change not applicable	515(2)
Swansboro, Town of—sidewalk improvement authority	429(2)

- T -

Tabor City, Town of—additional magistrate for Columbus County424(22.16)

TANF (Temporary Assistance to Needy Families)—*see* Welfare

Tar River—Tar-Pamlico River Basin - Nutrient Sensitive Waters
Management Strategy..... 355

Task Forces
More At Four Pre-K Task Force —*see* that heading

Tax Policy Commission
Appointments and membership.....491(29.2)
Appropriations.....491(29.13)
Reestablished 491(29.1)–(29.13)
Reporting requirements491(29.5)

Taxes and Assessments.....513(13)
Accelerated sales and use tax distribution to local governments... 427(13a)–(13g)
Brunswick fire fee 74
Credits
Child health insurance credit repealed 424(33.21a)–(33.21b)
Child tax credit increased..... 424(33.20a)–(33.20b)
Franchise tax clarifications 427(12a)–(12b)
Historic preservation tax credit sunset extension 476(19a)–(19b)
Housing tax credit allocation by pass-through entity 431
Pass-through distribution of partnership income tax credits 335
State ports tax credit sunset extended 517
Technical corrections and conforming changes 414
Wage calculation for job credits414(7)
William S. Lee Quality Jobs and Business Expansion Act
Generally 476
Limitations.....476(7a)–(7c)
Property investment..... 476(13a)–(13b)

Excise tax
Refunds for exempt, lost or unsalable fuel.....205(3)
Spiritous liquor tax increase.....424(33.23a)–(33.23e)
Telecommunications tax collection simplification..... 430
Wine tax proceeds..... 475

Exemptions
Co-owner vehicle title transfer487(68)
NC Information Highway charges exempt from
telecommunications tax 487(69b)–(69c)
Prison property tax exemption 427(15a)–(15b)
Volunteer fire and rescue vehicles exempt..... 424(33.24d)–(33.24e)

Food tax
Mecklenburg meals tax distribution..... 402(1)–(2)
Sales tax clarification 489(3a)–(3b)
Uniform penalties for local meals taxes 264

Franchise tax
Corporate-affiliated LLCs.....327(2)
Electric power company reporting requirements
and franchise tax distribution study.....427(6h)
Technical corrections and conforming changes 427(12a)–(12b)

Index to Session Laws

*Session Law
Number*

Taxes and Assessments—continued

Fuel tax	
Community college exemption	427(9a)–(9b)
Kerosene refunds	205(6)
Refunds for commercial mulch-blowing equipment	408
Refunds for exempt, lost or unsalable fuel	205(3)
Haywood County fire tax district boundary adjustments.....	56
Highway use tax	
Commission contract agent rate increase	424(27.21)
Disposition of proceeds.....	424(33.24c); 513(15)
Luxury car cap repealed.....	424(33.24a)
Recreational vehicle highway use tax cap.....	497(2a)–(2d)
Tax cap repeal transition	489(1a)–(1b)
Volunteer fire and rescue vehicles exempt.....	424(33.24d)–(33.24e)
Income tax, corporate	
Apportionment formula study	491(9.5)
Electronic funds transfer payments required for certain taxes	427(6b)
Historic preservation tax credit sunset extension	476(19a)–(19b)
HMO and medical service corporations	
Tax equalization	424(33.22a)–(33.22f)
Temporary modifications.....	489(2a)–(2h)
Housing tax credit allocation by pass-through entity	431
Limited liability companies	387(101)
Limited partnerships	387(150)
Partnerships.....	387(117)
Pass-through distribution of partnership income tax credits	335
Royalty income reporting option	327(1)
Subsidiary dividend	
Deduction conformed to accepted treatment.....	327(3)
Provisions clarification	427(10a)–(10b)
Surplus lines insurance premium tax remittance.....	451(2.2)
Technical corrections and conforming changes	414
Uniform telecommunications gross receipts tax	424(33.25a)–(33.25c), (33.25a)–(33.25c)
William S. Lee Act limitations.....	476(7a)–(7c)
Income tax, individual	
Child health insurance credit repealed	424(33.21a)–(33.21b)
Child tax credit increased.....	424(33.20a)–(33.20b)
Historic preservation tax credit sunset extension	476(19a)–(19b)
Marriage tax penalty eliminated.....	424(33.19a)–(33.19b)
New tax bracket for incomes over \$200,000.....	424(33.18a)–(33.18b)
Intangible tax	
Local government tax reimbursements	424(33.15a)–(33.15b)
Reimbursement to local government repeal delayed.....	395(17)
Royalty income reporting option	327(1)
Land transfer tax	
Accelerated payment of excise tax on conveyances.....	427(14a)–(14b)
Dare County distribution.....	394(6)

Index to Session Laws

Session Law
Number

Taxes and Assessments—continued

Motor vehicle	
Deadline for release of property tax after surrendering	
registration plates extended	497(1a)–(1b)
Motor vehicle tax	
Limited liability companies	387(151)
Prevent double taxation.....	406
Tax exemption for co-owner title transfer.....	487(68)
Occupancy tax.....	365(2)–(3)
Authorization for certain counties.....	434
Averasboro Township.....	439(12.1), (18.1)
Avery County.....	439(16.1)–(16.3c), (18.1)
Beech Mountain.....	434(8)–(11); 439(15.1)
Buncombe County	162
Cabarrus County	439(17.1)–(18.1)
Carrboro.....	439(14.1)–(14.2c), (18.1)
Carteret County.....	381
Cumberland County	483
Dare County.....	394(5); 439(7.1)–(7.7), (18.1)
Durham	480(6a)–(14)
Gastonia.....	439(1.1)–(1.2c), (18.1)
Harnett County.....	439(12.1), (18.1)
High Point furniture market improvements.....	11
Kings Mountain	439(2.1)–(2.2c), (18.1)
Lincolnton.....	439(3.1)–(3.2c), (18.1)
Mecklenburg distribution.....	402(1)–(2)
Monroe	439(4.1)–(4.2c), (18.1)
Nash County	349
North Topsail Beach	439(5.1)–(5.1c), (18.1)
Pender County.....	439(6.1)–(6.3c), (18.1)
Richmond County.....	439(13.1), (18.1)
Rowan County	439(8.1)–(8.2), (18.1)
Selma	439(10.1)–(10.2), (18.1)
Smithfield	439(11.1)–(11.2), (18.1)
Tyrrell County.....	468
Uniform provisions	439(18.1)
Vance County	321
Washington.....	365(1), (3)
Washington County	305
Wilkesboro.....	439(9.1)–(9.2c), (18.1)
Penalties and remedies	414(23)
Penalties waived for filing/reporting delays due to disasters.....	87
Privilege tax —see Sales and use tax, this heading	
Project collect tax.....	395(13)
Property tax	
Brunswick fire fee.....	74
Correctional facilities built under lease-purchase agreements exempt.....	84(3)
Deadline for release of property tax after surrendering	
registration plates extended	497(1a)–(1b)
Electronic listing of taxable business personal property	279

Index to Session Laws

*Session Law
Number*

Taxes and Assessments—continued

Exclusion for retirement facilities	17
Exempt properties	139
Fire protection	414(33)
Homestead tax exclusion	308
Local government tax reimbursements	424(33.15a)–(33.15b)
Manufactured home qualification as real property	506(1)
Ocean Isle Beach street and sidewalk assessments	478(2.2)
Payment of delinquent tax prior to recording deeds for certain counties	464; 513(14)
Present-use value amendments	499(1)–(2)
Prison exemption	427(15a)–(15b)
Reductions	308
Review of exempt properties	139
Septic system repair/inspection fees collected as property tax in certain counties	78(2)–(4)
Study	499(3d)
Tangible personal property under a direct pay permit	430(9)
Waiver of fees, deadlines, and penalties for deployed military personnel	508(5a)–(5b)
Refunds	
Bond required of credit card companies applying for fuel tax refund	205(5)–(6)
Exempt, lost or unsalable fuel	205(3)
Fuel tax refunds for commercial mulch-blowing equipment	408
Kerosene	205(6)
Sales and use tax—see also Highway use tax this heading	
Accelerated payments	427(6a)–(6j)
Accelerated sales and use tax distribution to local governments	427(13a)–(13g)
Dry-cleaning solvent tax effective date	265(1)
Electricity sales to manufacturers tax rates	476(17b)–(17g); 487(122a)–(122d)
Fertilizer and seed for nonfarmers not exempt from tax	514(1)
Half-cent increase in State tax	424(33.13a)–(33.13c)
Internet multistate agreement	347
Leased vehicle change	424(33.24b)
Local government tax reimbursements	424(33.15a)–(33.15b)
Local sales tax option	424(33.14a)–(33.14d)
Luxury car cap repealed	424(33.24a)
Mill machinery	347(2.17)
NC Information Highway charges exempt from telecommunications tax	487(69b)–(69c)
Newspaper vending machines street vendors for sales tax purposes	509
Prepared food clarification	489(3a)–(3b)
Rate administration costs	424(14D.3)
Report verification repealed	487(69a), (69c)
Satellite and cable TV tax equalization	424(33.17a)–(33.17c)
Spirituous liquor tax increase	424(33.23a)–(33.23e)

Index to Session Laws

*Session Law
Number*

Taxes and Assessments—continued

Tax holiday	424(33.16a)–(33.16d); 476(18a), (18b)–(18c)
Technical corrections and conforming changes	414(11)
Telecommunications tax	
Collection simplification	430
Restrictions	430(16)–(17)
Utility tax reports and payments repealed	487(118a)–(118b)
Volunteer fire and rescue vehicles exempt.....	424(33.24d)–(33.24e)
Streamlined sales and use tax agreement	347
Tax debt collection	380
Tax law compliance study.....	491(9.2)
Technical corrections and conforming changes.....	205; 347(2.1)–(2.22); 413(5)–(5.2); 414; 427(4a)–(4d), (12a)–(12b); 474(7)–(8); 487(25), (67a)–(67c), (70), (118a)–(118b), (119); 513(15)
Unemployment insurance tax	
Technical corrections and conforming changes	414(34)–(44)
Unemployment payments by tribes.....	184
Waiver of fees, deadlines, and penalties for deployed military personnel.....	508(3)–(5b)
Withholding	
Accelerated payments	427(5a)–(5d)
Teacher Academy, Board of Trustees	
Appointments and membership.....	486(1.53)
Small size classes programs	424(28.28b)
Teachers assigned to at-risk schools programs.....	424(28.28a)
Teachers and Education Administrators	
Class size	
High priority schools.....	424(29.6b)–(29.6c)
Reduction funds	395(15a)–(15c), (16)
Classroom experience for school personnel study.....	491(8.6)
Community colleges study	491(8.12)
Education administration masters programs.....	424(31.10a)–(31.10b)
Education for military personnel	146
Education through distance learning	424(31.7a)–(31.7b)
Initial certification subject area test/assessment	129
Instructional supplies funds.....	424(28.39a)–(28.39b)
Kindergarten class size limitations	424(28.44)
Leave to teach in charter schools local flexibility	462(1)
Low-performing schools local superintendent's plan additions	424(29.4a)–(29.4b)
Mentor funds for full-time mentors pilot program	424(28.18a)–(28.18b)
Mentors for second-year teachers.....	424(28.31)
Noneducator may serve as school superintendent	174
Part-time teacher benefits to address teacher shortage study.....	424(29.2c)
Performance-based licensure program	424(28.19b); 491(8.17)

Teachers and Education Administrators—continued

Principal's authority in determining student grades	424(28.17b), (28.17k)
Professional development ongoing study	424(31.4a)–(31.4e)
Public school professionals independent professional development study	424(31.4c)
Recruitment initiatives funds	424(28.43)
Retired teacher definition change	487(74c)
Salaries and Benefits — <i>see</i> that heading	
School personnel criminal history checks	376
Shortage funds	424(29.2a)–(29.2d)
Small size classes teacher academy programs	424(28.28b)
Substitute school personnel unemployment definition	424(28.47)
Superintendents' authority for expunction of student records	195
Superintendents' requirement to suspend student for certain violations	487(75)
Support programs for initially certified teachers effectiveness study	424(28.19a)–(28.19b)
Teacher Assistant Scholarship Fund created	424(31.5a)–(31.5b)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP) — <i>see</i> Insurance	
Teachers' and State Employees' Retirement System (TSERS) — <i>see</i> Retirement	
Teachers assigned at-risk schools teacher academy programs	424(28.28a)
Teaching Fellows Program expansion study	424(29.2d)
Technical corrections and conforming changes	487(74a)–(74c)
Time requirement between retirement and return to work for teachers shortened	424(32.25a)–(32.25c)
Teachers' and State Employees' Comprehensive Major Medical Plan (TSECMMP) — <i>see</i> Insurance	
Teachers' and State Employees' Comprehensive Major Medical Plan Board of Trustees	
Appointments and membership	486(1.54), (1A.55)
Comment period before adopting rules or regulations	253(1r)
Power to set deductible	253(1a)
Provider payment plan to be developed	253(1s)
Teachers' and State Employees' Retirement System Board of Trustees	
Appointments and membership	486(1.55), (1A.56)
Salary-related contributions	424(32.21c)
Teachers' and State Employees' Retirement System (TSERS) — <i>see</i> Retirement	
Teaching, Center for the Advancement of — <i>see</i> Center for the Advancement of Teaching Board of Trustees	
Teaching Fellows Commission —appointments and membership	486(1.56), (1A.57)
Technological Development Authority	
Profit sharing with State	424(20.8a)–(20.8d)
Reports — <i>see</i> that heading	
Telecommunications	
911 funds study	491(30.1)
Cellular phone use in vehicles study	491(2.1)
Emissions inspection telecommunications funds	504(22)
Forsyth/Winston-Salem purchase/lease on request for proposals basis	54

Telecommunications —continued	
Internet —see Information Technology	
NC Information Highway charges exempt from telecommunications tax	487(69b)–(69c)
Practicing medicine over Internet and telephone	27
Satellite and cable TV tax equalization	424(33.17a)–(33.17c)
Service of pleading by FAX	379(3)
Tax collection simplification	430; 487(119)
Technical corrections and conforming changes	487(67c), (119)
Telecommunications data and video ITS services billing	424(15.4d)
Telephone Membership Corporation city share computation	487(67d), (67f)
Telephone, telecommunications data, and computer data processing expenditure reductions	424(15.8a)
Toll-free line inventory and consolidation feasibility study for HHS	424(21.5a)–(21.5b)
Uniform gross receipts tax	424(33.25a)–(33.25c)
Telephones —see Telecommunications	
Tender Offer Disclosures Act	201
Testing	
Certification of elections officials	319(2a)
Educational testing	
Fairness in testing program	424(28.17a)–(28.17k)
Field and national tests during end-of-grade test period	487(116)
High school exit exams	424(28.16)
No national/field tests near end-of-grade/end-of-course tests	424(28.17h)
Practice tests instruction time limits	424(28.17g)
State testing program study	424(28.17i)
Statewide testing program objectives	424(28.17j)
Students with disabilities testing policies	424(28.17f)
Test copies to parents benefits study	424(28.17d)
Employer drug testing	487(66a)–(66b)
HIV/AIDS testing funds	395(2.1a)
Initial teacher certification subject area test/assessment	129
Locksmith licensure	369(1)
Pharmacy technician registration	375
Plumbing, heating and fire sprinkler contractors licensure	270(2)
University admissions and placement measures study	312(1a)–(1c)
Work First drug testing funds	395(2.1a)
Textbooks —see Education	
Textiles —Hosiery Technology Center funds	424(30.5b)
Therapeutic Recreation Certification, State Board of —appointments and membership	486(1.57), (1A.58)
Thomasville, City of —annexation	25
Tobacco —identification verification in sale of alcohol/tobacco	461(5)
Tobacco Trust Fund Commission —temporary rule authority	487(124)
Topsail Beach, Town of —eminent domain for erosion, flood/hurricane protection and beach access	36
Torts (see also Liability)	
Bus driver tort claims act applicability	424(6.18)
Disabled person definition under civil actions	487(1)

Index to Session Laws

Session Law
Number

Torts—continued

Double damages for destruction of agricultural commodities or production systems.....	290
Government tort claims study	491(2.1)
Hansen v. Crystal Ford-Mercury modification.....	216
Health plan liability.....	446(4.7)–(6)
Jurisdiction and limitation of actions in health insurance policies	334(1)
Landowner liability associated with watershed improvement projects	272
Linden acts validated.....	472(2e)
Litigation funds for Board of Education.....	424(28.1a)–(28.1c)
Local authority to provide defense and pay judgments against soil and water conservation personnel.....	300
Malpractice cases statute of limitations extension.....	121
Motor vehicle dealer remedies for manufacturer violations	510(5)
Pending lawsuits involving State report	424(23.11a)–(23.11b)
Rockingham settlement of claims	68(7)
State Employee Federal Remedy Restoration Act.....	467
Wrongful death proceeds distribution study.....	491(2.1)

Towing—pretowing notices required in certain municipalities..... 46

Trailers—*see* Motor Vehicles

Abandoned mobile homes study	491(14.6)
Modular home transit regulation	424(27.17a)–(27.17c)

Transportation (*see also* Ferries)

Adult day care transportation to comply with Social Services Commission rules	90
Coordinated transportation plans process modification.....	168
Motor fleet management study.....	424(7.3)
Public transportation — <i>see</i> that heading	
State aircraft use limitations	424(6.12)
Transportation funding equity study.....	491(13.5)

Transportation, Department of

Aeronautics Council —*see* that heading

Appropriations

Aviation grants.....	424(27.15)
Current operations and expansion	424(2.1)
Emissions inspection telecommunications funds	504(22)
Highway Fund	
Administration.....	424(3.1)
Aid to municipalities	424(3.1)
Airports.....	424(3.1)
Anticipated revenues	424(27.4a)–(27.4b)
Asphalt plant.....	424(3.1)
Construction	424(3.1)
Federal aid match.....	424(3.1)
Ferry operations.....	424(3.1)
Governor's highway safety	424(3.1)
Maintenance	424(3.1)
Operations	424(3.1)
Programs.....	424(3.1)
Public transit.....	424(3.1)

Transportation, Department of—continued

Rail	424(3.1)
Regulation	424(3.1)
Reserves and transfers	424(3.1)
Transfer to Correction Department for prisoner road crews	424(25.11b)
Highway Trust Fund	
Anticipated revenues	424(27.4a)–(27.4b)
Computerized traffic signal systems	424(27.23d)
Emissions inspection telecommunications funds	504(22)
Preliminary engineering costs	424(27.23d)
Primary route pavement preservation	424(27.23d)
Public transportation	424(27.23d)
Organ, eye and tissue donor registry study funds	481(4)
Rail track and signal improvement	487(115a)–(115b)
Railroad bridge placement project planning and preliminary engineering	424(27.29); 487(115a)–(115b)
Small urban and contingency	424(27.3)
Transfer to Correction Department for prisoner road crews	424(25.11a)
Western rail operations and station right-of-way funds	424(27.5a)–(27.5c)
Asphalt paving recycling	424(27.18)
Aviation Division	
Global TransPark airport assets transfer study	424(27.19)
Blue Star Memorial and American Ex-POW Highway	196
Cash-flow management	424(27.23a)–(27.23f), (27.23c)
Coordinated transportation plans process modification	168
Corning access bridge right-of-way	1
Declaration of right-of-way dedicated to public use	501
Design-build construction contracts authorized	424(27.2a)–(27.2b)
Dobbs Youth Development Center funds	513(10)
Drivers license/motor vehicle registration section consolidation study	424(27.14)
Drivers license technology fund established	461(4)
Electronic bids authorized	424(27.9a)–(27.9b)
Escort driver certification program authorized	424(27.10)
Governor Samuel Ashe grave site maintenance	487(125.1)
Highway Fund	
Bond retirement transfer repealed	424(27.1)
Cash-flow management	424(27.23b)
Disposition of highway use tax proceeds	424(33.24c)
Division 3 headquarters reimbursement rescinded	424(27.8)
Investment authority of State Treasurer	444
Transfer for State Health Plan	395(11b)
Highway Trust Fund	
Bond retirement transfer repealed	424(27.1)
Cash balance certification	424(27.23e)
Cash-flow management	424(27.23b)

Transportation, Department of—continued

Division 3 headquarters reimbursement rescinded.....	424(27.8)
Study	424(27.6c), (27.6k)
Transfer of funds for certain projects.....	424(27.23f)
Transportation funding equity study	491(13.5)
Vehicle safety/pollution inspection fees distribution	504(2)–(3)
Incentive pay productivity pilot program	424(27.22A)
Litter enforcement signs.....	512(4)
Litter removal.....	512(3)
Minimum criteria transportation projects temporary rules ..	424(27.22a)–(27.22b)
Modular home transit regulation	424(27.17a)–(27.17c)
Motor Vehicles, Division of — <i>see</i> that heading	
Nonbetterment utility relocation in highway construction study.....	424(27.26)
Norfolk Southern track use negotiations for Western passenger rail service	424(27.5c)
Organ, eye and tissue donor registry study.....	481(1)
Piedmont area commuter rail line study	491(5.1)
Private property designated as public vehicular area.....	441
Proposed school location evaluation for traffic operation and safety	424(27.27)
Rail Division	
Rail track and signal improvement funds.....	487(115a)–(115b)
Recycling containers at highway rest areas	512(13)
Regional public transportation authority capital reserve fund accumulation	424(27.28)
Reports — <i>see</i> that heading	
Right-of-way plan fees.....	390(6)
Roadway improvements in extraterritorial jurisdiction for certain cities.....	261
Secretary	
Governor's Highway Safety Program transfer.....	424(27.11a)–(27.11b)
Membership on Geographic Information Coordinating Council.....	359
Salary	424(32.2)
State Highway Patrol — <i>see</i> Law Enforcement	
Tire retreading contract	424(27.24)
Tourist-oriented directional sign program	383
Traffic control/red light cameras	286
Transporter plates for programs providing vehicles to low-income persons.....	147
Western passenger rail service engineering infrastructure study	424(27.5a)

Transportation Oversight Committee, Joint Legislative

Appointments and membership.....	486(2.4)
Commission contract agent study.....	491(13.2)
Nonbetterment relocation costs study.....	491(13.6)
Substandard subdivision roads study.....	491(13.4)
Transportation funding equity study.....	491(13.5)
Vehicle registration requirements compliance study.....	491(13.3)
Vehicle safety inspection program study.....	504(21)

Index to Session Laws

Session Law
Number

Transylvania County

- Brevard, City of —*see* that heading
- National Heritage Area Designation Commission created 491(18.1)–(18.10)
- Property acquisition for educational purposes..... 427(7a)–(7b)

Travel and Tourism

- Authorities —*see* that heading
- Capital incentive grants study491(9.3)
- Civil War tourism study424(11.2a)–(11.2c)
- Farm product promotion at rest areas424(17.1)
- National Heritage Area Designation Commission heritage
tourism plan.....491(18.10)

Occupancy tax

- Authorization for certain counties..... 434
- Averasboro Township.....439(12.1)
- Avery County..... 439(16.1)–(16.3c)
- Beech Mountain.....439(15.1)
- Buncombe County 162
- Cabarrus County439(17.1)
- Carrboro..... 439(14.1)–(14.2c)
- Carteret County..... 381
- Cumberland County 483
- Dare County distribution.....394(5)
- Durham 480(6a)–(14)
- Gastonia..... 439(1.1)–(1.2c)
- Harnett County.....439(12.1)
- High Point furniture market improvements..... 11
- Kings Mountain 439(2.1)–(2.2c)
- Lexington..... 365(2)–(3)
- Lincolnton..... 439(3.1)–(3.2c)
- Mecklenburg distribution..... 402(1)–(2)
- Monroe 439(4.1)–(4.2c)
- Nash County 349
- North Topsail Beach 439(5.1)–(5.1c)
- Pender County..... 439(6.1)–(6.3c)
- Richmond County439(13.1)
- Rowan County 439(8.1)–(8.2)
- Selma 439(10.1)–(10.2)
- Smithfield 439(11.1)–(11.2)
- Tyrrell County..... 468
- Vance County 321
- Washington County 305
- Wilkesboro..... 439(9.1)–(9.2c)
- Payment of travel agents to procure potential vacation renters 293
- Tourism Development Authorities —*see* Authorities
- Tourism industry economic impact study.....491(2.1)
- Tourism promotion funds.....424(20.1)
- Tourist-oriented directional sign program 383
- Washington occupancy tax for development..... 365(1), (3)
- Winery/wine tasting permits 262

Tribal Government

Appellate division reports distribution to Cherokee Supreme Court	280
Cherokee gaming compact	513(29a)–(29c)
Child welfare issues collaboration.....	309
Full faith and credit to judgments of tribal courts	456
Indian Cultural Center lease	89
Persons authorized to solemnize marriage	62(1)
Principal Chief of the Eastern Band of the Cherokee Nation Appointments — <i>see</i> that heading	
Recognition of Native American sanctioned marriages	62(5)–(6)
Tribal trust lands	344
Unemployment payments by tribes	184
Trinity, City of —deannexation	25
Troy, Town of —annexation	136
Trucking — <i>see</i> Commerce; Motor Vehicles	
Trusts — <i>see</i> Estates and Trusts; Financial Services; Funds and Accounts	

Tuition

Aid to private colleges.....	424(31.1a), (31.1c)–(31.1d)
Aid to private medical schools funding formula	424(31.3)
College and university tuition	395(10c)–(10f)
Community colleges tuition increases	395(10a)–(10b)
Legislative tuition grant Aid for private colleges.....	424(31.1a)
Relief for active duty military personnel.....	508(8b)–(8c)
Management flexibility for special responsibility UNC constituent institutions.....	424(31.11a)–(31.11c)
Need-based community college scholarship program	229
Parental savings trust fund nonresident participation	243
Rates for noncitizen immigrant students study.....	491(8.9)
Refunds for called up reserve and national guard personnel	508(7a)–(8a)

Tyrrell County

Board of Education terms.....	4
Occupancy tax.....	468
Septic system repair/inspection fees collected as property tax	78(2)–(4)
State Nature and Historic Preserve land additions.....	217(2)
Wetlands mitigation banking credits disposal	32

- U -

UCC—*see* Uniform Commercial Code

Umstead Act	368
--------------------------	-----

UNC Board of Governors

Academic Common Market pilot program.....	424(31.2a)–(31.2c)
Admissions and placement measures study.....	312(1a)–(1c)
Aid to private medical schools funding formula	424(31.3)
Appropriations Aid to private colleges	424(31.1a), (31.1c)–(31.1d)
Aid to private medical schools	424(31.3)

Index to Session Laws

Session Law
Number

UNC Board of Governors—continued

Current operations and expansion	424(2.1)
Distance learning funds.....	395(10d)
Enrollment funds.....	395(10d)–(10f)
Legislative tuition grant program funds	395(10f)
Personnel salaries.....	424(32.12b)
Progress Board.....	424(31.12d); 513(6)
Repairs and Renovations Reserve Account expenditures	424(33.6)
State contractual scholarship program funds.....	395(10f)
Teacher Assistant Scholarship Fund	424(31.5b)
Turfgrass research and education	514(2a)
Capital improvements authorization.....	463
Capital projects	
Funding changes authorized.....	463(3)
Special obligation bonds	463(4)
Construction flexibility for public entities.....	496
Dentistry school at ECU feasibility study	424(31.10d)
Election procedures	503
Electronic procurement program UNC exemption	
for certain campuses	424(15.6b); 513(28a)–(28b)
Engineering school at Western Carolina and UNC-Asheville	
feasibility study	424(31.10d)
Fayetteville State stadium study	491(24.1)
Health care personnel education study	491(8.11)
Management flexibility for special responsibility	
institutions.....	424(31.11a)–(31.11c)
Personnel salaries	424(32.12a)–(32.12b)
Pharmacy school at ECSU feasibility study	424(31.10c)
Professional teacher development ongoing study.....	424(31.4b)
Reimbursement for legal expenses to Justice Department.....	424(23.4)
Repairs and Renovations Reserve Account expenditures.....	424(33.6)
Reports — <i>see</i> that heading	
School for the Deaf at Greensboro closure.....	424(21.81a)–(21.81d)
Study of board.....	491(31.2)
Surplus property guidelines	424(31.8)
Teacher Assistant Scholarship Fund	
Created.....	424(31.5a)–(31.5b)
Criteria	424(31.5a)–(31.5b)
Rules	424(31.5a)
Teacher education	
Military personnel.....	146
Through distance learning.....	424(31.7a)–(31.7b)
Triangle J guidelines for State facilities pilot program.....	415(7a)–(7e)
Tuition increases	395(10c)–(10f)
UNC Board of Governors Study Commission	
Appointments and membership.....	491(31.1)
Created	491(31.1)–(31.5)
Study	491(31.2)

UNC Center for Public Television—*see* University of North Carolina

Underage Drinking Study Commission

 Appointments and membership.....491(11.2)

 Appropriations.....491(11.13)

 Created 491(11.1)–(11.13)

Unemployment Insurance—*see* Employment; Insurance

Uniform Anatomical Gift Act 255

Uniform Commercial Code

 Fraudulent filings under Article 9 231

 Security interests created by governments under Title 9 clarified 218

 Technical corrections and conforming changes.....487(15)

Uniform Electronic Transactions Act 295

Union County

 Fairview, Town of —*see* that heading

 Monroe, City of —*see* that heading

 Monroe property acquisition and conveyance to county 190(1)–(3)

 Traffic control/red light cameras for certain cities286(1)

 Weddington, Town of —*see* that heading

University Employees' Optional Retirement System—*see* Retirement

University of North Carolina

 Academic Common Market pilot program.....424(31.2a)–(31.2c)

 Admissions and placement measures study.....312(1a)–(1c)

 Agricultural Extension Service

 Appropriations 424(2.1)

 Agricultural Research Service

 Appropriations 424(2.1)

 Appalachian State University

 Appropriations

 Current operations and expansion.....424(2.1)

 Capital improvements authorization463(2)

 Miles Annas Student Support Facility463(2)

 Student recreation complex.....463(2)

 Appropriations—*see also* particular campus this heading

 Budget flexibility/reductions..... 424(31.6a)–(31.6b)

 Current operations and expansion424(2.1)

 Non-General Fund appropriations capital improvements
 authorization..... 463

 Bond project substitution.....424(31.9)

 Budget flexibility/reductions 424(31.6a)–(31.6b)

 Campus law enforcement jurisdiction 397

 Center for Public Television

 Board of Trustees

 Appointments and membership 486(1.42), (1A.41)

 Center for School Leadership Development

 Professional teacher development ongoing study424(31.4b)

 Chinqua-Penn funds transfer424(31.13)

 Conflicts of interest with public funds 409

 Construction and design review by State Building
 Commission..... 496(11)–(11.1)

Index to Session Laws

*Session Law
Number*

University of North Carolina—continued

East Carolina University

Appropriations

Academic affairs.....	424(2.1)
Current operations and expansion.....	424(2.1)
Health affairs	424(2.1)
Baseball stadium	463(2)
Capital improvements authorization	463(2)
Dentistry school feasibility study.....	424(31.10d)
Education administration masters programs.....	424(31.10a)–(31.10b)
Electronic procurement program	424(15.6b)–(15.6c); 513(28a)–(28b)

Elizabeth City State University

Appropriations

Current operations and expansion.....	424(2.1)
Pharmacy school feasibility study.....	424(31.10c)
Emergency response plans for school violence confidential	500(3)
Employment of minors enrolled as students.....	312(3)
Facility Authority university chancellor clarification.....	311

Fayetteville State University

Appropriations

Current operations and expansion.....	424(2.1)
Stadium study	491(24.1)
Higher education residency requirements study.....	491(8.21)
Legislative tuition grant relief for active duty military personnel.....	508(8b)–(8c)
Liability insurance required for parking permit.....	336
Management flexibility for special responsibility institutions	424(31.11a)–(31.11c)
Medical liability coverage for certain State employees.....	424(21.55)

North Carolina A&T State University

Appropriations

Current operations and expansion.....	424(2.1)
Capital improvements authorization	463(2)
Education administration masters program.....	424(31.10a)–(31.10b)
Reid Greenhouse.....	463(2)
Student Union renovation	463(2)
Track and field upgrade	463(2)

North Carolina Central University

Appropriations

Current operations and expansion.....	424(2.1)
Capital improvements authorization	463(2)
Education administration masters program.....	424(31.10a)–(31.10b)
Juvenile Justice Institute	
DARE program review	424(23.9b)
Effectiveness standards development for Juvenile Crime Prevention Councils	424(24.2c)
Shepard House restoration	463(2)

Index to Session Laws

*Session Law
Number*

University of North Carolina—continued

North Carolina School of Science and Mathematics	
Appropriations	
Current operations and expansion.....	424(2.1)
Board of Trustees	
Appointments and membership	486(1.47)
Budget flexibility	449
North Carolina School of the Arts	
Appropriations	
Current operations and expansion.....	424(2.1)
North Carolina State University	
Alumni center	463(2), (5)
Appropriations	
Academic affairs.....	424(2.1)
Agricultural Extension Service	424(2.1)
Agricultural Research Service	424(2.1)
Center for Turfgrass Environmental Research and Education.....	514(2a)
Current operations and expansion.....	424(2.1)
Baseball and tennis facility upgrades	463(2)
Capital improvements authorization	463(2)
Carter Finley Stadium improvements	463(2), (5)
Center for Educational Innovation	463(2)
Electronic procurement program exemption	424(15.6b); 513(28a)–(28b)
Greek housing renovations.....	463(2)
Residence halls fire safety.....	463(2)
Rivernet water quality monitoring system pilot program.....	424(19.5)
Support services center	463(2)
Visitor center.....	463(2)
Water Quality Workgroup created	424(19.5)
Patentable intellectual property	
Development loans/grants reporting exemption.....	424(15.1a)–(15.1b)
Transfers reporting exemption	424(15.1a)–(15.1b)
Positions to help combat threats of terrorism	470(4)
President's membership on Geographic Information	
Coordinating Council	359
Security standards for information technology.....	424(15.2b)
Surplus property guidelines	424(31.8)
Teacher education through distance learning	424(31.7a)–(31.7b)
Tuition	
Generally.....	395(10c)–(10f)
Rates for noncitizen immigrant students study	491(8.9)
Refunds for called up reserve and national guard personnel.....	508(8a)
UNC Board of Governors — <i>see that heading</i>	
UNC Hospitals at Chapel Hill	
Appropriations	
Current operations and expansion.....	424(2.1)
UNC municipal services costs payments study	491(2.1)

Index to Session Laws

Session Law
Number

University of North Carolina—continued

UNC-Asheville	
Appropriations	
Current operations and expansion.....	424(2.1)
Engineering school feasibility study	424(31.10d)
UNC-Chapel Hill	
Appropriations	
Academic affairs.....	424(2.1)
Area Health Education Centers.....	424(2.1)
Current operations and expansion.....	424(2.1)
Health affairs	424(2.1)
UNC-CH Cares block grant funds.....	424(5.1a)
Bond project substitution	424(31.9)
Capital improvements authorization	463(2)
Electronic procurement program exemption	424(15.6b); 513(28a)–(28b)
Ramshead Complex	463(2)
Residence halls renovation.....	463(2)
UNC Hospitals at Chapel Hill — <i>see</i> entry this heading	
UNC-Charlotte	
Appropriations	
Current operations and expansion.....	424(2.1)
Capital improvements authorization	463(2)
Recreation field lighting.....	463(2)
UNC-Greensboro	
Appropriations	
Current operations and expansion.....	424(2.1)
Capital improvements authorization	463(2)
Parking deck	463(2)
Regulate parking on certain streets	170
Residence halls renovation.....	463(2)
UNC-Pembroke	
Appropriations	
Current operations and expansion.....	424(2.1)
Education administration masters program.....	424(31.10a)–(31.10b)
UNC-Wilmington	
Appropriations	
Current operations and expansion.....	424(2.1)
Lower Cape Fear River Research and Education Program	
Water quality and sediment sampling for contaminants	440(3.5)
University Employees' Optional Retirement System	
Salary-related contributions	424(32.21b)
Senior administrators program extension.....	424(32.27)
Western Carolina University	
Appropriations	
Current operations and expansion.....	424(2.1)
Athletic/recreational facilities improvements.....	463(2)
Capital improvements authorization	463(2)
Engineering school feasibility study	424(31.10d)

Index to Session Laws

Session Law
Number

University of North Carolina—continued

Winston-Salem State University

Appropriations

Current operations and expansion.....424(2.1)

Capital improvements authorization463(2)

Residence halls renovation.....463(2)

Urban Development—*see* Economic Development

Utilities

Accelerated tax payments.....427(6c)–(6e)

Air quality improvement study.....491(30.2)

Alternative energy sources study.....491(14.7)

Charlotte infrastructure public-private reimbursement

agreements 329

Electric power company reporting requirements and

franchise tax distribution study427(6h)

Electricity rate structure for manufacturers study..... 476(15a)–(15b)

Electricity sales to manufacturers tax rates 476(17b)–(17g);

487(122a)–(122d)

Energy improvement loan program expansion..... 338

Exemption from Uniform Electronic Transactions Act.....295(2)

Low-income energy block grant funds..... 424(5.1a)

Metered water use cost charged as rent to encourage water

conservation 502

Natural gas bonds issuance delayed416(1)

Nonbetterment utility relocation

Costs study.....491(13.6)

Highway construction study.....424(27.26)

Piped natural gas rate structure for manufacturers study.....476(15c)

Public enterprise billing information not public record..... 473

Regulatory fee427(2a)–(2c)

State energy program and alternative energy conservation

project financing agreements study491(2.1)

Telecommunications tax collection simplification 430

UNC municipal services costs payments study491(2.1)

Universal service rules 252

Utility tax reports and payments repealed 487(118a)–(118b)

Utilities Commission

Chair

Membership on Geographic Information Coordinating

Council..... 359

Salary424(32.3)

Members' salary424(32.3)

Regulatory fee427(2a)–(2c)

Technical corrections and conforming changes.....487(38d)

Telecommunications rates..... 430(18)

Universal service final rules adoption deadline extended..... 252

Utility Review Committee, Joint Legislative

911 funds study491(30.1)

Air quality improvement study.....491(30.2)

- V -

Vaccination — <i>see</i> Public Health	
Vance County	
Henderson, City of — <i>see</i> that heading	
Occupancy tax	321
Payment of delinquent tax prior to recording deeds	464
Vending Machines — <i>see</i> Commerce	
Veterans — <i>see</i> Armed Forces	
Veterans Affairs Commission —Veterans Home Trust Fund	
expenditures authority	117(1)
Veterinary Medical Board —appointments and membership	281(1); 486(1.59)
Veterinary Medicine (<i>see also</i> State Veterinarian)	
Victims Rights (<i>see also</i> Crimes; Sentencing)	
Conference of District Attorneys victims' information repository repealed	302
Confinement of prisoner outside the county of residence of victim	433(10)
Crime Victims Compensation Fund report revision	424(26.5)
Custodial agency	
Definition	433(1)
Notification requirements	433(7)
District attorney responsibilities	433(3), (6)
Domestic violence victims confidentiality program study	491(2.1)
Judicial officials responsibilities when issuing arrest warrants	433(4)
No inmate contact with victim's family	433(9)
Parole and probation hearing notification requirement	433(8)
Pretrial process notification	433(2)
Rape crisis/victims' services program funds	424(5.1a)
Victim impact evidence at sentencing	433(5)
Victim information repository repealed	433(6)
Victims assistance network expenditures report	424(26.4)
Virginia-North Carolina Interstate High-Speed Rail Commission	
Appointments and membership	486(2.22)
Created	266
Reports — <i>see</i> that heading	
Vital Records — <i>see</i> Records	
Vocational Education (<i>see also</i> Employment)	
Apprenticeship program	
Funds	424(20.6b)
Transferred from Labor Department to Community Colleges System	424(30.10b)
Auctioneers continuing education requirements	198(2)
Bureau of Training Initiatives transferred from Labor Department to Community Colleges System	424(30.10a)
College degrees in social work collaborative support	395(2.1u)
Common follow-up evaluation transferred from Budget and Management to ESC	424(20.17a)–(20.17b)
Consolidate and coordinate workforce development programs	424(30.10a)–(30.10b)
Employment and training grant program funds	424(20.6b)

Index to Session Laws

Session Law
Number

Vocational Education—continued

Entrepreneurial skills training program funds 424(20.6b)
Focused industrial training program funds 424(20.6b), (30.5a),
(30.5b), (30.15)
Funeral services
 Licensure..... 294(3)
 Student permits repealed 294(6)
Global TransPark education and training center transfer study 424(27.20)
Hosiery Technology Center funds 424(30.5b)
Human Resources Development employability skills training
 classes development 424(30.3a)
JobLink Career Centers and human resources development
 services delivery integration study 424(30.3c)
Manufactured housing continuing education 421(2.2)–(2.3)
New and Expanding Industry Training Program funds
 transfers 424(30.2), (30.5a)
Residential child care facilities training 395(2.1u)
Sentence reduction for prisoners in training programs 200
Septage management operator training 505(1.2)
Training and reemployment contribution 424(30.5e)–(30.5j)
Training funds 424(20.6b)
Training of the unemployed and working poor funds 424(20.6b)
Well contractor certification..... 440(1.3)

Vocational Rehabilitation—*see* Disabled Persons; Social Services

Volunteers (*see also* Corporations, Nonprofit)

Disaster service volunteer leave 508(6)
Good Samaritan Law for certain health care providers 230
Workers' compensation for safety workers funds..... 424(2.1)

Voter Registration

Armed forces 466(4e)
Election day registration..... 353(3)
Late registration deadline 319(6)
Permanent voter registration numbers 319(8.1)
Register by FAX 315
Registration list maintenance 319(8)
Residency definition..... 316
Voter address changes by FAX 314
Voter records under domestic violence protective orders..... 396

- W -

Wake County

Add District Court judgeship 424(22.17a)–(22.17c)
Cary, Town of —*see* that heading
Fuquay-Varina, Town of —*see* that heading
Garner, Town of —*see* that heading
HHS office inventory 424(21.1b)
Indian Affairs Commission membership..... 318(1)
Joint security force at Dorothea Dix Hospital 125
Knightdale, Town of —*see* that heading
Mentor funds for full-time mentors pilot program 424(28.18a)–(28.18b)

Wake County—continued

- Morrisville, Town of —*see* that heading
- One-stop absentee voting site grants 424(14B.1a)–(14B.1b)
- Prequalified bidders for school construction 44
- Raleigh, City of —*see* that heading
- Spotlighting deer 164
- State Nature and Historic Preserve land additions.....217(2)
- Superior court district realignment 333
- Wake Forest, Town of —*see* that heading
- Worthless check program..... 61

Wake Forest, Town of

- Deannexation 246
- Water withdrawal from Neuse River Basin..... 361

Warren County—payment of delinquent tax prior to recording deeds 464

Washington, City of—occupancy tax 365(1), (3)

Washington County

- Occupancy tax 305
- Payment of delinquent tax prior to recording deeds513(14)
- Plymouth, Town of —*see* that heading
- Septic system repair/inspection fees collected as property tax 78(2)–(4)
- State Nature and Historic Preserve land additions.....217(2)

Washington Park, Town of—Maple Branch water management funds..... 424(33.3a)–(33.3b)

Waste Management (*see also* Hazardous Substances; Radioactive Materials)

- Abandoned mobile homes study491(14.6)
- Anhydrous ammonia installation modifications440(2)
- Animal operations inspection pilot program extended 254(5)–(6)
- Asphalt paving recycling.....424(27.18)
- Automatic animal waste system approval repealed..... 254(3)–(4)
- Durham stationary container collection.....480(5)
- Inactive hazardous sites report change452(2.3)
- Littering —*see* Pollution
- Livestock market animal waste management systems..... 326
- On-site demolition debris disposal 357
- Prohibited solid waste incineration 440(3.1)–(3.4)
- Scrap tires
 - Disposal Act implementation report change452(3.4)
 - Program position.....424(19.14)
 - Tax proceeds redirected to General Fund.....424(2.2j)
- Solid Waste Management Plan report change 452(3.1)–(3.2)
- Special handling rules for certain dry-cleaning solvent
 - waste repealed265(3)
- Swine farm and lagoon moratorium extended..... 254(1)–(2)
- Technical corrections and conforming changes.....474(22)
- Water quality and animal waste system specialist approval 284
- White goods management 265(5)–(6); 452(3.5)
- White goods management tax proceeds redirected
 - to General Fund.....424(2.2j)

Watauga County—National Heritage Area Designation Commission created 491(18.1)–(18.10)

Index to Session Laws

Session Law
Number

Water and Sewer Systems

Bid law exemptions for Charlotte..... 248
Clean water bonds reallocations..... 416(3)–(5)
Durham waterworks authority.....480(4)
Exemption from Uniform Electronic Transactions Act.....295(2)
Germanton water project fund..... 424(19.12a)–(19.12b)
Infrastructure public-private reimbursement agreements
for Charlotte 329
Interconnection of public water systems study.....491(14.4)
Metered water use cost charged as rent to encourage water
conservation 502
Municipal and domestic wastewater collection system
permit program report452(2.6)
Nonprofit water companies and State may join certain water
and sewer authorities 224
On-site subsurface wastewater system approval 505(2.2)–(2.5)
Quick take procedures for Charlotte..... 304
Residential wastewater treatment system performance reports505(2.1)
Sanitary district satellite annexation..... 301
Septic systems
Repair/inspection fees collected as property tax in
certain counties..... 78(2)–(4)
Septage management
Operator training505(1.2)
Program permits505(1.1)
Transfer to multicounty agency78(1)
Sewer line cleanout required 296
Stormwater programs and policies study.....491(14.5)
Temporary wastewater holding tanks.....505(1.2)
Walnut Cove/industrial site connection project funds 424(19.12a)–(19.12b)
Wastewater Discharge Elimination Program annual report.....452(2.9)
Water and sewer special obligation bonds..... 238
Wells
Well contractor certification 440(1.1)–(1.5)
Well separation distance requirements..... 113

Water Resources (*see also* Lakes and Rivers)

Aquatic weeds control funds 424(33.3a)–(33.3b)
Candor Park drainage funds 424(33.3a)–(33.3b)
Chadborn water management funds 424(33.3a)–(33.3b)
Clean water bonds
Issuance delayed416(1)
Payments to local governments.....416(2)
Reallocations.....416(3)
Environmental permitting process study424(19.11a)–(19.11c)
Expanding land and water conservation options study.....491(14.3)
Germanton water project fund..... 424(19.12a)–(19.12b)
Kerr Reservoir operations evaluation 424(33.3a)–(33.3b)
Lake Gaston aquatic weeds control funds 424(33.3a)–(33.3b)
Livestock markets under water quality statutes 326

Water Resources—continued

Local authority to provide defense and pay judgments against soil and water conservation personnel.....	300
On-site demolition debris disposal	357
Open-end design agreements for wetlands mitigation rules	442(6c)
River basin buffer/water quality	
Not applicable to Catawba River Basin	418(4b)
Rules extended	418(4a)
Rivernet water quality monitoring system pilot program	424(19.5)
Southern Pines drainage improvements funds.....	424(33.3a)–(33.3b)
Stormwater programs and policies study.....	491(14.5)
Surface water training and certification program	404
Tar-Pamlico River Basin - Nutrient Sensitive Waters	
Management Strategy	355
Technical corrections and conforming changes.....	474(28)
Town Fork Creek funds reallocated	424(19.12a)–(19.12b)
Wake Forest water withdrawal from Neuse River Basin.....	361
Water quality	
Catawba-Wateree river basin water quality and water supply issues study	491(16.1)
Not applicable to Catawba River Basin	418(4b)
Rules extended	418(4a)
Sampling for contaminants	440(3.5)
Water quality and animal waste system specialist approval.....	284
Workgroup created.....	424(19.5)
Water resources development projects matching funds.....	424(33.3d)
Water supply plan implementation report	452(2.7)
Water Resources and Coastal Fisheries Management, Scientific Advisory Council on —technical corrections and conforming changes	474(29)
Wateree River —Catawba-Wateree river basin water quality and water supply issues study	491(16.1)
Watershed Protection Advisory Council —appointments and membership	486(1A.59)
Wayne County	
Joint security force at Cherry Hospital	125
State Nature and Historic Preserve land additions.....	217(2)
Waynesville, Town of —satellite annexation limit removed.....	37
Weapons	
Court custody of juvenile alleged using weapon in misdemeanor.....	158
Discharge of firearm across public right-of-way in Caldwell County unlawful.....	67
Lock requirements on firearms-related buildings	324
Records checks report by Justice Department for concealed handgun permits	424(23.5a)
Weapons of mass destruction	470
Weddington, Town of —road construction outside corporate limits allowed.....	245
Weldon, Town of —annexation	49; 425(1)–(2)
Welfare	
Block grant funds	395(2.1a)

Index to Session Laws

Session Law
Number

Welfare—continued

Child care subsidy rates.....	424(21.73a)–(21.73j)
Child welfare workers and services for local departments of social services funds.....	424(5.1a)
Medicaid — <i>see</i> that heading	
TANF (Temporary Assistance to Needy Families)— <i>see also</i> Work First this heading	
Administration	424(5.1n)
After-school services for at-risk children funds	424(5.1a)
Block grant funds.....	395(2.1a), (2.1aa), (2.1b), (2.1e), (2.1g), (2.1h)–(2.1i), (2.1k)–(2.1n), (2.1o), (2.1r), (2.1s), (2.1u), (2.1w), (2.1x), (2.1y)
Block grants	395(2.1p), (2.1q)
Business process reengineering project reserve funds	424(5.1a), (5.1w)
Cash assistance reserve	395(2.1v); 424(5.1v); 513(33)
Domestic violence prevention and awareness funds	424(5.1a)
Individual development accounts.....	424(5.1aa)
Intensive family preservation program funds.....	424(5.1a)
No-cost contract extensions for nongovernmental recipients	395(2.1e); 424(5.1e)
Out-of-wedlock births reduction funds	424(5.1a)
Recipient ID system repealed.....	424(21.52)
Residential substance abuse services for women with children funds.....	424(5.1a), (5.1o)
Special Children Adoption Fund funds	424(5.1a)
Staff development funds	424(5.1a)
State plan	395(7a)–(7d); 424(21.51a)–(21.51d)
Substance abuse services for juveniles funds.....	424(5.1a)
Support Our Students funds	424(5.1a)
Teen pregnancy prevention funds	424(5.1a)
Transfers	424(5.1a)
Transporter plates for programs providing vehicles to low-income persons.....	147
Work First— <i>see also</i> TANF this heading	
Block grant funds.....	395(2.1a)
Boys and Girls Clubs funds	395(2.1a), (2.1k), (2.1v); 424(5.1a), (5.1j), (5.1v)
Cabarrus Work Over Welfare program extended.....	354
Cash assistance	
Funds	424(5.1a)
Reserve	424(5.1v)
Reserve flexibility.....	513(33)
County block grants	424(5.1a)

Index to Session Laws

Session Law
Number

Welfare—continued

Domestic violence services for families..... 395(2.1a), (2.1q);
424(5.1a), (5.1q),
(5.1v)
Evaluation..... 395(2.1g); 424(5.1g)
Family assistance income eligibility standards424(21.19d)
Housing Initiative funds..... 395(2.1a), (2.1m),
(2.1v); 424(5.1a),
(5.1m), (5.1v)
Individual development accounts funds.....424(5.1v)
Job retention funds..... 395(2.1a), (2.1v);
424(5.1v)
NC Rural Center funds.....424(5.1a)
Substance abuse services funds.....395(2.1a)
Technical corrections and conforming changes487(99)
Work Central Career Advancement Center funds..... 424(5.1a)
Work First job retention funds 424(5.1a)

Well Contractors Certification Commission

Appointments and membership.....486(1A.60)
Well contractor certification rules440(1.5)

Western North Carolina Regional Economic Development Commission—*see*

Regional Economic Development Commission, Western North
Carolina

Wildlife (*see also* Animals; Hunting and Fishing)

Beaver damage control program funds.....424(19.1)
Biltmore Forest deer management..... 156
Fish kill response protocols Division responsibility change.....474(30)
Rocky Mountain Elk Foundation special registration
plate.....498(1b), (3b)–(4b), (6b)
Save the sea turtles special registration plate.....498(1a), (3a)–(4a), (6a)
Spotlighting deer in Wake County 164

Wildlife Resources Commission

Appointments and membership..... 486(1.60), (1A.62),
(2.11a)–(2.11b)
Appropriations
Beaver damage control program funds424(19.1)
Sales and use tax collections transfer for salaries424(32.15)
Bear hunting in Martin County..... 64
Bear/wild boar hunting license.....91(3)
Biltmore Forest deer management..... 156
Disabled hunting and fishing license restriction.....91(1)
Enforcement of Bertie County hunting regulations.....367(7)
Fox trapping season in Richmond County 133
Hunting license fees 91
Nonresident hunting license changes 91(2)–(4), (7)
Perquimans hunting changes enforcement330(5)
Reports —*see* that heading
Spotlighting deer in Wake County 164

Wilkes County

Millers Creek, Town of —*see* that heading

Wilkes County —continued	
National Heritage Area Designation Commission created	491(18.1)–(18.10)
Property conveyance to Mountain View Medical Center	58
TANF State plan	395(7c)–(7d); 424(21.51c)–(21.51d)
Wilkesboro, Town of — <i>see</i> that heading	
Wilkesboro, Town of —occupancy tax	439(9.1)–(9.2c), (18.1)
William S. Lee Quality Jobs and Business Expansion Act	94; 476; 487(123)
Wills —antilapse statute amendment	83
Wilmington, City of	
Cape Fear Museum grassroots science program	
grant-in-aid	424(19.2)
Parking meter proceeds use	9
Transportation Division 3 headquarters reimbursement	
of Highway Trust Fund rescinded	424(27.8)
UNC-Wilmington — <i>see</i> University of North Carolina	
Wilmington Harbor deepening funds	424(33.3a)–(33.3b)
Wilson, City of	
Deannexation	161
Imagination Station grassroots science program	
grant-in-aid	424(19.2)
Opportunities Industrialization Center	
Accomplishments and expenditures report	
requirement	424(20.16b)–(20.16c)
Funds	424(20.16a)–(20.16c)
Residential schools for the deaf educational needs	
assessment and plan	424(21.82a)
Wilson County	
Wilson, City of — <i>see</i> that heading	
Worthless check program	61
Winston-Salem, City of	
North Carolina School of the Arts — <i>see</i> University of North Carolina	
Overgrown vegetation ordinance violator notification	107
Purchase/lease of telecommunications and information technology	
on request for proposals basis	54
SciWorks Science Center and Environmental Park grassroots	
science program grant-in-aid	424(19.2)
Wake Forest University — <i>see</i> Colleges and Universities	
Winston-Salem State University — <i>see</i> University of North Carolina	
Winterville, Town of —satellite annexation	77
Wireless 911 Board —appointments and membership	486(1.61), (1A.63); 487(21a)
Women	
Abortion fund limitations	424(21.38)
Adolescent parenting program contractual services	
limitations	424(21.99a), (21.99b)
Domestic violence — <i>see</i> that heading	
Healthy mothers/healthy children funds	395(2.1a); 424(5.1a)
Infant abandonment decriminalized	291
Maternal and child health block grant	424(5.1a)

Index to Session Laws

Session Law
Number

Women—continued

Minority business participation goals.....	496(3)–(3.6)
Office of Historically Underutilized Businesses continuation.....	424(7.9)
Perinatal education and training.....	395(2.1a); 424(5.1a)
Pregnancy	
Healthy mothers/healthy children funds.....	395(2.1a)
High-risk maternity clinic services.....	395(2.1a); 424(5.1a)
Maternity home services comparison to other available services.....	424(21.45)
Medicaid	
Coverage.....	424(21.19n)
Payment schedule and bases.....	424(21.19a)
Out-of-wedlock births reduction.....	395(2.1v); 424(5.1a), (5.1v)
Substance abuse services funds.....	395(2.1a); 424(5.1a)
Successor plan coverage for confinement/pregnancy.....	334(6)
Teen pregnancy prevention	
Contractual services limitations.....	424(21.99a)
Funds.....	395(2.1a); 424(5.1v)
Generally.....	395(2.1v)
Initiatives.....	424(21.89a)–(21.89d)
Rape	
Prevention and education program funds.....	395(2.1a), (2.1f)
Rape crisis/victims' services program funds.....	395(2.1a)
Residential substance abuse services for women with children	
Expansion.....	395(2.1o)
Funds.....	395(2.1a), (2.1o), (2.1v); 424(5.1a), (5.1o), (5.1v)
Teen pregnancy prevention — <i>see</i> Pregnancy, this heading	

Women, Council for

Domestic Violence Commission staffing.....	424(7.7)
Domestic violence services for Work First families	
County plan review.....	424(5.1q)
Funds utilization and allocation.....	395(2.1q)
Rape crisis/victims' services program funds.....	395(2.1a); 424(5.1a)
Rape prevention and education program funds.....	395(2.1a); 424(5.1a)

Workers' Compensation—*see* Insurance

Workers' Compensation Act	204; 216
--	----------

Wrightsville Beach, Town of

Eminent domain for erosion, flood/hurricane protection and beach access.....	36
Wrightsville Beach renourishment funds.....	424(33.3a)–(33.3b)

- Y -

Yadkin County

Arlington, Town of — <i>see</i> that heading	
Convey certain property.....	31
Deep Creek funds.....	424(33.3a)–(33.3b)

Index to Session Laws

*Session Law
Number*

Yadkin County—continued

Jonesville, Town of —*see* that heading

Payment of delinquent tax prior to recording deeds 464

Property acquisition for educational purposes..... 427(7a)–(7b)

Yadkin River—floodplain mapping.....513(25)

Yancey County—National Heritage Area Designation

Commission created 491(18.1)–(18.10)

- Z -

Zoos and Aquariums—zoo fees for marketing.....424(19.4)

**INDEX TO RESOLUTIONS
2001 GENERAL ASSEMBLY
REGULAR SESSION 2001**

*Resolution
Number*

- A -

Adjournment	36
Ames Turnout, Town of —Wingate centennial.....	30
Angier, Town of —100 th anniversary.....	3
Armed Forces	
Buffalo Soldiers honored.....	4
Honoring Fort Bragg, Camp Lejeune and Seymour Johnson AFB	14
Honoring General Braxton Bragg	14
Honoring Lieutenant Seymour Johnson	14
Honoring Major General John A. Lejeune	14

- B -

Bath, Town of —honoring John Lawson.....	34
Beaufort County	
Bath, Town of — <i>see</i> that heading	
Biscoe, Town of —centennial.....	1
Bragg, Braxton (General) —honoring the memory	14

- C -

Camp Lejeune — <i>see</i> Armed Forces	
Clark, Richard Schoyler	20
Colleges and Universities —Mount Olive College founder honored.....	32
Commemorations And Celebrations	
Angier 100th anniversary.....	3
Biscoe centennial	1
Buffalo Soldiers honored.....	4
Elizabethan Gardens founders honored.....	9
Fort Bragg, Camp Lejeune and Seymour Johnson AFB honored.....	14
Jackson County sesquicentennial	25
Macclesfield centennial.....	10
Raeford centennial	11
Tryon Palace Commission.....	8
Victims of Imperial Food Products fire honored	21
Wingate centennial.....	30
Community Colleges —Joseph Wayne Grimsley honored	29
Community Colleges, State Board of —election of members set.....	5
Cultural Resources	
Elizabethan Gardens founders honored.....	9
Honoring founders of Tryon Palace Commission	8
Cumberland County	
Fayetteville, City of — <i>see</i> that heading	

Index to Resolutions

*Resolution
Number*

- D -

Dare County—Elizabethan Gardens founders honored 9

Davidson County
Thomasville, Town Of —*see* that heading

Deceased Persons

Clark, Richard Schoyler	20
Earnhardt, Ralph Dale	23
Evans, Henry	33
Forbes, Jacob Wilbert.....	24
Funderburk, Coble.....	19
Grimsley, Joseph Wayne.....	29
Hansley, David Wells.....	32
Lawson, John	34
Preyer, Emily Harris.....	28
Preyer, Lunsford Richardson.....	28
Ross, Charles Calloway “C.C.”	15
Ross, Neill McKay	31
Stargell, Wilver Dornell “Willie”.....	26
Thomas, John W.....	27
West, Herman Harley “Bull”.....	12
White, George Henry	35

- E -

Earnhardt, Ralph Dale	23
Easley, Michael F. —invitation to address joint session	2
Edgecombe County Macclesfield , Town of — <i>see</i> that heading	
Education, State Board of	
Confirmation of appointments.....	17
Joint session for confirmation of members.....	13
Elections —Community Colleges Board date set	5
Environment —properties added to State Nature and Historic Preserve.....	18
Evans, Henry	33

- F -

Fayetteville, City of —honoring Henry Evans	33
Forbes, Jacob Wilbert	24
Fort Bragg — <i>see</i> Armed Forces	
Funderburk, Coble	19

- G -

General Assembly

Adjournment	36
Community Colleges Board election date set.....	5
Confirmation of appointments	
Board of Education	13; 17
State Controller	22
Utilities Commission	7; 16

Index to Resolutions

*Resolution
Number*

General Assembly—continued

- Deceased former members
 - Clark, Richard Schoyler..... 20
 - Forbes, Jacob Wilbert 24
 - Funderburk, Coble 19
 - Ross, Neill McKay..... 31
 - West, Herman Harley "Bull"..... 12
 - White, George Henry 35
- Honoring members who convened in 1777 to found the State 8
- Joint sessions
 - Confirmation of appointments to Board of Education 13; 17
 - Confirmation of appointments to Utilities Commission..... 7; 16
 - Inviting Governor Easley 2
 - Inviting Supreme Court Chief Justice Lake 6
- Governor**—invitation to address joint session..... 2
- Grimsley, Joseph Wayne**..... 29
- Gruber, Robert P.**—confirmation of appointment to Utilities Commission..... 16

H

- Hamlet, Town of**—victims of Imperial Food Products fire honored..... 21
- Hansley, David Wells**..... 32
- Harnett County**
 - Angier, Town of —*see* that heading
- Hoke County**
 - Raeford, City of —*see* that heading
- Howard-Vital, Michelle**—confirmation of appointment to Board of Education..... 17

- J -

- Jackson County**—sesquicentennial..... 25
- Johnson, Seymour (Lieutenant)**—honoring the memory 14
- Joyner, Lorinzo Little**—confirmation of appointment to Utilities Commission..... 7

- K -

- Kerr, James Yancey, II**—confirmation of appointment to Utilities Commission .. 16

- L -

- Lake, I. Beverly, Jr.**—invitation to address joint session 6
- Lawson, John** 34
- Lejeune, John A. (Major General)**—honoring the memory 14

- M -

- Macclesfield, Town of**—centennial..... 10
- Manteo, Town of**—Elizabethan Gardens founders honored 9
- McDevitt, Wayne**—confirmation of appointment to Board of Education..... 17
- Military Bases**—*see* Armed Forces
- Minorities**
 - Buffalo Soldiers honored..... 4
 - Honoring Henry Evans..... 33

Index to Resolutions

*Resolution
Number*

Montgomery County

Biscoe, Town of—*see* that heading

- P -

Parks And Recreation Areas—properties added to State Nature and
Historic Preserve 18
Preyer, Emily Harris 28
Preyer, Lunsford Richardson 28

- R -

Racing—honoring Dale Earnhardt 23
Raeform, City of—centennial 11
Real Estate—properties added to State Nature and Historic Preserve 18
Religion—honoring Henry Evans 33
Richmond County
Joseph Wayne Grimsley honored 29
Victims of Imperial Food Products fire honored 21
Robert L. Powell—confirmation as State Controller 22
Ross, Charles Calloway "C.C." 15
Ross, Neill McKay 31

- S -

Seymour Johnson Air Force Base—*see* Armed Forces
Sports—honoring Willie Stargell 26
Stargell, Wilver Dornell "Willie" 26
State Controller—confirmation of Robert L. Powell 22
Supreme Court—invitation for Chief Justice to address joint session 6

- T -

Thomas, John W. 27
Thomasville, Town of—honoring John W. Thomas 27
Tryon Palace Commission—honoring founders 8

- U -

Utilities Commission—confirmation of appointments 7; 16

- W -

West, Herman Harley "Bull" 12
White, George Henry 35
Wilkins, Michael Satterfield—confirmation of appointment to Utilities
Commission 16
Willoughby, Patricia—confirmation of appointment to Board of Education 17
Wingate, Town of—centennial 30